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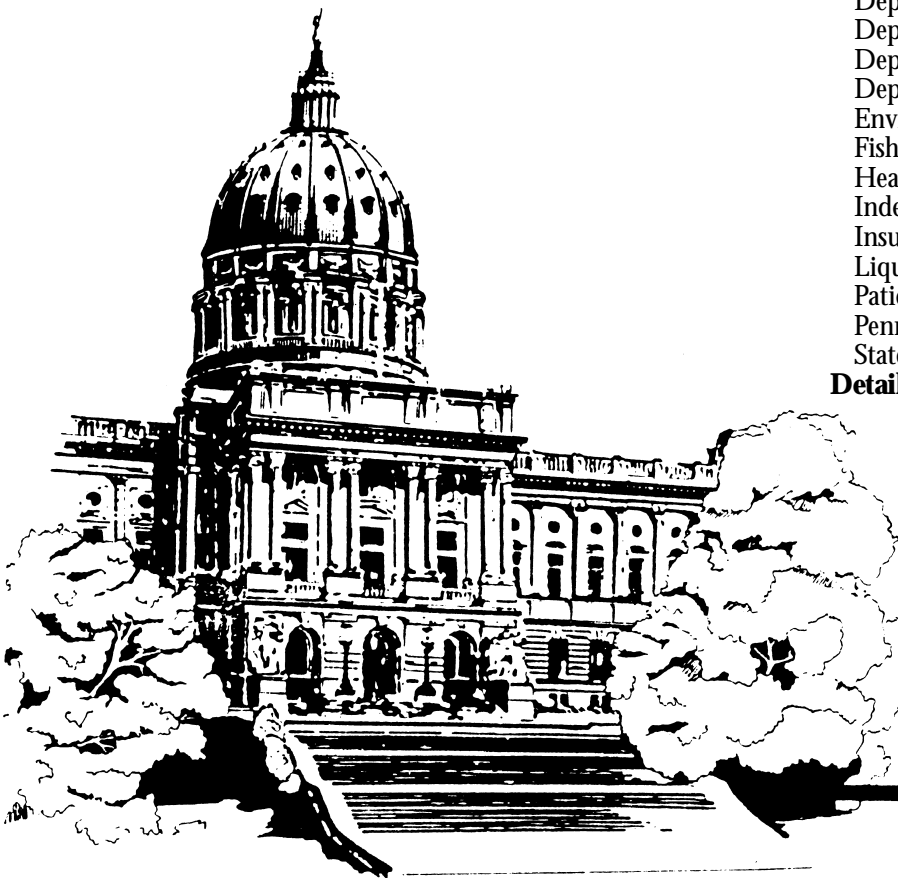
PENNSYLVANIA BULLETIN

Volume 35
Saturday, February 26, 2005 • Harrisburg, Pa.
Number 9
Pages 1409—1500

Agencies in this issue:

The Courts
Department of Aging
Department of Banking
Department of Conservation and Natural Resources
Department of Education
Department of Environmental Protection
Department of General Services
Department of Health
Department of Public Welfare
Department of Revenue
Department of Transportation
Environmental Hearing Board
Fish and Boat Commission
Health Care Cost Containment Council
Independent Regulatory Review Commission
Insurance Department
Liquor Control Board
Patient Safety Authority
Pennsylvania Public Utility Commission
State Board of Cosmetology

Detailed list of contents appears inside.



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

No. 363, February 2005

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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 2005.

4 Pa. Code (Administration)		61 Pa. Code (Revenue)	
Adopted Rules		Adopted Rules	
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21	1213	10	1416
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48	1221	300	10
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THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1000]

Amendment of Note to Rule 1042.3(a)(2) Governing the Certificate of Merit; No. 426 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 11th day of February, 2005, the Note to Pennsylvania Rule of Civil Procedure 1042.3(a)(2) is amended to read as follows.

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

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Subchapter B. ACTION IN TRESPASS

PROFESSIONAL LIABILITY ACTIONS

Rule 1042.3. Certificate of Merit.

(a) In any action based upon an allegation that a licensed professional deviated from an acceptable professional standard, the attorney for the plaintiff, or the plaintiff if not represented, shall file with the complaint or within sixty days after the filing of the complaint, a certificate of merit signed by the attorney or party that either

* * * * *

(2) the claim that the defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard, or

Official Note: [Certificates of merit must be filed as to the other licensed professionals whether or not they are named defendants in the action.] A certificate of merit, based on the statement of an appropriate licensed professional required by subdivision (a)(1), must be filed as to the other licensed professionals for whom the defendant is responsible. The statement is not required to identify the

specific licensed professionals who deviated from an acceptable standard of care.

* * * * *

[Pa.B. Doc. No. 05-354. Filed for public inspection February 25, 2005, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 10]

Proposed Amendments to Pa.Rs.Crim.P. 1001

The Criminal Procedural Rules Committee is considering a proposal that would amend Pa.Rs.Crim.P. 1001 (Disposition of Criminal Cases—Philadelphia Municipal Court) to require that cases from the Municipal Court must be transferred from the Municipal Court to the Court of Common Pleas upon a certification by the attorney for the Commonwealth that trial in the case will be tried before a jury. 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 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 Wednesday, April 6, 2005.

By the Criminal Procedural Rules Committee

NICHOLAS J. NASTASI,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT

Rule 1001. Disposition of Criminal Cases—Philadelphia Municipal Court.

* * * * *

(D) A Municipal Court case shall be transferred from the Municipal Court to the Court of Common Pleas upon the filing in the Municipal Court of a

written certification by an attorney for the Commonwealth stating that the case will be tried before a jury.

Comment

This rule, which defines "Municipal Court Case," is intended to ensure that the Municipal Court will take dispositive action, including trial and verdict when appropriate, in any criminal case that does not involve a felony, excluding summary cases under the Vehicle Code. The latter are under the jurisdiction of the Philadelphia Traffic Court, see 42 Pa.C.S. §§ 1301—1303, 1321.

Paragraph (D) was added in 2005 in view of the 1998 amendment to article I, § 6 of the Pennsylvania Constitution that provides that "the Commonwealth shall have the same right to trial by jury as does the accused."

Official Note: Present Rule 6001 adopted March 28, 1973, effective March 28, 1973, replacing prior Rule 6001; amended June 28, 1974, effective July 1, 1974; paragraph (C) added February 10, 1975, effective immediately; title amended July 1, 1980, effective August 1, 1980; Comment revised January 28, 1983, effective July 1, 1983; amended June 19, 1996, effective July 1, 1996; amended August 28, 1998, effective immediately; renumbered Rule 1001 and Comment revised March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended** , 2005, effective , 2005.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed addition of paragraph (D) concerning the Commonwealth's right to transfer a Municipal Court Case to the Court of Common Pleas for trial by jury published at 35 Pa.B. 1417 (February 26, 2005).

REPORT

Proposed Amendments to Pa.Rs.Crim.P. 1001 Philadelphia Municipal Court—Transfer of Cases

Introduction

The Criminal Procedural Rules Committee recently considered correspondence suggesting an amendment to Rule 1001 that would accommodate the Commonwealth's right to a jury trial as established by the 1998 amendment to Article I, § 6 of the Pennsylvania Constitution providing "the Commonwealth shall have the same right to a trial by jury as does the accused."¹

The Philadelphia Municipal Court's jurisdiction over misdemeanors and the prohibition on jury trials in Municipal Court were originally established in 1968 in Schedule Article 5, § 16 of the Pennsylvania Constitution. The statutory jurisdictional authority for the Municipal Court initially was provided in 1976 in the Judicial Code, 42 Pa.C.S. § 1123, which states that the Municipal Court has jurisdiction over "Criminal offenses by any person (other than a juvenile) for which no prison term may be imposed . . . of not more than five years. . . ." The statute specifically states that a defendant has no right to a jury trial in Municipal Court but shall have the right of appeal for trial de novo, including the right to trial by jury, to the court of common pleas. Rule 1001, originally adopted in 1973, provides a procedure for transfer to the Court of Common Pleas and by-passing of Municipal Court proceedings in two situations. The first is upon the certification of the defense counsel in order to assert the

right to jury trial. The second is upon certification by both defense and prosecution upon the grounds that the trial before the Municipal Court will be so time consuming as to unduly disrupt court business. In either case, approval for such a transfer must be granted by the President Judge of the Court of Common Pleas.

As indicated above, both 42 Pa.C.S.A. § 1123 and Rule 1001 were established well before the 1998 constitutional amendment that established the Commonwealth's right to a jury trial. As a result, the constitutional, statutory, and rule provisions are silent on how to effectuate the Commonwealth's jury trial right in misdemeanor cases in Philadelphia creating a procedural gap which needs to be rectified.

Since Rule 1001 already provides a vehicle to by-pass Municipal Court proceedings for the defendant's assertion of the right to jury trial, an amendment to that Rule is proposed that would similarly effectuate the Commonwealth's right to trial by jury in such cases.

Discussion of Proposed Amendment to Rule 1001

The Committee is proposing a new paragraph (D) be added to Rule 1001 that would require the transfer of a case from Philadelphia Municipal Court to the Court of Common Pleas upon the filing of a written certification by the attorney for the Commonwealth stating that the Commonwealth is seeking a trial by jury. Recognizing that double jeopardy issues are implicated when the Commonwealth seeks an appeal from a Municipal Court decision, the Committee agreed that the transfer of such cases must be mandatory in order to preserve the Commonwealth's right to a jury trial. Accordingly, unlike the other transfer provisions in Rule 1001(C), new paragraph (D) does not provide for the approval of the President Judge of the Court of Common Pleas.

A cross-reference to the constitutional provision establishing the Commonwealth's right to a jury trial would be added to the Rule 1001 Comment.

[Pa.B. Doc. No. 05-355. Filed for public inspection February 25, 2005, 9:00 a.m.]

Title 25—LOCAL COURT RULES

FAYETTE COUNTY

Local Rule 575; Criminal Division No. 1 AD 2005

Order

And Now, this 8th day of February, 2005, pursuant to Pennsylvania Rule of Criminal Procedure 105, it is ordered that Local Rule 575 is hereby amended to read as follows.

The Clerk of Courts is directed as follows:

(1) Seven certified copies of the Local Rules shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette of the Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy of the Local Rules shall be sent to the State Criminal Procedural Rules Committee.

¹ The 1999 amendments to Rule of Criminal Procedure 620 (Waiver of Jury Trial) similarly acknowledged the Commonwealth's right to trial by jury.

(4) One certified copy shall be sent to the Fayette County Law Library and to the Editor of the *Fayette Legal Journal*.

This amendment shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

CONRAD B. CAPUZZI,
President Judge

F.C.R.Crim.P. 575 Motions Court Procedure

(a) In order to provide a uniform means of presenting to the Court all matters which require action by the Court, Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the Motions Judge. The name of the assigned Motions Judge for each day shall be published periodically in the *Fayette County Legal Journal*.

(b) All applications for Court action, including motions, petitions, and any other applications shall be presented to the Court by following this Motions Court procedure. **The party presenting the motion to the Court is to select the day on which the motion will be listed for Motions Court.**

(c) As used herein, the term "motion" shall include every type of motion, petition, or other application for action by the Court, and shall be designated as either "Priority" or "Routine," presentation of the latter not requiring the presence of the parties or counsel for either side. By definition, a "priority" motion is one which may be subject to contest or is so unusual as to require discussion or explanation, while "routine" motions include all other applications, such as uncontested matters to which the parties have consented in writing, requests for hearing, or requests for later argument.

(d) All documents filed shall be on 8 1/2 inch x 11 inch paper and shall comply with the following requirements:

(1) The document shall be prepared on good quality white paper.

(2) The text must be double spaced. Margins must be at least one inch on all four sides.

(3) The lettering shall be clear and legible shall be on only one side of a page. Exhibits and similar supporting documents and paperbooks may be lettered on both sides of the page.

(4) Documents and papers must be firmly bound. Any metal fasteners or staples must be covered.

(5) No backers or top strips are permitted.

(e) All motions and other applications for Court action presented as uncontested require certification as such, if no joinder has been attached.

(f) Any motion relating to discovery must contain a certification that counsel has conferred or attempted to confer with the District Attorney in order to resolve the matter without court action.

(g) All motions filed and served pursuant to this rule shall include a Certificate of Service, signed by the party's attorney, or the party if unrepresented, setting forth the date and manner of service (personal delivery, mail, facsimile), and the names, addresses and phone numbers of the persons served. The Certificate of Service shall be substantially in the following form:

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the within document upon the persons and in the manner indicated below.

- 1. Service by certified mail, first class mail:
(Name of person served) _____,
Phone Number _____ Address; (and/or)
- 2. Service by facsimile at FAX number _____:
(Name of person served) _____,
Phone number _____ Address; (and/or)
- 3. Service in person:
(Name of person served) _____,
Phone number _____ Address

Date: _____ Signature _____

(h) All motions shall be accompanied by a Certificate of Presentation as set forth in F.C.R.Crim.P 575(o).

(i) All motions and other applications for Court action must set forth a specific citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court's authority to grant the relief requested. Said citation shall be placed on a Certificate of Presentation.

(j) The moving party shall file the original motion, Certificate of Presentation, and any attachments in the appropriate filing office before presentment in Motions Court. **An original proposed order (if any), a copy of the Certificate of Presentation, Certificate of Service, and motion, assembled in that order, shall be delivered to the Court Administrator and every other party of record.** Pursuant to Pa.R.Crim.P. 576(B)(1), all motions and other documents for which filing is required shall be served on each party so as to be received at least two (2) business days before presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(k) All priority motions pertaining to matters already ruled on by a Judge shall be presented to that Judge in Motions Court, except in emergencies as set forth in paragraph (j) of this Rule immediately above.

(l) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof.

(m) The Court Administrator shall assign any motion not otherwise assigned to a Judge for disposition.

(n) Failure to completely provide the information required by the Certificates of Presentation and Service may result in the matter not being listed for Motions Court.

(o) The Certificate of Presentation shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA

:
:
:
:
:
: NO. _____ OF _____

CERTIFICATE OF PRESENTATION

1. The undersigned, _____, represents _____, the moving party herein.

2. The attached motion will be presented in Motions Court on _____, _____, 20____ at 9:00 o'clock A.M.

3. The attached motion shall be classified as a Routine/Priority motion. (If the motion is Routine, parties or counsel are not required to be present in Motions Court.)

4. Judge _____ has been assigned or has previously ruled on a matter relevant to this motion. (See attached relevant ruling.)

5. The SPECIFIC citation for the Court's authority to grant the relief requested is _____.

6. Estimated time for hearing or argument to resolve the motion on its merits: _____.

Respectfully submitted,

Date: _____

[Pa.B. Doc. No. 05-356. Filed for public inspection February 25, 2005, 9:00 a.m.]

FAYETTE COUNTY

Local Rule 1915.3 Fees and Costs; No. 306 of 2005 GD

Order

And Now, this 8th day of February, 2005, it is ordered that Fayette County Civil Rule 1915.3 is hereby amended to read as follows.

The Prothonotary is directed as follows:

(1) Seven certified copies of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy of the Local Rule shall be sent to the Domestic Relations Procedural Rules Committee.

(4) One certified copy shall be sent to the Fayette County Law Library.

(5) One certified copy shall be sent to the Editor of the *Fayette Legal Journal*.

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

This amendment to the Local Rule shall be effective April 1, 2005.

By the Court

CONRAD B. CAPUZZI,
President Judge

F.C.R. 1915.3 Fees and Costs

(a) Upon the filing of any complaint, petition, or motion relating to child custody, partial custody, visitation, or contempt, where there is at the time of the filing no agreed-upon Order disposing of the issues, the moving party shall pay to the Prothonotary (in addition to any other fees), a non-refundable conciliation fee in the

amount of One Hundred (\$100.00) Dollars, or shall file to proceed in forma pauperis in accordance with PA.R.C.P. 240.

[Pa.B. Doc. No. 05-357. Filed for public inspection February 25, 2005, 9:00 a.m.]

FAYETTE COUNTY

Local Rule 3.8; Orphans' Division No. 602 of 2004

Order

And Now, this 8th day of February, 2005, pursuant to Pennsylvania Orphans' Court Rule 1.2, it is ordered that Local Rule 3.8 is hereby amended to read as follows.

The Clerk of the Orphans' Court is directed as follows:

(1) Seven certified copies of the Local Rules shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette of the Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy shall be sent to the Fayette County Law Library and to the Editor of the *Fayette Legal Journal*.

This Local Rule shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

CONRAD B. CAPUZZI,
President Judge

O.C.R. 3.8 Motions Court Procedure

(a) In order to provide a uniform means of presenting to the Court all matters which require action by the Court, Motions Court will be held daily at 9:00 o'clock A.M. in the courtroom of the Motions Judge. The name of the assigned Motions Judge for each day shall be published periodically in the *Fayette County Legal Journal*.

(b) All applications for Court action, including motions, petitions, and any other applications shall be presented to the Court by following this Motions Court procedure. **The party presenting the motion to the Court is to select the day on which the motion will be listed for Motions Court.**

(c) As used herein, the term "motion" shall include every type of motion, petition, or other application for action by the Court, and shall be designated as either "Priority" or "Routine," presentation of the latter not requiring the presence of the parties or counsel for either side. By definition, a "priority" motion is one which may be subject to contest or is so unusual as to require discussion or explanation, while "routine" motions include all other applications, such as uncontested matters to which the parties have consented in writing, requests for hearing, or requests for later argument.

(d) **All documents filed shall be on 8 1/2 inch x 11 inch paper and shall comply with the following requirements:**

(1) The document shall be prepared on good quality white paper.

(2) The text must be double spaced. Margins must be at least one inch on all four sides.

(3) The lettering shall be clear and legible shall be on only one side of a page. Exhibits and similar supporting documents and paperbooks may be lettered on both sides of the page.

(4) Documents and papers must be firmly bound. Any metal fasteners or staples must be covered.

(5) No backers or top strips are permitted.

(e) All motions and other applications for Court action presented as uncontested require certification as such, if no joinder has been attached.

(f) All motions filed and served pursuant to this rule shall include a Certificate of Service, signed by the party's attorney, or the party if unrepresented, setting forth the date and manner of service (personal delivery, mail, facsimile), and the names, addresses and phone numbers of the persons served. The Certificate of Service shall be substantially in the following form:

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the within document upon the persons and in the manner indicated below.

- 1. Service by certified mail, first class mail:
(Name of person served) _____,
Phone Number _____ Address; (and/or)
- 2. Service by facsimile at FAX number _____:
(Name of person served) _____,
Phone number _____ Address; (and/or)
- 3. Service in person:
(Name of person served) _____,
Phone number _____ Address

Date: _____ Signature _____

(g) All motions shall be accompanied by a Certificate of Presentation as set forth in O.C.R. 3.8(n).

(h) All motions and other applications for Court action must set forth a specific citation to relevant constitutional provisions, case law, statutory provisions or rules that provide the Court's authority to grant the relief requested. Said citation shall be placed on a Certificate of Presentation.

(i) The moving party shall file the original motion, Certificate of Presentation, and any attachments in the appropriate filing office before presentment in Motions Court. **An original proposed order, a copy of the Certificate of Presentation, Certificate of Service, and motion assembled in that order, shall be delivered to the Court Administrator and every other party of record.** Such copies and notice shall be given so as to be received at least two (2) business days before

presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(j) All priority motions pertaining to matters already ruled on by a Judge shall be presented to that Judge in Motions Court, except in emergencies as set forth in paragraph (i) of this Rule immediately above.

(k) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof.

(l) The Court Administrator shall assign any motion not otherwise assigned to a Judge for disposition.

(m) Failure to completely provide the information required by the Certificates of Presentation and Service may result in the matter not being listed for Motions Court.

(n) The Certificate of Presentation shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA

:
:
:
:
:
: NO. _____ OF _____

CERTIFICATE OF PRESENTATION

- 1. The undersigned, _____, represents _____, the moving party herein.
- 2. The attached motion will be presented in Motions Court on _____, _____, 20____ at 9:00 o'clock A.M.
- 3. The attached motion shall be classified as a Routine/Priority motion. (If the motion is Routine, parties or counsel are not required to be present in Motions Court.)
- 4. Judge _____ has been assigned or has previously ruled on a matter relevant to this motion. (See attached relevant ruling.)
- 5. The SPECIFIC citation for the Court's authority to grant the relief requested is _____.
- 6. Estimated time for hearing or argument to resolve the motion on its merits: _____.

Respectfully submitted,

Date: _____

[Pa.B. Doc. No. 05-358. Filed for public inspection February 25, 2005, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 54 AND 57]

[L-00040169]

Provisions of Default Service

The Pennsylvania Public Utility Commission, on December 16, 2004, adopted at proposed rulemaking order defining the obligation of electric distribution companies (EDCs) to serve retail customers at the conclusion of their respective transition periods.

Executive Summary

Section 2807(e)(2) of the Public Utility Code, 66 Pa.C.S. § 2807(e)(2), requires the Commission to promulgate regulations that define the obligation of electric distribution companies to serve retail customers at the end of the restructuring transition period. Section 2807(e) mandates that all customers who do not receive generation service through the competitive retail market must be provided generation service by either their incumbent electric distribution company or a Commission approved alternative provider. Generation supply provided to these customers must be acquired at prevailing market prices, and the provider may fully recover all reasonable costs associated with this service. On December 16, 2004, the Commission issued a Notice of Proposed Rulemaking that formally commenced this rulemaking process, which includes additions to and revisions of Chapters 54 and 57 of the Commission's regulations. The Commission seeks comments from all interested parties on the issues addressed in these proposed regulations.

The Commission identifies the generation service provided to customers under Section 2807 as "default service." The proposed regulations require electric distribution companies to act as the default service provider to all retail customers, unless an alternative provider is approved by the Commission. Default service providers must continue to comply with all existing regulations, statutes and orders pertaining to public utility service to the extent they are not modified by this subchapter.

In order to meet the "prevailing market price" legal standard, the default service provider must procure all generation supply through a Commission approved competitive bidding process. The regulations provide for a two phase procedure for complying with the obligation. Providers must first submit default service implementation plans for the Commission to review, which would include a proposed competitive procurement process. Upon approval of the implementation plan by the Commission, the default service provider will execute its procurement process. The prices that result from compliance with the procurement process will be deemed the "prevailing market price" for default service.

The regulations also identify the mechanisms by which the default service provider will recover its costs, the rules governing customer migration to and from default service, and provide new competitive safeguards to ensure the reliable provision of default service.

The contact person for this rulemaking is Shane Rooney, Law Bureau, (717) 787-2871.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 14, 2005, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

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

Public Meeting held
December 16, 2004

Commissioners Present: Wendell F. Holland, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli, statement follows

Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa.C.S. § 2807(e)(2); Doc. No. L-00040169

Provider of Last Resort Roundtable; Doc. No. M-00041792

Proposed Rulemaking Order

By the Commission:

In accordance with Section 2807(e)(2) of the Public Utility Code, 66 Pa.C.S. § 2807(e)(2), the Commission formally commences its rulemaking process to define the obligation of electric distribution companies ("EDC") to serve retail customers at the conclusion of their respective transition periods. The Commission seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order. Additionally, the Commission will close the docket opened at M-00041792 for the Provider of Last Resort Roundtable, as that proceeding has reached its logical conclusion by way of this proposed rulemaking order.

Background

The Electricity Generation Customer Choice and Competition Act (the "Act") requires the Commission to promulgate regulations governing an EDC's obligation to serve retail customers after the conclusion of its restructuring transition period. 66 Pa.C.S. § 2807(e)(2). This duty is often referred to as the "provider of last resort" ("POLR") obligation. As the Act makes clear, the purpose of this obligation is to address the scope of retail electric service that must be provided to customers who either have not chosen an alternative electric generation supplier or who contracted for electric energy that was not delivered. Section 2807(e) of the Act provides several directives that the Commission must follow in its promulgation of regulations on this subject:

(2) At the end of the transition period, the commission shall promulgate regulations to define the electric distribution company's obligation to connect and deliver and acquire electricity under paragraph (3) that will exist at the end of the phase-in period.

(3) If a customer contracts for electric energy and it is not delivered or if a customer does not choose an alternative electric generation supplier, the electric distribution company or commission-approved alternative supplier shall acquire electric energy at prevailing market prices to serve that customer and shall recover fully all reasonable costs.

(4) If a customer that chooses an alternative supplier and subsequently desires to return to the local distribution company for generation service, the local distribution company shall treat that customer exactly as it would any new applicant for energy service.

66 Pa.C.S. § 2807(e)

The Commission entered an Order establishing interim guidelines to define the obligation to serve retail customers shortly after the passage of the Act. *Interim Guidelines Addressing Electric Distribution Companies' Activities Relating to Their Provider of Last Resort Functions*, Docket No. M-00960890F0017 (Opinion and Order entered November 19, 1998). Subsequent to this Order, the Commission convened a POLR Working Group via a Secretarial Letter issued on August 2, 2000. The purpose of this Working Group was to solicit input from interested stakeholders on the scope of final POLR regulations, and to provide a forum for the exchange of ideas. The POLR Working Group received position papers on the scope of POLR regulations from multiple parties and met periodically through late 2003.

In early 2004, the Commission determined that there were a significant number of issues that required additional review before the promulgation of POLR regulations, including the consideration of currently operational POLR service models in other jurisdictions. Therefore, pursuant to a motion adopted at the Public Meeting of March 4, 2004 the Commission established a Provider of Last Resort Roundtable ("POLR Roundtable") for the discussion of all relevant POLR issues. The Commission stated that it would promulgate a Notice of Proposed Rulemaking after the conclusion of the meetings. The POLR Roundtable was assigned docket number M-00041792. The Commission prepared a POLR issues list for public distribution and invited comments on these issues from all interested parties.

The Commission presided over five meetings of the POLR Roundtable that were held between April 8 and June 2, 2004. The meetings were attended by representatives from electric distribution companies, electric generation suppliers, wholesale energy suppliers, consumer interests, the New Jersey Board of Public Utilities, the Maryland Public Service Commission, the Federal Energy Regulatory Commission, the PJM Interconnection, LLC, the Office of Consumer Advocate, and the Office of Small Business Advocate. These parties offered testimony during sessions of the Roundtable and also filed written comments and reply comments with the Commission, which are available on our website at the above-referenced docket number. The written comments and POLR Roundtable testimony offered by these parties has been helpful to the Commission in its initiation of this formal rulemaking process.

Discussion

The intent of Section 2807(e) of the Act is to ensure that electric energy is delivered to retail customers who do not receive generation service from an alternative electric generation supplier. Specifically, this includes service provided to customers who do not seek service through an alternative supplier, those who are unable to

obtain service from an alternative supplier, those who contracted for electric service which is not delivered by an alternative supplier, and all those who terminate service with or whose service is terminated by an alternative supplier.

The Act provides the Commission with significant flexibility in defining the scope of the POLR obligation. The parties that participated in the POLR Roundtable proceeding identified numerous issues in need of resolution and the various options available to the Commission in this rulemaking process. These issues and the Commission's determinations on their resolution are discussed more fully and in context in the following sections.

In reaching its conclusion on these issues, the Commission is guided by one of the key policy declarations of the Act—that is, markets are superior to economic regulation in determining the cost of electric generation. The Act provides that "Competitive market forces are more effective than economic regulation in controlling the cost of generating electricity." 66 Pa.C.S. § 2802(5). It is our intent that these proposed regulations reflect this and other declarations of policy by the Pennsylvania General Assembly. Specifically, POLR service should be reliable, available on reasonable terms and conditions, associated with high-quality customer service, and provided consistent with the level of protections currently afforded to low-income customers. 66 Pa.C.S. §§ 2802(9), (10), (11).

Some parties have commented that the proper design of POLR service is the most important task remaining for the Commission in implementation of the provisions of the Act. The Commission agrees with this sentiment and finds that an appropriately crafted regulatory framework for POLR service will serve the public interest by fostering a robust retail market for electricity. The General Assembly's policy findings regarding the overall costs of electricity, disparities in rates across service territories, and the importance of reasonable rates in attracting and retaining businesses can best be addressed by ensuring the continued formation of a competitive marketplace for electricity. 66 Pa.C.S. §§ 2802(4), (5), (6).

To foster a competitive market, any POLR service model must be carefully designed to avoid distortions to the market. POLR service, as the name suggests, should primarily serve as a backstop to the competitive retail market. Therefore, POLR service should be basic generation service. The Commission is proposing a POLR service model that avoids administrative determinations and gives preference to market solutions. The Commission finds that with an appropriate design of POLR service, the market will provide the products and services that meet the needs of consumers.

In the following sections, the Commission will briefly review the key elements of the proposed POLR regulations it is releasing for public comment. The Commission will discuss the options that were available and our rationale for choices reflected in this proposed rulemaking.

A. Purpose

This section reflects a choice on the name to be given to this service. At this time we are identifying the service provided pursuant to Section 2807(e) as "default service."¹ We find that the proper focus of these regulations should be on the service being provided, not on the provider. As

¹ The term "provider of last resort" appears in the customer choice and electric service context of the Commission's regulations at 52 Pa. Code §§ 54.4(b), 54.5(b)(3), 54.5(c)(9), 54.5(h), 54.6, 54.31, 54.32(h), 54.41(b) and 57.178. Annex A includes revisions of these sections to provide for consistent terminology.

discussed in section C below, at this time, the Commission is reserving the role of default service provider to the incumbent EDC within each service territory. This decision will be discussed in more detail later in this Order.

B. Definitions

The Commission finds that defining key terms is an important element in this rulemaking process and necessary to provide a reasonable level of regulatory certainty. The Commission also recognizes that retail and wholesale energy markets will continue to evolve between now and the expiration of the last of the EDC rate caps. It is important that any regulations promulgated now be flexible enough to accommodate markets as they continue to evolve. Additionally, there is also the potential for changes in law at the State or Federal level that may impact the issues addressed in this rulemaking. Consequently, the Commission seeks to avoid overly prescriptive language that may infringe on both its and all other interested parties' ability to manage the default service obligation.

Where possible, the Commission has chosen to make use of already existing definitions for terms that are used in this subchapter. Examples include "electric distribution company," "electric generation supplier" and "retail customer." While perhaps unnecessary to reiterate a definition of these terms in this subchapter, the Commission has chosen to strike a cautious note in order to provide regulatory certainty.

This section also includes many new definitions of terms and concepts that will appear throughout this subchapter. Particularly, this section includes definitions for "prevailing market price," "competitive procurement process," "fixed rate option," and "hourly priced service."

A key concept requiring a definition is the term "prevailing market prices," which is found at 66 Pa.C.S. § 2807(e)(3). The Commission is required to ensure that generation supply for default service is acquired at "prevailing market prices." This is a variation from the standard of review for rate requests made prior to passage of the Act found in Section 1301 of the Public Utility Code, 66 Pa.C.S. § 1301, which required that rates be "just and reasonable." The conclusion arrived at by the Commission is that the prevailing market price will only be realized through a competitive procurement process approved by the Commission, and that in a competitive market the prevailing market price is analogous, though not identical, to the "just and reasonable" standard for utility rates. Accordingly, we have defined this concept as the price that will result from a default service provider's compliance with a Commission approved competitive procurement process.

Having chosen to rely on a "competitive procurement process" for the acquisition of generation supply, it is appropriate that the Commission provide a definition of this concept in its default service regulations. The definition is intended to provide some guidance on this point. The Commission recognizes that different procurement mechanisms may be appropriate in different territories or terms of service, and has attempted to avoid a narrow description of this concept. The Commission emphasizes that a bid solicitation process should be used, which could include auctions, sealed bid models, etc. The price of the service offered shall be the primary consideration in the review of bids, though price may not be the only criterion. The Commission is cognizant of the standard for review of generation procurement processes adopted by the Federal Energy Regulatory Commission in its decision at

Boston Edison Company Re. Edgar Electric Energy Company, 55 F.E.R.C. ¶61,382 (1991). In that case FERC determined that generation procurement processes must be fair, transparent and non-discriminatory in order to receive its approval. The Commission will apply similar standards in its review of any competitive procurement process involving default service.

Other definitions of note include "fixed rate option" and "hourly priced service." Many parties to POLR Roundtable recommended that a fixed rate or price option be available to residential and some or all business customers. The Commission has crafted a definition that reflects a price that is set in advance for the entire term of service, but includes the possibility of seasonal differences. With hourly priced rates, the Commission is describing a rate that may be available to large commercial and industrial customers, similar to the hourly rates in effect in New Jersey and Maryland. Both of these jurisdictions require that certain large industrial and commercial customers receive default service only at hourly priced rates.

C. Default Service Provider

As noted previously, the Commission has determined that the role of default service provider should be reserved to the incumbent EDC in each service territory at this time. The Commission acknowledges the arguments of those advocating what is sometimes referred to as a "retail POLR model," where the default service provider is determined as a result of a competitive process. The Commission has the statutory authority to require such a process, pursuant to § 66 Pa.C.S. 2807(e)(3), but concludes that the public interest, at this time, is best served by having the EDC act as the default service provider. This is consistent with the General Assembly's declaration of policy that incumbent EDCs should continue to act as the default service provider unless the Commission approves an alternative provider. 66 Pa.C.S. § 2802(16).

Specifically, the Commission notes that the competitive retail market is still in transition. Therefore, the Commission opts not to propose a retail POLR model in the current market environment. Additionally, the framework associated with implementing a retail POLR model requires further review and consideration.

However, we do recognize that under certain circumstances it may be appropriate for an EDC to exit the role of default service provider. We are therefore including the option of allowing an EDC to petition the Commission to be relieved of this obligation. The Commission may also, on its own motion, propose that an EDC be relieved of this obligation. An EDC would only be excused from this obligation upon the successful completion of a competitive replacement process. The replacement process would be open to other EDCs and licensed electric generation suppliers ("EGS").

In order to be considered for the role of the alternative default service provider in this context, a party would have to file for a certificate of public convenience, consistent with 66 Pa.C.S. § 1103(a). Applicants must demonstrate that they are financially and operationally fit, and able to comply with all Commission regulations, orders and other applicable laws pertaining to utility service. If no applicant meets this standard, the incumbent EDC must continue to serve as the default service provider. If one or more applicants can demonstrate that they can meet this standard, the Commission will grant a certificate of public convenience to the applicant best able to fulfill this obligation.

D. Default Service Provider Obligations

This section identifies the legal obligations of a default service provider. The Commission has determined that the "reliable provision of default service" is the primary obligation of a provider. In subsection (b), the Commission notes that the default service provider must comply with all other Commission regulations and orders, unless they are expressly excused from compliance through the language of this subchapter. Finally, these regulations require the default service provider to continue universal service programs beyond the end of transition period. Default service providers are given the flexibility of modifying existing programs, subject to Commission approval, so long as the overall level of quality is maintained.

E. Default Service Implementation Plans and Terms of Service

This section of the proposed regulations reflects the decision by the Commission not to require a statewide default service procurement process. The Commission has closely studied the models adopted by other jurisdictions that have made this choice, and the commentary offered about them by participants in the POLR Roundtable. Given the varying terms of the approved generation rate caps and existing POLR plans, the Commission finds that each default service provider should have the option of proposing a default service implementation plan best suited to its service territory. The Commission acknowledges that a statewide procurement process may be appropriate in the future, and has therefore preserved this option in subsection (e). A statewide or multi-service territory procurement process may either be ordered by the Commission or proposed by default service providers. Any statewide or multi-service territory procurement process would have to adhere to the same regulations that govern a single service territory procurement process found in the default service supply procurement section.

Having chosen to allow for individual filings, this section provides a standard that must be met by any default service implementation plan. Default service implementation plans shall be filed fifteen months prior to expiration of either the approved generation rate cap or currently effective default service plan, unless another due date is requested and approved by the Commission. The Commission has decided that the approved POLR plans currently in operation should be allowed to continue through their expiration date. This includes plans for Citizens Electric Company, Duquesne Light Company, Pike County Light & Power Company, URI Utilities, Inc. - Electric Division, and Wellsboro Electric Company.² The Commission recognizes that, given the expected length of this rulemaking process, some of these plans may expire prior to the effective date of final default service regulations. The Commission also recognizes that the effective date of the final regulations may not directly correspond with the expiration of Penn Power Company's generation rate caps on December 31, 2006. The Commission therefore will need to approve interim default service plans for some of the above-named EDC's until final regulations take effect, as has been done previously.

² Citizen's current POLR plan will expire on December 31, 2004. UGI's current POLR plan is effective through December 31, 2005. Pike County's current POLR plan is effective through December 31, 2005. Duquesne's recently approved POLR plan expires on December 31, 2007. Wellsboro's current POLR plan does not have a definitive expiration date and the Commission will require that Wellsboro file a default service plan for a term of service commencing on January 1 of the year following the year of effective date of these proposed regulations. The remaining generation rate caps include Allegheny Power, December 31, 2008; PPL Electric Utilities Corp., December 31, 2009; PECO Energy Company, December 31, 2010; Metropolitan Edison Company, December 31, 2010; Pennsylvania Electric Company, December 31, 2010.

A key element to any implementation plan is the term of service. At this time we are proposing that a term of service be for at least one year.³ Longer terms may also be proposed. We have not included a maximum term length. We recognize that allowing for a longer length of term may allow a default service provider to attract needed capital investment necessary for the reliable provision of service. We also acknowledge that a longer term could lead to lower default service prices from suppliers, who may be attracted by the opportunity of securing long-term customers. At the same time, we are aware that a longer term may lead to divergence from the prevailing market price, which is the legal standard that controls default service rates.

The implementation plan must also include a competitive procurement process for acquiring generation supply. The specific standards for this process are discussed in more detail in the next section. The plan should also document its compliance with the RTO's or ISO's technical and legal requirements in which service is being offered, and the proposed method for complying with the Alternative Energy Portfolio Standards Act, No. 213 of 2004. The plan should include a schedule of rates, the terms and conditions of default service, the reasonable and identifiable costs to be recovered, and reasonable credit requirements for suppliers who serve default service load. The plan should also include proposed confidentiality agreements that govern the procurement process and protect proprietary information of the default service provider and generation suppliers. The default service implementation plan should also identify any currently effective long term generation contracts between the incumbent EDC and a retail customer in that particular service territory.

The Commission recognizes the possibility that a supplier may fail to deliver energy that was acquired through an approved competitive procurement process during the term of service. In order to mitigate the negative consequences of such an event, a default service implementation plan shall identify a replacement procurement process.

As stated previously, this section provides a general standard to be met by EDCs in their default service filings that is based on the best information available to the Commission at this time. Through subsection (m), this Commission simply notes that it may need to issue orders to establish interim rules governing the form and content of default service plans if amendments to any final regulations are required.

F. Default Service Supply Procurement

In this section the Commission provides standards to govern the competitive procurement process that a default service provider must use to secure generation supply.

Section 54.185(d) of the proposed regulations states that a default service provider's implementation plan must include a competitive procurement process that is fair, transparent, and non-discriminatory. The Commission is requiring the default supplier to use a transparent market mechanism, instead of an administratively-determined process, in order that competition among potential suppliers may determine the price and allocation of load.

³ The Commission is aware that the initial terms of service for default service plans filed under this regulation may need to be longer, given our directive that plans be aligned with the RTO's planning year. For example, PJM Interconnection's planning year commences on June 1. As the Commission approved rate caps all expire on December 31, the initial service plans for those EDCs in PJM's control area will need to have terms of at least 17 months.

A transparent process is one that is both open and fair. Transparency is the free flow of information to all parties. Section 54.186(b)(2)(i)–(vii) identifies the information that should be made available to all potential bidders. In a transparent process, no party, particularly the affiliate, should have an informational advantage in any part of the solicitation process. The competitive procurement process and all relevant information about it should be released to all potential bidders at the same time. Furthermore, bidders should have equal access to data relevant to the competitive procurement process in order to ensure a fair process. Section 54.186(b)(2)(vii) attempts to list the relevant data that should be made transparent to potential bidders. In addition, the products sought through the competitive procurement process should be clearly defined.

A nondiscriminatory process means that all interested parties, subject to reasonable qualifications, have the ability to bid in the competitive procurement process. Instead of individually inviting specific bidders, the default service provider should allow all interested and qualified suppliers to participate in the competitive procurement process. Default service provider supplier affiliates may participate in the competitive procurement process, but there must be direct competition between the affiliate and competing, unaffiliated suppliers. Further, the relationship between the affiliate and the utility will continue to be governed by the competitive safeguards at Sections 54.121 and 54.122, 52 Pa. Code §§ 54.121–122, of the Commission's regulations.

Section 54.186(d) states that the competitive procurement process may be subject to independent monitoring by the Commission or a third party. Any third party involved in oversight of the process shall be independent from the default service provider and the participating bidders. A minimum criterion for independence is that the third party has no financial interest in any of the potential bidders, including the affiliate, or the outcome of the process. The Commission shall monitor the competitive procurement process to determine that the process is fair, transparent, and non-discriminatory. The Commission will be reviewing the bids based on both price and non-price evaluation criteria defined in the competitive procurement process.

The default service provider's competitive procurement process must meet the transparent and non-discriminatory standards, as discussed in the *Edgar* decision and further detailed in this section of the proposed regulations. At this point, the Commission envisions the use of request for proposals ("RFP") or auctions as potential procurement processes to meet these standards, although the Commission realizes there may be other procurement processes that are appropriate.

Section 54.186(e) addresses bid evaluation standards. The competitive procurement process should clearly specify the price and non-price criteria under which the bids are evaluated. Price criteria should include the relative importance of each item. Non-price criteria should specify the relative importance of items, such as firm transmission reservation requirements; credit evaluation criteria, such as bond rating; alternative energy standard portfolio components; etc.

The Commission's review of the results of the competitive procurement process will be expedited. To minimize the regulatory uncertainty or risk associated with the competitive procurement process, the Commission's review must occur within a time period specified in the approved competitive procurement process, but this pe-

riod may not be less than three business days. The Commission shall certify whether or not the implementation of the competitive procurement process and the results thereto demonstrate compliance with the approved default service implementation plan. The prices that result from a certified process will be considered the prevailing market price for default service.

In the event that an approved process does not result in the acquisition of sufficient generation supply, the default service provider will repeat the previously approved process. However, if the default service provider believes that amendments to the approved default service plan are needed to correct any deficiencies, it may petition the Commission to request these amendments. In the event that there is insufficient time to execute such process before the expiration of a current default service plan, the default service provider will acquire generation to meet demand through the energy markets administered by the RTO or ISO in which service is being offered, until the completion of a new procurement process. In such an event, the prevailing market price for that generation supply will be the price obtained in those energy markets. The default service provider shall fully recover the reasonable costs of this activity consistent with 66 Pa.C.S. § 2807(3).

G. Default Service Rates and the Recovery of Reasonable Costs

This section addresses the nature of the costs to be recovered and the mechanisms for recovery. The Commission finds that all reasonable, identifiable costs associated with providing default service should be fully allocated to default service rates. The Commission is aware of the comments made by various parties that some costs associated with providing generation service are currently being recovered through Commission approved distribution rates, to the detriment of ratepayer interests and the formation of a competitive retail market for electric generation service.

During our POLR Roundtable, the Office of Small Business Advocate ("OSBA") also raised the issue of cost allocation among customer classes. The OSBA noted in its testimony that current electric distribution companies' rates reflected cost of service studies performed prior to the passage of the Act, and that it believed that some misallocation of costs existed. The public interest is served by both the appropriate allocation of costs among customers and recovery of those costs through the correct rates. 66 Pa.C.S. §§ 1301, 1304. The Commission understands that further examination of this issue and the proper allocation of costs to the appropriate rates will require additional on the record proceedings before the Commission. If this aspect of the proposed regulations becomes final, the Commission will issue orders requiring EDCs to conduct cost of service studies as part of distribution and transmission rate cases in order to achieve this objective.

This section provides for the recovery of default service costs through two charges, and one automatic adjustment clause. The first charge, the "Generation Supply Charge," shall be used to recover the costs associated with the acquisition of generation supply and related services. The Commission has reviewed the comments offered by the parties to the POLR Roundtable on this topic, and has crafted a recovery mechanism to fully capture the non-alternative energy costs associated with acquiring generation. The proposed charge would recover the costs of energy, capacity, FERC approved ancillary services and

transmission charges, RTO and ISO charges, taxes, and other reasonable and identifiable costs.

The second charge is a "Customer Charge," to recover the non-generation supply costs associated with providing default service. This charge would recover the costs to the default service provider for functions such as billing, meter reading, collections, uncollectible debt, customer service, a return component, taxes, and other reasonable and identifiable costs. The Commission finds that the above-mentioned customer care costs may be more appropriately recovered through default service rates than distribution rates. The Commission's intent is that any reallocation of cost categories between distribution and default service rates should have a generally neutral impact on overall rates. Any increase in default service rates resulting from reallocation should be matched by a near corresponding drop in distribution rates.

The Commission is aware that EGSs are not currently providing customer care services such as meter reading, etc. Accordingly, a customer receiving generation service through an EGS will still be entitled to receive these customer care services through the default service provider. The default service provider can recover these costs through a modified customer charge that recovers the costs for those specific customer care services being provided to shopping customers.

This section also reflects the passage of the Alternative Energy Portfolio Standards Act, No. 213 of 2004, which was signed into law on November 30, 2004. Section 54.187(a)(3) of the proposed regulations provides for the recovery of all reasonable cost associated with this obligation through an automatic adjustment clause, consistent with 66 Pa.C.S. § 1307, as required by this law.

Comments and testimony were offered during the POLR Roundtable that the public interest would be served by requiring large commercial and industrial customers to take default service at hourly priced rates. We note that New Jersey and Maryland have adopted this approach for some of their larger non-residential customers. For example, representatives from New Jersey Board of Public Utilities testified at the POLR Roundtable that, in its 2004 Basic Generation Service auction, all customers whose peak load share was 1,500 kilowatts or greater would only receive an hourly rate option. This hourly rate was tied to the spot price of energy in the PJM Interconnection LLC's energy markets. Other parties asserted that while hourly rates should be offered, all customers should be entitled to a fixed rate option.

The Commission has addressed this issue as recently as our disposition of Duquesne Light Company's POLR III filing. *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service*, Docket No. P-00032071 (Opinion and Order entered August 23, 2004); *Petition for Reconsideration of Duquesne Light Company*, Docket No. P-00032071 (Opinion and Order entered October 5, 2004). The Commission recognizes the benefits associated with hourly priced service, including the fostering of a competitive marketplace and demand side response. At the same time, we are sensitive to the arguments of those who believe that customers may face financial difficulty in managing utility service provided at hourly rates. The proposed regulations provide that all non-residential customers whose peak registered demand is greater than 500 kilowatts shall be offered service at hourly priced rates, unless the

Commission authorizes a fixed rate option. The Commission describes the components of an hourly priced rate in subsection (e).

Subsection (f) requires that the proposed schedule of rates identify demand side response options that may be available to retail customers in that particular service territory. For example, this could include time-of-use rates. The Commission recently circulated a draft policy statement to the members of the Demand Side Response Working Group that found that the public interest would be served by giving retail customers the option of managing their electricity usage in response to price signals. Additionally, one of the ways the recently passed Alternative Energy Portfolio Standards Act allows EDC's to meet their legal obligations is through demand side management programs. To the extent that an EDC implements demand side response programs in response to either a Commission policy statement or in order to comply with the above mentioned legislation, those programs and their terms and conditions should be identified in the default service implementation filing.

In subsection (g), the Commission addresses the subject of price adjustments during the term of service. The Commission recognizes that there are risks associated with being a default service provider and that to the extent that flexibility is provided in managing these risks, retail customers will likely enjoy more reasonable rates. Such risks could include, but are not limited to, the risk of customer migrations or behavior by an EGS to exploit seasonal variations in the market. In allowing for reasonable price adjustments during the term of service, conditioned on compliance with certain standards, such flexibility is provided.

The Commission took particular note of Maryland's customer migration cost recovery mechanism that was discussed during the POLR Roundtable. This mechanism allowed standard offer service providers to recover the reasonable costs associated with significant customer migration to alternative service providers during a term of service. The mechanism was only triggered when certain thresholds were met. New Jersey has addressed this same risk by approving a fixed rate option where basic generation service is provided at rates that reflect the seasonal market costs of electricity. The price charged customers in warm weather months is somewhat higher than in the remaining part of the year. As noted previously, our definition of a fixed rate option does allow for seasonal pricing. Accordingly the price for default service under this rate, while known in advance, may vary as frequently as monthly. The Commission does not intend to endorse any particular mechanism, and will allow the default service provider to propose reasonable methods of managing this risk.

The Commission understands that unforeseen, extraordinary circumstances can occur during a term of service which will materially impact the costs of providing service to retail customers. In subsection (h) the Commission states its position that, as a general rule, default service rates should not be subject to review and reconciliation at the conclusion of the term of service. Default service providers are assured of full recovery of reasonable costs through Section 2807(e)(3) of the Public Utility Code. These regulations are intended to allow the necessary flexibility for default service providers to manage their risk prospectively. Default service providers are expected to review their incurred costs at the conclusion of each term of service and make the appropriate adjustments for their future default service plan filings. However, to the

extent that unforeseen, extraordinary circumstances jeopardize the reliable provision of default service, a provider may petition the Commission pursuant to Section 2807(e)(3) to seek additional cost recovery. It is expected that such requests would be rarely made to the Commission.

Finally, the Commission addresses the potential of supplier failure in subsection (i). It will be the obligation of the default service provider to procure replacement supply in the event that a supplier fails to deliver energy as contracted under the terms and conditions of the procurement process. Replacement energy will be acquired at prevailing market prices, and the default service provider will fully recover the reasonable costs of procuring such energy. The default service provider will execute its already approved replacement procurement process in such an event. When necessary due to time constraints, a default service provider shall acquire supply through the energy markets administered by the RTO or ISO in whose control area service is being provided. The price for replacement energy acquired in those markets will be deemed the "prevailing market price." The default service provider is expected to pursue acquisition strategies that reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3), when selecting from the various options available in these energy markets.

The Commission has proposed this language as it recognizes that there may be different strategies, depending on the particular circumstances, that are appropriate in the immediate aftermath of supplier failure. It is the Commission's intent to give the default service provider sufficient flexibility to manage such an event in a way that minimizes costs and ensures the reliable provision of default service to customers.

H. Commission Review of Default Service Implementation Plans

The Commission establishes a schedule and process for the review of default service implementation plans in this section. A two phase process is appropriate for the evaluation of default service plans. In the initial phase, the Commission will review a proposed plan's compliance with applicable regulations, statutes, and orders, including a complete description of its proposed generation procurement process. After Commission approval is given, the default service provider will implement its competitive procurement process. The Commission will review the results of the competitive procurement process, and verify compliance with the approved default service implementation plan.

As stated previously, the default service plans should be filed 15 months prior to the conclusion of either the currently effective Commission approved POLR plan or generation rate cap. The Commission proposes that it will enter a final order on these plans within 6 months of the date of the filing with the Commission. During the review period, plans will be referred to the Office of Administrative Law Judge proceedings as may be necessary. The default service provider will execute its competitive procurement process for the acquisition of supply upon Commission approval of the implementation plan. The Commission will be notified in writing of the results, and will have no less than 3 business days to verify compliance with the approved plan. The default service provider must provide notice of the rates, and terms and conditions of service 60 days before their effective date.

The process described above allows at least seven months for a default service provider to implement its

competitive procurement process. The Commission is cognizant of the challenges that a default service provider may face in procuring large quantities of generation, and wishes to make certain that adequate time has been provided. By requiring the filing of plans fifteen months prior to the effective date, the Commission seeks to ensure that there is sufficient time for it to review the plans and for providers to implement them.

Finally, the Commission includes its standard for waiver of default service in subsection (h). The Commission's preference is to provide a general standard at this time in order to preserve its flexibility in addressing such requests.

I. Default Service Customers and the Standards for Transferring Customer Accounts to Default Service Providers

Section 54.189 identifies the standards governing customer choice in the context of default service. The Commission finds that it is in the public interest for non-shopping customers to be assigned to default service plans at the conclusion of either the currently effective rate caps or POLR plans. As this service will be the only alternative to the retail market, default service providers will be required to accept all new requests for service, provided that the individual customer complies with Commission regulations governing applications for utility service.

These regulations do not provide for restrictions on the ability of customers to move from default to competitive service, and vice versa. Given the Act's clear policy preference for customer choice, and the express language of Section 2807(e)(4) regarding the treatment of customers, we decline to endorse restrictions such as minimum stay provisions or switching fees at this time. We conclude that these proposed regulations give default service providers the flexibility to effectively manage the risks associated with customer migration without restricting choice.

In an effort to limit potential abuse of default service by the competitive marketplace, we do include restrictions on the transfer of retail customers' accounts to default service by electric generation suppliers. We are addressing this issue through an amendment to the competitive safeguards found at 52 Pa. Code §§ 54.122—54.128. The new section provides that the transfer of customer accounts to default service may not be initiated without the consent of the default service provider, except for the non-payment by a retail customer for services rendered by an EGS, to remedy unauthorized or inadvertent transfers of a customer's account away from the default service provider, upon the normal expiration of a contract not designed to exploit seasonal price variations, and when the Commission has approved the abandonment, cancellation or suspension of an EGS license.

The Commission recognizes that the subject of competitive safeguards is broad and includes many issues other than the transfer of customer accounts to default service. The Commission finds it to be in the public interest that this particular issue is addressed through this proposed rulemaking. However, the Commission notes that it may be appropriate to further examine Chapters 54 and 57 of our regulations with the objective of ensuring that adequate competitive safeguards are in place. Interested parties are encouraged to comment on whether this rulemaking should be expanded to address other issues involving competitive safeguards or if, rather, those issues are better addressed in a separate proceeding.

Conclusion

The Commission welcomes the filing of comments and reply comments by all interested parties on all aspects of these regulations. Given the importance and complexity of the issues now being considered, the normal comment period will be extended to sixty days. No extensions will be granted for the filing of comments.

The Commission is particularly interested in comments on a number of areas of importance, including: definitions, the replacement of default service providers pursuant to § 54.183(b), the length of the term of default service, the structure of the procurement process, cost recovery allocation and recovery mechanisms, hourly priced service, the review process for implementation plans, and customer migration. To the extent that a party believes any sections of these proposed regulations need revising, we ask that alternative language be suggested. This is particularly important in the area of definitions. If a party believes that additional definitions are required, specific language should be proposed. For the supply procurement process and the Commission review process, we are particularly interested in whether appropriate time has been allotted.

Accordingly, under sections 501 and 2807(e)(2) of the Public Utility Code, 66 Pa.C.S. §§ 501, 2807(e)(2); sections 201 and 202 of the act of July 31, 1968, P. L. 769 No. 240, 45 P.S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5; and section 612 of The Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed regulations set forth in Annex A, attached hereto; *Therefore,*

It Is Ordered That:

1. The Proposed Rulemaking at L-0040169 will consider the regulations set forth in Annex A.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall submit this order and Annex A for review and comments to IRRC and the Legislative Standing Committees.
4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. An original and 15 copies of any written comments referencing the docket number of the proposed rulemaking be submitted within 60 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. Reply comments will be due 30 days from the last date of the 60 day comment period.
6. A copy of this order and Annex A shall be served on all jurisdictional electric distribution companies, all licensed electric generation suppliers, the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate and all other parties of record in the Provider of Last Resort Roundtable at M-00041792.
7. The contact persons for this Proposed Rulemaking are Robert Bennett, Bureau of Fixed Utility Services, (717) 787-5553 (technical), and Shane Rooney, Law Bureau, (717) 787-2871 (legal).

8. The Commission docket opened for the Provider of Last Resort Roundtable at M-00041792 be marked closed.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-237. No fiscal impact; (8) recommends adoption.

Statement of Commissioner Kim Pizzigrilli

Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2); Public Meeting December 16, 2004; DEC-2004-L-0101; DOC. NO. L-00040169*

Provider of Last Resort Roundtable; M-00041792

Today the Commission issues a significant Notice of Proposed Rulemaking in the ongoing development of Pennsylvania's competitive retail electric market. The proposed default service regulations will serve as the basis for final regulations of this important service. As retail electric competition continues to evolve in Pennsylvania, it is vital that the Commission ensure that all Pennsylvania electric customers continue to receive safe and reliable electric service. I wish to commend the efforts of those that have significantly contributed in the Commission's efforts, including representatives from Pennsylvania's electric distribution companies, competitive electric generation suppliers, consumer advocates and leaders of both small and large businesses. The continued participation of these parties to offer well-grounded solutions to many complex issues has been an invaluable asset to the Commission in developing this rulemaking.

Throughout the past year these parties along with the Commission and our staff have delved into the myriad of issues associated with the provision of default electric service. Often the resolution of one issue resulted in the identification of a multitude of equally difficult tangential issues. The proposed regulations address the majority of the core issues related to default service with the intent of providing sufficient flexibility for the competitive market, its participants and this Commission to respond to any new developments that arise in the future. While I support the proposed regulations I note that one area requires further consideration and likely additional regulatory language.

Specifically, the proposed regulations provide restrictions on the transfer of retail customers' accounts to default service by electric generation suppliers. By adding a new section to the Commission's preexisting Competitive Safeguard Regulations⁴ (Chapter 54) we are addressing this issue through an amendment. The proposed new section restrains the transfer of customer accounts to default service without the consent of the default service provider, except under specific circumstances. This is the sole addition proposed to our Competitive Safeguard Regulations but unlikely to be the only means by which Pennsylvania's competitive market could be unduly influenced via anti-competitive behavior.

The Order recognizes that the subject of competitive safeguards is broad and includes many issues beyond this one and calls for the potential need to further examine Chapters 54 and 57⁵ of our Regulations with the objective of ensuring that adequate competitive safeguards are in place. For this reason, I encourage parties to submit comments on other issues involving competitive safe-

⁴ 52 Pa. Code § 54.121 et seq.

⁵ Standards for Changing A Customer's Electricity Generation Supplier. 52 Pa. Code § 57.171 et seq.

guards that may be required to ensure the proper functioning of Pennsylvania's competitive retail markets.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 54. ELECTRICITY GENERATION CUSTOMER CHOICE

Subchapter A. CUSTOMER INFORMATION

§ 54.4. Bill format for residential and small business customers.

* * * * *

(b) The following requirements apply only to the extent to which an entity has responsibility for billing customers, to the extent that the charges are applicable. The [provider of last resort] default service provider will be considered to be an EGS for the purposes of this section. Duplication of billing for the same or identical charges by both the EDC and EGS is not permitted.

* * * * *

§ 54.5. Disclosure statement for residential and small business customers.

* * * * *

(b) The EGS shall provide the customer written disclosure of the terms of service at no charge whenever:

* * * * *

(3) Service commences from a [provider of last resort] default service provider.

(c) The contract's terms of service shall be disclosed, including the following terms and conditions, if applicable:

* * * * *

(9) The name and telephone number of the [provider of last resort] default service provider.

* * * * *

(h) If the [provider of last resort] default service provider changes, the new [provider of last resort] default service provider shall notify customers of that change, and shall provide customers with their name, address, telephone number and Internet address, if available.

§ 54.6. Request for information about generation supply.

(a) EGSs shall respond to reasonable requests made by consumers for information concerning generation energy sources.

* * * * *

(2) The [provider of last resort] default service provider shall file at the Commission the annual licensing report as required by the Commission's licensing regulations in this chapter and shall otherwise comply with paragraph (1).

* * * * *

Subchapter B. ELECTRICITY GENERATION SUPPLIER LICENSING

§ 54.31. Definitions.

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

* * * * *

Default service provider—The incumbent EDC within a certificated service territory or a Commission approved alternative default service provider.

* * * * *

[**Provider of last resort**]—A supplier approved by the Commission under section 2807(e)(3) of the code (relating to duties of electric distribution companies) to provide generation service to customers who contracted for electricity that was not delivered, or who did not select an alternative electric generation supplier, or who are not eligible to obtain competitive energy supply, or who return to the provider of last resort after having obtained competitive energy supply.]

* * * * *

§ 54.32. Application process.

* * * * *

(h) An EDC acting within its certificated service territory as a [provider of last resort] default service provider is not required to obtain a license.

§ 54.41. Transfer or abandonment of license.

* * * * *

(b) A licensee may not abandon service without providing 90 days prior written notice to the Commission, the licensee's customers, the affected distribution utilities and [providers of last resort] default service providers prior to the abandonment of service. The licensee shall provide individual notice to its customers with each billing, in each of the three billing cycles preceding the effective date of the abandonment.

Subchapter E. COMPETITIVE SAFEGUARDS

§ 54.123. Transfer of customers to default service.

The following standards apply to the transfer of a retail customer's electric generation service from an EGS to a default service provider within the meaning of § 54.182 (relating to definitions):

(1) An EGS may not transfer a retail customer from its electric generation service to the default service provider without the consent of the default service provider, except in the following situations:

(i) Upon Commission approval of the abandonment, suspension or revocation of an EGS license, consistent with §§ 54.41 and 54.42 (relating to transfer or abandonment of license and license suspension; license revocation).

(ii) Upon nonpayment by a retail customer for services rendered by the EGS.

(iii) To correct an unauthorized or inadvertent switch of a retail customer's account from default service to an alternative EGS's service.

(iv) Upon the normal expiration of contracts that are not structured in a way to exploit seasonal variations in market prices for electric generation service.

(2) An EGS may initiate transfers in the situations set forth in paragraph (1) through standard electronic data interchange protocols.

(3) An EGS may not initiate or encourage transfers of service to a default service provider from

the EGS to exploit seasonal variations in market prices for electric generation service.

(4) The Commission may impose a penalty for every retail customer transferred to default service in violation of this section, consistent with 66 Pa.C.S. §§ 3301–3316 (relating to violations and penalties).

Subchapter G. DEFAULT SERVICE

Sec.	Purpose.
54.181.	Purpose.
54.182.	Definitions.
54.183.	Default service provider.
54.184.	Default service provider obligations.
54.185.	Default service implementation plans and terms of service.
54.186.	Default service supply procurement.
54.187.	Default service rates and the recovery of reasonable costs.
54.188.	Commission review of default service implementation plans.
54.189.	Default service customers.

§ 54.181. Purpose.

This subchapter implements 66 Pa.C.S. § 2807(e) (relating to duties of electric distribution companies), pertaining to an EDC's obligation to serve retail customers at the conclusion of the restructuring transition period. The provisions in this subchapter ensure that retail customers who do not choose an alternative EGS, or who contract for electric energy that is not delivered, have access to generation supply at prevailing market prices. The EDC shall fully recover all reasonable costs for acting as a default service provider of electricity to all retail customers in its certificated distribution territory.

§ 54.182. Definitions.

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

Alternative energy portfolio standards—A requirement that a certain percentage of electric energy sold to retail customers in this Commonwealth be derived from alternative energy sources, as defined in the Alternative Energy Portfolio Standards Act (73 P.S. §§ 1647.1–1647.7).

Commission—The Pennsylvania Public Utility Commission.

Competitive procurement process—A fair, transparent and nondiscriminatory process by which a default service provider acquires electric generation supply to serve its default service customers through a bid solicitation process.

Default service—

(i) Electric generation service provided by a default service provider to a retail electric customer who does not choose an alternative EGS or who contracts for electric energy and it is not delivered.

(ii) Electric generation service provided pursuant to a Commission approved default service plan.

Default service implementation plan—A filing submitted by a default service provider to the Commission that identifies the means for procuring generation supply for default service customers at prevailing market rates, the reasonable costs associated with default service and all other necessary terms and conditions of service.

Default service provider—The incumbent EDC within a certificated service territory or a Commission approved alternative default service provider.

EDC—*Electric distribution company*—The term has the same meaning as defined in 66 Pa.C.S. § 2803 (relating to definitions).

EGS—*Electric generation supplier*—The term has the same meaning as defined in 66 Pa.C.S. § 2803.

FERC—The Federal Energy Regulatory Commission.

Fixed rate option—A default service price that is set in advance for the entire term of the default service implementation plan that may include seasonal differences.

Hourly priced service—A default service price where the energy component of the generation supply charge is based on the RTO or ISO's LMP for energy, or other similar, mechanism.

ISO—A FERC-approved independent transmission system operator.

LMP—*Locational marginal pricing*—A pricing mechanism used by some RTOs and ISOs, as defined in their FERC approved tariffs.

Prevailing market price—

(i) The price of electric generation supply for a term of service realized through a default service provider's implementation of and compliance with a Commission-approved default service implementation plan.

(ii) The price of electric generation supply in the RTO or ISO administered energy markets in whose control area default service is being provided, acquired under the conditions specified in § 54.186(g), § 54.187(i) or § 54.188(e) (relating to default service supply procurement; default service rates and the recovery of reasonable costs; and Commission review of default service implementation plans).

Replacement procurement process—A Commission-approved process, submitted as part of the default service implementation plan, which provides for the acquisition of generation supply if a supplier fails to deliver generation contracted for under the terms of a competitive procurement process.

Retail customer or retail electric customer—These terms shall have the same meaning as defined in 66 Pa.C.S. § 2803.

RTO—A FERC-approved regional transmission organization.

§ 54.183. Default service provider.

(a) The default service provider shall be the incumbent EDC in each certificated service territory, except as provided for under subsection (b).

(b) An EDC may petition the Commission to be relieved from the default service obligation. In the alternative, the Commission may propose through its own motion that an EDC be relieved from the default service obligation. The Commission may approve those request if it is in the public interest. In such circumstances, the Commission will announce through an order a competitive process to determine the alternative default service provider, which may be either an EDC or a licensed EGS.

(c) When the Commission finds that an EDC should be relieved of the default service obligation, the competitive process for the replacement of the default service provider shall be as follows:

(1) Any EDC or EGS that wishes to be considered for the role of the alternative default service provider shall apply for a certificate of public convenience, consistent with 66 Pa.C.S. §§ 1101–1103 (relating to organization of public utilities and beginning of service; enumeration of acts requiring certificate; and procedure to obtain certificates of public convenience).

(2) Applicants shall demonstrate their operational and financial fitness to serve and their ability to comply with Commission regulations, orders and applicable laws pertaining to public utility service.

(3) If no applicant can meet this standard, the incumbent EDC will be required to continue the provision of default service.

(4) If one or more applicants meet the standard provided in paragraph (2), the Commission will grant a certificate of public convenience to act as a default service provider to the applicant best able to fulfill the obligation.

(5) An EGS that is granted a certificate of public convenience to act as an alternative default service provider will be considered a public utility within the meaning of 66 Pa.C.S. § 102 (relating to definitions).

§ 54.184. Default service provider obligations.

(a) A default service provider shall be responsible for the reliable provision of default service to retail customers who are not receiving generation services from an alternative EGS within the certificated territory of the EDC that it serves.

(b) A default service provider shall comply with applicable Commission regulations and orders to the extent that the obligations are not modified by this subchapter.

(c) A default service provider shall continue the universal service program in effect in the EDC's certificated service territory or implement, subject to Commission approval, a similar customer assistance program consistent with 66 Pa.C.S. §§ 2801—2812 (relating to Electricity Generation Customer Choice and Competition Act).

§ 54.185. Default service implementation plans and terms of service.

(a) A default service provider shall file a default service implementation plan with the Commission's Secretary's Bureau no later than 15 months prior to the conclusion of the currently effective default service plan or Commission-approved generation rate cap for that particular EDC service territory, unless the Commission authorizes another filing date.

(b) Default service implementation plans must comply with Commission regulations pertaining to documentary filings, except when modified by this subchapter. The default service provider shall serve copies of the default service implementation plan on the Pennsylvania Office of Consumer Advocate, Pennsylvania Office of Small Business Advocate, the Commission's Office of Trial Staff, and the RTO or ISO in whose control area the default service provider is operating.

(c) A default service implementation plan must propose a minimum term of service of at least 12 months, or multiple 12 month periods, or for a period necessary to comply with subsection (f).

(d) A default service implementation plan must propose a fair, transparent and nondiscriminatory competitive procurement process consistent with § 54.186 (relating to default service supply procurement) for the acquisition of sufficient electric generation supply, at prevailing market prices, to meet the demand of all of the default service provider's retail electric customers for the term of service. The default service plan must identify its method of compliance with the Alternative Energy Portfolio Standards Act (73 P. S. §§ 1647.1—1647.7).

(e) The Commission may direct that some or all default service providers file joint default service implementation plans that propose a competitive procurement process to

procure electric generation supply for all of their default service customers. In the absence of such a directive, some or all default service providers may jointly file default service plans that propose a competitive procurement process to procure electric generation for all of their default service customers. A multi-service territory competitive procurement process must comply with § 54.186.

(f) A default service provider shall document that its proposal is consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of the RTO or ISO in whose control area it is providing service. The default service plan's term of service and generation supply acquisition processes must align with the planning period of that RTO or ISO.

(g) The default service implementation plan must include a schedule of rates, rules and conditions of default service in the form of proposed revisions to its tariff. The default service provider may use the already effective retail customer classes in the EDC's service territory, or may propose a reclassification of retail customers.

(h) The default service implementation plan must identify the costs, consistent with § 54.187 (relating to default service rates and the recovery of reasonable costs), that will be recovered through a schedule of rates for the provision of default service.

(i) The default service implementation plan must include reasonable credit requirements, or other reasonable assurances of any supplier of electric generation services' ability to perform, as approved by the Commission.

(j) The default service implementation plan must identify the load size and end date of all existing long-term generation contracts that are in effect between the EDC and a retail customer within its service territory.

(k) The default service implementation plan should include copies of any proposed confidentiality agreements for the protection of proprietary information of the default service provider and generation suppliers. The Commission will approve reasonable confidentiality agreements, including expiration provisions, that will be binding on the default service provider, generation suppliers and any third party involved in the administration, review or monitoring of a default service supply procurement process.

(l) The default service provider shall include in its implementation plan a replacement procurement process to ensure the reliable provision of default service if a supplier fails to deliver electric generation supply it has agreed to provide under the terms of a Commission-approved competitive procurement process.

(m) The Commission may issue orders further specifying the form and content of default service implementation plans when necessary to enforce or carry out the provisions of 66 Pa.C.S. §§ 2801—2812 (relating to Electricity Generation Customer Choice and Competition Act), and other applicable law.

§ 54.186. Default service supply procurement.

(a) A default service provider shall procure the electricity needed to provide default service only through a competitive procurement process or replacement procurement process approved by the Commission, with the following exceptions:

(1) Hourly priced service provided under § 54.187(e) (relating to default service rates and the recovery of reasonable costs).

(2) Supply procured through RTO or ISO administered energy markets consistent with subsection (g), § 54.187(i) or § 54.188(e) (relating to Commission review of default service implementation plans).

(b) A default service provider's competitive procurement process shall adhere to the following standards:

(1) A default service provider's supplier affiliate may participate in any competitive procurement process. The default service provider shall propose and implement protocols to ensure that its supplier affiliate does not receive an advantage in either the solicitation and evaluation of competitive bids, or any other aspect of the competitive procurement process. The process must comply with the codes of conduct promulgated by the Commission in § 54.122 (relating to code of conduct).

(2) A default service provider's proposed competitive procurement process must include:

- (i) A bidding schedule.
- (ii) A definition and description of the power supply products on which potential suppliers shall bid.
- (iii) Bid price formats.
- (iv) The time period during which the power will need to be supplied for each power supply product.
- (v) Bid submission instructions and format.
- (vi) Bid evaluation criteria.
- (vii) Relevant load data, including the following:
 - (A) Aggregated customer hourly usage data for all retail customers.
 - (B) Number of retail customers.
 - (C) Capacity peak load contribution figures by rate schedule.
 - (D) Historical monthly retention figures by rate schedule.
 - (E) Estimated loss factors by rate schedule.
 - (F) Customer size distribution by rate schedule.

(c) A default service provider may employ a third-party to design and implement the competitive procurement process.

(d) The competitive procurement process may be subject to direct oversight by the Commission or an independent third party. Any third party shall report to the Commission. Commission staff and any third party involved in oversight of the procurement process shall have full access to all information pertaining to the competitive procurement process, and may monitor the process either remotely or where the process is administered. Any third party retained for purposes of monitoring the competitive procurement process shall be subject to confidentiality agreements identified in § 54.185(k) (relating to default service implementation plans and terms of service).

(e) The default service provider shall evaluate and select winning bids in a nondiscriminatory manner based on bid evaluation criteria set forth consistent with subsection (b)(2)(vi).

(f) The Commission will review the acquisition of generation supply and verify compliance with the approved competitive procurement process as follows:

(1) The Commission's review will occur within a time period as specified in the approved competitive procurement process.

(2) The review period may not be less than 3 business days.

(3) The Commission's verification of compliance with an approved competitive procurement process will constitute its certification of the default service provider's compliance with the approved default service implementation plan.

(g) If the implementation of a competitive procurement process under this section does not result in sufficient electric supply to meet the default service provider's full load requirements, the default service provider shall repeat the competitive procurement process. The default service provider may petition for necessary changes to the previously approved competitive procurement process to ensure the acquisition of sufficient supply. When necessary to procure electric generation supply before the completion of another competitive procurement process, a default service provider shall acquire supply at prevailing market prices and shall fully recover reasonable costs associated with this activity. In this circumstance, the prevailing market price shall be the price of electricity in the RTO or ISO's administered energy markets in whose control area that service is being provided. The default service provider shall follow acquisition strategies that reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3) (relating to duties of electric distribution companies), when selecting from the various options available in these energy markets.

(h) The bids submitted by a supplier under the competitive procurement process shall be treated as confidential through the expiration date identified in the confidentiality agreement approved by the Commission under § 54.185(k). The default service provider, the Commission, and any third party involved in the administration, review or monitoring of the procurement process, shall be subject to this confidentiality provision.

§ 54.187. Default service rates and the recovery of reasonable costs.

(a) The costs incurred for providing default service shall be recovered through the following mechanisms or charges:

(1) The generation supply charge is a nonreconcilable charge that includes all reasonable costs associated with the acquisition of generation supply, exclusive of the costs of generation supply recovered through paragraph (3), to meet default service demand. The associated costs with this charge include:

- (i) The prevailing market price of energy.
- (ii) The prevailing market price of RTO or ISO capacity or any similar obligation.
- (iii) FERC-approved ancillary services and transmission charges.
- (iv) Required RTO or ISO charges.
- (v) Applicable taxes.
- (vi) Other reasonable, identifiable generation supply acquisition costs.

(2) The customer charge is a nonreconcilable, fixed charge, set on a per customer class basis, that includes all identifiable, reasonable costs associated with providing default service to an average member of that class,

exclusive of generation supply costs and costs recovered through paragraph (3). The associated costs with this charge include:

(i) Default service related costs for customer billing, collections, customer service, meter reading and uncollectible debt.

(ii) A reasonable return or risk component for the default service provider.

(iii) Applicable taxes.

(iv) Other reasonable and identifiable administrative or regulatory expenses.

(3) A default service provider shall use an automatic energy adjustment clause, consistent with 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) to recover reasonable costs incurred through compliance with the Alternative Energy Portfolio Standards Act (73 P. S. §§ 1647.1—1647.7).

(4) The costs recovered through the preceding charges and mechanisms may not be recovered by an EDC acting as a default service provider through its Commission approved distribution rates.

(b) A default service plan must include a fixed rate option for all residential customers.

(c) A default service implementation plan must include a fixed rate option for nonresidential default service customers whose load test indicates a registered peak demand of 500 or less kilowatts.

(d) The default service provider shall include an hourly rate in its implementation plan for all default service customers whose load test indicates a registered peak demand of greater than 500 kilowatts. The default service provider may propose a fixed rate for these customers in its default service implementation plan.

(e) The rate for hourly priced service shall include:

(1) The RTO's or ISO's LMP or the equivalent pricing mechanism.

(2) The prevailing market price of RTO or ISO capacity or any similar obligation.

(3) FERC-approved ancillary services and transmission charges.

(4) Required RTO or ISO charges.

(5) Applicable taxes.

(6) Other FERC-approved or reasonable, identifiable RTO or ISO charges and costs directly related to the hourly priced service.

(7) Other reasonable and identifiable administrative or regulatory expenses.

(f) The default service implementation plan must include rates that correspond to demand side response and demand side management programs available to retail customers in that EDC service territory.

(g) The default service implementation plan may include mechanisms that allow default service providers to adjust their prices during the term of service to recover reasonable, incremental costs of significant changes in the number of default service customers or reasonable, incremental costs of other events that would materially prejudice the reliable provision of default service and the full recovery of reasonable costs.

(h) The default service provider's projected and actual incurred costs for providing service may not be subject to

Commission review and reconciliation except in extraordinary circumstances, or as provided in subsection (a)(3).

(i) When a generation supplier fails to deliver generation supply to a default service provider, the default service provider shall be responsible for acquiring replacement generation supply consistent with its Commission-approved replacement procurement process. When necessary to procure electric generation supply before the completion of the replacement procurement process, a default service provider shall acquire supply at prevailing market prices and shall fully recover reasonable costs associated with this activity. In this circumstance, the prevailing market price will be the price of electricity in the RTO or ISO's administered energy markets in whose control area the default service is being provided. The default service provider shall follow acquisition strategies that reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3) (relating to duties of electric distribution companies), when selecting from the various options available in these energy markets.

§ 54.188. Commission review of default service implementation plans.

(a) A default service implementation plan shall initially be referred to the Office of Administrative Law Judge for further proceedings as may be required.

(b) The Commission will issue an order within 6 months of a plan's filing with the Commission on whether the default service implementation plan demonstrates compliance with this subchapter and 66 Pa.C.S. §§ 2801—2812 (relating to Electricity Generation Customer Choice and Competition Act). The Commission may order modification of the terms of the proposed plan to ensure that a default service plan is compliant.

(c) The Commission will evaluate the default service implementation plan to ensure that it includes a fair, transparent and nondiscriminatory competitive procurement process for all potential suppliers provided under § 54.186 (relating to default service supply procurement).

(d) Upon entry of the Commission's final order, the default service provider shall acquire generation supply for the term of service in a manner consistent with the terms of the approved competitive procurement process provided under § 54.186, and report the bids submitted by EGSS in writing to the Commission.

(e) The Commission will certify the results of a competitive procurement process in their entirety or reject them due to noncompliance with the approved procurement process. If the Commission rejects the results due to noncompliance, the default service provider shall repeat the approved competitive procurement process. When necessary to procure electric generation supply before the completion of the subsequent competitive procurement process, a default service provider shall acquire supply at prevailing market prices and shall fully recover reasonable costs associated with this activity. In this circumstance, the prevailing market price will be the price of electricity in the RTO or ISO's administered energy markets in whose control area that service is being provided. The default service provider shall follow acquisition strategies that reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3) (relating to duties of electric distribution companies), when selecting from the various options available in these energy markets.

(f) Upon completion of the competitive procurement process, the default service provider shall provide written notice to default service customers and the named

parties identified in § 54.185(b) (relating to default service implementation plans and terms of service) of the Commission-certified default service prices and terms and conditions of service no later than 60 days before their effective date, unless another time period is approved by the Commission. The default service provider shall also provide written notice to the named parties identified in § 54.185(b) containing an explanation of the methodology used to calculate the price for electric service.

(g) A default service provider may petition for a waiver of any part of this subchapter, in a manner consistent with § 5.43 (relating to petitions for issuance, amendment or waiver of regulations). The Commission may grant waivers of this subchapter to ensure the reliable provision of default service and to enforce and carry out the provisions of 66 Pa.C.S. §§ 2801—2812 and other applicable laws.

§ 54.189. Default service customers.

(a) At the conclusion of an EDC's Commission-approved generation rate cap, retail customers who are not receiving generation service from an EGS shall be assigned to the Commission-approved default service implementation plan.

(b) A default service provider shall accept applications for default service from new retail customers and retail customers who switch from an EGS, if the customers comply with all Commission regulations pertaining to applications for service.

(c) A default service provider shall treat a customer who leaves an EGS and applies for default service as it would a new applicant for default service.

(d) A default service customer may choose to receive its generation service from an EGS at any time, if the customer complies with Commission-regulations pertaining to changing generation service providers.

(e) A default service provider may not charge a fee to a retail customer that changes its generation service provider in a manner consistent with Commission regulations.

CHAPTER 57. ELECTRIC SERVICE

Subchapter M. STANDARDS FOR CHANGING A CUSTOMER'S ELECTRIC GENERATION SUPPLIER

§ 57.178. [Provider of last resort] Default service provider.

This subchapter does not apply when the customer's service is discontinued by the EGS and subsequently provided by the **[provider of last resort] default service provider** because no other EGS is willing to provide service to the customer.

[Pa.B. Doc. No. 05-359. Filed for public inspection February 25, 2005, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGING

Redesignation of Area Agency on Aging for Columbia and Montour Counties Planning and Service Area No. 15; Final Decision Regarding Redesignation

The Secretary of the Department of Aging (Department), under authority contained in the act of June 20, 1978 (P. L. 477, No. 70) (71 P. S. §§ 581-1—581-13), in conformity with the Older Americans Act of 1965 (42 U.S.C.A. §§ 3001—3058ee), and under 6 Pa. Code Chapter 30 (relating to designation and redesignation of area agencies on aging), has made a final decision regarding the redesignation of the area agency on aging (AAA) serving Planning and Service Area No. 15 (service area), which has the same boundaries as Columbia and Montour Counties (counties), as follows:

From: Columbia/Montour AAA
702 Sawmill Road, Suite 201
Bloomsburg, PA 17815-7727

To: Columbia/Montour Aging Office, Incorporated
702 Sawmill Road, Suite 201
Bloomsburg, PA 17815-7727

On September 13, 2004, the Department received a formal request from the Boards of Commissioners (commissioners) of the counties to redesignate the AAA from its county auspice to a nonprofit organization serving their service area. The commissioners advised that, in their opinion, the interests of older persons in the counties would be best served if services were provided through a private, nonprofit AAA rather than the existing county-based AAA. The commissioners' request in no way reflected dissatisfaction with the existing AAA but was based on other considerations. The commissioners recommended that the currently designated, county-affiliated

AAA be reorganized as a private, nonprofit corporation, so that it could continue as the AAA serving the counties.

Public hearings on the redesignation of the AAA were held at the Bloomsburg and the Danville Senior Centers on Wednesday, December 1, 2004. A copy of the verbatim proceedings is available upon request from the Department of Aging, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101. Testimony given at the public hearings reflected positively on the capacity of the management and staff of the counties' AAA to provide services to older persons in the counties. No other agencies came forward to express an interest in becoming the AAA.

On December 30, 2004, after considering the impact of redesignation on the provision of services in the service area, the comments of the current AAA and the commissioners and the testimony given at the public hearings, the Secretary notified the commissioners of a preliminary decision to redesignate the AAA as an independent, nonprofit corporation, effective July 1, 2005. The Secretary's notification included an explanation for the preliminary decision and informed the currently-designated AAA of its right to request a hearing regarding this decision. In a response letter of January 12, 2005, the currently-designated AAA acknowledged the Department's preliminary decision and stated that the AAA would not request a hearing since they were in agreement with the decision for the AAA to be redesignated as an independent, nonprofit corporation.

The Secretary publishes this final decision redesignating Columbia/Montour Aging Office, Incorporated as the AAA serving the counties.

This order shall take effect July 1, 2005.

NORA DOWD EISENHOWER,
Secretary

[Pa.B. Doc. No. 05-360. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 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 February 15, 2005.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
2-11-05	ESB Financial Corporation, Ellwood City, to acquire 100% of the voting shares of PHSB Financial Corporation, Beaver Falls	Ellwood City	Effective

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-11-05	First Priority Bank Malvern Chester County	Malvern	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
	<i>Correspondent:</i> Timothy F. Demers, Esq. Stevens & Lee 111 North 6th Street P. O. Box 679 Reading, PA 19603-0679		

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-11-05	ESB Savings Bank, Ellwood City, and Peoples Home Savings Bank, Beaver Falls Surviving Institution— ESB Savings Bank, Ellwood City The former main office of Peoples Home Savings Bank will become a branch office of ESB Savings Bank: 1427 Seventh Avenue Beaver Falls Beaver County All remaining branches of Peoples Home Savings Bank will also be operated as branch offices of ESB Savings Bank with the exception of the following, which will be discontinued as a result of this transaction: 632 Lawrence Avenue Ellwood City Lawrence County 229 Brighton Avenue Rochester Beaver County	Ellwood City 101 Golfview Drive Center Township Beaver County	Effective

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-14-05	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	Corner of Main Avenue and Luzerne Street Scranton Lackawanna County	Approved

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-9-05	Susquehanna Bank PA Lititz Lancaster County	<i>To:</i> 1105 Corporate Boulevard Lancaster Lancaster County <i>From:</i> 1400 Stony Battery Road Lancaster Lancaster County	Filed
2-9-05	Jersey Shore State Bank Jersey Shore Lycoming County	<i>Into:</i> 2050 North Atherton Street State College Centre County <i>From:</i> 1952 Waddle Road State College Centre County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
2-11-05	Corry Jamestown Credit Union, Corry, and Corry Foam Employees Federal Credit Union, Corry Surviving Institution— Corry Jamestown Credit Union, Corry	Corry	Approved

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
2-14-05	Steel Seven Credit Union, Harrisburg, and Pennsylvania Central Federal Credit Union, Harrisburg Surviving Institution— Pennsylvania Central Federal Credit Union, Harrisburg	Harrisburg	Approved

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 05-361. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Hay Creek Watershed Management Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation has approved the Hay Creek Watershed Management Plan (Plan) and is placing Hay Creek, the watershed and all tributaries covered in the Plan in Berks County on the Pennsylvania Rivers Conservation Registry (Registry).

The Berks County Conservancy (Conservancy) submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry:

1. The watershed area of Hay Creek (Berks County), from the headwaters to its confluence with the Schuylkill River—22.1 square miles.

2. All tributary streams within the Hay Creek Watershed.

This action takes effect February 26, 2005. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Final Plan is available for review at Berks County Conservancy, 25 North 11th Street, Reading, PA 19610, (610) 372-4992; and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are on file at the Conservancy.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 05-362. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Availability of Workforce Investment Act, Title II, Section 223 Funds for State Leadership Activities for July 1, 2005—June 30, 2006

I. *Authorization*

The Bureau of Adult Basic and Literacy Education (Bureau) is releasing these priorities based on knowledge as of this date.

A. Title II of The Workforce Investment Act of 1998, The Adult Education and Family Literacy Act, provides funds to local eligible provider agencies through the Department of Education (Department) for the establishment of adult education and family literacy programs that will:

1. Assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency.

2. Assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children.

3. Assist adults in the completion of a secondary school education.

B. Eligible applicants include local education agencies and public or private nonprofit agencies, organizations and institutions.

Consistent with the purpose of the Adult Education and Family Literacy Act for Program Year 2005-06, the Department will give primary consideration to programs for the educationally disadvantaged.

The Federal share of a grant will be 75% of the total cost of the program. The applicant must provide 25% match of the total cost of the program. The local match may be in kind. Other Federal funds may not be used for the local match unless specifically identified as eligible for use as matching funds.

C. Restrictions placed upon the Department by the United States Department of Education on the administration of the grant include:

1. Not more than 12.5% of the State's allotment shall be used for State Leadership Activities.

2. Not more than 5% of a local applicant's grant may be used for administrative costs, unless the Bureau approves a higher percent in advance.

II. *Application Procedures and Program Guidelines*

A letter of intent is due at the Bureau by March 11, 2005. The letter of intent should be a one-paragraph

description of the proposed project. Applications for State Leadership funds must be completed online and submitted by means of the e-grant website at egrants.ed.state.pa.us to the Bureau. Instructions and the application guidelines are available on the Bureau website at www.paadulted.org and the e-grant sites. Faxes will not be accepted.

Note: The Bureau reserves the right to consider proposals received after the deadline, and if appropriate, to approve them if and when funds become available.

III. *Funds for State Leadership Activities are Made Available under section 223(a)(2) for One or More of the Following Activities.*

Specific priorities that support these activities for Program Year 2005-2006 as follows.

1. The establishment or operation of professional development programs to improve the quality of instruction provided under local activities required under section 231(b).

2. The provision of technology assistance, including staff training, to eligible providers of adult education and literacy activities to enable the eligible providers to improve the quality of the activities.

3. The support of State or regional networks of literacy resource centers.

4. The monitoring and evaluation of the quality of, and improvement in, adult education and literacy activities.

5. Incentives for program coordination and integration and performance awards.

6. Developing and disseminating curricula.

7. Other activities of Statewide significance that promote the purpose of this title.

8. Coordination with existing support services, such as transportation, childcare and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities to adults enrolled in the activities.

9. Integration of literacy instruction and occupational skills training and promoting linkages with employers.

10. Linkages with postsecondary educational institutions.

Specific Priorities—State Leadership 2005-2006

This program year, the professional development system is under analysis by a third-party evaluator. As a result, the Bureau is continuing many of the existing priorities under a 1-year extension of the current contract, with modifications to some funding amounts. Funding for the six regional professional development centers will also be continued with a 1-year extension. Only one new priority is being offered for bid. Read the specifications and participate in the bidders' conference.

The bidder's conference will be a videoconference on March 2, 2005, at 11 a.m. The six regional professional development centers (PDC) have identified locations where this meeting can be downloaded. Contact a local PDC or the Bureau, (717) 787-5532.

1. Communications for Professional Development—Continued

The successful applicant will provide support for the design and/or publication of the Bureau's newsletters, reports, handbooks and brochures as needed. The project will direct and provide systematic communication and

coordination for the Bureau, PDCs and professional development projects. Specifically, this project will support Bureau communication by providing:

- Quarterly publication of *Fieldnews*.
- Annual production of *ABLE Provider Directory and Annual Report*.
- Annual update of *ABLE Pages*.
- Maintenance of the Bureau website.
- Assistance for PDC publications and websites.
- Support for Bureau-related websites.
- Annual publication of Success Story and APEX Booklet.

2. Support of Adult Education Professional Development—Continued

The successful applicant will be responsible for administration, fiscal management and support of Statewide adult basic education professional development activities and other Department activities to include provision for support of State Leadership requirements and initiatives under the Workforce Investment Act of 1998, support of various adult basic and literacy conference activities, support of Act 42 Council activities and provision of honoraria for presenters at State-sponsored activities.

3. Supports for Bureau Workforce Coalitions—Continued

The successful applicant will provide technical assistance to Bureau coalitions, building on activities begun in the Planning for Change project funded in 2001-02. Grantees will guide and support adult education coalitions in attaining regional workforce development goals, including increased/improved communication with regional Workforce Investment Boards and CareerLink Centers and the development, implementation and monitoring of an Adult Education Coalition Workforce Plan. The project applicant will provide support to all Statewide coalitions.

4. Training—Continued

The successful applicant will work with the Bureau to coordinate the maintenance of existing expertise and existing training opportunities in areas including, but not limited to, assessment and instruction in learning differences, technology, ESL, workforce, reading, writing and numeracy. All training will be referenced to scientific or evidence-based research. All training sessions will include a briefing packet for dissemination of information to participant's agency upon return. Each training registration in E-campus will identify observable or measurable outcomes.

Activities in this project should build on the expertise that has been developed in this Commonwealth in the specific areas being addressed. The project must show the capacity to have lead trainers to provide support to PDC trainers when necessary, the ability to provide training when appropriate and the intent to respond to various Bureau requests.

A goal of this priority will be to identify, with input from the professional development system staff and the ABLE Administrator's group, the training modules—formally known as CORE modules—that are no longer in demand and to retire those modules to the State literacy resource center. Bureau staff will have final approval.

No funding in this priority is to be used for the development of new training activities without Bureau approval.

5. *Statewide Technology Support for Administrative Activities—Continued*

The successful applicant for this ongoing initiative will strengthen the Bureau's ability to collect accurate data on agencies' educational services and on Statewide professional development activities. This project will insure high-quality agency data submission through interim and final data checks. This project will provide agency staff members with necessary training and technical assistance to use technology for administrative activities, especially data management. This training and support will be provided through working with and building capacity among PDC staff, if appropriate. The training and support will be provided directly by the project staff, when appropriate. The project will maintain the current electronic databases and registration system for agency and professional development activities. It will facilitate the reporting of Act 48 hours. It will also provide professional development center staff members with necessary training and technical assistance to use technology for tracking professional development activities, enabling PDCs to collect and report data for the Bureau's Professional Development System. No funding in this priority is to be used for the development of new training activities without Bureau approval.

6. *State Literacy Resource Center—Continued*

The successful applicant will maintain a clearinghouse of adult basic education materials and resources for learners and educators in this Commonwealth. The recipient will be responsible for collecting final reports, monographs or other materials from recently funded Bureau projects to establish a comprehensive collection of Pennsylvania publications. There will be close coordination with the Bureau website. The State Literacy Center website will include research citing evidence-based practices and recent publications of interest to adult basic education and family literacy practitioners. Dissemination of hard copies to meet requests from the field will also be a responsibility of the grantee.

7. *Analysis of Professional Development System—Continued*

The successful applicant will work with the Bureau to design and conduct an evaluation of the current Bureau professional development system and recommend the inclusion of the Family Literacy Training System, Tutors of Literacy in the Commonwealth, Distance and Literacy Corps training into the existing professional development system that is managed through the Bureau's Division of Special Programs and Projects.

8. *Development of Specific Training Topics—NEW—Up to a Total of \$75,000 for All Topics (can be bid separately or together)*

A. Train teachers for high-intensity instruction with welfare clients.

- Successful applicant must bring all partners together for planning. This project is a collaboration between the Department of Public Welfare, the Bureau and local adult education provider agencies in designated areas of need. Training may begin as small group regional training or large institute models; however, support for teachers must be sustained through a network of teachers, welfare

staff and the Bureau. Networking and training may also be a combination of face-to-face, online or distance strategies.

- Accommodate in these trainings all of the grantees that are awarded special funds to work with Temporary Assistance for Needy Families clients.

- Include the integration of Workplace Foundation Skills in curriculum.

- Demonstrate experience or extensive research in intensive instructional models.

- Demonstrate experience or extensive research in instructional programming for welfare clients.

- Include at least one PDC staff member from each region, so that local reinforcement is available, if needed.

- Development to be completed by August 31, 2005. Training available by September 1, 2005.

- Design training for both teachers and administrators.

B. Develop strategies for teachers, counselors, administrators and adult basic education students to promote greater success as students transition into higher education or job training.

- Successful applicant must work with existing group of Bureau-funded agencies that are already in various stages of support for transitioning students. Support this existing group as its agencies formalize their system and develop their expertise, so that they can mentor other Bureau-funded providers who want to assist students in transition.

- Support the creation of local networks through which training can occur. The training and support model will provide replicable, local, face-to-face training that builds capacity with local partners. This training will address the specific needs of adult basic education students as they transition into work, higher education or career training.

- Training will address the schema that needs to be developed by students for successful transition and by adult education providers for assisting the transition period by building formalized systems within their agencies.

- Training will address student supports that could be put into place in various locations.

- Successful bidder will work closely with Bureau staff on the development of this project.

C. Develop online training for new administrators.

- This training will be coordinated with the existing New Teacher and Family Literacy Administrator online training.

- The Bureau staff will approve content.

- Training will be aligned with the PA Adult Administrator Competencies.

- Online trainers will be in place to support this course.

- Training will be available to new administrators as needed.

FRANCIS V. BARNES, Ph.D.,
Secretary

[Pa.B. Doc. No. 05-363. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0057908	Jericho National Golf Club Inc. 250 Brownsburg Road New Hope, PA 18938	Bucks County Upper Makefield Township	Jericho Creek	Y
PA0029530	Palisades School District 39 Thomas Free Drive Kintnersville, PA 18930	Bucks County Nockamixon Township	Tributary to Gallows Run	Y

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

<i>NPDES 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>
PA0102598	One Land Corporation P. O. Box 222 Valencia, PA 16059	Middlesex Township Butler County	UNT to Glade Run 20-C	Y
PA0102326 Amendment No. 1	State Regional Correction Center at Mercer 801 Butler Pike Mercer, PA 16137	Finley Township Mercer County	Neshannock Creek 20-A	Y

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

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

PA0036978, Sewage, SIC 4952, **Telford Borough Authority**, 122 Penn Avenue, P. O. Box 209, Telford, PA 18969-0209. This proposed facility is located in Franconia Township, **Montgomery County**.

Description of Proposed Activity: Discharge of treated sewage from Telford Borough Wastewater Treatment Plant.

The receiving stream, Indian Creek, is in the State Water Plan, Watershed 3E Perkiomen Creek Basin, and is classified for: TSF. The nearest downstream public water supply intake for Philadelphia Suburban Water Company is located on Perkiomen Creek, 20.99 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.1 million gallons per day.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-01 to 10-31)	15	23		30
(11-01 to 4-30)	20	30		40
Total Suspended Solids	20	30		40
NH ₃ -N				
(5-01 to 10-31)	1.5			3.0
(11-01 to 4-30)	3.0			6.0
Phosphorous as P	1.0			2.0
Dissolved Oxygen	6.0 minimum			
Fecal Coliform	200 No. Col/100 ml			
pH (STD)	6.0 minimum			9.0
Total Dissolved Solids	Monitor	Monitor		Monitor
Total Residual Chlorine	0.01			0.03
Copper, Dissolved	Monitor		Monitor	Monitor
Copper, Total	0.021		0.042	0.052
(1st through 3rd years)				
Copper, Total	0.019		0.038	0.047
(4th through 5th years)				
Aluminum, Total	Monitor	Monitor		Monitor

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

1. Remedial Measures
2. Sewage Sludge Disposal
3. Whole Effluent Toxicity Tests at Renewal
4. TMDL/WLA Analysis
5. Operations and Maintenance Plan
6. Laboratory Certification
7. Effluent and Downstream Hardness Monitoring
8. Stormwater Outfall
9. High Flow Maintenance Plan
10. Chlorine Minimization
11. Infiltration/Inflow Abatement Program
12. Stream Inspection for Presence of Solids

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

PA0051632, Sewage, **City of Easton**, One South Third Street, Easton, PA 18042. This proposed facility is located in City of Easton, **Northampton County**.

Description of Proposed Activity: Discharge of treated industrial wastewater from the City of Easton Water Treatment Plant.

The receiving stream, Delaware River, is in the State Water Plan watershed No. 1F and is classified for: WWF. The nearest downstream public water supply intake for Keystone Water Company is located on Delaware River, 46 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.750 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
Total Suspended Solids		30.0	60.0
Total Aluminum		4.0	8.0
Total Iron		2.0	4.0
Total Manganese		1.0	2.0
Total Residual Chlorine		0.5	1.6
pH	6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 002 based on a design flow of 0.450 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
Total Suspended Solids		30.0	60.0
Total Aluminum		4.0	8.0
Total Iron		2.0	4.0
Total Manganese		1.0	2.0
Total Residual Chlorine		0.5	1.6
pH	6.0 to 9.0 standard units at all times		

PA0063894, Industrial, **Municipal Authority of the Borough of Minersville**, Two East Sunbury Street, Minersville, PA 17954. This proposed facility is located in Cass Township, **Schuylkill County**.

Description of Proposed Activity: Renewal of NPDES Permit.

The receiving stream, Dyer Run Reservoir, is in the State Water Plan watershed No. 3A and is classified for: CWF. The nearest downstream public water supply intake for Municipal Authority of the Borough of Minersville is located at the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.180 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Total Suspended Solids			30.0	
Total Aluminum			4.0	
Total Iron			2.0	
Total Manganese			1.0	
pH				
(Effluent)			6 or Influent pH-9	
(Influent)			Monitor	
Total Residual Chlorine			0.5	

E4011-006: Bureau of Abandoned Mine Reclamation, Wilkes-Barre District Office, 2 Public Square, 5th Floor, Wilkes-Barre, PA 18711-0790 in Foster Township, **Luzerne County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with abandoned mine reclamation in and along Pond Creek (CWF) and adjacent wetlands.

1. Restore a section of Pond Creek (CWF), which used to flow on the project area, but was broken up by past mining activities. The bed of the creek restoration will start from the SR 2049 culvert and run east to a constructed wetland/pond before discharging into existing stripping pits. The intent is to continue the restoration of Pond Creek to SR 2048 with future phases of reclamation. Pond Creek will be restored as closely as possible to its premining location. The Creek will be designed using Fluvial Geomorphology Methods, with smaller pools and larger flows spreading over the constructed flood plain. The entire channel will be PVC lined to prevent infiltration into the deep mine workings. In stream structures that will be constructed are as follows: J-Hook Vanes for stabilization and Cross Vanes for grade control. (Freeland, PA Quadrangle N: 5.5 inches; W: 2.1 inches)

2. To place fill in 14 acres of water bodies for the purpose of regrading the area of abandoned mines to near natural original conditions. This area is comprised of two separate water bodies, and because of their water quality and lack of

wetland vegetation, would qualify for a Category 1 exclusion under 25 Pa. Code § 105.12(a)(16) for restoration activities on abandoned mine sites. (Freeland, PA Quadrangle N: 5.5 inches; W: 2.1 inches).

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

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

WQM Permit No. 2505402, Sewerage, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the construction of a pump station and sewer extension to provide service to the Community Country Day School, south of Walnut Creek, and existing Homes on Old Zuck Road.

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

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

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

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

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10U131R	Charles Chrin 400 S. Greenwood Ave. Easton, PA 18045	Northampton	Palmer Township	Bushkill Creek, HQ-CWF
PAI024805006	Meadowview Homes, Inc. 619 East Lawn Road Nazareth, PA 18064	Northampton	Bushkill Township	Bushkill Creek, HQ-CWF

Pike County Conservation District: HC6, Box 6770, Hawley, PA 18428, (570) 226-8220.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025205001	Agua Pennsylvania, Inc. HCR 6, Box 6040 Hawley, PA 18428	Pike	Palmyra Township	Wallenpaupack Creek, HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI-0328-05-002	Mower Meadows, Inc.	Franklin	Guilford	Falling Spring Branch HQ/CWF
PAI-0306-04-006	Don Gogluizza 6 Old Fritztown Rd. Reading, PA 19607	Berks	Cumru and Spring Townships	Wyomissing Creek

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

Potter Conservation District: 107 Market St., Coudersport, PA 16915, (814) 274-8411 Ext. 4.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045304003	Edward Moore 189 Rag Hill Rd. Genesee, PA 16923	Potter	Genesee Township	UNT Middle Branch Genesee River HQ-CWF

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

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

MS4 Notices of Intent Received

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG133590	Defense Distribution Depot Susquehanna PA DDDSP Building 1-1, Second Floor New Cumberland, PA 17070	York	Fairview Township	Susquehanna River/WWF	Y
PAG133563	North Londonderry Township 655 East Ridge Road Palmyra, PA 17078-9312	Lebanon	North Londonderry Township	Killinger Creek/TSF Quittapahilla Creek/TSF Spring Creek/WWF	Y
PAG133650	York County One West Marketway Fourth Floor York, PA 17401	York	York Township	Lake Williams Lake Redman Codus Creek/WWF Kreutz Creek/WWF South Branch Codus Creek/WWF	Y
PAG133647	Jacobus Borough 126 North Cherry Lane Jacobus, PA 17407	York	Jacobus Borough	East Branch Codus Creek	Y
PAG133593	Conewago Township 490 Copenhaffer Road York, PA 17404	York	Conewago Township	Little Conewago Creek/TSF Conewago Creek/ WWF Pine Run/WWF Laurel Run/WWF Locust Run/ WWF	Y
PAG133698	North Cornwall Township 320 South 18th Street Lebanon, PA 17042	Lebanon	North Cornwall Township	Bachman Run/ TSF Beck Creek/TSF Quittapahilla Creek/TSF Snitz Creek/TSF	Y

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published

in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 6405501, Public Water Supply

Applicant **Fox Ledge, Inc.**
R. R. 1, Box 1230
Honesdale, PA 18431

Township or Borough Preston Township
County **Wayne County**

Responsible Official Alfred A. Alessi, Jr., President

Type of Facility Bulk Water Hauling

Consulting Engineer Michael J. Propst, P. E.

Application Received Date February 8, 2005

Description of Action The building of a pumphouse to contain cartridge filtration, a UV sterilizer and ozonation equipment. The installation of a 15,000 gallon tank to store treated water from new spring sources 4 and 5 and a bulk water loading area.

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

Application No. 2505502, Public Water Supply

Applicant **Holly Acres Mobile Home Park**

Township or Borough Summit Township, **Erie County**

Responsible Official Carolyn P. Patton, President

Type of Facility PWS

Application Received Date February 1, 2005

Description of Action Installation of pressure filtration for iron and manganese removal.

Application No. 2505501, Public Water Supply

Applicant **Palmer Shores Water Association**

Township or Borough Fairview Township, **Erie County**

Responsible Official Geraldine Reale, Assoc President

Type of Facility PWS

Application Received Date January 13, 2005

Description of Action Construction of new water source (Well No. 2) and related pumping and treatment systems.

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

Application No. Minor Amendment.

Applicant **Borough of Jim Thorpe**

Township or Borough Jim Thorpe Borough, **Carbon County**

Responsible Official William J. Mauer, President
Jim Thorpe Borough Council
421 North Street
Jim Thorpe, PA 18229

Type of Facility PWS

Consulting Engineer Michael J. Daschbach, P. E.
Entech Engineering, Inc.
P. O. Box 32
Reading, PA 19603

Application Received Date January 12, 2005

Description of Action The applicant requests approval for distribution system watermain installations throughout the Borough (East and West sides), replacement of the existing Cherry Street Tank, and installation of yard valves and meter at the water treatment plant.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION UNDER ACT 2, 1995

PREAMBLE 1

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

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

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

identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

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

South Prince Street Properties, City of Lancaster and Lancaster Township, **Lancaster County**. Environmental Standards, Inc., P. O. Box 810, Valley Forge, PA 19482-0810, on behalf of the Lancaster County Planning Commission, P. O. Box 83480, Lancaster, PA 17608-3480 and the City of Lancaster, P. O. Box 1599, Lancaster, PA 17608-1599, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with petroleum fuel-related VOCs, semi-VOCs, lead, manganese, cadmium and thallium. The site is being remediated as a Special Industrial Area.

Wyomissing Industrial Park (Western portion of the Former Goss Graphic Systems Site), Borough of Wyomissing, **Berks County**. American Analytical & Environmental Inc., 738 Front Street, Catasauqua, PA 18032, on behalf of Chip & Gary Real Estate Holdings, LLC, 500 Walnut Street, Birdsboro, PA 19508; Zenith Properties, LP, P. O. Box 5828, Wyomissing, PA 19610; and Chima, Inc., 126 North Second Street, Reading, PA 19601, submitted a Notice of Intent to Remediate site groundwater contaminated with metals, chlorinated VOCs and semi-VOCs. The applicant is seeking to attain a Site-Specific Standard, and the proposed future use of the property will include residential and nonresidential purposes.

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

Hulls Landing Restaurant, Muncy Creek Township, **Lycoming County**. Earth Tech, 2 Market Plaza Way, Mechanicsburg, PA 17055, has submitted a Notice of Intent to Remediate groundwater contaminated with benzene, toluene, ethylbenzene, BTEX, MTBE and naphthalene. This site is being remediated to meet a Statewide Health Standard.

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

Michael Mancuso Heating Oil Spill, Pulaski Township, **Lawrence County**. Duane L. Statzer, The GeoEnvironmental Consortium, 701 Freeport Rd., South Bldg., Pittsburgh PA 15238 on behalf of Michael Mancuso, 494 Deer Creek Rd., West Middlesex, PA 16159, has submitted a Notice of Intent to Remediate. Heating oil spill at residence due to faulty intake valve. Approximately 10-30 gallons of fuel oil spilled onto a concrete tankroom floor, with smaller amount being spilled onto soil below the tank fill port area located outside the home. Intended future use of the property is residential.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users 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.

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

01-05016H: ISP Minerals, Inc. (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914)

for replacement of the existing rotary dryer and associated conveyors. These sources will be controlled by the use of new fabric filter baghouses. The facility is in Hamiltonban Township, **Adams County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.

11-00515A: J-LOK Corp. (258 Kappa Drive, Pittsburgh, PA 15238) for construction of minebolt resin capsule manufacturing facility in Cresson Township, **Cambria County**.

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

43-337A: Bessemer and Lake Erie Railroad Co. (85 Ohl Street, Greenvielle, PA 16125-2370) plan approval for postconstruction of a flow coating line at their West Hempfield Plant in Hempfield Township, **Mercer County**.

42-061B: Dresser Manufacturing Division—Dresser Industries (41 Fisher Avenue, Bradford, PA 16701) for modification of a plan approval to modify the VOC and HAP emission limits from the Binks Spray Booth and Plastisol Dip operations at their Fisher Avenue Plant, Bradford, **McKean County**.

43-337A: Bessemer and Lake Erie Railroad Co. (85 Ohl Street, Greenvielle, PA 16125-2370) plan approval for postconstruction of a flow coating line at their West Hempfield Plant in Hempfield Township, **Mercer County**.

42-061B: Dresser Manufacturing Division—Dresser Industries (41 Fisher Avenue, Bradford, PA 16701) for modification of a plan approval to modify the VOC and HAP emission limits from the Binks Spray Booth and Plastisol Dip operations at their Fisher Avenue Plant, Bradford, **McKean County**.

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

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

15-0009B: AGC Chemicals Americas, Inc. (255 South Bailey Road, Downingtown, PA 19355) for modification of previously issued Plan Approval for the fluid bed dryer on polyfluoroethylene process controlled by a scrubber at their facility in Caln Township, **Chester County**. This facility is a Synthetic Minor facility. Total emissions from this source are 2.2 tons of VOCs per year. The Plan approval will contain recordkeeping and operating restrictions to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

48-313-093: Polymer Products Co., Inc. (100 Station Avenue, P. O. Box 98, Stockertown, PA 18083) to install a dust collection system (replacement and upgrade of cyclone, fabric collector, ductwork, blower, and hoods) on the processes at their facility in Stockertown Borough, **Northampton County**. This facility is not a Title V

facility. Particulate matter emissions from the upgrade will not exceed 4.8 tons per year. Additionally, VOC emissions from the processes will not exceed 1.8 tons per year. The plan approval will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the sources, control equipment and facility operating within all applicable air quality requirements.

48-399-049A: ALCAN Packaging Pharmaceutical and Personal Care, Inc. (2400 Baglyos Circle, Bethlehem, PA 18020) for modification of pharmaceutical product-packaging lines (blister lines) at their facility in Bethlehem City, **Northampton County**. The modification involves addition of two pharmaceutical product-packaging lines (blister lines). Each line is capable of processing maximum of 20,000 tablets per hour. Occasionally liquid product will also be packaged in tubes or bottles in these areas. Particulate emissions generated during packaging operations are controlled by a baghouse. Expected particulate emission rate will be less than 0.02 grain/dscf from the baghouse. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

66-315-045: The Procter and Gamble Paper Products Co. (P. O. Box 32, Mehoopany, PA 19629) for modification of the Building 11 diaper production area and associated air cleaning device (baghouse), at their facility along Route 87, Washington Township, **Wyoming County**. Particulate emissions the grain handling and cleaning operations will be controlled by an upgraded/refurbished fabric-collector. Expected particulate emission rate will be less than 0.02 grain/dscf. The company will operate the process and maintain the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions, that are designed to keep the process operating within all applicable air quality requirements. The facility has a valid Title V Operating Permit (66-00001). Once the equipment is operational and in compliance with all requirements, this plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit.

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

06-05104A: HB Mellott Estates, Inc. (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267-8555) for construction of a replacement nonmetallic mineral crushing plant controlled by wet suppression in Maiden creek Township, **Berks County**. The facility is a non-Title V (State only) facility. The plant will replace an existing plant. The new plant will be subject to 40 CFR Part 60, Subpart OOO, Standards of Performance for New Stationary Sources. The permittee will be required to limit all emissions from the facility to less than the Title V thresholds. The facility will be required to maintain emission records. The permit will include monitoring, testing, work practices, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.

11-00513A: Cambria Coke Co. (1111 Northshore Drive, Landmark Tower N-600, Knoxville, TN 37919) for construction of their Cambria Coke Plant in Cambria Township, **Cambria County**.

Under 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue an Air Quality Plan Approval to allow the construction of their Cambria Coke Plant in Cambria Township, Cambria County.

The proposed facility is subject to the applicable requirements of 25 Pa. Code Chapter 127, 40 CFR 52.21, 40 CFR Part 60, Subpart Y, (related to standards of performance for coal preparation facilities). The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. The facility is to be constructed in accordance with the plans submitted with the application (as approved).
2. Upon completion of the construction of the facility, an operating permit must be obtained. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit.
3. This Plan Approval authorizes Cambria Coke Company to construct a heat recovery coke plant in Cambria Township, Cambria County. (25 Pa. Code § 127.12b)
4. Sources at this facility consist of the following: (25 Pa. Code § 127.12b)
 - A. Coal rail unloading (with thawing shed, heater rated at 35 mmBtu/hr), emissions controlled by wet suppression and enclosure.
 - B. Coal truck unloading, six 50-ton bins, emissions controlled by wet suppression and enclosure.
 - C. Coal stockpiles (2), including load-in and load-out, emissions controlled by radial stacker, wet suppression, enclosed load-in, and underpile conveyor for coal reclaim.
 - D. Coal crushing and screening, emissions controlled by wet suppression, enclosures and fabric filter.

- E. Domed coal storage, including load-in and load-out, emissions controlled by enclosure.
- F. Coal transfer, emissions controlled by enclosure.
- G. Two charging machines, emissions controlled by traveling hoods with fabric filters.
- H. Two hundred and eighty coke ovens, arranged in two 60-oven batteries and two 80-oven batteries with waste gas emissions exhausting through seven heat recovery steam generators (HRSG), emissions controlled by a lime spray dryer and a fabric filter, exhausting through a single main stack. On a basis limited to no more than 4% of total exhaust, HRSG waste gases may be vented through one of the seven individual waste heat stacks without treatment by the spray dryer and fabric filter.
- I. Two pushing machines, with flat push hot cars, emissions controlled by traveling hoods w/multiclones.
- J. Quench towers A—D, emissions controlled by stainless steel baffles and maintenance of the total dissolved solids content of the quench water below 1,100 mg/l.
- K. Coke crushing and screening, emissions controlled by a fabric filter.
- L. Coke stockpile, including load-in and load-out, emissions controlled by wet suppression and enclosure.
- M. Coke and breeze transfer, emissions controlled by enclosure.
- N. Coke loadout, emissions controlled by enclosures, elevated loadout, telescopic chute.
- O. Cooling towers, emissions controlled by make-up water TDS value.
- P. Lime silo, controlled by bin vents with filters.
- Q. Flue Gas Desulfurization dust silo, controlled by bin vents with filters.
- R. Roads, emissions controlled by paving, watering and good housekeeping.

Restrictions

5. The annual average sulfur content of the coal feedstock shall not exceed 1.5 weight percent. (25 Pa. Code § 127.12b)
6. Owner/operator shall operate the coke oven batteries under a negative pressure at all times. (25 Pa. Code § 127.12b)
7. Each individual waste heat stack shall vent coke oven gases no more than 14 days per consecutive 12-month period. No more than one individual waste heat stack shall vent coke oven gases at a time. (25 Pa. Code § 127.12b)
8. Short-term emission rates (in pounds per hour) from each source shall not exceed the following, based on a 24-hour rolling average. (25 Pa. Code § 127.12b)

	<i>TSP</i>	<i>PM10</i>	<i>SO₂</i>	<i>NO_x</i>	<i>CO</i>	<i>VOCs</i>	<i>H₂SO₄</i>	<i>Total HAPs *</i>	<i>Lead</i>
Coal charging	0.45	1.4	0.087		0.82	0.6		0.032	0.00004
Main stack	48.0	48.0	583.3	291.7	61.1	6.5	4.6	1.66	0.046
Individual waste heat stacks (combined)	34.3	34.3	833.3	41.7	8.7	0.9	9.325		.0864
Pushing	8.4	8.4	28.6	5.5	18.4	3.5	.315	0.07	0.004
Quench towers A—D	35.0	12.8						0.17	0.0023
Coke crushing and screening	3.4	3.4							

* HAPs from main stack and individual waste heat stacks were combined

9. Particulate emission rates shall be limited as follows: (25 Pa. Code § 127.12b)

Source	Gas Flowrate (dscfm)	Concentration (gr/dscf)
Charging machines fabric filter stacks	45,000	0.008
Main stack	>300,000	0.02
Individual waste heat stacks	100,000	0.04
Pushing machines multicyclone stacks	50,000	0.04
Quench towers	300,000	0.02
Coke crushing/screening fabric filter stack	50,000	0.008

10. In accordance with 25 Pa. Code §§ 123.1 and 123.2, there shall be no fugitive emissions from this facility except those that arise from the use of roads, stockpiling and coke oven batteries. All reasonable actions shall be taken to minimize fugitive emissions that arise from use of roads and stockpiling. Reasonable actions shall include, but shall not be limited to, paving, sweeping and application of water or other dust suppressants. In no case shall fugitive emissions be permitted to cross the property line.

11. In accordance with 25 Pa. Code § 123.31, owner/operator shall not permit the emission of any malodorous air contaminants from any source in a manner that the malodors, as determined by the Department, are detectable outside the owner/operator's property.

12. If an opacity limit is not established elsewhere for a source, then the visible emission limits of 25 Pa. Code § 123.41 shall be in effect. owner/operator may not permit the emission into the outdoor atmosphere of visible emissions in a manner that the opacity of the emission is either of the following:

- A. Equal to or greater than 20% for periods aggregating more than 3 minutes in any 1 hour.
- B. Equal to or greater than 60% at any time.

13. Total emissions from the facility shall not exceed the following, on a tons per 12 consecutive month rolling average basis: (25 Pa. Code § 127.12b)

Source	TSP	PM10	SO ₂	NO _x	CO	VOCs	H ₂ SO ₄	Total HAPs*	Lead	Mercury*
Coal rail unloading (with thaw shed)	1.32	1.21	0.09	14.74	12.38	0.81				
Coal truck unloading	0.46	0.22								
Coal Pile (including load-in and load-out)	2.98	1.47								
Domed coal (including load-in and load-out)	0.22	0.10								
Coal crushing and screening	2.04	1.02								
Coal transfer	4.94	2.34								
Coal charging stacks	8.71	6.29	0.38		3.58	2.56		0.140	0.00018	0.000001
Main stack	210.24	210.24	2,555.0	1,277.5	267.51	28.66	28.11	7.251	0.2	0.269
Individual waste heat stacks	40.32	40.32	980.0	49.0	10.26	1.10	10.78		0.15	
Pushing stacks	36.54	36.54	125.2	24.28	80.48	15.34	1.38	0.305	0.019	
Quench towers A—D	153.3	56.21						0.729	<0.01	
Coke crushing and screening	15.02	15.02								
Coke storage	1.45	0.69								
Coke and breeze transfer	9.55	4.49								
Coke loadout	0.61	0.29								
Cooling tower	7.61	7.61								
Roads	40.4	6.01								
TOTAL	535.7	390.0	3,661.0	1,365.5	374.2	48.46	40.26	8.425	0.3692	0.269

14. The owner/operator shall demonstrate to the Federal Land Managers that the emissions from this facility do not adversely affect the air quality related values of any Class I area. (40 CFR Part 52)

15. In accordance with 40 CFR 60.252, owner/operator shall not cause to be discharged to the atmosphere from any coal processing and conveying equipment or coal

storage system gases which exhibit 20% opacity or greater.

16. In accordance with 40 CFR 63.303(b)(2), for charging operations, the owner/operator shall install, operate and maintain an emission control system consisting of a traveling hood with a fabric filter for the capture and collection of emissions from charging operations in a

manner that is consistent with good air pollution control practices for minimizing emissions.

17. In accordance with 40 CFR 63.303(d)(1), the owner/operator shall not discharge or cause to be discharged to the atmosphere from charging operations any fugitive emissions that exhibit an opacity greater than 20%, as determined by the procedures found at 40 CFR 63.309(j).

18. In accordance with 40 CFR 63.303(d)(3), the owner/operator shall not discharge or cause to be discharged to the atmosphere any emissions from a charging emission control device that exceed 10% opacity as determined by the procedures in 40 CFR 63.309(m).

19. In accordance with 40 CFR 63.303(d)(2), the owner/operator shall not discharge or cause to be discharged to the atmosphere any emissions of particulate matter from a charging emission control device that exceed 0.0081 pound per ton of dry coal charged, as determined by the procedures in 40 CFR 63.309(k).

20. In accordance with 40 CFR 63.303(b)(1), owner/operator shall not cause to be discharged to the atmosphere coke oven emissions that exceed 0.0% leaking oven doors, as determined by the procedures in 40 CFR 63.309(d)(1).

21. During pushing operations, particulate matter emissions from the flat push hot car multiclone control device stacks shall not exceed 0.04 pound per ton of coke. (25 Pa. Code § 127.12b)

22. In accordance with 25 Pa. Code § 123.42, the limitations of 25 Pa. Code § 123.41 shall not apply to a visible emission in any of the following instances:

A. When the presence of uncombined water is the only reason for failure of the emission to meet the limitations.

B. When the emission results from sources specified in 25 Pa. Code § 123.1(a)(1)–(9).

23. Each quench tower shall be constructed such that no more than 5% of the cross sectional area is uncovered or open to the sky. (25 Pa. Code § 127.12b)

24. The total dissolved solids concentration of the quench water shall not exceed 1,100 mg/liter. (25 Pa. Code § 127.12b)

Testing

25. Compliance with short-term emission limitations shall be demonstrated through performance stack testing as follows. (25 Pa. Code § 127.12b)

A. Emissions of particulate matter in the exhaust from the coal crushing and screening fabric filter stack.

B. Emissions of particulate matter in the exhaust from the charging machine fabric filter stacks.

C. Emissions of particulate matter, SO₂, NO_x, CO, VOCs, H₂SO₄, Total HAPs, lead and mercury in the exhaust from the main stack.

D. Emissions of particulate matter in the exhaust from the pushing multicyclone stacks.

E. Emissions of particulate matter in the exhaust from the coke crushing/screening fabric filter stack.

F. All stack testing shall be performed in accordance with 25 Pa. Code Chapter 139 and the most recent version of the Department's Source Testing Manual.

G. Two copies of the stack test protocol shall be submitted to the Department at least 60 days in advance

of the stack test date. Stack testing shall not take place until owner/operator has received written approval of the stack test protocol.

H. Company shall notify the Department of the date and the time of the stack test at least 2 weeks prior to the tests so that an observer may be present.

I. Two copies of the stack test results shall be submitted to the Department within 60 days of completion of the test.

J. Stack testing shall be performed within 60 days of achieving maximum production rate but no later than 180 days after the initial startup. Stack testing shall be twice during the term of the Title V Operating Permit.

K. Owner/operator shall record all pertinent operating data during the stack tests and include this data with the stack test results. Pertinent data includes, but is not necessarily limited to: multicyclone fan motor amperes during each push sampled for each particulate matter test run, multicyclone pressure drop for each particulate matter test run during periods of pushing, all available production data, such as charging and production rates, operating temperatures, pressure drops across all particulate matter control devices, measurements of pressure in the common battery tunnel, and the like.

26. In accordance with the methods described in 40 CFR 63.309(j), owner/operator shall conduct a performance test once each week to demonstrate compliance with the opacity limit established in 40 CFR 63.303(d)(1) for charging emissions.

27. The quench tower shall be tested once each week for total dissolved solids. Take the quench water sample from a location that provides a representative sample of the quench water as applied to the coke (such as, from the header that feeds water to the quench tower reservoirs). Conduct sampling under normal and representative operating conditions. Determine the TDS concentration of the sample using Method 160.1 in 40 CFR 136.3 (see "residue—filterable"), except that the total filterable residue must be dried at 103 to 105° C instead of 180° C. (25 Pa. Code § 127.12b)

Monitoring

28. Owner/operator shall install, certify, maintain and operate a continuous emission monitoring system in accordance with 25 Pa. Code Chapter 139 and the Department's Continuous Source Monitoring Manual. At a minimum the systems shall measure and record the following on the main stack exhaust: sulfur dioxide emissions.

29. In accordance with 40 CFR 63.303(b)(1)(ii), the owner/operator shall monitor once per day for each day of operation, the pressure in the common battery tunnel to ensure that the ovens are operated under a negative pressure.

30. In accordance with 40 CFR 63.303(d)(3), the owner/operator shall observe the exhaust stack of each charging emissions control device at least once during each day of operation to determine if visible emissions are present.

31. In accordance with 40 CFR 63.303(d)(3)(iii), owner/operator shall conduct visible emission monitoring according to the procedures in 40 CFR 63.309(m) within 24 hours after detecting any visible emissions from the charging emissions control device.

32. In accordance with 40 CFR 63.303(c)(1), owner/operator shall observe each oven door after charging and record the oven number of any door from which visible emissions occur. Emissions from coal spilled during charg-

ing or from material trapped within the seal area of the door are not considered to be a door leak if owner/operator demonstrates that the oven is under negative pressure, and that no emissions are visible from the top of the door or from dampers on the door.

33. For each multicyclone controlling the emissions from pushing operations, owner/operator shall monitor the multicyclone pressure drop during each push to ensure that it is at or below the level established during the initial performance test. (25 Pa. Code § 127.12b)

34. At least once during each day of operation, owner/operator shall conduct a fugitive emission survey and a malodor survey around the perimeter of the facility property to ensure compliance with 25 Pa. Code §§ 123.1, 123.2 and 123.31. If any fugitive emissions or malodors are apparent, the permittee shall take immediate corrective action to eliminate them.

Recordkeeping

35. In accordance with 40 CFR 63.303(b)(1)(ii), the owner/operator shall record once per day for each day of operation, the pressure in the common battery tunnel to ensure that the ovens are operated under a negative pressure.

36. In accordance with 40 CFR 63.303(c)(1), owner/operator shall record the oven number of any door from which visible emissions occur after charging.

37. Owner/operator shall keep records of corrective actions taken in accordance with 40 CFR 63.303(c)(2) to stop visible emissions from coke oven doors.

38. Owner/operator shall maintain a file of the design characteristics of the charging emission control system installed to comply with 40 CFR 63.303(b)(2).

39. In accordance with 40 CFR 63.303(d)(3), the owner/operator shall record the results of the observations taken of the exhaust stack of each charging emission control device at least once during each day of operation to determine if visible emissions are present, or the reason why the conditions did not permit a daily observations.

40. In accordance with 40 CFR 63.303(d)(3)(ii), owner/operator shall record the cause of the problem creating the visible emission problem with the charging emission control device and the corrective action taken.

41. Owner/operator shall record the daily average fan motor amperes of the electric motor used to drive the capture system applied to pushing operations to ensure that it is being operated at or above the minimum level established during the initial performance test. (25 Pa. Code § 127.12b)

42. For each multicyclone controlling the emissions from pushing operations, owner/operator shall record the multicyclone pressure drop during each push to ensure that it is at or below the level established during the initial performance test. (25 Pa. Code § 127.12b)

43. Records shall be maintained of all testing done to demonstrate compliance with the 1,100 mg/liter total dissolved solids limit for quench tower water. (25 Pa. Code § 127.12b)

44. The permittee shall maintain a record of all fugitive emission and malodor surveys performed. The records shall include the date, time, name and title of the observer, whether fugitive emissions or malodors were observed, and any corrective action. Owner/operator shall keep records of all monitoring activities conducted as described above. The records shall be kept for 5 years,

and shall be made available to the Department upon request. (25 Pa. Code § 127.12b)

45. Owner/operator must maintain a log detailing the operation and maintenance of the process and emission control equipment. (25 Pa. Code § 127.12b)

Reporting

46. The permittee shall report each malfunction that may result in an emissions' increase to the Department. For purposes of this condition a malfunction is defined as any sudden, infrequent, and not reasonably preventable failure of air pollution control or process equipment; or operating in a nonpermitted manner. When the malfunction poses an imminent and substantial danger to the public's health and safety, or potential harm to the environment, the permittee shall report the incident to the Department within 1 hour. (25 Pa. Code § 127.12b)

A. The report shall describe the:

- i) Name and location of the facility.
- ii) Nature and cause of the malfunction.
- iii) Time when the malfunction was first observed.
- iv) Expected duration of excess emissions.
- v) Estimated rate of emissions.

B. The owner or operator shall notify the Department immediately when corrective measures have been accomplished.

C. Unless otherwise required by specific reporting requirements, any malfunction that is not subject to the notice requirements, shall be reported to the Department within 24 hours (or the next business day) by telephone, and within 5 days by mail of discovery. The report shall contain the same information required by subsection (A).

D. Malfunctions shall be reported to the Department of Environmental Protection, Office of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

47. In accordance with 25 Pa. Code §§ 135.3 and 135.21, the owner/operator shall submit by March 1 of each year, a source report for the preceding calendar year. The report shall include information for all previously reported sources, new sources which were first operated during the preceding calendar year and sources modified during the same period which were not previously reported. A source owner or operator may request an extension of time from the Department for the filing of a source report, and the Department may grant the extension for reasonable cause.

48. The coal processing equipment and coal storage system is subject to the applicable requirements of 40 CFR 60, Subpart Y, Standards of Performance for Coal Preparation Plants.

49. The coke oven batteries are subject to the applicable requirements of 40 CFR 63, Subpart L—National Emission Standards for Coke Oven Batteries.

50. In accordance with 40 CFR 60.4 and 63.9, copies of all requests, reports, applications, submittals and other communications shall be forwarded to both the United States Environmental Protection Agency (EPA) and the Department at the following addresses, unless otherwise noted:

Director, Air, Toxics, and Radiation
 Environmental Protection Agency
 Region III
 1650 Arch Street
 Philadelphia, PA 19103

Department of Environmental Protection
 Regional Air Quality Manager
 Office of Air Quality
 400 Waterfront Drive
 Pittsburgh, PA 15222-4745

51. Owner/operator shall comply with the applicable reporting requirements of 40 CFR 60.7, 63.9 and 63.311.

52. Owner/operator shall comply with the startup, shutdown and malfunction reporting requirements found in 40 CFR 63.310(b).

53. Owner/operator shall report any instances of positive pressure in the battery common tunnel in accordance with 40 CFR 63.303(b)(1)(ii).

Work Practice Standards

54. A person responsible for any source specified in 25 Pa. Code § 123.1(a)(1)—(6) or (8) shall take all reasonable actions to prevent particulate matter from becoming airborne. These actions shall include, but not be limited to, the following:

A. Use, where possible, of water or chemicals for control of dust in the demolition of buildings or structures, construction operations, the grading of roads or the clearing of land.

B. Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles and other surfaces which may give rise to airborne dusts.

C. Paving and maintenance of roadways.

D. Prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water or other means.

55. Owner/operator shall prepare, and operate in accordance with, a work practice plan that meets all of the requirements of 40 CFR 63.306(b).

56. In accordance with 40 CFR 63.310(a), owner/operator shall operate and maintain the coke oven battery and its pollution control equipment in a manner consistent with good air pollution control practices.

57. In accordance with 40 CFR 63.310(b), owner/operator shall develop and implement a written start-up, shutdown and malfunction plan.

58. Owner/operator shall take corrective action to eliminate the presence of visible emissions from a charging emissions control device in accordance with 40 CFR 63.303(d)(3)(i).

59. In accordance with 40 CFR 63.303(d)(4), owner/operator shall develop and implement written procedures for adjusting the oven uptake damper to maximize oven draft during charging and for monitoring the oven damper setting during each charge to ensure that the damper is fully open.

60. Except as provided by 40 CFR 63.303(c)(2)(i) and (ii), owner/operator shall take corrective action to stop visible emissions from coke oven doors within 15 minutes in accordance with 40 CFR 63.303(c)(2).

61. Owner/operator shall visually inspect each oven prior to pushing by opening the door damper and observing the bed of coke. (25 Pa. Code § 127.12b)

62. No coke oven shall be pushed unless the visual inspection indicates that there is no smoke in the open space above the coke bed and that there is an unobstructed view of the door on the opposite side of the oven. (25 Pa. Code § 127.12b)

63. Owner/operator shall maintain the daily average fan motor amperes of each electric motor used to drive the capture system applied to pushing operations at or above the minimum level established during the initial performance test. (25 Pa. Code § 127.12b)

64. Owner/operator shall prepare and operate at all times according to a written operation and maintenance plan for each capture system and control device applied to pushing emissions. Each plan must address at a minimum the following elements: (25 Pa. Code § 127.12b)

A. Monthly inspections of the equipment that are important to the performance of the total pushing capture system (such as, pressure sensors, dampers, and damper switches). This inspection must include observations of the physical appearance of the equipment (such as, presence of holes in ductwork or hoods, flow constrictions caused by dents or accumulated dust in ductwork, and fan erosion). In the event a defect or deficiency is found in the capture system (during a monthly inspection or between inspections), owner/operator shall complete repairs within 30 days after the date that the defect or deficiency is discovered except as specified.

B. If it is determined that the repairs can be completed within 60 days, owner/operator must submit a written notice that must be received by the permitting authority within 30 days after the date that the defect or deficiency is discovered. The notice must contain a description of the defect or deficiency, the steps needed and taken to correct the problem, the interim steps being taken to mitigate the emissions impact of the defect or deficiency, and an explanation of why the repairs cannot be completed within 30 days. Owner/operator must then complete the repairs within 60 days after the date that the defect or deficiency is discovered.

C. In those rare instances when repairs cannot be completed within 60 days, owner/operator shall submit a written request for extension of time to complete the repairs. The request must be received by the permitting authority not more than 45 days after the date that the defect or deficiency is discovered. The request must contain all of the information required for the written notice described in paragraph B of this section, along with a detailed proposed schedule for completing the repairs and a request for approval of the proposed repair schedule. The permitting authority may consider all relevant factors in deciding whether to approve or deny the request (including feasibility and safety). Each approved schedule must provide for completion of repairs as expeditiously as practicable, and the permitting authority may request modifications to the proposed schedule as part of the approval process.

D. Preventative maintenance for each pushing control device, including a preventative maintenance schedule that is consistent with the manufacturer's instructions for routine and long-term maintenance.

65. Owner/operator must wash the baffles in each quench tower once each day that the tower is used to quench coke, except as specified: (25 Pa. Code § 127.12b)

A. Owner/operator is not required to wash the baffles in a quench tower if the highest measured ambient temperature remains less than 30° F. throughout that day (24-hour period). If the measured ambient temperature rises to 30° F or more during the day, owner/operator must resume daily washing according to the schedule in your operation and maintenance plan.

B. Owner/operator must continuously record the ambient temperature on days that the baffles were not washed.

66. Owner/operator must inspect each quench tower monthly for damaged or missing baffles and blockage. (25 Pa. Code § 127.12b)

67. Owner/operator must initiate repair or replacement of damaged or missing baffles within 30 days and complete as soon as practicable. (25 Pa. Code § 127.12b)

Additional Requirements

68. The proposed construction is subject to 25 Pa. Code § 127.206(d)(1) and (2), and other applicable sections of Chapter 127, Subchapter E, for nonattainment New Source Review. In accordance with 25 Pa. Code § 127.205(3), each modification to a facility shall offset in accordance with 25 Pa. Code §§ 127.201 and 127.211, the total of the net increase in potential to emit.

69. The potential to emit from this new facility is established at 1,366 tons of NOx per year and in accordance with 25 Pa. Code § 127.210 will be offset with Emission Reduction Credits (ERCs) at a ratio of 1.15:1.0.

70. Owner/operator shall procure a total of 1,571 tons of NOx ERCs that have been properly generated, certified through the Department, and processed through the ERC Registry in accordance with 25 Pa. Code § 127.206(d)(1). Upon transfer, owner/operator shall provide the Department with documentation clearly specifying the details of the ERC transaction.

71. Per 25 Pa. Code § 127.13, if the construction is not commenced within 18 months of issuance of this Plan Approval, or if there is more than an 18-month lapse in construction, a new Plan Approval application shall be submitted, and the ERCs specified shall expire for use as offsets.

72. Owner/operator shall submit a Title V Operating Permit Application within 120 days of startup of the sources and/or pollution control devices. (25 Pa. Code § 127.505(a))

73. The Title V Operating Permit application shall include a CAM submittal prepared in accordance with 40 CFR 64.4 for applicable units.

74. This Plan Approval authorizes the temporary operation of the sources covered by this Plan Approval provided that the following conditions are met: (25 Pa. Code § 127.12b(d))

A. The Department must receive written notice from the owner/operator of the anticipated date that sources will commence operation.

B. Operation is authorized only to facilitate the startup and shakedown of the sources, to permit operation of the sources pending the issuance of an Operating Permit, or to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

C. This condition authorizes temporary operation of the sources for a period of 180 days from the start of

commencement of operation, provided that the Department receives notice from the owner/operator under Subpart (A).

D. Owner/operator may request an extension of this Plan Approval if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance, and the reasons that compliance has not been established.

E. The notice submitted by the owner/operator pursuant to Subpart (A), prior to the expiration date of this Plan Approval, shall modify the Plan Approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of the start-up.

According to 40 CFR 52.21(l)(2), an alternative to the air quality models specified in 40 CFR 51, Appendix W (relating to Guideline on Air Quality Models) may be used to model air quality if the EPA approves the substitute model. As an alternative to the EPA Guideline Models, AERMOD was used in the air quality analysis for the proposed facility. Specific approval for the use of AERMOD in this analysis was granted by the EPA Region III Administrator and was consistent with the recommendations under Section 3.2 of Appendix W to 40 CFR 51. Under 25 Pa Code §§ 127.44 and 127.83 and 40 CFR 52.21(l)(2) and (q), notice is hereby given that the Department is soliciting written comments on the use of the nonguideline model, AERMOD, approved by the EPA.

The PSD air quality modeling shows that the maximum impacts for CO are below the class II area significance levels. A full impact analysis to determine PSD increment consumption and compliance with the National Ambient Air Quality Standards was therefore not necessary for CO. A full impact analysis to determine PSD increment consumption and compliance with the National Ambient Air Quality Standards was conducted for SO₂, NO₂ and PM₁₀. Class II PSD Increment Consumption is as follows. A final Plan Approval will not be issued prior to Departmental authorization of the following modeling results.

<i>Pollutant</i>	<i>Averaging Time</i>	<i>Maximum Predicted Increment Consumption (µg/cubic meter)</i>	<i>PSD Class II Increments (µg/cubic meter)</i>
PM10	24-Hour	16.3	30
PM10	Annual	5.7	17
SO ₂	3-Hour	284	512
SO ₂	24-Hour	85.8	91
SO ₂	Annual	15.8	20
NO ₂	Annual	6.0	25

Class I area analyses for visibility and increment were conducted for the Otter Creek and Dolly Sods Wilderness Areas in West Virginia. Refined CALPUFF modeling shows that the project will have minimal impact on visibility or deposition in these areas.

Application, copies of the modeling analysis used in the evaluation and other supporting documentation are available at the following address. Any person wishing to either object to issuance of the plan approval or a proposed condition thereof, to provide the Department with additional information that they believe should be considered prior to the issuance of the plan approval or

to request a hearing may submit the information to the Department. Comments should be mailed to the Department at the following address. All comments must be received within 30 days of the date of this public notice. Comments shall include the following:

1. Name, address and telephone number of the person filing the comment.
2. Identification of the proposed plan approval issuance being opposed.
3. Concise statement of the objections to the plan approval issuance, and the relevant facts upon which the objections are based.

Written comments should be mailed to Barbara Hatch, Air Pollution Control Engineer, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4000.

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

25-025G: General Electric Transportation Systems—Erie Plant (2901 East Lake Road, Room 9-201, Erie, PA 16531) for modification of current Title V OP conditions for paint booths (Sources 164, 603, 345 and 204), adding another lathe to Source 631, deleting a requirement for Source 178 and for installation of two new shot blast booths (Source 942) for GETS—Erie, Lawrence Township, **Erie County**. 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 (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- Source 164, the filters shall be replaced every 3 days.
- Source 603, the filters shall be replaced as necessary to maintain the proper pressure drop across the filter.
- Source 345, the filters shall be replaced after every other locomotive that goes through the eight track booths. The small parts booth filters shall be replaced as necessary to maintain the proper pressure drop across the filter.
- Source 204, the water flow and the continuity of the water wall shall be monitored daily.
- Source 631 conditions from the Title V OP remain the same.
- Source 178, deleted 25 Pa. Code § 129.57 from the Title V OP.
- Source 942 conditions from the Title V OP remain the same.

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

S04-012: Saint Agnes Hospital (1900 South Broad Street, Philadelphia, PA 19145) for operation of their hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 20.95 mmBtu/hr boilers, four emergency generators, and two peak shaving generators.

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

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

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

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.

PA-30-00150A: Wellington Development—WVDT, LLC (1620 Locust Avenue, Fairmont, WV 26554) for installation of two waste coal fired, circulating fluidized bed boilers with a net generating capacity of 525 megawatts in Cumberland Township, **Greene County**.

Under 25 Pa. Code § 127.44(a), the Department of Environmental Protection (Department) intends to issue a Plan Approval to for the installation of two waste coal fired, circulating fluidized bed boilers with a net generating capacity of 525 megawatts by Wellington Development—WVDT, LLC to be located in Cumberland Township, Greene County. Other air emission sources at the facility include material handling operations for fuel, ash, urea, lime and limestone, as well as limestone dryers, a natural gas-fired auxiliary boiler, a cooling tower, and emergency diesel engines as described in the application received in July 2004.

Based on the information provided by the applicant this installation will result in facility emissions of no more than 5,650 tons of SO₂, 2,432 tons of NO_x, 4,865 tons of CO, 125 tons of VOC, 480 tons of particulate matter, and 1,302 tons of PM₁₀ each year. The use of an alternate ambient air modeling program, AERMOD, was approved by Environmental Protection Agency. Air modeling provided by the applicant indicates the following impacts:

Modeling Results

<i>Pollutant</i>	<i>Averaging Period</i>	<i>Significant Impact Modeling</i>		<i>Increment Consumption</i>		<i>NAAQS Analysis</i>	
		<i>Sig. Level $\mu\text{g}/\text{m}^3$</i>	<i>WVDT Impact $\mu\text{g}/\text{m}^3$</i>	<i>PSD Increment</i>	<i>WVDT Impact $\mu\text{g}/\text{m}^3$</i>	<i>NAAQS $\mu\text{g}/\text{m}^3$</i>	<i>WVDT Impact $\mu\text{g}/\text{m}^3$</i>
PM10	Annual	1	9.35	17	9.41	50	.05*
	24-hour	5	38.04	30	29.39	150	.18
SO ₂	Annual	1	2.3	20	2.23	80	.44
	24-hour	5	14.26	91	13.03	365	.16*
	3-hour	25	50.27	512	37.99	1,300	2.44*
NO ₂	Annual	1	.2	25		100	
CO	1-hour	500	299.55	N/A		40,000	
	8-hour	2,000	.84	N/A		10,000	

*Additional modeling showed that WVDT emissions did not have not a significantly impact at receptors above the NAAQS.

A final Plan Approval will not be issued prior to Department authorization of the modeling results presented previously.

Copies of the application, the Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

For the Department to assure compliance with all applicable standards, the Department proposes to place the following conditions on the Plan Approval:

3. General Conditions

a) This Plan Approval authorizes the construction of two waste coal-fired, circulating fluidized bed (CFB) boilers and a steam generator capable of producing 580 gross megawatts by Wellington Development—WVDT, LLC. The facility will be located in Cumberland Township, Greene County. Other air emission sources at the facility include material handling operations for fuel, ash, urea, lime and limestone, as well as limestone dryers, a natural gas-fired auxiliary boiler, a cooling tower and emergency diesel engines [25 Pa. Code § 127.12b].

b) The owner/operator shall install the following air cleaning devices on the CFB boilers [25 Pa. Code § 127.12b]:

(i) A spray dryer absorber or flash dryer absorber for SO₂ emission control.

(ii) A fabric collector for particulate control.

(iii) Selective noncatalytic reduction for NO_x control.

c) The owner/operator shall advise the Department of the specific make and model of equipment and design details within 10 business days of issuing the purchase order for all air contamination sources and all air cleaning devices by submitting appropriate pages of the Plan Approval Application [25 Pa. Code Code § 127.12b].

d) This approval to construct shall become invalid if: (1) construction is not commenced (as defined in 40 CFR 52.21(b)(8)) within 18 months after the date of this approval; (2) if construction is discontinued for a period of 18 months or more; or (3) construction is not completed within 5 years. The owner/operator shall submit to the Department a detailed construction schedule for the entire facility within 60 days of issuance of this Plan Approval.

e) The provisions of 40 CFR 60 New Source Performance Standards for Fossil Fuel-Fired Steam Generators

(Subpart Da), Coal Processing Plants (Subpart Y) and Nonmetallic Mineral Processing Plants (Subpart OOO) are applicable requirements.

i) Subpart Da emission limits for particulate matter, visible emissions and sulfur dioxide are subsumed by the emission limits established in conditions 4(a) and 4(b). The facility shall comply with the compliance provisions, emission monitoring, compliance determination procedures, and methods and reporting requirements in this Subpart.

ii) Subpart Y standards are applicable requirements for all coal processing and conveying equipment and all coal storage, transfer and loading systems. The facility shall comply with the standards for particulate matter, those provisions relating to monitoring of operations, and test methods and procedures in this Subpart.

iii) Subpart OOO standards are applicable requirements for all limestone and lime grinding/rolling mills, screening/classifying operations, conveying equipment and silos/storage bins. The facility shall comply with the standards for particulate matter, test methods and procedures and reporting and recordkeeping in this Subpart.

iv) In accordance with 40 CFR 60.4 copies of all requests, reports, applications submittals and other communications shall be forwarded to both the Environmental Protection Agency (EPA) and the Department at the following addresses, unless otherwise noted.

Director

Air Toxics and Radiation

US EPA, Region III

1650 Arch Street

Philadelphia, PA 19103-2029

Air Quality Program Manager

Department of Environmental Protection

Air Quality

400 Waterfront Drive

Pittsburgh, PA 15222

f) This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met [25 Pa. Code § 127.12b]:

(i) The owner/operator shall submit written notice of the completion of construction and the operator's intent to commence operation at least 5 days prior to the completion of construction. The notice shall state the date when construction will be completed and the date when the operator expects to commence operation.

(ii) Operation of the sources covered by this Plan Approval is authorized only to facilitate the start-up and

shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit, or to permit the evaluation of the source for compliance with all applicable regulations and requirements.

(iii) Upon receipt of the Notice of the Completion of Construction from the owner/operator the Department shall authorize a 180-day Period of Temporary Operation of the source(s) from the date of commencement of operation. The Notice submitted by the owner/operator, prior to the expiration of this Plan Approval, shall modify the Plan Approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of commencement of operation.

(iv) Upon determination by the owner/operator that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the owner/operator shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection.

(v) Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the owner/operator shall submit a Title V Operating Permit (TVOP) application, at least 60 days prior to the expiration date of the Plan Approval.

(vi) The owner/operator may request an extension of the 180-day Period of Temporary Operation if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of the Period of Temporary Operation and shall provide a description of the compliance status of the source. The extension request shall include a detailed schedule for establishing compliance and the reasons compliance has not been established. This Period of Temporary Operation may be extended for additional limited periods, each not to exceed 120-days, by submitting an extension request as previously described.

(vii) If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or limitations established by the Department at such time as it notifies the company that testing is required.

4. Stack Emissions Limitations

a) Emissions from the CFB shall be limited as follows [25 Pa. Code § 127.12b]:

<i>Pollutant</i>	<i>Emission Factor Lb/mmBtu ^(e)</i>	<i>Pounds per hour ^{(a) (e)}</i>	<i>Tons per year ^(b)</i>
PM ^(c)	0.015	41.35	362
PM ₁₀ ^(d)	0.050	137.8	1,207
SO ₂	0.234 ^(f)	645	5,649
NO _x (as NO ₂)	0.10 ^(f)	275.6	2,414
VOC ^(h) (as propane)	0.005	13.8	121
CO	0.20 ^(g)	551	4,829
Pb ⁽ⁱ⁾	6.5 × 10 ⁻⁴	1.79	15.7
NH ₃	10 ppmv		
Hazardous Air Pollutants			
Beryllium	5.2 × 10 ⁻⁵	0.145	1.25
HF ^(j)	0.0014	3.77	33.0
HCl	0.0067	18.4	161.2
H ₂ SO ₄	0.0060	16.55	145
Mercury ^(k)	1.1835 × 10 ⁻⁶ lb/MWh	0.00053	9.32 lb/yr

(a) For a single boiler.

(b) Ton per year total based on a 12-month rolling average for two boilers.

(c) Total filterable particulate matter based on EPA Method 5 or 17.

(d) Filterable PM₁₀ based on EPA Method 201 or 201A. Condensable PM based on EPA Method 202.

(e) 3-hour average unless otherwise noted.

(f) 24-hour average.

(g) 30-day rolling average.

(h) Based in EPA Methods 25A and 18.

(i) Based in EPA Method 29.

(j) Based in EPA Method 13B.

(k) Based on proposed 40 CFR 63 Subpart UUUUU for burning 85% coal refuse and 15% ROM coal.

b) Emissions from the facility in any consecutive 12 month period shall be limited as follows [25 Pa. Code § 127.12b]:

<i>Pollutant</i>	<i>Total (tpy)</i>
SO ₂	5,650
PM	480
PM10	1,302
NOx	2,432
CO	4,865
VOC	125
Lead	15.7
Beryllium	1.25
HF	33
HCl	161
H ₂ SO ₄	145
Mercury	9.32 lb/yr
Ammonia	157

c) The owner/operator shall not permit the emission to the outdoor atmosphere of visible emissions from the boilers, in such a manner that the opacity of the emission 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. The presence of uncombined water is not considered a failure to meet the limitations. [25 Pa. Code §§ 127.1 and 127.12b].

d) The ammonia slip from the CFB shall not exceed 10 ppmvd @ 7% oxygen. Ammonia feed rates shall be optimized to minimize ammonia slip and continuing compliance with this condition shall be determined by adhering to good operating practices. [25 Pa. Code §§ 127.1 and 127.12b].

e) Potential emissions of SO₂ from the CFB shall be reduced by at least 97%. Compliance with this requirement shall be demonstrated by calculating daily control efficiencies and averaging them on a 365 day rolling basis using the fuel analysis, fuel feed rate and the SO₂ CEM [25 Pa. Code § 127.12b].

f) Particulate matter emissions from any fuel or limestone handling and processing stack may not exceed 0.005 gr/dscf based on EPA Method 5 [25 Pa. Code § 127.12b].

g) Particulate matter emissions from the limestone dryer baghouse stack may not exceed 0.005 gr/dscf based on EPA Method 5 [25 Pa. Code § 127.12b].

h) Particulate matter emissions from ash handling stacks may not exceed 0.01 gr/dscf based on EPA Method 5 [25 Pa. Code § 127.12b].

i) The sulfur content of any fuel oil used to fire the emergency diesel engines shall not exceed 0.05% by weight [25 Pa. Code § 127.12b].

j) The total dissolved solids content of the cooling tower water shall not exceed 7,000 ppmw [25 Pa. Code § 127.12b].

k) The owner/operator shall secure 2,797 tons of NOx ERCs and 144 tons of VOC ERCs. ERCs shall be properly generated, certified by the Department and processed through the registry in accordance with 25 Pa. Code § 127.206(d)(1). Upon transfer, owner/operator shall provide the Department with documentation clearly specifying the details of the ERC transaction. This facility may not commence operation until the Department certifies the required emissions reductions.

l) The Department may reevaluate and revise (decrease or increase) the allowable emission rates based upon demonstrated performance (CEM data, stack test results

and/or subsequently promulgated applicable requirements) during the first 5 years of operation [25 Pa. Code § 127.12b].

m) The CFB is subject to the Title IV Acid Rain Program of the 1990 Clean Air Act Amendments, and shall comply with all applicable provisions of that title, including the following:

- 40 CFR Part 72 Permits Regulations
- 40 CFR Part 73 Sulfur Dioxide Allowance System
- 40 CFR Part 75 Continuous Emissions Monitoring
- 40 CFR Part 77 Excess Emissions

n) This facility is subject to the NOx Budget Trading Program found in 25 Pa. Code Chapter 145.

5. *Testing Requirements*

a) Within 180 days of initial start-up but no later than 60 days of achieving maximum production, a stack tests shall be performed on each CFB in accordance with the provisions of 25 Pa. Code Chapter 139 to determine the following pollutant emission rates [25 Pa. Code § 139.2]:

- PM10 (by EPA Method 201 or 201A and EPA Method 202)
- TSP (by EPA Method 5)
- HCl
- HF (by EPA Method 13B)
- H₂SO₄
- Arsenic
- Beryllium
- Nickel
- NMVOC (by EPA Methods 25 and 18)
- Mercury
- Lead (by EPA Method 29)
- Cadmium
- Chromium compounds
- Ammonia

These tests shall be repeated on a yearly basis. The frequency may be reduced in subsequent permits if determined appropriate by the Department [25 Pa. Code § 139.2].

b) Within 180 days of initial start-up but no later than 60 days of achieving maximum production, a fuel analysis and stack tests shall be performed simultaneously on the inlet and outlet of the CFB fabric collector in accordance with the provisions of 25 Pa. Code Chapter 139 to determine the mercury emission reduction [25 Pa. Code § 139.2]

c) The owner/operator shall submit a pretest protocol for review at least 60 days prior to performance of any stack test [25 Pa. Code § 139.2].

d) The owner/operator shall notify the Department at least 2 weeks prior to any stack test so that an observer may be present at the time of the test [25 Pa. Code § 139.2].

e) The owner/operator shall submit three copies of the stack test report to the Department within 60 days of the completed testing [25 Pa. Code § 139.2].

6. *Continuous Monitoring*

a) The owner/operator shall install, certify, maintain and operate a CEM system for monitoring SO₂, NOx (as NO₂), visible emissions (opacity), CO and stack gas flow

from each CFB boiler. O₂ or CO₂ shall be monitored at each location where SO₂ or NO_x are monitored in accordance with the requirements of 25 Pa. Code Chapter 139.

b) The owner/operator shall install, operate and maintain a monitoring system for sampling and analysis of as-fired coal/coal refuse in accordance with the requirements of 25 Pa. Code Chapter 139 and 40 CFR 60 Appendix A, Method 19, or an alternate method approved by the Department. Sulfur analysis shall be determined on a daily basis with the results used to calculate monthly averages. This sulfur analysis shall provide the basis for the SO₂ control efficiency calculation required in 40 CFR 60 Subpart Da.

- c) The owner/operator shall maintain a daily log of:
- (i) Hours of operation for each air pollution source.
 - (ii) Coal feed rate.
 - (iii) Coal refuse feed rate.
 - (iv) Natural gas consumption.
 - (v) Fuel oil consumption.
 - (vi) Ammonia injection rate.
 - (vii) Limestone consumption.
 - (viii) Lime consumption.
 - (ix) Urea consumption.
 - (x) Cooling tower water circulation and makeup rates.

This log shall be maintained onsite for a minimum of 5 years and shall be made available to the Department upon request [25 Pa. Code § 127.12b].

d) The owner/operator shall maintain a log of hours of operation for all emergency diesel engines. Hours of operation for each emergency diesel engine shall not exceed 500 hours in any consecutive 12-month period [25 Pa. Code § 127.12b].

e) The owner/operator shall, on a monthly basis, sample and analyze for total dissolved solids, the cooling tower water at a point which is representative of the water being evaporated to the atmosphere. [25 Pa. Code § 127.12b].

7. Notification/Reporting

a) At least 90 days prior to start-up, the owner or operator shall submit information required by Phase I of the Department's "Continuous Source Monitoring Manual," Revision 6, January 1996 to Chief, Division of Technical Services & Monitoring, Department of Environmental Protection, Rachel Carson State Office Building, 12th Floor, 400 Market Street, P. O. Box 8468, Harrisburg, PA 17105-8468.

b) The owner/operator shall report each malfunction that poses an imminent and substantial danger to the public health and safety or the environment or which it should reasonably believe may result in citizens complaints to the Department that occurs at this Title V facility. For purposes of this condition a malfunction is defined as any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment or a process to operate in a normal or usual manner that may result in an increase in the emissions of air contaminants [25 Pa. Code § 127.441].

8. Work Practice Standards

a) The Department reserves the authority to require additional controls (such as, road paving, process equipment enclosures, conveyor covers, and the like) based on evaluation of the operation after start-up and a determi-

nation that the existing controls are inadequate to control fugitive emissions [25 Pa. Code § 127.12b].

b) The truck loading and unloading areas and the plant delivery roads shall be paved with asphalt, concrete or an equivalent surface approved by the Department [25 Pa. Code § 127.12b].

c) Road dust shall be controlled by a road sweeper and/or the use of water sprays, oils or other dust surfactants [25 Pa. Code § 127.12b].

d) A pressurized water truck shall be onsite and available at all times for use when the facility is operating [25 Pa. Code § 127.12b].

e) The owner/operator shall post a sign stating the requirement that "All loaded trucks entering or exiting plant property shall be properly tarpaulin covered." [25 Pa. Code § 127.12b].

f) All conveyor belts shall be partially enclosed, and all screens and crushers shall be fully enclosed, so as to prevent fugitive emissions from becoming airborne [25 Pa. Code § 127.12b].

g) Ash silos shall discharge through an ash conditioner which shall moisten the ash before it is loaded into trucks for disposal [25 Pa. Code § 127.12b].

h) Coal/coal refuse shall not be stockpiled or loaded in any area that is not enclosed or watered as needed by the pressurized water truck and/or sprinkler system [25 Pa. Code § 127.12b].

i) The baghouse outlet temperature shall not exceed 250°F. A thermocouple shall be provided to monitor this temperature, which shall be continuously recorded, and a high temperature alarm will sound in the CFBs' control room if the baghouse outlet temperature exceeds 250°F [25 Pa. Code § 127.12b].

j) The baghouse shall be designed with an effective air-to-cloth ratio of not more than 4:1 at actual conditions [25 Pa. Code § 127.12b].

k) The owner/operator shall demonstrate to the Federal Land Managers that the emissions from this facility will not adversely impact visibility or air quality related values in any Class I area [40 CFR 52.21(p)].

Any person wishing to provide the Department with additional information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department at the following address. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).
- Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval. Written comments should be directed to the Regional Air Quality Program Manager, Department of Environmental Protection, Southwest Region—Field Operation, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

For additional information, contact Mark Gorog, Air Quality Program at the previous address.

PUBLIC HEARINGS

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review, (412) 442-4174.

30-00150A: Wellington Development—WVDT, LLC—Greene Energy Resource Recovery Project (1620 Locust Avenue, Fairmont, WV 26554) for installation of two waste coal fired, circulating fluidized bed boilers with a net generating capacity of 525 megawatts in Cumberland Township, **Greene County**.

Under 25 Pa. Code § 127.48, the Department of Environmental Protection (Department) will hold a public hearing on March 30, 2005, at 7 p.m. at the United Mine Workers Hall, Local 6290, Nemaocolin Road, Nemaocolin, PA 15351.

The hearing is to take testimony concerning the Department's intent to issue a Plan Approval to Wellington Development—WVDT, LLC for the installation of two waste coal fired, circulating fluidized bed boilers with a net generating capacity of 525 megawatts to be located in Cumberland Township, Greene County. Other air emission sources at the facility include material handling operations for fuel, ash, urea, lime and limestone, as well as limestone dryers, a natural gas-fired auxiliary boiler, a cooling tower and emergency diesel engines.

Those wishing to present testimony during the hearing should contact Community Relations Coordinator, Betsy Mallison at (412) 442-4000 before March 28, 2005, to register.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Betsy Mallison or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Persons who are unable to attend the hearing, but wish to comment, should provide written comments to Mark Gorog, Air Quality Program, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. The comment period is open for 30 days after the appearance of this notice.

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

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

09-00148: Bucks County Community College (274 Swamp Road, Newtown, PA 18940-4106) for operation of a higher education facility in Newtown Township, **Bucks County**. The permit is for a non-Title V (State only) facility. The major sources of air emissions are: boilers, heaters and emergency generators. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00080: Lower Merion School District (274 Swamp Road, Newtown, PA 18940-4106) for operation of a secondary education facility in Lower Merion Township, **Montgomery County**. The permit is for a non-Title V (State only) facility. The major sources of air emissions are three boilers. The permit will include monitoring,

recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

36-05093: Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506) for operation of their company's Denver asphalt plant in East Cocalico Township, **Lancaster County**. The asphalt plant is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities. This is a renewal of the facility's synthetic minor permit and will include all of the requirements from the previous permit to ensure the facility complies with the applicable requirements.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

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

wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH ¹		greater than 6.0; less than 9.0	
alkalinity greater than acidity ¹			

¹The parameter is applicable at all times.

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

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-7100.

32991301. NPDES Permit No. PA0215228, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to renew the permit and related NPDES permit and revise the permit for the Nolo Mine in Buffington, Pine, Cherryhill, and Brush Valley Townships, **Indiana County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 1,587.0, SCP Acres Proposed 1,405.0. No additional discharges. Application received December 22, 2004.

03813704. NPDES Permit No. PA0002283, Keystone Coal Mining Corporation, (P. O. Box 219, Shelocta, PA 15774), to renew the permit for the No. 1 Coal Refuse Disposal Area in Plumcreek Township, **Armstrong County** and related NPDES permit. No additional discharges. Application received December 29, 2004.

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

56950101 and NPDES Permit No. PA0213012. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552-7228, permit renewal for continued operation and restoration of a bituminous surface-auger mine in Brothersvalley Township, **Somerset County**, affecting 82.2 acres. Receiving streams: Piney Run and UNT to Piney Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 14, 2005.

32990105 and NPDES Permit No. PA0235083. Thomas J. Smith, Inc., 2340 Smith Road, Shelocta, PA 15774, coal mining renewal application for the surface/auger mining of bituminous surface mine in Burrell Township, **Indiana County**, affecting 200 acres. Receiving streams: UNTs to Tom's Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 20, 2005.

56970105 and NPDES Permit No. PA0234630. Sherpa Mining Contractors, Inc., 337 Benny Road, Hooversville, PA 15936, surface mine permit renewal to conduct surface mining, coal refuse reprocessing and coal refuse disposal in Paint Township, **Somerset County**, affecting 171.0 acres. Receiving streams: UNT to and Stonycreek River classified for the following uses: CWF for UNTs and TSF for Stonycreek. There are no potable water supply intakes within 10 miles downstream. Application received January 20, 2005.

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

03000101 and NPDES Permit No. PA0202711. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Renewal application for reclamation only of an existing bituminous surface mine, located in Plumcreek Township, **Armstrong County**. Receiving streams: Cherry Run and UNTs to Cherry Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: February 7, 2005.

26980104. Gary Gioia (319 Karen Drive, Elizabeth, PA 15037). Renewal application for an existing bituminous surface mine, located in Wharton Township, **Fayette County**, affecting 133.6 acres. Receiving stream: no discharge. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: February 7, 2005.

65-04-07 and NPDES Permit No. PA0250660. Coal Loaders, Inc. (P. O. Box 556, Ligonier, PA 15658). Application for a government financed construction contract, located in Derry Township, **Westmoreland County**, affecting 16.1 acres. Receiving stream: UNT to Union Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. GFCC application received: January 24, 2005.

Noncoal Applications Received

Effluent Limits

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹		greater than 6.0; less than 9.0	

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

3372SM25(A) and NPDES Permit No. PA0591963. Hanson Aggregates, Inc. (2200 Springfield Pike, Connelldale, PA 15425). NPDES renewal application for a noncoal surface mine, located in Bullskin Township, **Fayette County**, affecting 328.16 acres. Receiving streams: UNTs to Polecat Hollow Run and Breakneck Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: February 3, 2005.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users 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

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

E25-694, Greater Erie Industrial Development Corporation, 5240 Knowledge Parkway, Erie, PA 16510. City of Erie Brownfield Industrial Park, in the City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 1.9 inches; W: 4.8 inch).

The applicant proposes to develop lots for redevelopment of a former industrial site adjacent to and northeast of the intersection E 18th Street and Downing Ave involving to fill 0.72 acre of PSS wetland and to restore 0.72 acre of wetland onsite. The project proposes to directly affect 0.72 acre of PSS wetlands and to restore 0.72 acre of wetland onsite.

E42-313, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301. Northeast Storage Pipeline TL-527, in Ceres Township and Eldred Township, **McKean County**, ACOE Pittsburgh District.

To construct and maintain a 20-inch natural gas pipeline within Ceres and Eldred Townships in McKean County beginning at the Potter/McKean County boundary (N: 41° 58' 19"; W: 78° 12' 23") traversing northwest to the Cattarugus County boundary in New York (N: 41° 08' 58"; W: 78° 33' 34"). The impacts include 1.) 16.94 acres of temporary impacts to PEM/PSS/PFO/POW nonexceptional value wetlands including 51 crossings by pipeline and 2.) 447 linear feet of temporary impacts to UNTs to Oswayo Creek (CWF), Champlin Hollow (CWF), Kings Run (CWF), Allegheny River (CWF), Indian Creek (CWF), Barden Brook (CWF); and to Horse Run (CWF), Oswayo Creek (WWF), Bell Run (CWF), Kings Run (CWF), Allegheny River (CWF), Indian Creek (CWF), North Branch Indian Creek (CWF) with 39 stream crossings by pipeline.

ENVIRONMENTAL ASSESSMENTS

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

EA01-004: Eastern Facilities Service Office United States Postal Service, Fairfield Post Office, P. O. Box 27497, Greensboro, NC, Fairfield Borough, **Adams County**, ACOE Baltimore District.

To fill 0.21 acre of PEM wetlands associated with Middle Creek (HQ-CWF) for the purpose of constructing a new post office to serve Fairfield Borough and the surrounding communities at the northwest corner of the intersection of Carrolls Tract Road and State Route 116 (Fairfield, PA Quadrangle N: 7.57 inches; W: 16.11 inches) in Fairfield Borough, Adams County. The permittee is required to create a minimum of 0.21 acre of onsite replacement wetlands.

DAM SAFETY

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

D15-395. Osborne Lagoon Dam, Oxford Sewer Authority, 401 East Market Street, P. O. Box 380, Oxford, PA 19363. Description: To construct, operate and main-

tain Osborne Lagoon Dam located in the watershed of Leech Run (TSF, MF), for the purpose of providing additional wastewater storage capacity to meet 80-day storage requirements per a Consent Order and Agreement with the Department of Environmental Protection (Oxford, PA Quadrangle N: 9.85 inches; W: 16.35 inches) in Lower Oxford Township, **Chester County**.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0043672 (Industrial Waste)	General Dynamics—OTS (PA), Inc. 200 East High Street P. O. Box 127 Red Lion, PA 17356-0127	York County Red Lion Borough	Fishing Creek/7-I	Y

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

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

NPDES Permit No. PA0052353 Amendment No. 3, Sewage, **Rivercrest Homeowners Association**, 1321 Black Rock Road, Phoenixville, PA 19460. This proposed facility is located in Upper Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the amendment to increase discharge to 112,150 gpd of treated sanitary effluent.

NPDES Permit No. PA0052353, Sewage, **Buckingham Township**, 2830 Durham Road, P. O. Box 413 Buckingham, PA 18912. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage known as Buckingham Village WWTP into Mill Creek in Watershed 2F.

NPDES Permit No. PA0050911, Sewage, **Upper Perkiomen School District**, 201 West Fifth Street, East Greenville, PA 18041. This proposed facility is located in Marlborough Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the Marlborough Elementary School STP into Green Lane Reservoir in Watershed 3E.

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

NPDES Permit No. PA-0070483-A1, Industrial Waste, **Grand Central Sanitary Landfill, Inc.**, 1963 Pen Argyl Road, Pen Argyl, PA 18072. This proposed facility is located in Plainfield Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of Amended NPDES Permit.

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

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

WQM Permit No. 3904404, Sewerage, **Upper Macungie Township Authority**, 8330 Schantz Road, Breinigsville, PA 18031. This proposed facility is located in Upper Macungie Township Authority, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

WQM Permit No. 4804404, Sewerage, **Allen Township**, 4714 Indian Trail Road, Northampton, PA 18067. This proposed facility is located in Allen Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

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

WQM Permit No. 0604416, Sewerage, **Township of Spring**, 2800 Shillington Road, Reading, PA 19608. This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of replacement of an 8-inch sewer with 12-inch DIP from existing manhole 63A to existing manhole I.

WQM Permit No. 3804403, Sewerage, **ELCO School District**, 180 Elco Street, Myerstown, PA 17067-2697. This proposed facility is located in Jackson Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for plant rehabilitation at the High School.

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

WQM Permit No. WQG018351, Sewerage, **Todd Putt**, 2340 Norcross Road, Erie, PA 16509. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

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

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

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

NPDES Permit

<i>No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024504014	Cramer's Cashway, Inc. 320 N. Courtland St. East Stroudsburg, PA 18301	Monroe	Tobyhanna Township	Indian Run, HQ-CWF
PAI024804035	Moravian College 1200 Main St. Bethlehem, PA 18018	Northampton	Bethlehem City	Monocacy Creek, HQ-CWF

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

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

List of NPDES and/or Other General Permit Types

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

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Dickson City Borough Lackawanna County	PAG2003503011(1)	Jeffrey S. Moore Keystone Property Associates, LLC 2 Heathcote Avon, CT 06001	Storr's Creek, CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
East Union Township Schuylkill County	PAG2005404040	Higgins Development Partners, LLC 101 East Erie Suite 800 Chicaco, IL 60611	Tomhicken Creek, CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Pine Grove Township Schuylkill County	PAG2005404029	Pine Grove Joint Treatment Authority P. O. Box 426 Pine Grove, PA 17963	Swatara Creek, UNT to Swatara Creek, CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Pine Grove Township Schuylkill County	PAG2005404032	Bret Habaker 625 Seidels Run Leesport, PA 19533	UNT to Lower Little Swatara Creek, CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
West Brunswick Township Schuylkill Co.	PAG2005405003	Pioneer Pole Building, Inc. 716 South Route 183 Schuylkill Haven, PA 17972	UNT in Pine Creek Basin, CWF	Schuylkill Co. Cons. Dist. (570) 622-3742

NOTICES

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<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Hamilton Township Adams County	PAG2-0001-04-016	Paul Burkentine Stone Ridge Development 330 Dubs Church Rd. Hanover, PA 17331	UNT to Conewago Creek/WWF	Adams County Conservation District 670 Old Harrisburg Rd., Suite 201 Gettysburg, PA 17325 (717) 334-0636
Smithfield Township Huntingdon County	PAG2-0031-04-007	THF Huntingdon Development, L. P. 2127 Inner Belt Business Center Drive, Suite 200 St. Louis, MO 63114	UNT to Juniata River/WWF	Huntingdon County Conservation District R. D. 1, Box 7C, Rt. 26 S Huntingdon, PA 16652 (814) 627-1627
Ephrata Township Lancaster County	PAG2-0036-04-113	J. Lester Wagner 700 Reidenbach Rd. New Holland, PA 17557	Cocalico Creek/WWF	Lancaster County CD 1383 Arcadia Rd., Room 6 Lancaster PA 17601 (717) 299-5361
West Hempfield Township Lancaster County	PAG2-0036-04-116	Pankaj M. Patel 2069 N. Reading Rd. Denver, PA 17535	UNT Strickler Run/WWF	Lancaster County CD 1383 Arcadia Rd., Room 6 Lancaster PA 17601 Phone: (717) 299-5361
West Hempfield Township Lancaster County	PAG2-0036-04-118	D. L. Forrey & Associates 1560 Lititz Pike Lancaster, PA 17601	Shawnee Run/WWF	Lancaster County CD 1383 Arcadia Rd., Room 6 Lancaster PA 17601 Phone: (717) 299-5361
Salisbury Township Lancaster County	PAG2-0036-04-120	Mine Road Properties 530 West Trout Run Rd. Ephrata, PA 17522	UNT Williams Run & UNT To Pequea Creek/TSF; MF	Lancaster County CD 1383 Arcadia Rd., Room 6 Lancaster PA 17601 Phone: (717) 299-5361
Manheim Township Lancaster County	PAG2-0036-05-009	Manheim Township 1840 Municipal Dr. Lancaster, PA 17601	UNT Conestoga River/WWF	Lancaster County CD 1383 Arcadia Rd., Room 6 Lancaster PA 17601 Phone: (717) 299-5361
Leacock Township Lancaster County	PAG2-0036-05-011	W. L. Zimmerman 3601 Old Philadelphia Pike Intercourse, PA 17534	UNT Muddy Run/TSF	Lancaster County CD 1383 Arcadia Rd., Room 6 Lancaster PA 17601 Phone: (717) 299-5361
Leacock Township Lancaster County	PAG2-0036-05-015	Elam Petersheim, Sr. 201A Belmont Rd. Gordonville, PA 17529	Watson Run/WWF	Lancaster County CD 1383 Arcadia Rd., Room 6 Lancaster PA 17601 Phone: (717) 299-5361
Columbia County, South Centre Township	PAG2001904012	Susquehanna Valley Mgt. Services Inc. 6850 Lows Road Bloomsburg, PA 17815	UNT Susquehanna River WWF	Columbia County Conservation District 702 Sawmill Road, Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Indiana County Armstrong, Conemaugh and Young Townships	PAR103166-3	David Becker Norfolk Southern Railway Company 175 Spring Street SW Atlanta, GA 30303	Anthong Run, Kiskiminas Crooked Creek (CWF)	Indiana County CD (724) 463-8547

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Indiana County Brush Valley Township	PAG2003205001	Ed Patterson Indiana County Parks 1128 Blue Spruce Road Indiana, PA 15701	Blacklick Creek (CWF)	Indiana County CD (724) 463-8547
Butler County Cranberry Township	PAG2-0010-04-028	Cranberry Wal-Mart Expans. Wal-Mart Stores Inc. 2001 South East 10th Street Bentonville, AR 72716-0550	Brush Creek-WWF	Butler County Conservation District (724) 284-5270

*General Permit Type—PAG-4**Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Buckingham Township Bucks County	PAG040022	Lester R. Garnas Carol Landis 1492 Sugar Bottom Road Furlong, PA 18925	UNT to Neshaminy Creek Watershed 2F	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Millcreek Township, Erie County	PAG049143	Todd Putt 2340 Norcross Road Erie, PA 16509	UNT to Mill Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Wilmington Township, Lawrence County	PAG048362	Barry J. Kaminske 243 Pearson Drive New Wilmington, PA 16142	UNT of Neshannock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5**Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Trainer Borough Delaware County	PAG050065	Atlantic Richfield Company 9 Research Drive, Suite 3 Amherst, MA 01002	Delaware River	Southeast Regional Office 2 East Main Street Norristown, PA 19401

*General Permit Type—PAG-8**Facility Location &
County/Municipality*

<i>Facility Location & County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
York County Fairview Township	PAG083510	Lower Allen Township Authority 120 Limekiln Road New Cumberland, PA 17070		DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Operations Permit issued to: **Lakeland Colony Corporation**, 1 Lakeland Colony, Lake Ariel, PA 18436 (PWSID 2640922) Paupack Township, **Wayne County** on February 9, 2005, for the operation of facilities approved under Construction Permit No. 6402502.

Operations Permit issued to: **Pocono Manor Inn and Conference Center**, Pocono Manor, PA 18349 (PWSID 2450064) Pocono Township, **Monroe County** on February 9, 2005, for the operation of facilities approved under Construction Permit No. 2450064.

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

Permit No. Minor Amendment—Construction Public Water Supply.

Applicant	Pennsylvania-American Water Company
Township or Borough	Lewisburg Borough
County	Union

Responsible Official	Scott Thomas Operations Engineer Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	Public Water Supply—Construction
Consulting Engineer	N/A
Permit Issued Date	2/10/05
Description of Action	Blasting and repainting of the interior and exterior of the College Park Tank.

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

Operations Permit issued to: **Municipal Authority of the Borough of Oakmont**, P. O. Box 73, 721 Allegheny Avenue, Oakmont, PA 15139-1901, (PWSID No. 5020036) Oakmont Borough, Allegheny County on February 11, 2005 for the operation of facilities approved under Construction Permit No. 0203501-A1.

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

Permit No. 2789-T1-MA4, Public Water Supply

Applicant	Erie City Water Authority
Borough or Township	Millcreek Township
County	Erie County
Type of Facility	PWS
Permit to Construct Issued	02/11/2005

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Factoryville Borough	163 College Avenue Factoryville, PA 18419	Wyoming
Clinton Township	118 Clark Road Factoryville, PA 18419	Wyoming
La Plume Township	R. R. 2, Box 2787 La Plume, PA 18440	Lackawanna

Plan Description: The approved Plan provides for: (1) sanitary sewer extensions to Keystone Hills, SR 0107 Corridor and Highland Avenue areas of Clinton Township, and to Keystone College in La Plume Township; (2) expansion of Factoryville Borough's wastewater treatment plant's (WWTP) capacity from 0.07 million gallon per day (mgd) to 0.185 mgd; and (3) abandonment of Keystone College's existing WWTP upon completion of Factoryville's WWTP expansion. The Department's review of the Plan has not identified any significant environmental impacts resulting from this proposal. NPDES Permit for the increased effluent discharge to the South Branch of Tunkhannock Creek and Water Quality Management Permit for the construction and operation of the proposed

sewage collection, conveyance and treatment facilities must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
South Woodbury Township	125 North Road New Enterprise, PA 16664	Bedford County

Plan Description: Approval of a revision on February 9, 2005, to the Official Plan of South Woodbury Township, Bedford County for William Bratton. Project consists of construction of a small-flow facility with discharge to tributary of Beaver Creek/Yellow Creek, a HQ-CWF. Because there is an existing malfunctioning onlot sewage system currently serving this structure, the Department's special protection requirements have been met. The proposed development is located off of SR 869, 2,000 feet south of SR 867 on Guyer Corner Road. 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 owner as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

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

The Department has received the following plans and reports:

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

Charles Cole Memorial Hospital, Eulalia Township, **Potter County**, Converse Consultants, 2738 West College Avenue, State College, PA 16801 has submitted a Final Report concerning soil and groundwater contaminated with lead, heavy metals and solvents. This Final Report is intended to demonstrate attainment of the Statewide Health Standard for soil and groundwater.

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

Emsource, St. Marys LLC Old Dump Site, Township, **Elk County**. Joshua D. Marvil, Emsource St. Marys LLC, 111 Commercial St., Suite 400, Portland ME 04101 has submitted a Final Report concerning remediation of site Soil and Groundwater contaminated with Trichlorethene, 1,2-dichlorethene and 1,2-dichloroethane and vinyl chloride, Cadmium, Nickel and Lead. The report is intended to document remediation of the site to meet the Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk

assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

Former GS Electric Facility, Borough of Carlisle, **Cumberland County**. TRC Environmental Corporation, 5 Waterside Crossing, Windsor, CT 06095-1563 on behalf of General Signal Environmental Risk Management Company, 13515 Ballantyne Corporate Place, Charlotte, NC 28277, and Key Real Estate, LLC, 701 East Baltimore Pike, Suite A2, Kennett Square, PA 19348, submitted Final Report concerning remediation of site groundwater contaminated with BTEX, PAHs and solvents. The final report demonstrated attainment of a combination of the Statewide Health and Background standards, and was approved by the Department on February 8, 2005.

RESIDUAL WASTE GENERAL PERMITS

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904), and residual waste regulations for a General Permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR076. Jerart Inc., P. O. Box 153, Baden, PA 15005-0153. The permit authorizes processing and beneficial use of slag fines (approximately 1/4 inch), classifier sludge and filter cake from the production of steel using the basic oxygen process (BOP) in a demonstration project as subbase material for construction of an historic park at the Legionville/Logstown site in Harmony Township, **Beaver County**. The approved processing is limited to blending the BOP wastes in a 4:1:1 by weight ratio of slag fines: classifier sludge:filter cake. The permit was issued by Central Office on February 11, 2005.

Persons interested in reviewing the general permit may contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit No. 100549. Waste Mgmt. Disposal Services of Pennsylvania, Inc., 1425 Sell Road, Pottstown, PA 19464, Douglass and West Pottsgrove Townships, **Berk and Montgomery Counties**. Permit amendment for the replacement of a 500,000 gallon ModuTank with hard tankage of equivalent capacity and for stormwater channel improvements. The permit was issued by the Southeast Regional Office on February 7, 2005.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit No. 301295. Hazleton Oil & Environmental, Inc., 300 South Tamaqua Street, Route 309, Hazleton, PA 18201-7913. A permit authorizing a name change of this facility (from Hazleton Oil Salvage Ltd. to Hazleton Oil & Environmental, Inc.); a change in the stock ownership of this facility; and an increase in the permitted site storage capacity to 347,600 gallons, which reflects the construction of the previously approved tank capacity at this residual waste processing facility located in Banks Township, **Carbon County**. The permit was issued by the Regional Office on January 31, 2005.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP1-65-00183: Allegheny Ludlum Steel Corp. (100 River Road, Brackenridge, PA 15014) on February 9, 2005, to operate a natural gas fired boiler at the West Leechburg Facility in West Leechburg Borough, **Westmoreland County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

35-318-087: Milso Industries, Inc. (8 River Street, Jermyn, PA 18433) on February 3, 2005, to modify a paint spray booth and associated air cleaning device at their facility in Jermyn Borough, **Lackawanna County**.

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

67-05001B: LWB Refractories Co. (232 East Market Street, P. O. Box 1189, York, PA 17404) on February 3, 2005, to install a regenerative thermal oxidizer on Tunnel Kilns TK5 and TK6 in their West Manchester Township, **York County** facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

48-328-004: Lower Mount Bethel Energy LLC (Two North Ninth Street, GEN PL 6, Allentown, PA 18101) on February 8, 2005, to construct a combined cycle power plant at their facility on Depues Ferry Road, Lower Mount Bethel Township, **Northampton County**. The Plan Approval has been extended.

48-315-004: Newstech PA LP (6 Horwith Drive, Northampton, PA 18067) in February 9, 2005, to modify a pulp forming and dyeing process and associated air cleaning device at their facility in Northampton Borough, **Northampton County**. The plan approval has been extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

47-00001A: PPL Montour LLC (18 McMichael Road, Washingtonville, PA 17884) on February 7, 2005, to operate two bituminous coal-fired electric utility boilers (Units 1 and 2) and associated air cleaning devices two electrostatic precipitators, two selective catalytic reduction systems and two flue gas injection systems) on a temporary basis until June 5, 2005, at their Montour Steam Electric Station in Derry Township, **Montour County**. The plan approval has been extended.

17-305-050: Penfield Collieries, LLC (301 Market Street, Kittanning, PA 16201) on February 8, 2005, to operate a coal preparation plant on a temporary basis until June 8, 2005, in Huston Township, **Clearfield County**. The plan approval has been extended.

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

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

06-05085: New Morgan Landfill Co., Inc. (P. O. Box 128, Morgantown, PA 19543) on February 8, 2005, to operate a municipal solid waste landfill controlled by a gas collection system and two enclosed ground flares in the Borough of New Morgan, **Berks County**. This is a renewal of the Title V operating permit.

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

16-00128: County Environmental of Clarion—County Landfill Inc. (State Route 36, Township Road 620, Leeper, PA 16233) on January 14, 2005, to re-issue the Title V Operating Permit to operate a landfill in Farmington Township, **Clarion County**. As a result of potential emissions of NOx and VOC, the facility is not a major source, and is therefore not subject to Reasonable Available Control Technology. The issued renewal Title V Operating Permit does not reflect any changes in air emission from the facility. The facility is subject to Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

40-310-044: Meckley's Limestone Products, Inc. (R. D. 1, Box 1682, Herndon, PA 17830) on February 10, 2005, to operate a stone crushing plant and associated air cleaning device at their facility in Hazle Township, **Luzerne County**.

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

36-03126: Sylvin Technologies, Inc. (P. O. Box 308, 84 Denver Road, Denver, PA 17517) on February 8, 2005, for their PVC pellet production facility in East Cocalico Township, **Lancaster County**.

67-05106: DONSCO, Inc. (P. O. Box 2001, Wrightsville, PA 17368) on February 8, 2005, to operate a gray iron foundry in Wrightsville Borough, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

04-00680: Georgetown Sand and Gravel, Inc. (P. O. Box 1127, Georgetown, PA 15043) on February 9, 2005, for their aggregate processing plant in Greene Township, **Beaver County**.

32-00316: Equitrans, LP (100 Allegheny Center Mall, Pittsburgh, PA 15212) on February 10, 2005, for a state only operating permit renewal for two internal combustion engines at their Pennview Compressor Station in West Wheatfield Township, **Indiana County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-7100.

30960701. NPDES Permit No. PA0215201, RAG Emerald Resources, LP, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to renew the permit for the Emerald Mine No. 1—Coal Refuse Disposal Area No. 2 in Franklin Township, **Greene County** and related NPDES permit. No additional discharges. Permit issued February 11, 2005.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1900.

56663069 and NPDES Permit No. PA0120944. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552-7228, permit revision for a stream variance in Elk Lick and Summit Townships, **Somerset County**, affecting 3,040 acres. Receiving streams: UNTs to Casselman River, Casselman River, UNT to Elk Lick Creek, Elk Lick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 1, 2004. Permit issued: February 1, 2005.

56040101 and NPDES Permit No. PA0249556. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552-0157, commencement, operation and restoration of a bituminous surface mine in Black Township, **Somerset County**, affecting 50 acres. Receiving stream: Rhoades Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 7, 2004. Permit issued February 1, 2005.

32030102, Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, surface mining permit incidental boundary correction in West Wheatfield Township, **Indiana County**, affecting 6.0 acres. Receiving stream: UNT to West Branch of Richards Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 12, 2004. Permit issued February 7, 2005.

11990102 and NPDES Permit No. PA0235075. AMFIRE Mining Company, LLC, One Energy Place, Suite 2800, Latrobe, PA 15650, surface mining permit renewal in Adams and Conemaugh Townships, and South Fork Borough, **Cambria County**, affecting 366.0 acres.

Receiving streams: Little Conemaugh River; Bear Run; UNTs to South Fork Branch of Little Conemaugh River and South Fork Branch of Little Conemaugh River classified for the following uses: WWF and CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Little Conemaugh River Surface Water Intake. Application received November 4, 2004. Permit issued February 10, 2005.

32890107 and NPDES Permit No. PA0598615. TLH Coal Company, 4401 Pollock Road, Marion Center, PA 15759, surface mining permit renewal for reclamation only in Rayne Township, **Indiana County**, affecting 16.0 acres. Receiving streams: Dixon Run and UNT to Rayne Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Indiana County Municipal Authority Crooked Creek surface water withdrawal and PA American Water Company Two Lick Creek surface water withdrawal. Application received December 17, 2004. Permit issued February 10, 2005.

32823066 and NPDES Permit No. PA0606316. T.L.H. Coal Company, 4401 Pollock Road, Marion Center, PA 15759, surface mining permit renewal for reclamation only in East Mahoning and Rayne Townships, **Indiana County**, affecting 256.1 acres. Receiving streams: to Rayne Run and to Dixon Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge are Indiana County Municipal Service Authority Crooked Creek surface water withdrawal and PA American Water Company Two Lick Creek surface water withdrawal. Application received January 11, 2005. February 10, 2005.

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

30960101 and NPDES Permit No. PA0201626. C. J. & L. Coal (R. D. 1, Box 133, Jefferson, PA 15234). Permit revised to approve auger mining and a land use change at a bituminous surface mining site located in Morgan Township, **Greene County**, affecting 136 acres. Receiving streams: UNT to South Fork of Ten Mile Creek. Application received: November 15, 2004. Revised permit issued: February 10, 2005.

Knox District Mining Office: P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

33990112 and NPDES Permit No. PA0241636. P. and N. Coal Co., Inc. (P. O. Box 332, 240 W. Mahoning Street, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip and auger operation in Gaskill Township, **Jefferson County** affecting 122.1 acres. Receiving streams: UNT to Ugly Run. This renewal is issued for reclamation only. Application received: October 28, 2004. Permit Issued: February 4, 2005.

24900103 and NPDES Permit No. PA0207977. Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous surface strip, auger, and beneficial use of fluidized bed ash use of co-product operation in Fox and Horton Townships, **Elk County** affecting 367.0 acres. Receiving streams: McCauley Run, Curry Run, Boderocco Run, Brandy Camp Creek and UNTs to Little Toby Creek. This renewal is issued for reclamation only. Application received: December 21, 2004. Permit Issued: February 9, 2005.

33990108 and NPDES Permit No. PA0241482. T. L. H. Coal Company (4401 Pollock Road, Marion Center, PA 15759). Renewal of an existing bituminous surface strip operation in Young Township, **Jefferson County**

affecting 49.5 acres. Receiving streams: UNT to Sawmill Run. This renewal is issued for reclamation only. Application received: December 20, 2004. Permit Issued: February 9, 2005.

16-04-06 and NPDES Permit No. PA0242586. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Proposal to enter into a Government Financed Reclamation Construction Contract on a 23.3 acre site in Clarion Township, **Clarion County**. The proposal includes total reclamation of 10.1 acres of abandoned mine lands as well as 5.7 acres of coal removal incidental and necessary to the reclamation activities. Receiving streams: UNTs to Brush Creek to Clarion River. Application received: October 6, 2004. Contract Issued: February 11, 2005.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

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

01054103. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Wormold Development in Mt. Joy Township, **Adams County** with an expiration date of December 31, 2005. Permit issued February 7, 2005.

21054106. Cumberland Valley Drilling & Blasting, (6820 Wertzville Road, Enola, PA 17025), construction blasting for Cocca Development Dollar Bargain Store in Upper Allen Township, **Cumberland County** with an expiration date of January 27, 2006. Permit issued February 7, 2005.

45054104. Austin Powder Company, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Nottingham Manor in Pocono Township, **Monroe County** with an expiration date of February 28, 2006. Permit issued February 7, 2005.

39054002. Labrador Construction, (P. O. Box 1379, Marshalls Creek, PA 18335) and **Austin Powder Company**, (559 Nor-Bath Boulevard, Northampton, PA 18067), construction blasting at Millbrook Farms in Lower Macungie Township, **Lehigh County** with an expiration date of April 1, 2005. Permit issued February 8, 2005.

45054002. Labrador Construction, (P. O. Box 1379, Marshalls Creek, PA 18335) and **Austin Powder Company**, (559 Nor-Bath Boulevard, Northampton, PA 18067), construction blasting at Spring Lake Estates in Smithfield Township, **Monroe County** with an expiration date of January 1, 2006. Permit issued February 8, 2005.

36054109. Hall Explosives, Inc., (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Cloverbrook Development in West Earl Township, **Lancaster County** with an expiration date of February 28, 2006. Permit issued February 8, 2005.

22054002. ABEL Construction Company, Inc., (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Kendale Oaks Phases 2 and 3 in Lower Paxton Township, **Dauphin County** with an expiration date of March 7, 2006. Permit issued February 9, 2005.

22054003. ABEL Construction Company, Inc., (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Deer Run Phase V in Derry Township, **Dauphin County** with an expiration date of November 7, 2005. Permit issued February 9, 2005.

36054003. Warren's Excavating & Drilling, Inc., (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Bent Creek in Manheim Township, **Lancaster County** with an expiration date of March 7, 2006. Permit issued February 9, 2005.

67054002. ABEL Construction Company, Inc., (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Hunt Club in York Township, **York County** with an expiration date of August 31, 2005. Permit issued February 10, 2005.

38054006. Charles E. Brake Company, Inc., (6450 Lincoln Way West, St. Thomas, PA 17252), construction blasting at Menno Haven in Greene Township, **Franklin County** with an expiration date of August 31, 2005. Permit issued February 10, 2005.

38054102. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Rocky Ledge Development in South Lebanon Township, **Lebanon County** with an expiration date of December 30, 2005. Permit issued February 11, 2005.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once.

Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E40-633. Kingston Township. 180 East Center Street, Shavertown, PA 18708. Kingston Township, Luzerne County, Army Corps of Engineers Baltimore District.

To remove the existing structure and stormwater outfalls and to construct and maintain a road crossing of Toby Creek (CWF), consisting of a 14.0-foot by 12.0-foot by 50.0-foot precast concrete arch bridge. The project includes construction of two stormwater outfall structures (an 18-inch RCP along the left bank of Toby Creek and a 24-inch RCP along the right bank). The project is located along East Center Street (T-846) (Kingston, PA Quadrangle N: 12.6 inches; W: 9.0 inches). (Subbasin: 05B)

E54-315. Schuylkill County. Schuylkill County Courthouse, 401 North Second Street, Pottsville, PA 17901-2528. North Union Township, Schuylkill County, Army Corps of Engineers Baltimore District.

To maintain a three span concrete beam bridge across Catawissa Creek (CWF) (County Bridge No. 100) with work consisting of concrete repairs, rock scour protection, removing a 44-foot wide by 184-foot long gravel bar, filling a 40-foot by 20-foot scour hole, and constructing a temporary construction road and causeway. The project is located at the Labenberg Road (T-453). The bridge is approximately 200 feet west of SR 0339 (Nuremburg, PA Quadrangle N: 3.1 inches; W: 12.1 inches). (Subbasin: 05E)

E39-436. Maplewood, Inc., Warrington Mews Pavilion, Suite 27, Warrington, PA 18976. Lower Milford Township, Lehigh County, Army Corps of Engineers Philadelphia District.

To authorize the following Water Obstructions and Encroachments associated with Maplewood Estates Residential Subdivision:

1. To construct and maintain a road crossing (Shady Drive) across Saucon Creek (CWF) consisting of two adjacent concrete box culverts, the first having cell dimensions of 13 feet by 5 feet by 75 feet depressed 6 inches below streambed and the second having cell dimensions of 13 feet by 4 feet by 75 feet elevated 6 inches above streambed. The crossing also includes 60 feet of channel realignment upstream of the crossing, 80 feet of channel realignment downstream of the crossing, and the placement of fill in 0.20 acre of PSS wetlands.

2. To construct and maintain a channel change consisting of regrading and minor realignment of approximately 1,350 feet of a tributary to Saucon Creek (CWF) with a drainage area less than 100 acres for the purpose of increasing channel capacity and widening Chestnut Hill

Church Road (T-392). The relocation will also include the removal of two existing culverts, the construction and maintenance of a 145-foot long stream enclosure under Church View Road (SR 2040), the construction and maintenance of a 100-foot long steam enclosure under October Glory Circle, and excavation through 0.03 acre of PFO wetlands in the floodway of Saucon Creek.

3. To construct and maintain a driveway crossing of PEM wetlands consisting of the placement of fill and a 12-inch diameter RCP with rip-rap apron in 0.02 acre of wetlands for the purpose of providing access to Lot No. 32.

4. To construct and maintain a driveway crossing of a tributary to Saucon Creek (CWF), with a drainage area less than 100 acres, consisting of a 33-foot long, 60-inch diameter RCP with concrete endwalls and rip-rap apron and the placement of fill in 0.01 acre of PSS wetlands for the purpose of providing access to Lot No. 16.

5. To construct and maintain a driveway crossing of a tributary to Saucon Creek (CWF), with a drainage area less than 100 acres, consisting of a 27-foot long, 42-inch diameter RCP with concrete endwalls and rip-rap apron for the purpose of providing access to Lot No. 15.

6. To construct and maintain a driveway crossing of a tributary to Saucon Creek (CWF), with a drainage area less than 100 acres, consisting of a 23-foot long, 36-inch diameter RCP with rip-rap apron for the purpose of providing access to Lot No. 56.

7. To construct and maintain the Detention Basin No. 4 outfall structure consisting of a 30-inch diameter RCP, concrete endwall, rip-rap apron, and a concrete level spreader in the floodway of Saucon Creek (CWF).

8. To construct and maintain the Detention Basin No. 5 outfall structure consisting of a 24-inch diameter RCP, concrete endwall, rip-rap apron, and a concrete level spreader in the floodway of Saucon Creek (CWF).

9. To construct and maintain a utility line crossing of a tributary to Saucon Creek (CWF) consisting of an 18-inch diameter RCP stormwater pipe.

The permittee is required to provide 0.26 acre of replacement wetlands.

The project is located near the intersection of Chestnut Hill Church Road (T-392) and Church View Road (SR 2040) (Milford Square, PA Quadrangle N: 22.0 inches; W: 11.5 inches) in Lower Milford Township, Lehigh County. (Subbasin: 02C)

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

E21-368: Earl G. Parshall, 6 West Dykeman Road, Shippensburg, PA 17257 in Shippensburg Borough, Cumberland County, ACOE Baltimore District.

To fill in a 83-foot wide by 60-foot long by 2-foot deep manmade pond that discharges to an UNT to Middle Spring Creek (CWF) (Shippensburg, PA Quadrangle N: 7.9 inches; W: 2.2 inches) for the purpose of matching the existing topography of a yard located in Shippensburg Borough, Cumberland County.

E22-487: PennDOT Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699 in Mifflin Township, Dauphin County, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain a 14.5-foot by 9.5-foot box culvert with 1-foot depression on a 75-degree skew at the channel of an UNT to Wiconisco Creek (WWF) and associated im-

provements on SR 0225, Section 015, Segment 0430, Offset 1611 to improve the traffic safety condition located about 0.7 mile south of Berrysburg Borough (Elizabethville, PA Quadrangle N: 12.0 inches; W: 10.0 inches) in Mifflin Township, Dauphin County.

E36-784. Mount Joy Township Authority, 157 Metz Drive, Elizabethtown, PA 17022 in Mount Joy Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain an expansion to an existing sanitary sewer pump station within the floodway of an UNT to Donegal Creek (CWF) located on the Elizabethtown, PA Quadrangle (Latitude: 40° 8' 18"; W: 76° 33' 22") in Mount Joy Township, Lancaster County.

E50-223. McNaughton Services, 8521 Middle Ridge Road, Newport, PA 17074 in Carroll Township, **Perry County**, ACOE Baltimore District.

To place and maintain fill within the floodway of an UNT to Shermans Creek (WWF), for the purpose of expanding parking facilities, located on the southeastern side of Pisgah Road about 200 feet south of the Route 34/Route 850 intersection (Shermansdale, PA Quadrangle N: 12.5 inches; W: 5.7 inches) in Carroll Township, Perry County.

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

E41-543. Ray Eck, 2862 Gap Road, Allenwood, PA 17810. Water Obstruction and Encroachment Joint Permit for Pond Construction, in Washington Township, **Lycoming County**, ACOE Susquehanna River Basin District (Williamsport SE, PA Quadrangle N: 21.3 inches; W: 14.7 inches).

To construct and maintain a 0.5 acre pond and 0.23 acre wetland, a 4-inch intake and 6-inch outfall pipes in and UNT to White Deer Hole Creek in Washington Township, Lycoming County. This project proposes to have a minimal impact on White Deer Hole Creek, which is designated a HQ-CWF. This project proposes to impact 0.11 acre of jurisdictional wetlands.

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

E04-296 A1. Lehigh Cement Company, 7660 Imperial Way, Allentown, PA 18195. Dock expansion in the City of Aliquippa, **Beaver County**, Pittsburgh ACOE District (Ambridge, PA Quadrangle N: 16.8 inches; W: 15.8 inches and Latitude: 40° 35' 33"—Longitude: 80° 14' 20"). To amend Permit No. E04-296 which authorized the operation and maintenance of an existing barge unloading facility located along the left bank of the Ohio River near River Mile 16.8. The facility was originally permitted under Permit No. E04-035. This permit amendment is for the construction and maintenance of a 53' by 39' work platform expansion located adjacent to the existing barge unloading facility.

E04-302. Castlebrook/Phillipsburg Developments, LP, The Bank Tower, Suite 910, 307 Fourth Avenue, Pittsburgh, PA 15222. To construct a culvert in Center and Potter Townships, **Beaver County**, Pittsburgh ACOE District (Beaver, PA Quadrangle N: 9.9 inches; W: 8.2 inches and Latitude: 40° 40' 54"—Longitude: 80° 18' 43"). To (work authorized as stated on permit) place and maintain fill in 0.08 acre of PEM wetlands associated with an UNT to the Ohio River (WWF) and to construct and maintain a stream enclosure consisting of a 60-inch diameter culvert 240.0 feet in length in said stream for the purpose of constructing the Phillipsburg Center. The

project is located approximately 3,500 feet north from the intersection of SR 18 and SR 51. The project will permanently impact 0.08 acre of PEM wetlands and 240.0 linear feet of stream channel. The applicant has met the wetland replacement requirement by contributing to the Wetland Replacement Fund.

E65-855. Ligonier Township, One Municipal Park Drive, Ligonier, PA 15658. To replace a culvert in Ligonier Township, **Westmoreland County**, Pittsburgh ACOE District (Wilpen, PA Quadrangle N: 0.4 inch; W: 7.56 inches and Latitude: 40° 15' 08"—Longitude: 79° 10' 45"). To (work authorized as stated on permit) remove the existing structure and to construct and maintain a 24.5-foot long, 1.0-foot depressed, 7.0-foot by 5.5-foot concrete box culvert, with baffles and riprap protection at the inlet and outlet, in an UNT to Mill Creek (CWF) for the purpose of improving transportation safety and roadway standards. The project is located on Griffith Road.

E65-859. City of Greensburg, 416 South Main Street, Greensburg, PA 15601. Construct a pedestrian bridge in the City of Greensburg, **Westmoreland County**, Pittsburgh ACOE District. (Greensburg, PA Quadrangle N: 7.67 inches; W: 5.46 inches and Latitude: 40° 17' 32"—Longitude: 79° 32' 21"). To construct and maintain a pedestrian bridge, having a span of 10 feet and an underclearance of 6.0 feet across an UNT to Jack's Run (with concrete sidewalls) classified as a WWF. The proposed bridge will be installed on the channel constructed as part of the Mt. Pleasant Street Flood Control Project.

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

E20-539. Meadville Medical Center, 1034 Grove Street, Meadville, PA 16335. Mill Run Restoration, in the City of Meadville, **Crawford County**, ACOE Pittsburgh District (Meadville, PA Quadrangle N: 2.8 inches; W: 14.3 inches).

The applicant proposes to construct and maintain a stream restoration project and establish a stream side trail, landscaping and butterfly gardens in and adjacent to Mill Run (Meadville, PA Quadrangle N: 2.8 inches; W: 14.3 inches) in the City of Meadville, Crawford, County approximately 800 feet east of the intersection of SR 86 and North Street involving: 1) to remove approximately 200 lineal feet of concrete retaining walls, 2) to construct and maintain floodplain area along approximately 350 feet of the left bank, 3) to install and maintain two J-hook structures, one cross vane structure and one log rollover structure, and 4) to construct and maintain a pedestrian bridge having a clear span of at least 36 feet and an underclearance of 4.5 feet. Mill Run is a perennial stream classified as a WWF. The project proposes to directly impact approximately 410 lineal feet of stream.

ENVIRONMENTAL ASSESSMENTS

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

D01-043EA. Richard Sharrer, 2224 Oxford Road, New Oxford, PA 17350. Straban Township, **Adams County**, ACOE Baltimore District.

Project proposes to breach and remove Sharrer Dam located across Conewago Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The dam is located approximately 1,800 feet Northwest of the intersection of

Oxford Road (SR 1015) and SR 394. (Hampton, PA Quadrangle N: 5.7 inches; W: 14.0 inches).

D67-536EA. Logan's Reserve Development LLC, 7061 Columbia Gateway Drive, Columbia MD 21046, Springfield Township, **York County**, ACOE Baltimore District.

Project proposes to breach and remove Logan's Reserve Pond No. 3 Dam across a tributary to East Branch Codorus Creek (CWF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 1,400 feet west of the intersection of Water Street (T522) and Decker Road (T501) (Glen Rock, PA Quadrangle N: 21.5 inches; W: 13.3 inches).

SPECIAL NOTICES

ENVIRONMENTAL ASSESSMENT

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

Applicant: Aqua Pennsylvania, Inc., HC 6, Box 6040, Hawley, PA 18428

Project Location: Palmyra Township, Pike County

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Aqua Pennsylvania, Inc. proposes to provide major improvements to the community water system serving the Tanglewood South Development. Proposed improvements include upgrades at Well Nos. 1 and 8, abandonment of Well Nos. 3A and 3B, increasing contact time following chlorination and construction of a 100,000-gallon finished water storage tank. Construction of a booster pump station and distribution system improvements will reduce to three the number of pressure zones. Additional distribution system improvements will include looping of several deadend lines, along with replacement of an existing 4-inch main with a new 8-inch line.

The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Applicant: Aqua Pennsylvania, Inc.

Project Location: Moscow Borough, Lackawanna County

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Aqua Pennsylvania, Inc. proposes water mains and a booster pump station replacement.

The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

GOOD SAMARITAN ACT

EGS65004, Loyalhanna Watershed Association, Inc. (110 Andi Lane, Ligonier, PA 15658). A project to collect background hydrologic data regarding the feasibility of rerouting and then treating abandoned deep mine water that currently flows in or near downtown Latrobe in Unity Township, **Westmoreland County**, affecting 4 acres. Receiving stream: Loyalhanna Creek. Project proposal received: January 28, 2005.

Request for Comment and Notice of Public Meeting for Proposed Total Maximum Daily Loads (TMDLs) for the Black Creek, Little Nescopeck Creek and UNT Little Nescopeck Creek Watersheds in Luzerne County

Pottsville District Mining Office: Mike Hill, Geologic Specialist, 5 West Laurel Boulevard, Pottsville, PA 17901.

The Department of Environmental Protection (Department) is holding a public meeting on March 9, 2005, at 6 p.m. at the Freeland Borough Building in Freeland, PA to discuss and accept comments on a proposed TMDL established in accordance with the requirements of the 1996 Section 303(d) of the Clean Water Act. Three stream segments in Black Creek, Little Nescopeck Creek and UNT Little Nescopeck Creek watersheds have been identified as impaired on the 1996 Pennsylvania 303(d) list due to metals, other inorganics and pH. The listed segments and miles degraded are shown in the following table:

Stream Code	Stream Name	Miles Degraded
28109	Black Creek	4.3
28140	Little Nescopeck Creek	9.1
28205	UNT Little Nescopeck Creek	0.2

The proposed plan provides calculations of the stream's total capacity to accept metals, other inorganics and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

Parameter	Criterion Value	Total
	(mg/l)	Recoverable/Dissolved
Aluminum (Al)	0.75	Total Recoverable
Iron (Fe)	1.50	30-day average; Total
Manganese (Mn)	1.00	Total Recoverable
pH *	6.0—9.0	N/A

The primary pollutant source for these watersheds is abandoned mine workings. The watersheds were heavily mined for coal dating back to the 1880s. The effects of this are still present today. Allocations made in the TMDLs are load allocations that are made to nonpoint sources of pollution and waste load allocations (WLA) that are made to point sources of pollution. There are no WLAs in these watersheds.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 2 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Mike Hill, 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, mihill@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previously listed address and must be postmarked by April 21, 2005. Persons who plan to make a presentation at the public meeting should notify the Department by March 2, 2005. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

[Pa.B. Doc. No. 05-364. Filed for public inspection February 25, 2005, 9:00 a.m.]

Area Unsuitable for Surface Mining; Petition No. 17939901

Under the authority of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a) and 25 Pa. Code Chapter 86 (relating to surface and underground coal mining: general), the Department of Environmental Protection (Department) has accepted for technical study a petition submitted by the Graham Township Supervisors to designate a portion of Graham Township, Clearfield County, as unsuitable for surface mining activities. The petition area includes approximately 2,800 acres located in the Big Run and Willholm Run watersheds. The petitioner alleges that reclamation is not technologically and economically feasible and specifically claims that surface mining within the petition area will adversely affect renewable resource lands, resulting in substantial loss or degradation of local groundwater and/or surface water resources.

The Department will review the factual allegations in the petition, conduct a technical study and hold a public hearing to determine whether the area should be formally submitted to the Environmental Quality Board for designation as an area unsuitable for surface mining activities. Details concerning the yet to be scheduled public hearing will be published in a future edition of the *Pennsylvania Bulletin*.

Persons who have relevant information concerning this petition are encouraged to make it available to the Department for consideration in the assessment. Information should be submitted to Thomas Callaghan, Environmental Analysis and Support Division, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, tcallaghan@state.pa.us.

Persons may become an intervenor for or against these proceedings by filing allegations of fact describing how the designation determination directly affects the intervenor. Requests for intervenor status will be accepted by the Department until 3 days before the public hearing on the petition and must include the prospective intervenor's name, address, telephone number and supporting evidence, including a short statement identifying the petition to which the allegations pertain. Requests for intervenor status should be submitted to Thomas Callaghan at the previous address.

The petition file, including all supporting documents, is open for public review during regular business hours at the Moshannon District Mining Office, 186 Enterprise Drive, Phillipsburg, PA 16866 and at the Bureau of Mining and Reclamation, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. For further information call (717) 787-4761. Persons with a

disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) and requesting that the call to Thomas Callaghan at (717) 787-4761.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-365. Filed for public inspection February 25, 2005, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2005.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance—Minor Revision

DEP ID: 383-3130-108. Title: New Source Sampling Requirements for Surface Water Sources. Description: This guidance provides information to public water suppliers concerning the minimum sampling requirements for new surface water sources under the Commonwealth's drinking water management programs. The guidance was first issued on September 1, 1997, under the authority of Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) and 25 Pa. Code Chapter 109 (relating to safe drinking water). Minor revisions were recently made to the guidance to incorporate regulatory requirements contained in the Disinfectants and Disinfection Byproducts Rule and the Safe Drinking Water; Radionuclides Rules, which were promulgated at 31 Pa.B. 3895 (July 1, 2001) and 34 Pa.B. 1762 (April 3, 2004), respectively. These revisions include the addition of sampling and monitoring requirements for the maximum contaminant levels of HAA5 (Five Haloacetic Acids, the total of Monochloroacetic Acid, Dichloroacetic Acid, Trichloroacetic Acid, Monobromoacetic Acid and Dibromoacetic Acid) and Radium-226, Radium-228, Uranium and total organic carbon. Contact: Tom Franklin,

Bureau of Water Supply and Wastewater Management, (717) 783-1820, thfranklin@state.pa.us. Effective Date: February 26, 2005.

Draft Technical Guidance

DEP ID: 563-2000-655. Title: Surface Water Protection—Underground Bituminous Coal Mining Operations. Description: This draft guidance describes procedures for protecting perennial and intermittent streams and wetlands from potential adverse effects caused by underground bituminous coal mining operations. It replaces existing technical guidance document No. 563-2000-655: Perennial Stream Protection, which pertains only to the protection of perennial streams. The draft guidance reflects changes in stream protection that carry over from the 1999 amendments to the Department's water quality regulations (25 Pa. Code Chapters 93 and 96 (relating to water quality; and water quality standards implementation)) and two recent Environmental Hearing Board decisions regarding plans for mining beneath streams. The draft guidance consolidates the applicable requirements of 25 Pa. Code Chapters 86, 89, 93, 96 and 105 into a single document, so that they can be easily referenced and understood by mine operators and Department staff. Written Comments: Interested persons may submit written comments on draft technical guidance document No. 563-2000-655 by March 28, 2005. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Harold Miller, P. G., Department of Environmental Protection, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461 or by e-mail at RA-EPBMRGUIDE@STATE.PA.US. Questions regarding the draft technical guidance document should be directed to Harold Miller, (717) 783-1199, harmiller@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-366. Filed for public inspection February 25, 2005, 9:00 a.m.]

State Board for Certification of Water and Wastewater Systems Operators; 2005 Examinations Postponement Announcement

The State Board for Certification of Water and Wastewater Systems Operators (Board) and the Department of Environmental Protection (Department) have postponed the scheduled State-sponsored examinations for both water and wastewater operator certification for 2005.

The overwhelming demand for examination services requires the Board and the Department to restructure the delivery of these examinations. In addition, the Board and the Department are currently streamlining the examination registration process. The new process will be finalized very soon.

At this time, the Board and the Department are working with industry associations to make examination services available Statewide in the spring and summer of 2005. These examination announcements will be made when new dates have been finalized. State sponsored examinations will be rescheduled later in the year based upon demand. To date, associations that have been contacted include:

American Water Works Association—Pa. Section
Eastern Pennsylvania Water Pollution Control Operators Association
Western Pennsylvania Water Pollution Control Operators Association
Pennsylvania State Association of Township Supervisors
Pennsylvania Manufactured Housing Association
Pennsylvania Municipal Authorities Association
Pennsylvania Water Environment Association
Small Systems Technical Assistance Center—Penn State Harrisburg
Water Works Operators Association of Pennsylvania

In addition, the Pennsylvania Rural Water Association (PRWA) is planning on conducting an examination session on March 29, 2005, as part of their annual conference. Registration deadline is March 1, 2005. Contact the PRWA for further information.

For further information, contact the Department of Environmental Protection, Certification and Licensing Section, P. O. Box 8454, 400 Market Street, Harrisburg, PA, 17105-8454, (717) 787-5236. Information will also be posted on the Department's website www.dep.state.pa.us (DEP keyword: DEP operators). Additional information will be available no later than April 1, 2005.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-367. Filed for public inspection February 25, 2005, 9:00 a.m.]

Stream Redesignation Evaluation; Water Quality Standards Review

Under 25 Pa. Code § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) gives notice that an evaluation will be conducted on the following stream section to determine the proper aquatic life use designation in the Commonwealth's Water Quality Standards.

<i>Stream Name</i>	<i>County</i>	<i>Tributary To</i>
Fishing Creek—Basin	Lancaster	Susquehanna River

Persons who have technical data concerning the water quality, instream habitat or biological condition of this stream are encouraged to make it available to the Department for consideration in the assessment. This assessment may lead to a recommendation to the Environmental Quality Board (Board) for redesignation.

Data should be submitted to Tony Shaw, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, tshaw@state.pa.us. Data should be submitted by March 28, 2005. Questions concerning this evaluation should be directed to Tony Shaw at (717) 787-9637.

This assessment is being conducted in response to a rulemaking petition submitted to the Board by Patrick McClure. Fishing Creek is currently designated High-Quality-Cold Water Fishes. The petitioners are requesting redesignation to Exceptional Value Waters.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Tony Shaw at (717) 787-9637 or through the

Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-368. Filed for public inspection February 25, 2005, 9:00 a.m.]

Water Resources Advisory Committee Meeting Cancellation

The March 9, 2005, meeting of the Water Resources Advisory Committee has been cancelled. The next scheduled meeting will be held on May 11, 2005, at 9:30 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the May 11, 2005, meeting should be directed to Bonita Moore, (717) 787-9637, bmoore@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 787-9637 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-369. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Highlands Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Highlands Hospital has requested an exception to the requirements of 28 Pa. Code § 107.26(b)(2) (relating to additional committees).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or

hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-370. Filed for public inspection February 25, 2005, 9:00 a.m.]

Application of Magee-Women's Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Magee-Women's Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 7.7.A1 (relating to general operating room size).

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, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-371. Filed for public inspection February 25, 2005, 9:00 a.m.]

Application of Mercy Hospital of Philadelphia for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Mercy Hospital of Philadelphia has requested an exception to the requirements of 28 Pa. Code §§ 138.2, 138.15 and 138.18 (relating to definitions; high-risk cardiac catheterizations and EPS studies).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of

Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-372. Filed for public inspection February 25, 2005, 9:00 a.m.]

Application of St. Luke's Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that St. Luke's Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 7.2.A4 (relating to handwashing station).

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, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-373. Filed for public inspection February 25, 2005, 9:00 a.m.]

Health Policy Board Meeting

The Health Policy Board is scheduled to hold a meeting on Wednesday, March 16, 2005, at 10 a.m. in Room 812, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA 17108.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Cynthia Trafton, Bureau of Health Planning (717) 772-5298, ctrafton@state.pa.us, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-374. Filed for public inspection February 25, 2005, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Oil City Presbyterian Home
10 Vo Tech Drive
Oil City, PA 16301

Manchester Presbyterian Lodge
6351 West Lake Road
Erie, PA 16505

Presbyterian Lodge
2628 Elmwood Avenue
Erie, PA 16508

Birchwood Nursing and Rehabilitation Center
395 Middle Road
Nanticoke, PA 18634

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.27 (relating to lounge and recreation rooms):

Beverly Healthcare—Shippenville
21158 Paint Boulevard
Shippenville, PA 16254

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation

to do so should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-375. Filed for public inspection February 25, 2005, 9:00 a.m.]

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52), will hold a public meeting on Thursday, March 24, 2005, from 10 a.m. to 3 p.m. in Conference Room B/C, Dixon Center, Administration Building, 2986 North Second Street, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Carolyn S. Cass, Director, Division of Child and Adult Health Services, (717) 783-5436 or for speech and/or hearing impaired persons, contact V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-376. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Expansion of the Long-Term Care Capitated Assistance Program; Request for Information

The Long-Term Care Capitated Assistance Program (LTCCAP) is the Commonwealth's replication of the Program of All-inclusive Care for the Elderly (PACE) Model. Under this request for information, the Department of Public Welfare (Department) is asking organizations interested in participating as an LTCCAP provider to contact the Department. Providers will be responsible to provide a specific package of services to individuals enrolled in the program, who are eligible for Medical Assistance (MA) and have been determined to require nursing facility services. To be considered for an LTCCAP site, organizations must be enrolled in the MA Program, meet the requirements included in the PACE Protocol and LTCCAP Provider Agreement and have a completed feasibility study through a PACE Technical Assistance Center.

The Department will consider, among other things, the following factors when determining site selection for LTCCAP:

- MA service need.
- MA service availability (such as availability of nursing facility services and home and community based services).
- Project location (such as suburban versus urban locations and existing project sites).

- Uniqueness of project design (such as closing existing nursing facility beds and collaboration efforts).

Questions regarding the PACE Protocol or the feasibility study through a PACE Technical Assistance Center should be directed to Cindy M. Proper at (717) 772-2525.

Organizations that meet the criteria listed in this notice that are interested in being considered to provide services under LTCCAP should submit a letter of interest along with a copy of their completed feasibility study by June 30, 2005, to LTCCAP, Division of LTC Client Services, Department of Public Welfare, 6th Floor, Bertolino Building, P. O. Box 2675, Harrisburg, PA 17105.

Current LTCCAP providers interested in expanding beyond their designated zip code area are also invited to respond to this request. Responses should be directed to the previous address and include a letter of interest, along with a market analysis of the area of interest.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-410. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 05-377. Filed for public inspection February 25, 2005, 9:00 a.m.]

Intermediate Care Facilities for the Mentally Retarded Assessment

The purpose of this final notice is to announce the amount, methodology and aggregate impact of the assessment on Intermediate Care Facilities for the Mentally Retarded (ICFs/MR). This notice is published in compliance with section 805-C(a) of Act 69 of 2004 (62 P. S. § 805-C) and section 811-C of Act 154 of 2004 (62 P. S. § 811-C).

Article VIII-C of Act 69 of 2004 (62 P. S. §§ 801-C—811-C) authorizes the Department of Public Welfare (Department) to implement a monetary assessment on each ICF/MR within this Commonwealth. Act 69 of 2004 further requires that the Department provide initial and final public notices describing the assessment methodology and providing the level of assessment and the aggregate fiscal impact of the assessment. The initial public notice was published at 34 Pa.B. 6787 (December 25, 2004). Interested parties were given 30 days from the initial notice to submit comments to the Department. Act 154 of 2004 amends the act to allow the Department to impose the assessment effective July 1, 2003, for the Non-State ICFs/MR, including Intermediate Care Facilities for Persons with Other Related Conditions (ICFs/ORC) and allows the Department to impose the assessment effective July 1, 2004, for the Public ICF/MR programs (State Centers).

Public Comments Received

One written comment was received by the Department which indicated that the legislation did not authorize the assessment to be imposed retroactively for Non-State ICFs/MR. Specifically, the commentator stated that the legislation did not provide the Department with the legal authority to impose the assessment retroactively and is contrary to the express distinction in the managed care assessment legislation that does permit retroactive application. The Department disagrees with the commentator since Act 154 of 2004 which amended the act expressly provides that the assessment may be imposed for

Non-State ICFs/MR on or after July 1, 2003. The Non-State ICF/MR provider community has been aware of the retroactive application since Act 69 of 2004 was passed and has had ongoing discussions with and written communications from the Department regarding the July 1, 2003, assessment application. No opposition has been expressed by any Non-State ICF/MR. Consequently, the Department does not intend to change the assessment application.

Assessment Methodology and Amount

As indicated in the initial public notice, the Department intends to impose an assessment on each licensed ICF/MR (which includes Non-State ICFs/MR, ICFs/ORC and State Centers) within this Commonwealth at a level of 6% of net operating revenue. The initial assessment will be made retroactively to July 1, 2003, as permitted under section 811-C of Act 69 of 2004 for Non-State ICF/MR and ICF/ORC programs and amended under section 811-C of Act 154 of 2004. The Department intends that the initial assessment for Fiscal Year (FY) 2003-04 will be imposed as a single annual amount and will be based on the revenue submitted by the providers on their most recently accepted annual cost reports for the Non-State ICF/MR and ICF/ORC programs. The Department has determined that the most recent available revenue amounts for the Non-State ICF/MR and ICF/ORC programs are from the FY 2002-03 cost reports. These revenue amounts will be trended forward by the budget inflators used by the Department for rate setting purposes. The budget inflator for FY 2003-04 was 1% for the Non-State ICF/MR program and 2% for the ICF/ORC program.

For FY 2004-05 the Department will calculate the annual assessment amount for each provider again using the revenue amounts from the providers' most recently accepted cost reports for the Non-State ICF/MR and ICF/ORC programs. These revenue amounts will be trended forward by the applicable budget inflators used by the Department for rate setting. For FY 2004-05 the most recent available revenue amounts for the Non-State ICF/MR and ICF/ORC programs are again from the providers' FY 2002-03 cost reports. The Department will use the adjusted net operating revenue amounts for the State Centers from the most recent available cost apportionment report. There are no inflationary increases applied to the State Center amounts.

The budget inflators are 1% for FY 2003-04 and 2% for FY 2004-05 for the Non-State ICF/MR program. The budget inflators are 2% for FY 2003-2004 and 2% for FY 2004-2005 for the ICF/ORC program. There is no inflationary increase applied to the State Centers for FY 2004-2005.

Once the annual assessment for FY 2004-2005 has been determined, the assessment will be collected on a quarterly basis from the State Centers. For the Non-State ICFs/MR and ICFs/ORC, the assessment will be collected on a quarterly basis for the first three quarters. For the fourth quarter, the assessment will be collected on a monthly basis.

For FY 2005-06 and thereafter, the Department intends to determine the assessment amounts using the same methodology as outlined previously for FY 2004-05. The Department intends to use the most recent available revenue data as submitted on the providers' most recently accepted annual cost reports as the basis for determining the 6% assessment amounts for the Non-State ICF/MR and the ICF/ORC programs and the most recently identified cost apportionment report for the State Centers.

For each year for which the assessment is in place, including the initial FY 2003-04 (for the Non-State ICF/MR and ICF/ORC programs only), the Department will provide each facility the specific amount of the assessment calculated for the facility

Fiscal Impact

The proposed FY 2003-04 assessment is expected to generate additional aggregate revenue of \$14,645 million during FY 2004-05 and the FY 2004-05 assessment is expected to generate additional aggregate revenue of \$31,237 million of which \$29,968 million is expected to be received during FY 2004-05.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-412. No fiscal impact; (8) recommends adoption. This public notice announces the generation of an additional \$14,645,000 in revenue in FY 2004-05 from 2003-04 assessments to ICFs/MR facilities including \$14,510,000 in the Intermediate Care Facilities—MR appropriation and \$135,000 in the Services to Persons with Disabilities appropriation. The FY 2004-05 assessments are estimated to generate an additional \$29,968,000 in revenue during 2004-05 including \$16,038,000 in the State Centers for the Mentally Retarded appropriation, \$13,820,000 in the Intermediate Care Facilities—MR appropriation and \$110,000 in the Services to Persons with Disabilities appropriation. Total additional aggregate revenue during Fiscal Year 2004-05 would be \$44,613,000.

[Pa.B. Doc. No. 05-378. Filed for public inspection February 25, 2005, 9:00 a.m.]

2004 Group Two Exception Requests; Medical Assistance Long Term Care Participation Review

The purpose of this notice, published under 55 Pa. Code § 1187.21a(e)(4) (relating to nursing facility exception requests—statement of policy), is to announce the 2004 Group Two Exception Requests received by the Department of Public Welfare covering the submission period of July 1, 2004, through December 31, 2004.

Expansion Requests				
<i>Number</i>	<i>Name</i>	<i>Address</i>	<i>County</i>	<i>Beds</i>
JD04002	Brandywine Hall	800 West Miner Street West Chester, PA 19382	Chester	24
JD04003	Artman Lutheran Home	250 North Bethlehem Pike Ambler, PA 19002	Montgomery	3
JD04006	Souderton Mennonite Homes	207 West Summit Street Souderton, PA 18964	Montgomery	6

New Facility Requests

<i>Number</i>	<i>Name</i>	<i>Address</i>	<i>County</i>	<i>Beds</i>
JD04001	Blair Nursing Home	1031 Mercer Road Beaver Falls, PA 15010	Beaver	28
JD04004	Pocono Health and Rehabilitation Center		Monroe	90
JD04005	Northwood Nursing Home	4621 Castor Avenue Philadelphia, PA 19124	Philadelphia	148

Copies of the previously listed exception requests are available for review by the public during regular business hours. To schedule an appointment to review a request, call (717) 705-3705.

Public Comment

Interested persons are invited to submit written comments regarding this notice to Gail Weidman, Chief, Program Analysis and Review Section, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

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

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-411. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 05-379. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Fortune Teller Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Fortune Teller.

2. *Price:* The price of a Pennsylvania Fortune Teller instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Fortune Teller instant lottery game ticket will contain a "CRYSTAL BALL NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "CRYSTAL BALL NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN) and 16 (SIXTN). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN) and Star Symbol (STAR).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$3.⁰⁰ (THR DOL), \$4.⁰⁰ (FOR DOL), \$6.⁰⁰ (SIX DOL), \$8.⁰⁰ (EGT DOL), \$12\$ (TWELV), \$24\$ (TWY FOR), \$48\$ (FRY EGT), \$96\$ (NTY SIX), \$288 (TWOETYEGT), \$2,400 (TWYFORHUN) and \$24,000 (TWYFORTHO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$3, \$4, \$6, \$8, \$12, \$24, \$48, \$96, \$288, \$2,400 and \$24,000. A player can win up to 8 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Fortune Teller instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$24,000 (TWYFORTHO) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$24,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$2,400 (TWYFORHUN) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2,400.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$288 (TWOETYEGT) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$288.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" is a Star symbol (STAR), and a prize symbol of \$96\$ (NTY SIX) appears to the right of the Star symbol (STAR), on a single ticket, shall be entitled to a prize of \$288.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$96\$ (NTY SIX) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$96.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" is a Star symbol (STAR), and a prize symbol of \$24\$ (TWY FOR) appears to the right of the Star symbol (STAR), on a single ticket, shall be entitled to a prize of \$72.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$48\$ (FRY EGT) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$48.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" is a Star symbol (STAR), and a prize symbol of \$12\$ (TWELV) appears to the right of the Star symbol (STAR), on a single ticket, shall be entitled to a prize of \$36.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$24\$ (TWY FOR) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" is a Star symbol (STAR), and a prize symbol of \$8⁰⁰ (EGT DOL) appears to the right of the Star symbol (STAR), on a single ticket, shall be entitled to a prize of \$24.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$12\$ (TWELV) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" is a Star symbol (STAR), and a prize symbol of \$4⁰⁰ (FOR DOL) appears to the right of the Star symbol (STAR), on a single ticket, shall be entitled to a prize of \$12.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$8⁰⁰ (EGT DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$6⁰⁰ (SIX DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" is a Star symbol (STAR), and a prize symbol of \$2⁰⁰ (TWO DOL) appears to the right of the Star symbol (STAR), on a single ticket, shall be entitled to a prize of \$6.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$4⁰⁰ (FOR DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$3⁰⁰ (THR DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$3.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" is a Star symbol (STAR), and a prize symbol of \$1⁰⁰ (ONE DOL) appears to the right of the Star symbol (STAR), on a single ticket, shall be entitled to a prize of \$3.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols match either of the "CRYSTAL BALL NUMBERS" play symbols and a prize symbol of \$1⁰⁰ (ONE DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Numbers Match Either Crystal Ball Number Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$1 x 2	\$2	20	300,000
\$2	\$2	20	300,000
\$1 x 3	\$3	50	120,000
STAR w/\$1	\$3	42.86	140,000
\$3	\$3	42.86	140,000
\$1 x 4	\$4	100	60,000
\$2 x 2	\$4	100	60,000
\$4	\$4	100	60,000
\$1 x 8	\$8	750	8,000
STAR w/\$2 + \$2	\$8	150	40,000
\$2 x 4	\$8	750	8,000
\$4 x 2	\$8	750	8,000
\$8	\$8	375	16,000
\$2 x 6	\$12	750	8,000
\$3 x 4	\$12	750	8,000
STAR w/\$4	\$12	125	48,000
\$6 x 2	\$12	750	8,000

When Any of Your Numbers
Match Either Crystal Ball
Number Win With Prize(s) of:

	Win:	Approximate Odds of 1 In:	Approximate No. of Winners Per 6,000,000 Tickets
\$12	\$12	750	8,000
\$3 × 8	\$24	750	8,000
\$4 × 6	\$24	750	8,000
\$6 × 4	\$24	750	8,000
STAR w/\$8	\$24	300	20,000
\$12 × 2	\$24	750	8,000
\$24	\$24	750	8,000
\$6 × 8	\$48	2,000	3,000
\$8 × 6	\$48	2,000	3,000
STAR w/\$12 + \$12	\$48	764.33	7,850
\$12 × 4	\$48	2,000	3,000
\$24 × 2	\$48	2,000	3,000
\$48	\$48	2,000	3,000
\$12 × 8	\$96	17,143	350
STAR w/\$24 + \$24	\$96	17,143	350
\$24 × 4	\$96	20,000	300
\$48 × 2	\$96	20,000	300
\$96	\$96	20,000	300
\$96 × 3	\$288	600,000	10
STAR w/\$96	\$288	600,000	10
\$288	\$288	600,000	10
\$2,400	\$2,400	600,000	10
\$24,000	\$24,000	600,000	10

STAR = Win triple the prize shown

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Fortune Teller instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Fortune Teller, prize money from winning Pennsylvania Fortune Teller instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Fortune Teller instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Fortune Teller or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-380. Filed for public inspection February 25, 2005, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Allegheny County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Turnpike Commission plans to construct the Mon/Fayette Expressway in Allegheny County from PA 51 in Jefferson Hills, Allegheny County to the Monongahela River at Duquesne, Allegheny County. There it crosses the river to East Pittsburgh where it splits with east and west sections. The east section proceeds to an interchange with I-376 (Parkway East) at Monroeville, Allegheny County. The west section proceeds to an interchange with I-376 (Parkway East) at PA 885, Bates Street and Second Avenue, in the City of Pittsburgh, Allegheny County. The project is the construction of a four-lane, limited access toll highway.

The Selected North Shore Alternative will require acquisition of right-of-way from 38 properties totaling 161 acres of National Register of Historic Places listed or eligible property and 1.3 miles of trails and historic rail lines. These resources are: U. S. Steel Duquesne Works, J. Edgar Thomson Works, Union Railroad, Fanny Handel House, Robinson Street Row Houses, Clawson Houses, B & O Railroad, Hazelwood Historic District, Barker Property, D. L. Thomas Dry Goods, J & L Steel Corporation, Fleetwood Drive Playground, Riverview Community

Park, Frick Park Extension, Steel Valley Trail, Glenwood Play Area, Elizabeth Street Tot Lot, Eliza Furnace Trail and Frazier Playground. The project will not use land from any public wildlife and/or waterfowl refuge. All possible planning to minimize harm to historic and park/recreational resources has been incorporated into the project. The Selected North Shore Alternative will have the least harm to these resources. The United States Department of Interior, in correspondence dated October 6, 2004, concurred in the finding that there is no feasible and prudent alternative to the use of Section 4(f) resources and that all possible planning to minimize harm has been incorporated. Mitigation commitments for the Section 2002 resources are documented in the Record of Decision for the project.

With the completion of all the mitigation commitments documented in the Final Environmental Impact Statement, Final Section 4(f) Evaluation and Record of Decision for the project, it is concluded that no "prudent and feasible" alternative to the selected action exists, and all reasonable steps have been taken to minimize the effects of the proposed action.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 05-381. Filed for public inspection February 25, 2005, 9:00 a.m.]

Finding Chester County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation plans to replace the existing Gay Street Bridge in Phoenixville Borough, Chester County. The project includes minor approach roadway work in conjunction with replacing the bridge. The bridge is located within and is a contributing element to the National Register listed Phoenixville Historic District. The effect of this project will be mitigated through implementation of measures to be developed in coordination with the Citizens Advisory Committee, Consulting Parties and the Historic and Museum Commission. The measures will be implemented in accordance with the Programmatic Agreement between the Federal Highway Administration and the State Historic Preservation Office. Measures include the construction of four arch spans and the use of exterior treatments that are sympathetic to the Phoenixville Historic District. Additional measures may also include public history documentation and the use of historic markers, brochures and displays.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize effects.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 05-382. Filed for public inspection February 25, 2005, 9:00 a.m.]

Finding Union County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation plans to replace the existing bridge carrying SR 1003 over the Hoffa Mill Race in Kelly Township, Union County. The subject bridge is within the Hoffa Mill Historic District and has been determined to be a contributing resource to the Hoffa Mill Historic District. This project will require a small amount of right-of-way to be acquired from contributing element properties along with the demolition of the contributing bridge over the Hoffa Mill Race.

Information describing the project, together with the associated environmental analysis, is contained in the Categorical Exclusion Evaluation/Section 2002 Evaluation that was prepared for this project.

Based upon studies, there is no prudent and feasible alternative to the removal of the bridge over the Hoffa Mill Race and the acquisition of right-of-way from contributing properties within the Hoffa Mill Historic District.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize effects.

No adverse environmental effect is likely to result from the reconstruction of this section of highway.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 05-383. Filed for public inspection February 25, 2005, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

[Correction]

Estate of Charles Peters By and Through Its Trustees, Jeanne Rupp, Charles P. Eyer and James Gallagher; Charles Eyer and Jeanne Rupp v. DEP and Pennsylvania Utility Company, Permittee; EHB Doc. No. 2005-023-K

An error occurred in a notice which appeared at 35 Pa.B. 1395 (February 19, 2005). The correct version of the notice is as follows:

The Estate of Charles Peters, et al. has appealed the issuance by the Department of Environmental Protection of NPDES Permit No. PA-0037290 (December 17, 2004) to Pennsylvania Utility Company for a facility in Lehman Township, Pike County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be re-

viewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 05-328. Filed for public inspection February 18, 2005, 9:00 a.m.]

FISH AND BOAT COMMISSION

Changes to List of Class A Wild Trout Waters 2005; Additional Public Comment Period

Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the policy of the Fish and Boat Commission (Commission) to manage self-sustaining

Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of naturally reproducing trout fisheries in this Commonwealth. The Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

A notice soliciting comments regarding 23 proposed additions to the Commission's list of Class A Wild Trout Streams was published at 34 Pa.B. 6730 (December 18, 2004). At its quarterly meeting on January 25, 2005, the Commission postponed consideration of the proposed additions to the list until its April 2005 meeting to allow for additional public comment.

Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at www.state.pa.us/Fish/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

Additions

The Commission will consider adding the following waters to the current list of Class A Wild Trout Waters:

<i>County</i>	<i>Stream</i>	<i>Limits</i>	<i>Length</i>
Berks	Ontelaunee Creek	From headwaters downstream to SR 4024 bridge	2.8 miles
Berks	UNT Monocacy Creek	From dam 40 meters upstream SR 2023 downstream to mouth	0.4 mile
Berks	Willow Creek	From 375 meters upstream T-707 bridge downstream to mouth	0.9 mile
Blair	Halter Creek	From confluence with Plum Creek downstream to mouth	2.2 miles
Blair	Plum Creek	From SR 0164 bridge downstream to mouth	3.4 miles
Blair/Bedford	Bobs Creek	From SR 3001 bridge downstream to confluence with Rhodes Run	4.4 miles
Cambria	Cedar Run, Bg	From headwaters downstream to Beaverdam Run Reservoir backwater	1.1 miles
Cameron	Muley Run	From headwaters downstream to mouth	3.8 miles
Cameron/Elk	Bell Draft	From headwaters downstream to mouth	5.6 miles
Cameron/McKean	Waldy Run	From headwaters downstream to mouth	4.8 miles
Lawrence	Hell Run	From T-395 downstream to mouth	1.9 miles
Luzerne	Beth Run	From headwaters downstream to mouth	1.9 miles
Luzerne/Wyoming	Sorber Run	From headwaters downstream to mouth	3.1 miles
Lycoming	Bar Bottom Hollow	From headwaters downstream to mouth	2.2 miles
Monroe	Wolf Swamp Run	From outlet of Wolf Lake downstream to mouth	2.1 miles
Potter	Kettle Creek, Little	From headwaters downstream to confluence with Hoppe Hollow	2.5 miles
Potter	Sunken Br	From Betty Patch Trail crossing downstream to mouth	1.8 miles
Wyoming	Hettesheimer Run	From headwaters downstream to mouth	1.6 miles
Wyoming	Roaring Run	From headwaters downstream to confluence with Roaring Run, South Branch	2.6 miles
Wyoming	Roaring Run	From confluence with Roaring Run, South Branch downstream to mouth	2.4 miles

<i>County</i>	<i>Stream</i>	<i>Limits</i>	<i>Length</i>
Wyoming	Roaring Run, South Branch	From headwaters downstream to mouth	2.0 miles
Wyoming	Windfall Run	From headwaters downstream to mouth	1.7 miles
Wyoming	York Run	From headwaters downstream to mouth	2.3 miles

Removals

None

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

[Pa.B. Doc. No. 05-384. Filed for public inspection February 25, 2005, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council (Council) has scheduled the following meetings: Wednesday, March 2, 2005, Data Systems Committee Meeting—10 a.m., Education Committee Meeting—1 p.m.; Thursday, March 3, 2005, Council Meeting—10 a.m. The meetings will be held in the Conference Room, Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 05-385. Filed for public inspection February 25, 2005, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, February 10, 2005, and announced the following:

Regulations Deemed Approved under section 5(g) of the Regulatory Review Act—Effective February 9, 2005

State Board of Auctioneer Examiners #16A-647: Examination Fees (amends 49 Pa. Code §§ 1.23 and 1.41)

Department of General Services #8-2: State Art Commission (Deletes 4 Pa. Code Chapter 65)

State Board of Funeral Directors #16A-4810: Limited License (adds language and fees to 49 Pa. Code Chapter 13)

Regulations Approved

State Board of Private Licensed Schools #6-286: General Revisions (amends 22 Pa. Code Chapter 73)

Department of Public Welfare #14-492: Supplemental Security Income Program and State Supplementary Payment Program (deletes 55 Pa. Code Chapter 297 and adds 55 Pa. Code Chapter 299)

Public School Employees' Retirement Board #43-9: Optional Alternate Retirement Plans (amends 22 Pa. Code Chapter 215)

State Employees' Retirement Board #31-2: Optional Alternate Retirement Plans: (amends 4 Pa. Code Chapters 243 and 249)

Approval Order

Public Meeting held
February 10, 2005

Commissioners Voting: John R. McGinley, Jr., Esq., Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli by phone; Murray Ufberg, Esq.

State Board of Private Licensed Schools—General Provisions; Regulation No. 6-286

On June 10, 2003, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Private Licensed Schools (Board). This rulemaking amends 22 Pa. Code Chapter 73. The proposed regulation was published in the June 21, 2003, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 22, 2004.

This regulation deletes financial aid documentation from student recordkeeping requirements, adds an attendance requirement for orientation seminars for those wishing to open a new school and adds a limitation of one program approval for each new school application fee. Approval of additional programs will be subject to additional fees, which are set forth in existing regulations.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. § 6504(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
February 10, 2005

Commissioners Voting: John R. McGinley, Jr., Esq., Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli by phone; Murray Ufberg, Esq.

Department of Public Welfare—Supplemental Security Income Program and State Supplementary Payment Program; Regulation No. 14-492

On October 28, 2004, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Public Welfare (Department). This rulemaking deletes 55 Pa. Code Chapter 297 and adds 55 Pa. Code Chapter 299. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation rescinds Chapter 297 relating to Supplemental Security Income Program (SSI) and adds new Chapter 299 relating to SSI and State Supplementary Payment Program (SSP). This rulemaking applies to individuals and couples that are considered aged, blind or disabled. The new Chapter 229 will make the Department the administrator of the SSP. Eligibility requirements for the SSP have not been altered. The Department has estimated it will save \$15.950 million in the first fiscal year by administering the program.

We have determined this regulation is consistent with the statutory authority of the Department (62 P.S. §§ 201(2) and 403(b)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
February 10, 2005

Commissioners Voting: John R. McGinley, Jr., Esq., Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli by phone; Murray Ufberg, Esq.

Public School Employees' Retirement Board—Optional Alternate Retirement Plans; Regulation No. 43-9

On January 31, 2003, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Public School Employees' Retirement Board (Board). This rulemaking amends 22 Pa. Code Chapter 215. The proposed regulation was published in the February 15, 2003, *Pennsylvania Bulletin* with a

30-day public comment period. The final-form regulation was submitted to the Commission on October 26, 2004.

This regulation clarifies when a new employee of the State System of Higher Education (SSHE) may choose an alternate retirement plan. The amendments in the regulation are in response to Act 35 of 2001, which allowed SSHE to add insurance companies or mutual funds as alternate retirement plans for its employees.

We have determined this regulation is consistent with the statutory authority of the Board (24 Pa.C.S. § 8502(h) and 24 P.S. § 20-2013-A) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
February 10, 2005

Commissioners Voting: John R. McGinley, Jr., Esq., Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli by phone; Murray Ufberg, Esq.

State Employees' Retirement Board—Optional Alternate Retirement Plans; Regulation No. 31-2

On February 3, 2003, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Employees' Retirement Board (Board). This rulemaking amends 4 Pa. Code Chapters 243 and 249. The proposed regulation was published in the February 15, 2003, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 26, 2004.

This regulation clarifies when a new employee of the State System of Higher Education (SSHE) may choose an alternate retirement plan. The amendments in the regulation are in response to Act 35 of 2001, which allowed SSHE to add insurance companies or mutual funds as alternate retirement plans for its employees.

We have determined this regulation is consistent with the statutory authority of the Board (71 Pa.C.S. § 5902(h) and 24 P.S. § 20-2013-A) 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. 05-386. Filed for public inspection February 25, 2005, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of a regulation, contact the promulgating agency.

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Tolled</i>	<i>Resubmitted</i>
14-475	Department of Public Welfare Personal Care Homes	11/4/04	2/3/05	2/11/05
<i>Final-Omit Reg. No.</i>	<i>Agency/Title</i>			<i>Received</i>
11-224	Insurance Department Medicare Supplement Insurance Minimum Standards			2/11/05

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-387. Filed for public inspection February 25, 2005, 9:00 a.m.]

INSURANCE DEPARTMENT

Continental Insurance Company; Private Passenger Automobile Rate and Rule Revisions; Rate Filing

On February 4, 2005, the Insurance Department (Department) received from Continental Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 2.0% increase amounting to \$1.334 million annually, to be effective September 1, 2005.

Unless formal administrative action is taken prior to April 5, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Michael P. McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, mmckenney@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-388. Filed for public inspection February 25, 2005, 9:00 a.m.]

Notice to Medical Malpractice Insurance Carriers; Pennsylvania Medical Malpractice Data Call (Act 13 of 2002 Data Call); Rate Filing

Each insurer (that is, licensed insurance carrier, risk retention group and excess and surplus lines carrier)

providing medical professional liability insurance in this Commonwealth is required to file loss data as required by the Insurance Commissioner under section 745 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.745). This data will be used to study the availability of additional basic coverage capacity in this Commonwealth's medical malpractice marketplace as well as to estimate the total change in medical professional liability loss costs resulting from implementation of the act.

Each insurer providing medical professional liability insurance in this Commonwealth is required to file the data by April 1, 2005.

On February 14, 2005, a letter was mailed by the Insurance Department (Department) instructing medical malpractice insurers to submit data as outlined in that letter.

Consistent with other data calls, the Department will consider the data submitted as proprietary and handle it accordingly.

All insurers having positive direct premiums written for 2003 must submit data in response to Part I of this data call. The Department identifies these insurers in Exhibit 2. Only the top 20 medical malpractice insurers in this Commonwealth, based upon direct premiums written reported to the National Association of Insurance Commissioners for calendar year 2003, must submit data in response to Part II of this data call. The Department identifies these insurers in Exhibit 3. The data call letter, exhibits and data formats are available on the Department's website: www.ins.state.pa.us.

Medical malpractice insurers who have not received a letter should contact Brenna Murphy, Insurance Department, Office of Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 783-2114, brmurphy@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-389. Filed for public inspection February 25, 2005, 9:00 a.m.]

Surplus Lines Agents and Interested Parties; Export List of Insurance Coverages

In May 2004, the Insurance Commissioner (Commissioner) determined that certain insurance coverages were generally unavailable in the authorized market and declared those coverages as exportable. A list of exportable coverages was published at 34 Pa.B. 2763 (May 22, 2004). Accordingly, for those insurance coverages that are included on the export list, a diligent search among insurers admitted to do business in this Commonwealth is not required before placement of the coverages in the surplus lines market.

The Commissioner declared that the export list would remain in effect until revised or superseded by a subsequent list.

At this time, the Commissioner is soliciting comments regarding the current export list. Any person may request in writing that a coverage be added or removed from the list.

Persons wishing to comment on the Commissioner's current export list are invited to submit a written statement within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Written statements must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Corporate and Financial Regulation, Insurance Department, 1345 Strawberry Square, Harrisburg, PA, 17120, fax (717) 787-8557, cbybee@state.pa.us. After consideration of all comments received, the Commissioner will publish a notice in the *Pennsylvania Bulletin* providing a 15-day opportunity to comment on any proposed changes before formal publication of the revised list.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-390. Filed for public inspection February 25, 2005, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Bucks County, Wine & Spirits Shoppe #0915, 3900 New Falls Road, Bristol, PA 19007.

Lease Expiration Date: November 30, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of the intersection of New Falls Road and Durham Road, Bristol Township.

Proposals due: March 18, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert Jolly, (215) 482-9671

Chester County, Wine & Spirits Shoppe #1515, Marchwood Shopping Center, 23 Marchwood Road, Exton, PA 19341.

Lease Expiration Date: October 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of the intersection of Marchwood Road and Route 100, Uwchlan Township.

Proposals due: March 18, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert Jolly, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4616, 100 Main Street, Schwenksville, PA 19473-1116.

Lease Expiration Date: April 30, 2009

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of the intersection of Main Street and Highland Road, Schwenksville.

Proposals due: March 18, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5169, 1935 Fairmount Avenue, Philadelphia, PA 19130-2028.

Lease Expiration Date: June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,500 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of the intersection of 19th Street and Fairmount Avenue, Philadelphia.

Proposals due: March 18, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert Jolly, (215) 482-9671

The Liquor Control Board seeks the following new site:

Philadelphia County, Wine & Spirits Shoppe #5117, Grays Ferry Avenue, Philadelphia.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of the intersection of Grays Ferry Avenue and 31st Street, Philadelphia.

Proposals due: March 18, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert Jolly, (215) 482-9671

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 05-391. Filed for public inspection February 25, 2005, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's 11 member board on Monday, March 7, 2005, at 10:30 a.m. in the Wildwood Conference Center, Harrisburg Area Community College, One HACC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ALAN B.K. RABINOWITZ,
Administrator

[Pa.B. Doc. No. 05-392. Filed for public inspection February 25, 2005, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Electric Facilities

A-111250F0100. West Penn Power Company. Application of West Penn Power Company for approval to transfer certain electric facilities to a third party, Nemacolin Woodlands Resort and Spa, located in Fayette County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: West Penn Power Company

Through and By Counsel: John L. Munsch, Esquire,
800 Cabin Hill Drive, Greensburg, PA 15601

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-393. Filed for public inspection February 25, 2005, 9:00 a.m.]

Gas Service

A-125127F0003. PPL Gas Utilities Corporation. Application of PPL Gas Utilities Corporation for approval of the abandonment or discontinuance of natural gas service to three customers in Sharon Township, Potter County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a

copy served on the applicant, on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: PPL Gas Utilities Corporation

Through and By Counsel: John H. Isom, Esquire, Morgan, Lewis and Bockius, LLP, One Commerce Square, 417 Walnut Street, Harrisburg, PA 17101

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-394. Filed for public inspection February 25, 2005, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by March 21, 2005. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval to *begin operating as common carriers for transportation of persons as described under the application.*

A-00121460. Willis P. Umble (515 W. Lincoln Avenue, Myerstown, Lebanon County, PA 17067)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the Borough of Myerstown, Lebanon County and within an airline distance of 10 statute miles of said borough, and from points in said territory, to points in Pennsylvania, and return.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Eastern Winds Inc.; Doc. No. A-00209457C

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Eastern Winds, Inc., respondent, maintains its principal place of business at P. O. Box 253, Abington, PA 19001.

2. That respondent was issued a certificate of public convenience by this Commission on October 28, 1993, at Application Docket No. A-00109457.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2002, 2003 and 2004.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00109457.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-395. Filed for public inspection February 25, 2005, 9:00 a.m.]

Telecommunications

A-310489F7018. Frontier Communications of Breezewood, LLC and Verizon Wireless. Joint petition of Frontier Communications of Breezewood, LLC and Verizon Wireless for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Breezewood, LLC and Verizon Wireless, by its counsel, filed on February 3, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Frontier Communications of Breezewood, LLC and Verizon Wireless joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-396. Filed for public inspection February 25, 2005, 9:00 a.m.]

Telecommunications

A-310489F7019. Frontier Communications of Canton, LLC and Verizon Wireless. Joint petition of Frontier Communications of Canton, LLC and Verizon Wireless for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Canton, LLC and Verizon Wireless, by its counsel, filed on February 3, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Frontier Communications of Canton, LLC and Verizon

Wireless joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-397. Filed for public inspection February 25, 2005, 9:00 a.m.]

Telecommunications

A-310489F7021. Frontier Communications of Lakewood, LLC and Verizon Wireless. Joint petition of Frontier Communications of Lakewood, LLC and Verizon Wireless for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Lakewood, LLC and Verizon Wireless, by its counsel, filed on February 3, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Frontier Communications of Lakewood, LLC and Verizon Wireless joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-398. Filed for public inspection February 25, 2005, 9:00 a.m.]

Telecommunications

A-310489F7020. Frontier Communications of Oswayo River, LLC and Verizon Wireless. Joint petition of Frontier Communications of Oswayo River, LLC and Verizon Wireless for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Oswayo River, LLC and Verizon Wireless, by its counsel, filed on February 3, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the

Frontier Communications of Oswayo River, LLC and Verizon Wireless joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-399. Filed for public inspection February 25, 2005, 9:00 a.m.]

Telecommunications

A-310489F7007. Frontier Communications of Pennsylvania, LLC and Verizon Wireless. Joint petition of Frontier Communications of Pennsylvania, LLC and Verizon Wireless for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Pennsylvania, LLC and Verizon Wireless, by its counsel, filed on February 3, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange for cellular and two-way mobile radio services agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Frontier Communications of Pennsylvania, LLC and Verizon Wireless joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-400. Filed for public inspection February 25, 2005, 9:00 a.m.]

Wastewater Service

A-230240F0024 and A-230534F2000. Little Washington Wastewater Company and the Chapter 11 Bankruptcy Estate of Wilbar Realty, Inc. Application of Little Washington Wastewater Company and the Chapter 11 Bankruptcy Estate of Wilbar Realty, Inc. (Wilbar Trustee) for approval of: 1) the acquisition by Little Washington Wastewater Company of the assets of the wastewater system of Wilbar Trustee; 2) the right of Little Washington Wastewater Company to begin to offer, render, furnish and supply wastewater service to the public in a portion of Rice Township in Luzerne County; and 3) the abandonment by Wilbar Trustee of public wastewater service within a portion of Rice Township in Luzerne County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant,

on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicants: Little Washington Wastewater Company and the Chapter 11 Bankruptcy Estate of Wilbar Realty, Inc.

Through and By Counsel: Frances P. Orth, Esquire, 762 West Lancaster Avenue, Bryn Mawr, PA 19010

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-401. Filed for public inspection February 25, 2005, 9:00 a.m.]

Wastewater Service

A-23024F0025. Little Washington Wastewater Company d/b/a Suburban Wastewater Company. Application of Little Washington Wastewater Company d/b/a Suburban Wastewater Company for approval to begin to offer, render, furnish and supply wastewater service to the public in an additional portion of Hazle Township, Luzerne County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Little Washington Wastewater Company d/b/a Suburban Wastewater Company

Through and By Counsel: Frances P. Orth, Esquire, Assistant General Counsel, 762 West Lancaster Avenue, Bryn Mawr, PA 19010

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-402. Filed for public inspection February 25, 2005, 9:00 a.m.]

Wastewater Service

A-230073F0009. Pennsylvania-American Water Company (Wastewater Division). Application of Pennsylvania-American Water Company (Wastewater Division) for approval of: 1) the transfer, by sale, of substantially all of the Clarion Area authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company; and 2) the right of Pennsylvania-American Water Company (Wastewater Division) to furnish wastewater service to the public in all of Clarion Borough and portions of the Townships of Clarion and Monroe, Clarion County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant,

on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania-American Water Company

Through and By Counsel: Velma A. Redmond, Esquire, Susan D. Simms, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-403. Filed for public inspection February 25, 2005, 9:00 a.m.]

Water Service

A-210104F0056. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and supply water service to the public in an additional portion of Robeson Township, Berks County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Frances P. Orth, Esquire, Assistant General Counsel, 762 West Lancaster Avenue, Bryn Mawr, PA 19010

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-404. Filed for public inspection February 25, 2005, 9:00 a.m.]

Water Service

A-210104F0058. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and supply water service to the public in an additional portion of Hazle Township, Luzerne County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Frances P. Orth, Esquire,
Assistant General Counsel, 762 West Lancaster Avenue,
Bryn Mawr, PA 19010

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-405. Filed for public inspection February 25, 2005, 9:00 a.m.]

Water Service

A-210104F0057 and A-213460F2000. Aqua Pennsylvania, Inc. and the Chapter 11 Bankruptcy Estate of Wilbar Realty, Inc. Application of Aqua Pennsylvania, Inc. and the Chapter 11 Bankruptcy Estate of Wilbar Realty, Inc. for approval of: 1) the acquisition by Aqua Pennsylvania of the assets of the water systems of Wilbar Trustee; 2) the right of Aqua Pennsylvania Inc. to begin to offer, render, furnish and supply water service to the public in portions of Penn Lake Park Borough and Rice, Bear Creek and Butler Townships, Luzerne County; and 3) the abandonment by Wilbar Trustee of public water service within portions of Penn Lake Park Borough, and Rice, Bear Creek and Butler Townships, Luzerne County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 14, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Frances P. Orth, Esquire,
Assistant General Counsel, 762 West Lancaster Avenue,
Bryn Mawr, PA 19010

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-406. Filed for public inspection February 25, 2005, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Natalie DiCianno; Doc. No. 0967-45-01

On January 12, 2005, Natalie DiCianno, license no. CB-098246-L, of Philadelphia, Philadelphia County, was assessed a civil penalty in the amount of \$1,000 for maintaining an unlicensed shop from January 31, 1999, until May 30, 2001.

Individuals may obtain a copy of the final order by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Board of Cosmetology (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 05-407. Filed for public inspection February 25, 2005, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Janice Gordon; Doc. No. 33516-45-01

On January 6, 2005, Janice Gordon, unlicensed, of Montoursville, Lycoming County, was assessed a civil penalty in the amount of \$500 for maintaining an unlicensed shop.

Individuals may obtain a copy of the final order by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Board of Cosmetology (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 05-408. Filed for public inspection February 25, 2005, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



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
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⑦ (For Commodities: Contact: Vendor Services Section
 717-787-2199 or 717-787-4705)

REQUIRED DATA DESCRIPTIONS

① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.

② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.

③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.

④ Department: State Department or Agency initiating request for advertisement.

⑤ Location: Area where contract performance will be executed.

⑥ Duration: Time estimate for performance and/or execution of contract.

⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

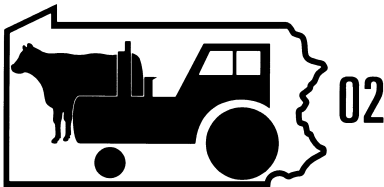
PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except for the cost of photocopying contracts (15 cents per page); postage; redaction, and certified copies. The bureau may assess reasonable fees for labor and other expenses necessary to comply with the request. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room 201 Finance Building
 Harrisburg, PA 17120
 717-787-4586
 1-800-252-4700
 BizOutlet@patreasury.org

ROBERT P. CASEY, Jr.,
State Treasurer

SERVICES

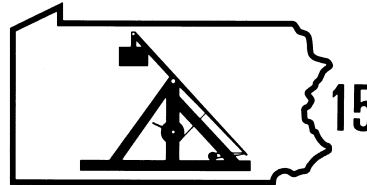


02

Agricultural Services

4/4 Provide fish food used in a statewide fish culture program during the period April 01, 2005 - June 30, 2005. Fish food products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

Department: Fish and Boat Commission
Location: Statewide to various state fish hatcheries as requested.
Duration: April 01, 2005 - June 30, 2005
Contact: Debbie Rose, (814) 359-5141

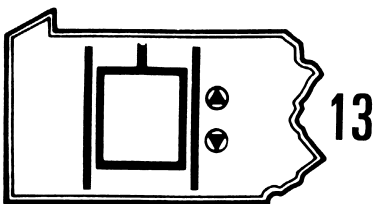


15

Environmental Maintenance Service

C35:6-102.1 Moosic Levee Closure Structure. The principal item of work is constructing a mechanical roller gate closure. This project issues on February 25, 2005 and bids will be opened on March 24, 2005 at 2:00 p.m. Bid documents cost \$15.00 per set and will not be mailed until payment has been received.

Department: Environmental Protection
Location: Borough of Moosic, Lackawanna County
Duration: 285 calendar days after the official starting date
Contact: Construction Contracts Section, (717) 787-7820

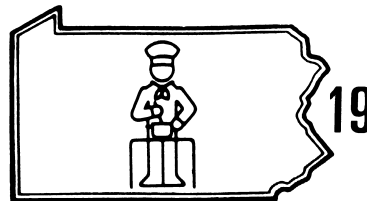


13

Elevator Maintenance

CN# 00013231 Contractor shall provide Elevator Maintenance Service for three elevators at Altoona Center located in Blair County. All work shall be accomplished by a fully qualified elevator mechanic. Manufacturer of elevators is South Eastern. Bid information can be obtained from the Ebensburg Center Purchasing Department. (See Contact Information Below)

Department: Public Welfare
Location: Altoona Center, 1515 Fourth Street, Altoona PA 16601 (Blair County)
 Contract is anticipated to begin July 1, 2005 and end June 30, 2008
Contact: Nannette C. McCreary, Purchasing Agent, (814) 472-0288



19

Food

CN00013170 Fish and Fish Products.

Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

CN00013168 Miscellaneous Foods and Entrees.

Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

CN00013169 Meat and Meat Products.

Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

CN00013175 Ice Cream and Novelties.
Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

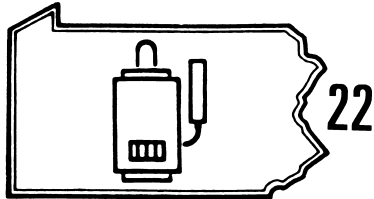
CN00013166 Fresh Breads.
Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

CN00013172 Frozen Fruits and Vegetables.
Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

CN00013176 Fresh Pastries.
Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

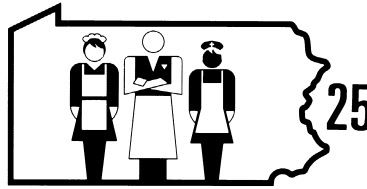
CN00013178 Fresh Fruits and Vegetables.
Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308

CN00013167 Poultry and Poultry Products.
Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101
Duration: April 1, 2005 through June 30, 2005
Contact: Kathy Zeigler, (724) 656-7308



HVAC Services

Plumbing Penn Dot, Butler County Dist.1020, is soliciting the service of individuals, firms, and corporations to provide plumbing repairs to the water lines or sewer lines to the building #0485762, as needed. All contractors must be register online at www.vendorregistration.state.pa.us with Commonwealth of Pennsylvania, before bid package can be mail out to contractors, please fax or e-mail your company name and complete address and your SAP#, information can be fax at 724-283-3571 or mail at askunda@state.pa.us.
Department: Transportation
Location: 351 New Castle Road, Butler, PA 16001
Duration: This is a two (2)-year contract, with the option to renew for a one (1) year period at the quoted unit prices
Contact: Andy Skunda, (724) 284-8226



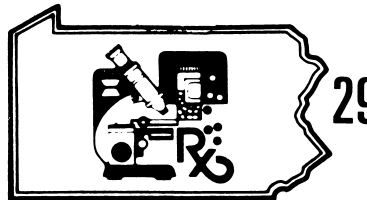
Laundry/Dry Cleaning & Linen/Uniform Rental

CN00013219 Contractor to provide uniform rental with full service for a three-year period.
Department: Public Welfare
Location: Loysville Youth Development Center, 8 Opportunity Drive, Loysville, PA 17047
Duration: July 1, 2005 through June 30, 2008
Contact: Dee Kuhn, Purchasing Agent, (717) 789-5508



Mailing Services

SU-04-18 Shippensburg University is seeking vendors who are interested in providing mailing services for 4 mailings for the Admissions Office to include assembly of packets to be mailed, printing of letters to be inserted in the packets and pick-up of materials (approximately 2 tractor-trailer loads). Bid Due Date will be March 30, 2005 by 4:00 PM. Bid Opening will be on March 31, 2005 at 2:00 PM. Bidders interested in receiving bid packets should fax their request to (717) 477-1350 or send an email to kmsmit@wharf.ship.edu.
Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
Duration: Service will be mid-July to early-August 2005
Contact: Karen Smith, (717) 477-1386



Medical Services

020905-R The contractor shall furnish all labor, equipment, materials, supplies, and physical facilities necessary to provide dental laboratory services to adult males incarcerated at the State Correctional Institution at Greensburg as needed and requested in accordance with the written orders of the Institution's Staff Dentist and the approval of the Institution's Health Care Administrator.
Department: Corrections
Location: State Correctional Institution at Greensburg, RD 10 Box 10, Route 119, South, Greensburg, PA 15601-8999
Duration: July 1, 2005 to June 30, 2008
Contact: Gena M. Hainesworth, (724) 853-3503

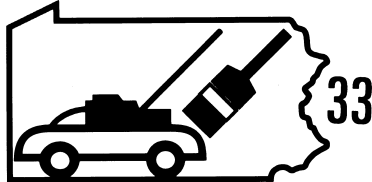
CN# 00013227 Contractor shall provide the services of Oral Surgery and Anesthesia Services to the clients of both the Ebensburg Center (Cambria County) and Altoona Center (Blair County).
Department: Public Welfare
Location: Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg PA 15931 (Cambria County); Altoona Center, 1515 Fourth Street, Altoona, PA 16601 (Blair County)
Duration: Contract is anticipated to begin July 1, 2005 and end June 30, 2008
Contact: Nannette C. McCreary, Purchasing Agent, (814) 472-0288

CN# 00013228 Contractor shall provide Optometric Services to the individuals of both the Ebensburg Center (Cambria County) and Altoona Center (Blair County). Contractor to provide annual vision screening and lenses, frames etc. as required.

Department: Public Welfare
Location: Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg PA 15931 (Cambria County); Altoona Center, 1515 Fourth Street, Altoona, PA 16601 (Blair County)
Duration: Contract is anticipated to begin July 1, 2005 and end June 30, 2008
Contact: Nannette C. McCreary, Purchasing Agent, (814) 472-0288

CN# 00013229 Contractor shall provide Neurological Services for the individuals of both the Ebensburg Center (Cambria County) and Altoona Center (Blair County). Contractor to provide annual vision screening and lenses, frames etc. as required.

Department: Public Welfare
Location: Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg PA 15931 (Cambria County); Altoona Center, 1515 Fourth Street, Altoona PA 16601 (Blair County)
Duration: Contract is anticipated to begin July 1, 2005 and end June 30, 2008
Contact: Nannette C. McCreary, Purchasing Agent, (814) 472-0288



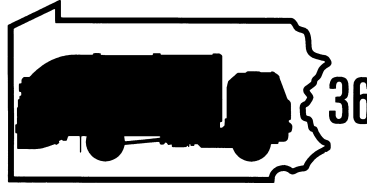
Property Maintenance

SSHE 401-BL-763 Work included under this project consists of kitchen renovations in the Montgomery Apartments at Bloomsburg University of PA. The project scope includes removal of existing and installation of new kitchen cabinets and solid-surface counters/sinks in 96 apartment units. Associated work includes reinstallation of lighting and appliances. To obtain a copy of the bid documents submit a \$25.00 non-refundable deposit to Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815, ATTN: Diann Shamburg, phone #570-389-4312. The pre-bid conference will be held on March 3, 2005 at 10:30 am, Bloomsburg University, Waller Administration Building, Room 38A, Bloomsburg, PA 17815 and the bid due date is March 17, 2005 at 1:00 p.m.

Department: State System of Higher Education
Location: Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815
Duration: Work must be completed by August 7, 2005.
Contact: Diann Shamburg, (570) 389-4312

CN# 00013232 Vendor to furnish equipment, labor and anti-skid material to remove snow from two parking areas and driveway at Altoona Center located in Blair County. Bid information can be obtained from the Ebensburg Center Purchasing Department. (See Contact Information Below)

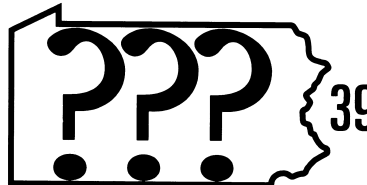
Department: Public Welfare
Location: Altoona Center, 1515 Fourth Street, Altoona PA 16601 (Blair County)
Duration: Contract is anticipated to begin July 1, 2005 and end June 30, 2008
Contact: Nannette C. McCreary, Purchasing Agent, (814) 472-0288



Sanitation

CN# 00013230 Contractor shall provide Environmental Sanitation (Trash Removal) for both the Ebensburg Center (Cambria County) and Altoona Center (Blair County). Contractor to pick-up all rubbish, garbage, including paper, tin cans, glass containers, rags and all other types of refuse but excluding ashes. Contractor will provide 30 yard roll-off dumpsters on an as needed basis.

Department: Public Welfare
Location: Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg PA 15931 (Cambria County); Altoona Center, 1515 Fourth Street, Altoona PA 16601 (Blair County)
Duration: Contract is anticipated to begin July 1, 2005 and end June 30, 2008
Contact: Nannette C. McCreary, Purchasing Agent, (814) 472-0288



Miscellaneous

RFP 08-04 The Department of Public Welfare, Office of Social Programs is seeking proposals for the Philadelphia Medical Assistance Transportation Program (MATP). The MATP assures non-emergency transportation for Medical Assistance (MA) recipients to and from Medical Assistance services. Prospective vendors must register with the Integrated Enterprise System (IES) at: www.vendorregistration.state.pa.us. Proposals must be received no later than March 8, 2005 at 2 p.m. Please check back often to this site. Updates will be posted as they occur.

Department: Public Welfare
Location: Philadelphia, PA
Duration: Anticipated to be 3 years with 2 (two) one-year renewal options.
Contact: Daniel R. Boyd, (717) 783-3767

CNGRN21405 Maintenance services for institutional high and low band radio systems, including parts and labor, from 7/01/05 through 6/30/08.

Department: Corrections
Location: SCI Greene, 169 Progress Dr., Waynesburg, PA 15370
Duration: 7/01/05 - 6/30/08
Contact: Laura Mohr, Purchasing Agent, (724) 852-5534

Walkoff Mats Provide weekly rental of walk-off mats (treated rugs) for the Administration Office and other office locations of building #048-5762 and provide walk-off mats to outlying Butler County stockpiles which will be delivery to 351 New Castle Road, Butler, PA.16001. All contractors must be register online at www.vendor-registration.state.pa.us with the Commonwealth of Pennsylvania, before bid package can be out to contractors, please fax or e-mail your company name and complete address and your SAP#, information can fax at 724-283-3571, or e-mail at askunda@state.pa.us.

Department: Transportation
Location: 351 New Castle Road, Butler, PA.16001
Duration: This is a two (2)-year contract, with the option to renew for a one (1) year period at the quoted units prices.
Contact: Andy Skunda, (724) 284-8226

CN00013218 Contractor to provide commercial bus service on the second Sunday of each month from July 1, 2005 through June 30, 2006 with a departure location from the Family Court Administration Building, 1801 Vine Street, Philadelphia, PA to the destination of the North Central Secure Treatment Unit (located on the grounds of the Danville State Hospital), 210 Clinic Road, Danville, PA.

Department: Public Welfare
Location: North Central Secure Treatment Unit, 210 Clinic Road, Danville, PA 17821
Duration: July 1, 2005 through June 30, 2006
Contact: Dee Kuhn, Purchasing Agent, (717) 789-5508

[Pa.B. Doc. No. 05-409. Filed for public inspection February 25, 2005, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.
Secretary