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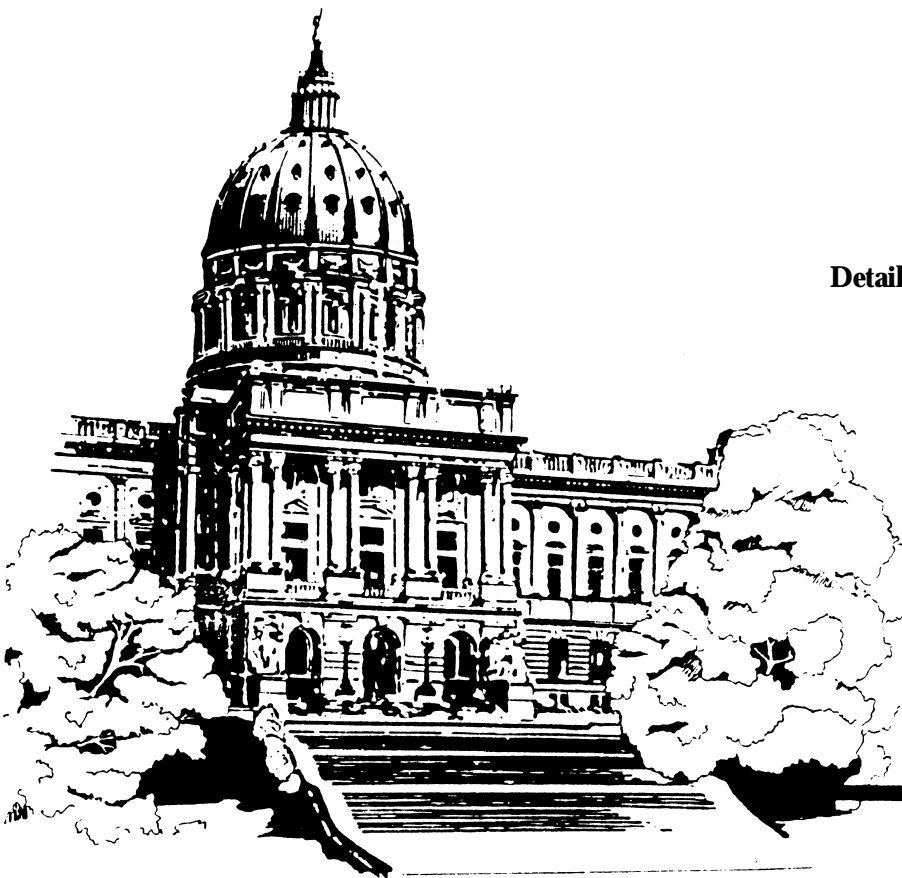
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# PENNSYLVANIA BULLETIN

Volume 34  
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Number 13  
Pages 1663—1740

**Agencies in this issue:**

The Courts  
Department of Banking  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Labor and Industry  
Department of Public Welfare  
Department of Revenue  
Department of Transportation  
Independent Regulatory Review Commission  
Insurance Department  
Office of Attorney General  
Patient Safety Authority  
Pennsylvania Public Utility Commission  
Securities Commission  
State Board of Barber Examiners  
**Detailed list of contents appears inside.**



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(Master Transmittal Sheet):**

**No. 352, March 2004**

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

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

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# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 9, 11, 13, 15 AND 17]

Order Adopting Pa.R.A.P. 120 and 1703 and Amending the Notes to Pa.R.A.P. 121, 907, 1112, 1311 and 1514; No. 150 Appellate Procedural Rules; Doc. No. 1

#### Amended Order

*Per Curiam:*

And Now, this 15th day of March, 2004, upon the recommendation of the Appellate Court Procedural Rules Committee, the proposal having been published before adoption at 32 Pa.B. 5259 (October 26, 2002);

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Appellate Procedure 120 and 1703 be adopted in the following form, and that the Notes to Pennsylvania Rules of Appellate Procedure 121, 907, 1112, 1311 and 1514 be amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective 60 days after adoption.

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

##### ARTICLE I. PRELIMINARY PROVISIONS

##### CHAPTER 1. GENERAL PROVISIONS

##### DOCUMENTS GENERALLY

#### Rule 120. Entry of Appearance.

(a) *Filing.* Any counsel filing papers required or permitted to be filed in an appellate court must enter an appearance with the prothonotary of the appellate court unless that counsel has been previously noted on the docket as counsel pursuant to Rules 907(b), 1112(f), 1311(d) or 1514(d). New counsel appearing for a party after docketing pursuant to Rules 907(b), 1112(f), 1311(d), or 1514(d) shall file an entry of appearance simultaneous with or prior to the filing of any papers signed by new counsel. The entry of appearance shall specifically designate each party the attorney represents and the attorney shall file a certificate of service pursuant to Subdivision (d) of Rule 121 and Rule 122. Where new counsel enters an appearance on behalf of a party currently represented by counsel and there is no simultaneous withdrawal of appearance, new counsel shall serve the party that new counsel represents and all other counsel of record and file a certificate of service.

**Official Note:** See Subdivision (b) of Rule 907, Subdivision (f) of Rule 1112, Subdivision (d) of Rule 1311 and Subdivision (d) of Rule 1514.

#### Rule 121. Filing and Service.

\* \* \* \* \*

**Official Note:** The term "related papers" in Subdivision (a) of this rule includes any appeal papers required under Rule 1702 (stay ancillary to appeal) as a prerequi-

site to an application for a stay or similar relief. An acknowledgement of service may be executed by an individual other than the person served, e.g., by a clerk or other responsible person as contemplated by Subdivision (c) of the rule. Subdivision (e) of the rule does not apply to the filing of a notice of appeal, a petition for allowance of appeal, a petition for permission to appeal, or a petition for reconsideration or re-argument, since under these rules the time for filing such papers runs from the entry and service of the related order, nor to the filing of a petition for review, which is governed by similar considerations. However, these rules permit the filing of such notice and petitions (except a petition for reconsideration or re-argument) in the local county (generally in the county court house; otherwise in a post office), thus eliminating a major problem under the prior practice.

**With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (d) of this rule, please note the requirements of Rule 120.**

### ARTICLE II. APPELLATE PROCEDURE

#### CHAPTER 9. APPEALS FROM LOWER COURTS

#### Rule 907. Docketing of Appeal.

\* \* \* \* \*

#### Official Note:

\* \* \* \* \*

With regard to Subdivision (b) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 904 (Entry of Appearance and Appointment of Counsel; In Forma Pauperis).

**With respect to appearances by new counsel following the initial docketing appearances pursuant to Subdivision (b) of this rule, please note the requirements of Rule 120.**

#### CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

##### PETITION FOR ALLOWANCE OF APPEAL

#### Rule 1112. Appeals by Allowance.

\* \* \* \* \*

#### Official Note:

\* \* \* \* \*

With regard to Subdivision (f) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 904 (Entry of Appearance and Appointment of Counsel; In Forma Pauperis).

**With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (f) of this rule, please note the requirements of Rule 120.**

#### Explanatory Comment—1976

In view of the fact that the Prothonotary of the Supreme Court will as a matter of course notify the Superior Court and the Commonwealth Court of the filing

of a petition for allowance of appeal, the requirement that the petitioner file a copy of the petition in the appellate court below is deleted.

See the Comment following Rule 908.

**CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION**

**Rule 1311. Interlocutory Appeals by Permission.**

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

With regard to subdivision (d) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 904 (Entry of Appearance and Appointment of Counsel; In Forma Pauperis).

**With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (d) of this rule, please note the requirements of Rule 120.**

**CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS**

**PETITION FOR REVIEW**

**Rule 1514. Filing and Service of the Petition for Review.**

\* \* \* \* \*

**Official Note:** This rule supersedes former Commonwealth Court Rules 20C, 21, 22 and 24. See the Note to Rule 1112 (appeals by allowance) for an explanation of the procedure when Form 3817 is used.

**With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (d) of this rule, please note the requirements of Rule 120.**

**Explanatory Note—1979**

In order to make certain that parties before a government unit realize that they must file a notice of intervention under amended Rule 1531 if they are to participate in the appeal, a new requirement is added for notification in the petition for review papers alerting parties not named as respondents to the need for filing a notice of or application for intervention.

**CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS**

**IN GENERAL**

**Rule 1703. Contents of Application for Stay.**

In addition to the requirements set forth in Rule 123 (Application for Relief), an application for stay pursuant to this chapter shall set forth the procedural posture of the case, including the result of any application for relief in any court below or federal court, the specific rule under which a stay or supersedeas is sought, grounds for relief, and, if expedited relief is sought, the nature of the

emergency. The application shall also identify and set forth the procedural posture of all related proceedings.

[Pa.B. Doc. No. 04-517. Filed for public inspection March 26, 2004, 9:00 a.m.]

**Title 234—RULES OF CRIMINAL PROCEDURE**

[234 PA. CODE CHS. 1 AND 9]

**Order Amending Rule 122 and Approving the Revision of the Comment to Rule 904; No. 304 Criminal Procedural Rules; Doc. No. 2**

The Criminal Procedural Rules Committee has prepared a Final Report explaining the March 12, 2004 changes to Rules of Criminal Procedure 122 and 904 that clarify the duration and nature of appointed counsel's representational obligations. The Final Report follows the Court's Order.

**Order**

*Per Curiam:*

Now, this 12th day of March, 2004, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 30 Pa.B. 5533 (October 28, 2000), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 759), and a Final Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

- (1) Rule of Criminal Procedure 122 is amended; and
- (2) the revision of the Comment to Rule of Criminal Procedure 904 is approved,

all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2004.

**Annex A**

**TITLE 234. RULES OF CRIMINAL PROCEDURE  
CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES**

**PART B. Counsel**

**Rule 122. Assignment of Counsel.**

\* \* \* \* \*

(C) IN ALL CASES.

\* \* \* \* \*

(3) [ **Where** ] **When** counsel has been assigned, such assignment shall be effective until final judgment, including any proceedings upon direct appeal.

**Comment**

\* \* \* \* \*

[ **Subparagraph** ] **Paragraph** (C)(1) retains in the issuing authority or judge the power to assign counsel regardless of indigency or other factors when, in the issuing authority's or judge's opinion, the interests of justice require it.

[ Paragraph ] Pursuant to paragraph (C)(3) [ implements the decisions of *Douglas v. California*, 372 U. S. 353 (1963), and *Commonwealth v. Hickox*, 249 A.2d 777 (Pa. 1969), by providing that ], counsel [ appointed originally shall retain ] retains his or her assignment until final judgment, which includes [ appellate procedure ] all avenues of appeal through the Supreme Court of Pennsylvania. In making the decision whether to file a petition for allowance of appeal, counsel must (1) consult with his or her client, and (2) review the standards set forth in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal) and the note following that rule. If the decision is made to file a petition, counsel must carry through with that decision. See *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003). Concerning counsel's obligations as appointed counsel, see *Jones v. Barnes*, 463 U.S. 745 (1983). See also *Commonwealth v. Padden*, 783 A.2d 299 (Pa. Super. 2001).

\* \* \* \* \*

**Official Note:** Rule 318 adopted November 29, 1972, effective 10 days hence[ ]; replacing prior rule; amended September 18, 1973, effective immediately; renumbered Rule 316 and amended June 29, 1977, and October 21, 1977, effective January 1, 1978; renumbered Rule 122 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2004, effective July 1, 2004.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the March 12, 2004 editorial amendment to paragraph (C)(3), and the Comment revision concerning duration of counsel's obligation, published with the Court's Order at 34 Pa.B. 1672 (March 27, 2004).**

**CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS**

**Rule 904. Entry of Appearance and Appointment of Counsel; In Forma Pauperis.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

Pursuant to paragraphs (E) and (G)(2), appointed counsel retains his or her assignment until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania. In making the decision whether to file a petition for allowance of appeal, counsel must (1) consult with his or her client, and (2) review the standards set forth in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal) and the note following that rule. If the decision is made to file a petition, counsel must carry through with that decision. See *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003). Concerning counsel's obligations as appointed counsel, see *Jones v. Barnes*, 463 U.S. 745 (1983). See also *Commonwealth v. Padden*, 783 A.2d 299 (Pa. Super. 2001).

Paragraph (G) was added in 2000 to provide for the appointment of counsel for the first petition for post-conviction collateral relief in a death penalty case at the conclusion of direct review.

**Official Note:** Previous Rule 1504 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by Rule [ 907 ] 1507. Present Rule 1504 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; amended January 21, 2000, effective July 1, 2000; renumbered Rule 904 and amended March 1, 2000, effective April 1, 2001; amended February 26, 2002, effective July 1, 2002; **Comment revised March 12, 2004, effective July 1, 2004.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the Comment revision concerning duration of counsel's obligation published with the Court's Order at 34 Pa.B. 1672 (March 27, 2004).**

**FINAL REPORT<sup>1</sup>**

**Amendment to Pa.R.Crim.P. 122, and Revision of the Comment to Pa.R.Crim.P. 904**

**Duration of Appointed Counsel's Obligation**

On March 12, 2004, effective July 1, 2004, upon the recommendation of the Criminal Procedural Rules Committee, the Court made an editorial change to paragraph (C) of Rule of Criminal Procedure 122 (Assignment of Counsel), and approved the revisions to the Comments to Rules 122 and 904 (Appointment of Counsel; In Forma Pauperis) that clarify the duration and nature of appointed counsel's representational obligations.

**I. BACKGROUND**

The Committee initially undertook a review of the duration of appointed counsel's obligation provisions in Rule 122 at the request of the Court.<sup>2</sup> The Court asked the Committee to consider whether Pennsylvania's policy concerning the duration of appointed counsel's obligation should continue to be that counsel retains his or her assignment until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania.

**A. Rule 122 History<sup>3</sup>**

In order to fully address the Court's inquiry, the Committee first reviewed the Rule 122 history and case law interpreting Rule 122. When the Committee recommended the appointment of counsel rule in 1964, the submission to the Court explained that the Committee was proposing the rule provide counsel's assignment shall be effective until final judgment including any proceedings upon direct appeal, and that the proposal was based on the United States Supreme Court's decision in *Douglas v. California*, 372 U.S. 353 (1963). The Committee, however, did not explain what was intended by "any proceedings upon direct appeal." *Douglas* is not conclusive as to the meaning of "direct appeal" because the Supreme Court limited the scope of the *Douglas* decision saying "We are not here concerned with the problems that might arise from the denial of counsel for the preparation of a petition for discretionary review or mandatory review

<sup>1</sup> The Committee's Final Reports 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 Committee's explanatory Final Reports.

<sup>2</sup> References in this Final Report to "Supreme Court" mean the U. S. Supreme Court, and references to "Court" mean the Pennsylvania Supreme Court.

<sup>3</sup> Prior to the Court's renumbering of the Criminal Rules in 2000, Rule 122 was Rule 316, and this pre-2000 "history" refers to Rule 316.

beyond the stage in the appellate process at which the claims have once been presented by a lawyer and passed upon by an appellate court.”

Subsequently, the Court decided *Commonwealth v. Hickox*, 249 A.2d 777 (Pa. 1969). The *Hickox* opinion directs appointed counsel following the affirmance of defendant's sentence by the Superior Court “to proceed in accordance with the Rule,” suggesting that in 1969 the Court interpreted the use of “direct appeal” in Rule 122 to include discretionary appeals. The citation to *Hickox* was added to the Rule 122 Comment. The Committee concluded the addition of *Hickox* supported the premise that the intent of the rule is that appointed counsel is to stay in the case through the state courts' discretionary appeal process.

The issue of the length of appointed counsel's obligation has continued to arise in cases. The United States Supreme Court again addressed the issue in 1974 in *Ross v. Moffitt*, 417 U.S. 600 (1974). The Supreme Court held that there is no constitutional right to appointed counsel for discretionary appeals, noting that the decision should be made at the state level. The Pennsylvania Supreme Court did just that in 1980 when, in *Commonwealth v. Daniels*, 420 A.2d 1323 (Pa. 1980), it noted “by this Rule [Rule 316], this Court long has guaranteed that a person seeking allowance of appeal is entitled to the assistance of counsel.” Since *Daniels*, there have been several Superior Court cases addressing this issue in the context of ineffective assistance of counsel for failing to seek allowance of appeal to the Supreme Court, all accepting the premise that appointed counsel stays in the case through discretionary appeal. See, e.g., *Commonwealth v. Morrow*, 474 A.2d 322 (Pa. Super. 1984) and *Commonwealth v. West*, 482 A.2d 1339 (Pa. Super. 1984).

#### B. Policy Considerations

The Committee next considered the impact of this “history” on present practice. The Committee considered that, under the present system, having an attorney review the case for purposes of making a determination whether to file a petition for allowance of appeal will ensure the defendant receives adequate representation, and, at the same time, will ensure that the petitions will be filed only in those cases in which a reasoned assessment by counsel indicates that the case merits further review by the Court. If an attorney is not available to make these assessments, the number of filings are likely to increase because most defendants are aware of the discretionary appeal process, and will file pro se petitions for allowance of appeal without making the assessment counsel would make in the case.<sup>4</sup> Similarly, the Committee does not believe removing counsel's obligation to remain in the case will reduce the number of nunc pro tunc requests, which continues to be a concern at this stage of the proceedings; defendants still will file the requests, although counsel's abandonment may not be the justification.

The Committee also noted that the availability of post-conviction collateral review has been offered by other jurisdictions to support those jurisdictions' choice not to provide appointed counsel for discretionary appeals, but agreed Pennsylvania's criminal justice system has functioned well under the existing system, and was not persuaded that a change to the system more akin to the

<sup>4</sup> Such petitions often are of a poor quality, inarticulate, and procedurally and legally inadequate. Although many of these petitions would be dismissed, all the petitions would have to be docketed and reviewed.

federal system would improve Pennsylvania's appeal process. In fact, the members agreed such a change would have an adverse effect.

In view of the long history in Pennsylvania requiring appointed counsel to remain in a case through all avenues of appeal, the policy considerations the Committee evaluated, and the fact that the issue continues to arise, the Committee recommended to the Court that Rule 122 should be modified to more clearly state that the policy of Pennsylvania concerning the duration of appointed counsel's obligation continues until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania.<sup>5</sup>

## II. DISCUSSION OF RULE CHANGES<sup>6</sup>

The issue of appointed counsel's obligation has two parts—how long the appointment lasts, which was the initial issue raised by the Court, and the nature of the obligation, which, of necessity, requires consideration when contemplating the duration of the obligation.

### A. Duration of Obligation

The first prong of the Committee's consideration of this matter was the duration of appointed counsel's obligations, which is addressed in the sixth paragraph of the current Rule 122 Comment, and provides:

Paragraph (C)(3) implements the decisions of *Douglas v. California*, 372 U.S. 353 (1963), and *Commonwealth v. Hickox*, 249 A.2d 777 (Pa. 1969), by providing that counsel appointed originally shall retain his or her assignment until final judgment, which includes appellate procedure.

The Committee initially considered merely changing “appellate procedure” in the last line of the paragraph to “discretionary appeal.” We reconsidered this because the *Douglas* and *Hickox* decisions cited in the Comment involved cases in which the appeal was an appeal as of right, and both Courts appear to use “direct appeal” in that context. Furthermore, a reasonable interpretation of the “implements” language in the Comment is that “direct appeal” only goes through the appeal as of right stage. Agreeing this Comment provision is contributing to the confusion evidenced in the case law, and because Pennsylvania courts have gone in a different direction than the federal courts since *Ross v. Moffitt*,<sup>7</sup> the Committee recommended that the “implements” language in the Rule 122 Comment be deleted from the Comment. Similarly, because the Committee was concerned the phrase “appellate procedure” in this Comment provision would continue to contribute to the confusion about the length of appointed counsel's obligation, that phrase has been replaced with “all avenues of appeal through the Supreme Court of Pennsylvania.”<sup>8</sup> Finally, the citations to the *Douglas* and *Hickox* cases have been removed from the Comment provision to emphasize that the duration of counsel's obligation is a matter of policy in Pennsylvania rather than an interpretation of case law. With these changes, the current Rule 122 Comment has been revised to read:

<sup>5</sup> Because appointed counsel's obligations when pursuing post-conviction collateral relief for a client are the same as trial counsel's with regard to remaining in the case through all avenues of appeal, the Committee agreed the same modifications should be made to Rule 904.

<sup>6</sup> The Comment to Rule 904 also has been revised by the addition of the same language concerning appointed counsel's obligation that has been added to the Rule 122 Comment.

<sup>7</sup> Subsequent Pennsylvania cases have clearly interpreted Rule 122 as applying through discretionary appeals to the Pennsylvania Supreme Court.

<sup>8</sup> This language is consistent with the explanation of “final disposition” in other rules. See, e.g., Rule 534 (Duration of Obligation) for bail.

Pursuant to paragraph (C)(3), counsel retains his or her assignment until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania.

#### B. Nature of Obligation

The nature of appointed counsel's obligation is more complicated and continues to be the subject in a great deal of case law. Extrapolating from this case law,<sup>9</sup> the Committee discerned that appointed counsel, in making a decision whether to file a petition for allowance of appeal, must exercise his or her professional judgment and, in exercising that judgment, must consider the provisions of Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal). We do not believe the case law mandates counsel to file a petition for allowance to appeal in every case. Furthermore, as a matter of policy and for practical reasons, the Committee agreed that discretionary appeals in Pennsylvania are different from appeals as of right; counsel should not be required to file a petition for allowance to appeal in every case nor to raise every conceivable issue in a petition, nor should counsel be precluded from raising issues of merit not identified by the defendant. As Chief Justice Burger stated in *Jones v. Barnes*, 463 U.S. 745, 751 (1983):

Neither *Anders* nor any other decision of this Court suggests, however, that the indigent defendant has a constitutional right to compel appointed counsel to press nonfrivolous points requested by the client, if counsel, as a matter of professional judgment, decides not to present those points. This Court, in holding that a State must provide counsel for an indigent appellant on his first appeal as of right, recognized the superior ability of trained counsel in the 'examination into the record, research of the law, and marshalling of arguments on [the appellant's] behalf.' . . . Experienced advocates since time beyond memory have emphasized the importance of winnowing out weaker arguments on appeal and focusing on one central issue if possible, or at most on a few key issues.

This concept is articulated in Pennsylvania case law as well. Justice Saylor in a footnote in *Commonwealth v. Lantzy*, 736 A.2d 564 (Pa. 1999), points out that "our holding should not be construed as affecting the substantial body of case law which concerns the circumstances in which a defendant seeks to pursue frivolous claims on appeal, or demands that counsel pursue every possible course of action or press every point." *Id.* 572 footnote 8. And President Judge Emeritus Cercione notes in *Commonwealth v. Padden*, 783 A.2d 299, 316 (Pa. Super. Ct. 2001):

Review by the Supreme Court is 'purely discretionary and will be granted only where there exist both special and important reasons. Pa.R.A.P. 1114. It would be illogical to conclude that a miscarriage of justice occurred by counsel's failure to seek Supreme Court review unless it is established that the issue was such that review would have been granted by the Supreme Court.' *Commonwealth v. Gilbert*, 407 Pa. Super. 491, 595 A.2d 1254 (1991), appeal denied, 529 Pa. 640, 600 A.2d 1258 (1991). *Id.* at 962.

In *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003), the Court provided further guidance concerning counsel's professional obligations with regard to filing a petition for

discretionary review by clarifying that counsel should consult with his or her client about whether to proceed with a petition for allowance to appeal, and that it is an improper exercise of counsel's professional obligations to represent that he or she is going to file the petition and then to fail to do so. Furthermore, after consulting with his or her client, counsel still is obligated to exercise his or her professional judgment, as well as consider the provisions of Pa.R.A.P. 1114, to determine whether a petition for allowance to appeal is appropriate in the case, and if so, which issues to raise.

Although the text of Rule 122 only addresses the appointment of counsel, not counsel's professional responsibilities, the members, sensitive that the rules or case law could be interpreted incorrectly as requiring counsel to file a petition for allowance of appeal in every case, even when counsel, in exercising his or her professional judgment, determines it is inappropriate, agreed the Rule 122 Comment should be modified to emphasize that the attorney must exercise his or her professional judgment in determining whether to file a petition for allowance of appeal, and would only file a petition if there is a substantial basis for filing and the case meets the standards in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal). Making these points clear in the Comment will alert the members of the bar to the nature of their obligations as appointed counsel, and will help to reduce the number of unnecessary or frivolous petitions for allowance of appeal filed by counsel.

Accordingly, the Rule 122 Comment has been further revised by the addition of the following language addressing the nature of appointed counsel's obligation:

In making the decision whether to file a petition for allowance of appeal, counsel must (1) consult with his or her client, and (2) review the standards set forth in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal) and the note following that rule. If the decision is made to file a petition, counsel must carry through with that decision. See *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003). Concerning counsel's obligations as appointed counsel, see *Jones v. Barnes*, 463 U.S. 745 (1983). See also *Commonwealth v. Padden*, 783 A.2d 299 (Pa. Super. 2001).

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## Title 25—LOCAL COURT RULES

### LEHIGH COUNTY

#### Adoption of Revised and Renumbered Rules of Criminal Procedure; and Adoption of Criminal Rule of Judicial Administration 1901; File No. 535-M-2004

#### Order

And Now, this 10th day of March, 2004, *It Is Ordered* that the following Revised and Renumbered Rules of Criminal Procedure, and Criminal Rule of Judicial Administration in and for the 31st Judicial District of Pennsylvania composed of Lehigh County, be, and the same are, promulgated herewith, to become effective thirty (30) days after their publication in the *Pennsylvania Bulletin*.

<sup>9</sup> See, e.g., *Jones v. Barnes*, 463 U.S. 745, 751 (1983); *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003); *Commonwealth v. Lantzy*, 736 A.2d 564 (Pa. 1999); and *Commonwealth v. Padden*, 783 A.2d 299, 316 (Pa. Super. Ct. 2001).

*It Is Further Ordered* that the current Lehigh County Rules of Criminal Procedure, and any provision of an existing Administrative Order applicable to the Criminal Division of this Court and inconsistent with these Rules, are repealed upon these Rules becoming effective.

*It Is Further Ordered* that seven (7) certified copies of this Order and the following Rules of Criminal Procedure and Criminal Rule of Judicial Administration shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee of the Supreme Court of Pennsylvania; and that one copy shall be filed with the Clerk of Courts—Criminal of the Court of Common Pleas of Lehigh County.

*By the Court*

WILLIAM H. PLATT,  
President Judge

### Lehigh County Criminal Rules

#### Leh.R.Cr.P. 102. Citation of Rules.

All criminal rules of procedure adopted by the Court of Common Pleas of Lehigh County shall be cited as Lehigh Rules of Criminal Procedure ("Leh.R.Cr.P."). Rule 1901 shall be cited as Lehigh Rule of Judicial Administration ("Leh.Cr.R.J.A. 1901").

*Note:* The language of this Rule was derived from Leh.R.C.P. 51.

#### Leh.R.Cr.P. 103. Definitions.

Unless the context clearly indicates otherwise, the words and phrases used in any criminal rule adopted by the Court of Common Pleas of Lehigh County shall be given the same meaning as is given those words and phrases in the Pennsylvania Rules of Criminal Procedure with the following exceptions and additions: (1) "Court," means the Court of Common Pleas of Lehigh County; (2) "Rule," means any rule of criminal court adopted by the Court of Common Pleas of Lehigh County; (3) "Clerk of Courts—Criminal" means the Clerk of Courts—Criminal of the Court of Common Pleas of Lehigh County; and (4) "except as otherwise provided," means except as provided by statute, by the Pennsylvania Rules of Criminal Procedure, or by specific local criminal court rule.

*Note:* The language of this Rule was derived from Leh.R.C.P. 76.

#### Leh.R.Cr.P. 105. Effective Dates of Rules.

(a) A Rule or amendment to a Rule shall become effective upon the date specified by the court in adopting or amending such rule, but in no case until after the requirements of Pa.R.Crim.P. 105(C) and (D) are met.

(b) If no effective date is specified, the Rule or amendment to the Rule shall become effective on the first day of January or July, whichever is earlier, following the thirtieth day after its adoption, filing and publication in the *Pennsylvania Bulletin* (Pa.B.).

*Note:* The language of this Rule was derived from Leh.R.C.P. 52.

#### Leh.R.Cr.P. 202. Approval of Search Warrant Applications by Attorney for the Commonwealth.

The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants, in all circumstances, shall not be issued by any

judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

*Note:* This Rule, previously and most recently numbered 2002A, and prior to that 707, has been in effect since July 1, 1982, and has required approval of all search warrant applications since that date by the attorney for the Commonwealth prior to filing with an issuing authority. The original Rule 707 was published at 12 Pa.B. 2278 (July 17, 1982).

#### Leh.R.Cr.P. 300. Accelerated Rehabilitative Disposition in Summary Cases.

The District Attorney of Lehigh County has filed a certification pursuant to Pa.R.Crim.P. 300, and has elected that no summary offenses or offenders, including those which are statutorily excluded, are eligible for summary case A.R.D. before the minor judiciary except for Underage Drinking offenses under 18 Pa.C.S. §§ 6307, 6308 and 6310.3.

*Note:* This Rule was originally adopted August 23, 1994; and "corrected" August 30, 1994, with an accompanying Administrative Order filed to No. 338-M-1994. The Rule conforms to the last election made by the District Attorney and prohibits a District Justice from granting ARD except in cases charging violations of 18 Pa.C.S. §§ 6307, 6308 and 6310.3. The Administrative Order of August 30, 1994, was published at 24 Pa.B. 4672 (September 1, 1994).

#### Leh.R.Cr.P. 506. Private Criminal Complaints.

(a) If the attorney for the Commonwealth disapproves a private criminal complaint, the affiant may file a Petition with the Clerk of Courts—Criminal captioned with the name of the affiant, and not the name of the alleged Defendant, for review by the Court.

(b) Such filing shall consist solely of the Petition, a copy of the disapproved criminal complaint and the affidavit(s) of probable cause previously submitted to the attorney for the Commonwealth, together with a copy of the attorney for the Commonwealth's statement of reasons for disapproval if such statement is not contained on the face of the complaint.

(c) Upon the receipt of such filing, the Clerk of Courts—Criminal shall forthwith notify the attorney for the Commonwealth in writing of the filing and that he has ten (10) days from the date of said notification within which to present to the Judge assigned to review the Petition, for the latter's confidential review, any investigative reports which the attorney for the Commonwealth may deem relevant to approval or disapproval of the complaint. The Court shall thereafter review the filing and any material submitted by the attorney for the Commonwealth and enter an order approving or disapproving the private criminal complaint.

(d) If the private criminal complaint is approved, the Clerk of Courts—Criminal shall give written notice to the attorney for the Commonwealth and the affiant of the decision and transmit the complaint to the appropriate issuing authority. If the private criminal complaint is disapproved written notice thereof shall be given as aforesaid and the complaint shall be returned to the affiant.

*Comment:* This Rule is intended to supplement Pa.R.Crim.P. 506(B)(2) by providing a procedure for filing and review of disapproved private criminal complaints. The affiant or the affiant's attorney must file a Petition with the Clerk of Courts—Criminal accompanied by the

complaint and affidavits previously acted upon by the attorney for the Commonwealth, as well as a copy of the reasons for disapproval if those reasons are contained on a document other than the complaint itself. The Caption of the Case shall read: "In re: Private Criminal Complaint filed by (Affiant's Name)." The name of the alleged Defendant shall not appear in that caption. The Clerk of Courts—Criminal shall advise the attorney for the Commonwealth of the filing of these documents with the Court. Reference on that notice should be made to the attorney for the Commonwealth's case number (such as "D.A. 04-101") which appears on the complaint form in the incident number block. The attorney for the Commonwealth is allowed ten (10) days after receipt of this notice to file a copy of any investigative material generated by or for the Office of the Attorney for the Commonwealth, if desired. The Rule contemplates that this investigative material remain confidential, and that the attorney for the Commonwealth will notify the Court if nothing is to be filed by his office. "... the trial court may review all evidence that the district attorney considered in making her decision and is not limited to reviewing the four corners of the private criminal complaint." *In re: Private Complaint of Adams*, 764 A.2d 577, 578 (Pa. Super. 2000). No hearing is provided for by this Rule, nor is one legally required. *Piscanio Appeal*, 344 A.2d 658, 661, n.5 (Pa. Super. 1975).

The standard for review is not the existence of probable cause, but rather whether there has been a gross abuse of discretion. *Commonwealth v. Eisemann*, 419 A.2d 591, 593 (Pa. Super. 1980). "[A] trial court should not interfere with a prosecutor's policy-based decision to disapprove a private complaint absent a showing of bad faith, fraud, or unconstitutionality." *Commonwealth v. Brown*, 708 A.2d 81, 84 (Pa. 1998).

"Where the district attorney's denial is based on a legal evaluation of the evidence, the trial court undertakes a de novo review of the matter. *Commonwealth v. Cooper*, 710 A.2d 76 (Pa. Super. 1998). Where the district attorney's disapproval is based on policy considerations, the trial court accords deference to the decision and will not interfere with it in the absence of bad faith, fraud or unconstitutionality. *Id.* at 79. In the event the district attorney offers a hybrid of legal and policy reasons for disapproval, deference to the district attorney's decision, rather than de novo review, is the appropriate standard to be employed." *In re: Private Complaint of Adams*, 764 A.2d 577, 579 (Pa. Super. 2000)

*Note:* This Rule in its basic form was adopted in 1981 and published in 11 Pa.B. 1316 (April 18, 1981). The Comment has been expanded based upon more recent case law.

**Leh.R.Cr.P. 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.**

The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.Crim.P. 507:

1. *Enumerated Offenses.*

Criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging one or more of the following offenses shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing:

- a. Criminal homicide in violation of 18 Pa.C.S. § 2501
- Murder of any degree in violation of 18 Pa.C.S. § 2502
- Voluntary manslaughter in violation of 18 Pa.C.S. § 2503
- Involuntary manslaughter in violation of 18 Pa.C.S. § 2504
- Drug delivery resulting in death 18 Pa.C.S. § 2506
- Criminal homicide of unborn child 18 Pa.C.S. § 2604
- Murder of unborn child 18 Pa.C.S. § 2604
- Voluntary manslaughter of unborn child 18 Pa.C.S. § 2605
- b. Homicide by vehicle 75 Pa.C.S. § 3732
- Homicide by vehicle while driving under influence in violation of 75 Pa.C.S. § 3735
- Accidents involving death or serious bodily injury 75 Pa.C.S. § 3742(b)(2) and (3)
- c. Aggravated assault 18 Pa.C.S. § 2702
- Assault by prisoner 18 Pa.C.S. § 2703
- Assault by life prisoner 18 Pa.C.S. § 2704
- Kidnapping 18 Pa.C.S. § 2901
- Recklessly endangering another person 18 Pa.C.S. § 2705
- d. Rape 18 Pa.C.S. § 3121
- Statutory sexual assault 18 Pa.C.S. § 3122
- Involuntary deviate sexual intercourse 18 Pa.C.S. § 3123
- Sexual assault 18 Pa.C.S. § 3124.1
- Institutional sexual assault 18 Pa.C. § 3124.2
- Aggravated indecent assault 18 Pa.C.S. § 3125
- Sexual abuse of children 18 Pa.C.S. § 6312
- Neglect of care-dependent person 18 Pa.C.S. § 2713
- e. Arson 18 Pa.C.S. § 3301
- Causing or risking a catastrophe 18 Pa.C.S. § 3302
- Burglary 18 Pa.C.S. § 3502
- Robbery 18 Pa.C.S. § 3701
- Robbery of motor vehicle 18 Pa.C.S. § 3702
- f. Person not to possess firearm 18 Pa.C.S. § 6105
- Firearms not to be carried without a license 18 Pa.C.S. § 6106
- Possession of firearm by a minor 18 Pa.C.S. § 6110.1
- Possession of firearm with altered serial number 18 Pa.C.S. § 6110.2
- Certain bullets prohibited 18 Pa.C.S. § 6121
- Theft and Receiving stolen property (firearms) 18 Pa.C.S. § 3903(a)(2) and (a.1)
- Discharge of a firearm into an occupied structure 18 Pa.C.S. § 2707.1
- g. Ethnic intimidation 18 Pa.C.S. § 2710
- Bribery in official and political matters 18 Pa.C.S. § 4701
- Threats and other improper influences in official and political matters 18 Pa.C.S. § 4702
- Perjury 18 Pa.C.S. § 4902

Interception, disclosure or use of wire, electronic or oral communications 18 Pa.C.S. § 5703

Election code violations 25 Pa.C.S. (all offenses)

h. Controlled substance, drug device and cosmetic act 35 P. S. § 780-113 (all felonies)

i. Criminal attempt to commit any of the above offenses 18 Pa.C.S. § 901

Criminal solicitation to commit any of the above offenses 18 Pa.C.S. § 902

Criminal conspiracy to commit any of the above offenses 18 Pa.C.S. § 903

j. Any offense excluded by Section 6302(2)(i), (ii) and (iii) of the Juvenile Act, 42 Pa.C.S. § 6302(2) (i), (ii) and (iii),\* from the definition of a "delinquent act."

### 2. *Re-Arrests and Refilings*

Police criminal complaints or arrest warrant affidavits shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing where the complaint or arrest warrant are for the rearrest of a defendant previously discharged, or to reinstate a charge or charges previously dismissed by an issuing authority for failure to prove a prima facie case, provided the current and the former cases arise out of the same criminal episode.

### 3. *Arrest Warrant Affidavits Requiring Sealing*

Arrest warrant affidavits shall not hereafter be accepted by any judicial officer unless the arrest warrant affidavit has the approval of an attorney for the Commonwealth prior to filing in any case where the affidavit contains information, the disclosure of which, in the opinion of the police, would endanger the safety of an informant, jeopardize the integrity of an ongoing criminal investigation, or which for any other reason should not be disclosed at or about the time of the execution of the warrants. The judicial officer shall ask the police, prior to accepting an affidavit, whether it contains any such information, and if the police indicate it does, the judicial officer shall require that it be submitted to an attorney for the Commonwealth for approval in accordance with this Rule. If the police indicate it does not, the judicial officer shall accept the affidavit.

\* The term ["delinquent act"] shall not include:

(i) The crime of murder.

(ii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct, and a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) was used during the commission of the offense, which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(I), (ii) or (iii) (relating to robbery).

(E) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Kidnapping as defined in 18 Pa.C.S. § 2901 (relating to kidnapping).

(H) Involuntary manslaughter.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes, as provided in 18 Pa.C.S. §§ 901 (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).

(iii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct, and has been previously adjudicated delinquent of any of the following prohibited conduct, which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. § 3121.

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123.

(C) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(I), (ii) or (iii).

(D) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.

(F) Kidnapping as defined in 18 Pa.C.S. § 2901.

(G) Voluntary manslaughter.

(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901, 902 and 903.

*Note:* This Rule has required approval of the enumerated offenses listed in Paragraph 1, since it was adopted by an Administrative Order dated September 3, 2002, File No. 1971-M-2002, 32 Pa.B. 4693 et seq. (September 28, 2002). The original rule on this subject was numbered 706 and adopted by an order dated June 1, 1982, and published at 12 Pa.B. 2278 (July 17, 1982).

### **Leh.R.Cr.P. 528. Percentage Cash Bail System.**

(1) Where percentage cash bail has been authorized by the bail authority, the Defendant for whom bail has been set (and any private third party surety/depositor) shall execute the bail bond and deposit with the issuing authority or the Clerk of Courts—Criminal a sum of money equal to ten per cent (10%) of the amount of bail set, but in no event less than Twenty-five (\$25.00) Dollars. Corporate sureties or professional bail bondsmen or agents thereof are expressly prohibited from posting the deposit for the percentage cash bail system as provided in this Rule. However, where 10% cash bail is authorized, corporate sureties and professional bondsmen may, nevertheless, post bond, provided they do so for the full amount of the bail.

(2) Prior to setting 10% cash bail, the bail authority shall generally seek and review the recommendations of the court designated bail agency.

(3) Where a third-party becomes the depositor of the 10% cash on behalf of a defendant, that third-party shall become a surety for the balance of the full amount of the bail, and shall execute the bond as a surety.

*Note:* This Rule was part of the original bail rules numbered 4006, 4006A, 4006B, 4006C and 4006D. They were adopted by an order dated March 23, 1984, and published at 14 Pa.B. 833 et seq. (March 17, 1984).



**Leh.R.Cr.P. 530. Designation of Local Court Bail Agency.**

(1) Lehigh Valley Pretrial Services, Inc., is designated as the bail agency to monitor and assist defendants released on bail in criminal cases instituted in Lehigh County. This agency shall perform the duties and have the powers set forth in Pa.R.Crim.P. 530(A).

(2) When a Defendant is released on any of the types of bail set forth in Pa.R.Crim.P. 524(C)(1) through (4), or on 10% cash bail pursuant to Pa.Rs.C.P. 524(C)(5) and 528(D)(1), and the bail agency has been designated by the bail authority to act as surety or supervising agency for the defendant, the defendant shall then become subject to the rules and regulations of the bail agency. The bail agency shall not be required to sign the bail bond.

(3) Whenever a defendant who is supervised by the bail agency fails to comply with the conditions of his or her release, or the rules and regulations of the bail agency, a bail piece may issue pursuant to Pa.R.Crim.P. 536(B) to the bail agency, and the defendant may be brought before the court to determine if additional bail shall be set or bail revoked.

*Note:* This Rule was part of the original bail rules numbered 4006, 4006A, 4006B, 4006C and 4006D. They were adopted by an order dated March 23, 1984, and published at 14 Pa.B. 833 et seq. (March 17, 1984). The Rule was later amended to reflect the reorganization and renaming of the bail agency.

**Leh.R.Cr.P. 531. Corporate Surety and Surety Agents.**

**A. CORPORATE SURETY**

1. Every corporate surety duly authorized to do business in Pennsylvania may become surety on any bail bond required to be filed in the criminal courts of Lehigh County provided that a current Certificate of Authority issued to it by the Insurance Department of the Commonwealth of Pennsylvania, along with its current financial statement, are on file with the Clerk of Courts—Criminal. No bond shall be executed by any corporate surety after May 15 of any year unless such a certificate issued after March 31 of the same year and the current financial statement shall have been filed with the Clerk of Courts.

2. No bond shall be executed by any corporate surety where the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Lehigh County Solicitor, Department of Law, is \$250,000.00 or more. The County Solicitor shall immediately notify the Clerk of Courts—Criminal, the District Attorney and the District Justices of Lehigh County, of any corporate surety having reached this limit. The Clerk of Courts—Criminal and District Justices shall immediately cease accepting bonds from the corporate surety. When appropriate financial settlement has been made with the County of Lehigh, the County Solicitor shall notify the Clerk of Courts—Criminal and District Justices that execution of bonds by the corporate surety may resume.

**B. SURETY AGENTS**

1. Every agent, acting on behalf of a corporate surety, may execute a bail bond required to be filed in the criminal courts of Lehigh County provided that a Power of Attorney issued by the corporate surety setting forth the maximum limit of liability per bail, along with proof of licensing by the Insurance Department of the Commonwealth of Pennsylvania, shall be filed with the Clerk of Courts. No bond shall be executed by any surety agent

after the expiration of such power of attorney until a new Power of Attorney has been filed with the Clerk of Courts.

2. No bond shall be executed by any surety agent of a corporate surety authorized to do business in Lehigh County where the aggregate amount of unsettled and outstanding bail forfeitures for all corporate sureties for which the surety agent is writing bonds, as determined by the Lehigh County Solicitor, Department of Law, is \$100,000.00 or more. The County Solicitor shall immediately notify the Clerk of Courts—Criminal, the District Attorney and the District Justices of Lehigh County, of any surety agent having reached this maximum limit. The Clerk of Courts—Criminal and District Justices shall immediately cease accepting bonds by the surety agent. When appropriate financial settlement has been made with the County of Lehigh, the County Solicitor shall notify the Clerk of Courts—Criminal and District Justices that execution of bonds by the surety agent may resume.

**C. PROFESSIONAL BAIL BONDSMEN**

1. Every professional bail bondsmen, duly authorized to do business in Pennsylvania, may become surety on any criminal bail bond required to be filed in this Court, provided that a currently valid registration and license from the Insurance Department of the Commonwealth of Pennsylvania, pursuant to 42 Pa.C.S. § 5742, evidencing such right, shall be filed with the Clerk of Courts—Criminal. Every professional bail bondsman must present proof that he or she maintains an office in Lehigh County from which his or her business is conducted pursuant to 42 Pa.C.S. § 5744, and he or she must post and maintain as security with the Clerk of Courts—Criminal the sum of \$25,000.00 in United States currency or securities of the United State Government.

2. No bond shall be executed by any professional bail bondsman where the aggregate amount of unsettled and outstanding bail forfeitures, as determined by the Lehigh County Solicitor, Department of Law, is \$100,000.00 or more. The County Solicitor shall immediately notify the Clerk of Courts—Criminal, the District Attorney and the District Justices of Lehigh County, of any professional bail bondsman having reached this maximum limit. The Clerk of Courts and District Justices shall immediately cease executing bonds by the professional bail bondsman. When appropriate financial settlement has been made with the County of Lehigh, the County Solicitor shall notify the Clerk of Courts—Criminal and District Justices that execution of bonds by the professional bail bondsman may resume.

*Note:* This Rule in substantially the same form was adopted as CR 4011, by Order dated November 7, 1995, and published at 25 Pa.B. 5238 et seq. (November 25, 1995).

**Leh.R.Cr.P. 535. Return of Cash Deposits. Charges.**

Upon full and final disposition of the case, the issuing authority or the Clerk of Courts—Criminal shall retain thirty per cent (30%) of the amount deposited, but in no event less than Ten (\$10.00) Dollars, as administrative costs, which includes the Clerk's poundage fee for the percentage cash bail program and shall return the balance to the depositor, unless the depositor at the time the balance is to be returned otherwise agrees in writing. The thirty per cent (30%) to be retained shall be considered as earned at the time the bail undertaking is executed and the cash is deposited by the defendant or the third party surety.

*Comment:* Nothing in this Rule is intended to preclude the application of the seventy per cent (70%) cash balance

being applied to fines, costs, restitution, or, if funds remain after payment of fines, costs and restitution, to fees due the Defendant's attorney of record, if agreed to in writing by the depositor at the time the money would otherwise be returned to the depositor. See Pa.R.Crim.P. 535, the Comment to that Rule, and the Report of the Criminal Procedural Rules Committee, 33 Pa.B. 6409 (December 27, 2003).

*Note:* This Rule was part of the original bail rules numbered 4006, 4006A, 4006B, 4006C and 4006D. They were adopted by an order dated March 23, 1984, and published at 14 Pa.B. 833 et seq. (March 17, 1984).

**Leh.R.Cr.P. 542. Continuances of Preliminary Hearings Before District Justices.**

(a) Preliminary hearings before District Justices in court cases shall be scheduled initially as required by the Pennsylvania Rules of Criminal Procedure.

(b) Thereafter a District Justice may grant continuances of the preliminary hearing upon the request either of the Defendant or the Commonwealth provided that such continuances are limited to the minimum period necessary and do not, in the aggregate number of days for all continuances in the case, exceed twenty-one (21) days from the date upon which the preliminary hearing was first scheduled.

(c) Except as provided in section (b) of this Rule, all requests for continuances of preliminary hearings shall be presented to the District Justice Court Administrator, or in his absence to an appropriate Judge of the Court of Common Pleas, in the form of a written motion setting forth good cause for the same with forty-eight (48) hours advance notice to the defendant or his counsel or the attorney for the Commonwealth.

(d) If a continuance is granted pursuant to section (c) of this Rule, the order of court granting the same shall set a time at which the preliminary hearing shall be held.

(e) For purposes of this Rule all co-defendants shall be regarded as one (1) party.

*Comment:* The appropriate common pleas judge under (c) would normally be the judge assigned to hear cases emanating from the District Justice Office or the common pleas judge specially assigned to the case.

*Note:* This rule, originally numbered 703, was adopted by an order dated March 20, 1984, and published at 14 Pa.B. 1388 et seq. (April 21, 1984). It has been slightly revised to reflect changes in the current case assignment process.

**Leh.R.Cr.P. 571. Arraignment.**

(a) Criminal court arraignments shall be held at such times and places as the Court shall direct. A first status conference shall be held at the same time as the court arraignment. Written notice of the arraignment and first status conference shall be given to the Defendant as provided Pa.R.Crim.P. 113(1)(a) by the District Justice at the time the case is bound over or waived to court.

(b) Prior to the date scheduled for arraignment, or at the arraignment, defense counsel, who has filed a written entry of appearance with the Clerk of Courts—Criminal and the attorney for the Commonwealth, may file a written waiver of arraignment properly executed by counsel and the Defendant.

(c) Attendance at the status conference is considered mandatory and cannot be waived.

(d) The Defendant, at the time of arraignment, may enter a plea of not guilty, guilty or, with the consent of the judge, nolo contendere. If a guilty or nolo contendere plea is entered, the Court shall proceed as set forth in Pa.R.Crim.P. 590. If the case is not disposed of at this time, the Defendant shall be given notice of the next required court appearance.

*Comment:* This rule implements Pa.R.Crim.P. 571. It contemplates that attendance at the arraignment and status conference is mandatory, except that the arraignment, but not the status conference, may be waived by a defendant who is represented by counsel as provided in section (b). Incarcerated defendants who are represented by counsel may waive arraignment in writing and appear in court only for their status conference. Where counsel cannot appear for the arraignment, counsel should obtain approval in advance from the arraignment judge for the Defendant to appear without counsel. A suitable date for the next listing of the case should be tentatively set at the time of the approval; and a waiver of arraignment should be filed.

The waiver of arraignment form, which must be signed by the defendant and by counsel, shall contain an acknowledgment that the Defendant: (a) understands the nature of the charges; (b) understands the rights and requirements contained in Pa.R.Crim.P. 571(C); and (c) waives his or her right to appear for arraignment.

*Note:* This Rule was originally adopted at R. 702; it was readopted as CR 303 by Order dated November 20, 1991, and published at 21 Pa.B. 5639 et seq. (December 7, 1991). The Rule has been amended to reflect current practices.

**Leh.R.Cr.P. 700. Sentencing Judge.**

The sentence following a plea of guilty or nolo contendere may be imposed by a judge other than the judge who received such plea whenever such substitution of judges shall enhance the efficient disposition of cases. In such instances, the defendant shall be given due notice at the time of entering the plea.

*Note:* This Rule was adopted as R. 1401(a) by Order dated April 16, 1976, and published at 6 Pa.B. 1041 (September 8, 1976).

**Leh.Cr.R.J.A. 1901. Termination of Inactive Criminal Cases.**

The Clerk of Courts—Criminal shall prepare for call on the first Monday of November of each year, or on such other date as the Court may by special order direct, a list of all criminal proceedings in which no steps or proceedings have been taken for two years or more. The Clerk shall give notice thereof to the attorney for the Commonwealth, any private prosecutor, the Defendant, and the Defendant's attorney of record, as provided by Pa.R.J.A. No. 1901(c). If no good cause for continuing a proceeding is shown at the call of the list, the Court shall enter an order dismissing the proceedings.

*Note:* This Rule implements Pa.R.J.A. No. 1901 for Criminal Cases in Lehigh County. Former L.C. Rule 532(b)(1) was not given a new criminal number in Administrative Order 174-M-1987 (17 Pa.B. 3406), when the Criminal Rules were renumbered and spun off from the Civil Rules, nor was it included in Civil Rule 239

adopted on July 20, 1990, File No. 90-J-4, 20 Pa.B. 4176 et seq. (August 14, 1990). The Rule subsequently was contained in an Administrative Order adopted August 29, 1990, File No. 381-M-1990, 20 Pa.B. 4953 (September 29, 1990).

[Pa.B. Doc. No. 04-519. Filed for public inspection March 26, 2004, 9:00 a.m.]

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## SUPREME COURT

### Subjects Tested on the Essay Portion of the Pennsylvania Bar Examination; No. 328 Supreme Court Rules; Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 12th day of March, 2004, it is hereby ordered that:

Commencing with the Pennsylvania Bar Examination to be administered in July 2006, and until further Order of this Court, the subjects tested on the essay portion of the Pennsylvania Bar Examination shall include those set forth in Appendix 1.

Commencing with the Pennsylvania Bar Examination to be administered in July 2004, the following subjects will no longer be tested on the essay portion of the bar examination: U.C.C. Art. III—Commercial Paper, U.C.C. Art. IV—Bank Deposits and Collections and U.C.C. Art. IX—Secured Transactions.

#### Appendix 1

#### Subjects to be Tested on the Essay Portion of the Bar Examination

1. Civil Procedure (Pennsylvania and federal)
2. Criminal Law (including related Pennsylvania and federal constitutional issues and DUI)
3. Conflict of Laws
4. Contracts
5. Business Organizations (including corporations, partnerships, limited liability companies and professional corporations)
6. Wills, Trusts and Decedents' Estates (including related fiduciary responsibilities)
7. Evidence (Pennsylvania and federal)
8. Family Law
9. Federal Constitutional Law
10. Federal Income Taxes (personal only and limited to taxable and non-taxable income, deductions, proprietorships and capital transactions)
11. Professional Responsibility
12. Real Property
13. Torts
14. U.C.C. Art. II—Sales
15. Employment Discrimination (limited to Title VII, ADA and ADEA)

[Pa.B. Doc. No. 04-520. Filed for public inspection March 26, 2004, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 1—GENERAL PROVISIONS

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### [1 PA. CODE CHS. 301, 303, 305, 307, 309 AND 311] Implementation of the Regulatory Review Act

The Independent Regulatory Review Commission (IRRC) amends Chapters 301, 305, 307, 309 and 311.

This final-form rulemaking implements amendments to the Regulatory Review Act (act) enacted by the act of December 6, 2002 (P. L. 1227, No. 148) (Act 148). Because Act 148 made several substantive procedural changes, regulations relating to the review process had to be revised.

#### *Statutory Authority*

This final-form rulemaking is made under the authority in section 11(a) of the act (71 P. S. § 745.11(a)).

#### *Background*

This final-form rulemaking implements the Act 148 amendments to the act. Act 148 made several substantive changes in the order and time for committee and IRRC review. The legislative intent of the act and the mission of IRRC remain the same. However, the process has been streamlined and made more flexible, saving both the regulators and the regulated time and money.

The three major changes brought about by the Act 148 amendments are as follows.

- Committees are no longer restricted to a 20-day period to comment on proposed rulemakings. They may issue comments at any time until the agency submits the rulemaking in final-form. This change allows the committees to review IRRC's analysis before deciding whether to issue comments on a proposed rulemaking.

- Committees no longer have a maximum of 20 days to take action on a final-form rulemaking and are no longer limited to approval or disapproval. Instead, a committee has until 24 hours before IRRC's public meeting to approve or disapprove a final-form rulemaking or to notify IRRC that it intends to review the rulemaking further.

- If an agency decides to resubmit a disapproved rulemaking without changes, the rulemaking must again be submitted to IRRC for review.

In addition to the three major changes, Act 148 made several additional administrative changes.

- The 48-hour blackout immediately preceding IRRC's public meeting only applies to unsolicited public comments. Communication with the agency and members of the General Assembly may continue. In addition, IRRC may initiate contact with any party to obtain information on a final rulemaking.

- IRRC is only required to retain comments and not all documents in its public regulatory files. Miscellaneous correspondence and research materials need not be retained.

- IRRC now has a minimum of 30 days to review and take action on a final rulemaking. However, IRRC may

not act on a final rulemaking for at least 20 days after receipt, to give the committees a minimum time period for review.

- An additional criterion for review, and thus a basis for disapproval, is agency noncompliance with the act and IRRC's regulations.

#### *Purpose*

The purpose of this final-form rulemaking is to implement the Act 148 revisions to the act.

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

Chapter 301 (relating to general provisions) sets forth the general provisions relating to IRRC operation.

- Section 301.1 (relating to definitions) adds definitions for "comments," "Commission comments," "committee action" and "deemed approved by a committee." In addition, it revises definitions for "deemed approved by the Commission," "embargoed material" and "regulatory review criteria."

- Sections 301.2—301.6, 301.8 and 301.9 are revised to provide greater clarity.

Chapter 303 (relating to meetings of the Commission) describes how Commission meetings will be conducted.

- Section 303.2 (relating to blackout period) implements the newly relaxed blackout rules.

- Section 303.4 (relating to proxy voting) allows a Commissioner participating in a public meeting by phone to verbally give proxy to the Chairperson if a Commissioner is unable to remain for the duration of the meeting.

Chapter 305 (relating to procedures for delivery and review of proposed regulations) outlines the procedures for delivery and review of proposed rulemakings.

- Section 305.1 (relating to delivery of a proposed regulation) provides formatting conventions for the text of proposed rulemakings.

- Section 305.2 (relating to delivery of comments and information by an agency; notification to commentators) outlines the agency's responsibilities with respect to the delivery of comments to IRRC and committees.

- Section 305.3 (relating to Commission review period) incorporates the new 30-day timeline for IRRC review of a proposed rulemaking.

- Section 305.4 (relating to Commission comments on a proposed regulation) has been revised to add greater clarity.

Chapter 307 (relating to procedures for delivery and review of final regulations) outlines the procedures for delivery of final-form and final-omitted rulemakings.

- Section 307.1 (relating to two-year period for promulgation) clarifies when the 2-year period for promulgation ends in instances when the agency has extended or has reopened the public comment period.

- Sections 307.2 and 307.3 (relating to delivery of a final-form regulation; and delivery of a final-omitted regulation) provide formatting conventions for the texts of final-form and final-omitted rulemakings.

- Section 307.4 (relating to tolling the review period) has been revised to provide greater clarity.

- Section 307.5 (relating to procedure for tolling) outlines the new timelines for IRRC and committee review when the agency tolls the review period.

- Section 307.6 (relating to Commission and committee review of a final regulation; time period for review) outlines the new time period for IRRC review of final-form and final-omitted rulemakings.

Chapter 309 (relating to action on regulations) outlines the actions IRRC and committees may take on rulemakings and the results of specific actions.

- Section 309.1 (relating to Commission and committee action on a final regulation) outlines the time and options for committee action. Other clarifying revisions have also been made.

- Section 309.2 (relating to committee disapproval or notification of intent to review/Commission approval of a final regulation) outlines what happens if IRRC approves a rulemaking that a committee has disapproved or intends to review.

Chapter 311 (relating to procedures for review of disapproved final regulations) outlines the procedures for subsequent review of disapproved final-form and final-omitted rulemakings.

- Section 311.2 (relating to response by an agency to Commission disapproval) implements the newly revised procedures for agency response to IRRC disapproval.

- Sections 311.3 and 311.4 (relating to report for a disapproved regulation submitted without revisions or modifications; and report for a disapproved regulation submitted with revisions) outline the agency's responsibility, respectively, for delivery of a report for a rulemaking submitted without revisions and a rulemaking submitted with revisions.

- Section 311.5 (relating to subsequent review of disapproved regulation) is new. It implements the Act 148 changes to the order and procedure for subsequent committee and IRRC review of disapproved regulations. Committees act after, and not prior to, IRRC review of a report submitted with a rulemaking with revisions or a report submitted with a rulemaking without revisions. Even when the committees have approved the rulemaking in the first instance and IRRC has approved the report, the committees are given another opportunity for review. They have 14 days to report out a concurrent resolution.

#### *Summary of Public Comments and Changes*

A proposed rulemaking was published at 33 Pa.B. 3501 (July 19, 2003). The proposed rulemaking was also published on IRRC's website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us). Written comments, suggestions or objections were requested within a 45-day period after publication of the proposed rulemaking. Public comments were received from the Pennsylvania Association of Resources for People with Mental Retardation and the Department of Public Welfare. The Joint Committee on Documents, the House State Government Committee and the Senate Rules and Executive Nominations Committee did not file comments.

Following is a summary of the comments and IRRC's response to the comments. For the following reasons, no changes were made to the proposed rulemaking.

#### *§ 301.1*

##### *Comment*

The definition of "Commission comments," which includes statements or questions, could severely prejudice an agency, since the agency may be forced to "guess"

whether the response it provides will be deemed satisfactory. The agency's response may be the basis for possible disapproval of the rulemaking.

##### *Response*

The definition of "Commission comments" merely formalizes the practice IRRC has been following for several years. Since the process was bifurcated into proposed and final review with the reenactment of the act in June 1989, IRRC comments have frequently contained statements and questions, in addition to objections and recommendations.

The issuance of IRRC comments is far from the only contact IRRC has with an agency. During the review process, IRRC routinely meets with agency representatives. At these meetings, questions or issues IRRC may have with a rulemaking are discussed. Many of IRRC's concerns are resolved in the meeting. The agency is advised that the others will likely be included in IRRC's comments so that the agency may formally respond in its comment and response document. After the issuance of comments, IRRC staff is always available to answer questions the agency may have or to schedule additional meetings with the agency. Even after the rulemaking is submitted in final-form, IRRC routinely meets with the agency to discuss any outstanding concerns.

#### *§ 301.8 (relating to agency contact person)*

##### *Comment*

IRRC should permit one contact person and one alternate to be designated to receive documents and comments transmitted by IRRC. This will prevent a delay in receiving time sensitive documents if the designated contact person is not available.

##### *Response*

IRRC's aim is to transmit documents and comments to the agency as quickly and efficiently as possible. For this reason, IRRC is alerting agencies that they may designate a contact person or office for receipt of this material. However, IRRC has no control over the internal operations of an agency. It is up to the agency to take the necessary steps to insure that the appropriate party receives the material IRRC transmits.

#### *§ 305.2(a)*

##### *Comment*

IRRC's statutory authority for requiring an agency to continue to submit comments received on a proposed rulemaking until the rulemaking is approved in final-form is questioned. Also, there is confusion as to whether an agency must continue to submit public comments received on a rulemaking after IRRC has issued its comments, until the time that IRRC meets to approve or disapprove a rulemaking.

##### *Response*

IRRC finds that it has the statutory authority to require agencies to continue to submit comments on a rulemaking until IRRC meets to approve or disapprove the rulemaking. A rulemaking remains in proposed form until action is taken on it in final-form. There is no time limit in section 5(c) of the act (71 P. S. § 745.5(c)) for the requirement to submit comments on a proposed rulemaking. Indeed, for IRRC to fulfill its statutorily mandated role as clearinghouse for comments on proposed rulemakings, established under section 12 of the act (71 P. S. § 745.12), it must be able to review all comments received on a rulemaking. For this reason, § 305.2(a) was revised accordingly.

It should be noted that the agency's obligation extends only to comments on a proposed rulemaking and not other documents pertaining to the rulemaking. "Comment" is defined as a written statement supporting, opposing or recommending changes to a proposed rulemaking.

§ 305.2(a)(1)

*Comment*

The amendment to the rulemaking providing that an agency is not required to submit a comment to the rulemaking if IRRC has been copied on the rulemaking and the agency has verified that IRRC has received the rulemaking may be administratively burdensome to an agency. If the agency receives a large volume of comments, it may have to cull through each one of them to determine if IRRC has been copied and then spend the time necessary to verify that IRRC has actually received the comment.

*Response*

This amendment was actually designed to relieve the burden on the agency to transmit all comments received within 5 business days of receipt. If the agency confirms that IRRC has received a copy of the comment directly from the sender, it need not submit a copy of that comment. Of course, if it is easier for the agency to bundle all comments received and transmit them to IRRC, the agency may do so.

*Public Notice*

This final-form rulemaking is on IRRC's website. The proposed rulemaking was published at 33 Pa.B. 3501 with a 45-day public comment period.

*Contact Person*

Comments and questions on this final-form rulemaking should be sent to Mary S. Wyatt, Chief Counsel, Independent Regulatory Review Commission, 333 Market Street, 14th Floor, Harrisburg, PA 17101, (717) 783-5417, fax (717) 783-2664, irrc@irrc.state.pa.us.

*Regulatory Review*

Under sections 5(a) and 11(a) of the act (71 P.S. § 745.5(a) and 11(a)), on June 30, 2003, IRRC submitted a copy of the proposed rulemaking and a copy of a Regulatory Analysis Form to the Joint Committee on Documents and to the Chairpersons of the House State Government Committee and the Senate Rules and Executive Nominations Committee. A copy of this material is available to the public upon request.

In compliance with section 5.1(a) of the act (71 P.S. § 745.5a(a)), IRRC also provided the Joint Committee on Documents and the Committees with copies of all comments received.

Neither the Joint Committee on Documents nor the Committees filed comments on this final-form rulemaking. In preparing this final-form rulemaking, IRRC has considered all comments received from the public.

This final-form rulemaking was submitted to the Committees and the Joint Committee on Documents on

January 27, 2004. This final-form rulemaking was deemed approved by the Committees on March 10, 2004, and approved by the Joint Committee on Documents on March 11, 2004.

*Findings*

IRRC finds that:

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

(2) The adoption of these amendments in the manner provided in this order is necessary and appropriate for the administration of the act.

*Order*

IRRC, acting under the act, orders that:

(a) The regulations of IRRC, 1 Pa. Code Chapters 301, 303, 305, 307, 309 and 311, are amended by amending §§ 301.1—301.6, 301.8, 301.9, 303.2, 303.4, 305.1—305.4, 307.1—307.6, 309.1, 309.2, 311.1—311.4 and by adding § 311.5 to read as set forth at 33 Pa.B. 3501.

(b) The Chairperson of IRRC shall certify this order and 33 Pa.B. 3501 and deposit them with the Legislative Reference Bureau as required by law.

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

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

**Fiscal Note:** Fiscal Note 70-7 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 04-521. Filed for public inspection March 26, 2004, 9:00 a.m.]

**Title 49—PROFESSIONAL  
AND VOCATIONAL  
STANDARDS**

**STATE BOARD OF BARBER EXAMINERS  
[49 PA. CODE CH. 3]**

[Correction]

**Deletion of Examination Fees**

An error occurred in the Fiscal Note number for the final-form rulemaking which appeared at 34 Pa.B. 1574, 1575 (March 20, 2004).

The correct Fiscal Note is as follows:

**Fiscal Note:** Fiscal Note 16A-425 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 04-476. Filed for public inspection March 19, 2004, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [34 PA. CODE CH. 123]

#### General Provisions of Act 53 of 2003

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), adopts § 123.201a (relating to effect of Act 53 of 2003 regarding qualifications of vocational experts—statement of policy) to read as set forth in Annex A. This statement of policy provides guidance regarding the Department's interpretation of the act of December 23, 2003 (P. L. 371, No. 53) (Act 53), which amended the Workers' Compensation Act (act) (77 P. S. §§ 1—2626).

#### *Effective Date*

This statement of policy will be effective immediately upon publication in the *Pennsylvania Bulletin*.

#### *Contact Person*

Further information regarding this statement of policy may be obtained by contacting John T. Kupchinsky, Director, Bureau of Workers' Compensation, P. O. Box 15121, Harrisburg, PA 17105. This statement of policy is available on the Department's website: [www.dli.state.pa.us](http://www.dli.state.pa.us). In addition, parties wishing to comment on this statement of policy should do so by writing to John T. Kupchinsky, at the previous address.

#### *Statutory Authority*

This statement of policy is issued under the authority provided in section 435 of the act (77 P. S. § 991) and section 2205 of The Administrative Code of 1929 (71 P. S. § 565), which authorize the Department to adopt regulations that are reasonably calculated to explain and enforce the provisions of the act. Section 435 of the act charges the Department with promulgating rules and regulations which are reasonably calculated to expedite the reporting and processing of injury cases, insure full payment of compensation when due, expedite the hearing and determination of claims for compensation and provide notice to disabled employees of their rights under the act. In addition, section 306(b)(2) of the act (77 P. S. § 512(2)), as amended by Act 53, specifically authorizes the Department to implement regulations establishing the minimum qualifications for vocational experts.

#### *Purpose of the Statement of Policy*

This statement of policy is issued so that all parties will have a clear understanding of their rights and obligations under Act 57 of 1996 (P. L. 350, No. 57) (Act 57) and Act 53. Moreover, the existing regulations established under Act 57 pertaining to qualifications of vocational experts are consistent with Act 53's intent and purpose.

On December 23, 2003, Governor Edward G. Rendell signed Act 53, which became effective on February 21, 2004. Act 53 amended section 306(b)(2) of the act. Prior to its amendment, section 306(b)(2) of the act provided for vocational interviews by "expert[s] approved by the department and selected by the insurer." The Department promulgated §§ 123.201—123.203 (relating to purpose; qualifications; and credibility determinations) implement-

ing section 306(b)(2) of the act, before its amendment, which provided that individuals who met certain minimum qualifications in §§ 123.201—123.203 were approved to conduct vocational interviews.

In *Caso v. Workers' Compensation Appeal Bd. (School District of Philadelphia)*, 790 A.2d 1078 (Pa. Cmwlth. 2002), the Commonwealth Court interpreted section 306(b)(2) of the act and its regulations, as they existed prior to Act 53, in a manner that required experts conducting vocational interviews to be individually and formally recognized by the Department as a prerequisite to conducting interviews. In response to the Commonwealth Court's decision in *Caso*, the Legislature passed Act 53. Act 53 eliminates the requirement that the Department approve vocational evaluators to conduct earning power assessment interviews. Instead, Act 53 permits insurers to select experts that meet "the minimum qualifications established by the department through regulation." See section 306(b)(2) of the act. Subsequent to passage of Act 53, the Pennsylvania Supreme Court reversed the Commonwealth Court's decision. The Court held that individuals who meet the minimum qualifications established in the regulations are properly "approved" by the Department, and that workers' compensation judges may determine whether individuals selected as vocational experts in workers compensation proceedings meet the specified qualifications. *Caso v. Workers' Compensation Appeal Bd. (School District of Philadelphia)*, 839 A.2d 219 (Pa. 2003).

Section 306(b)(2) of the act, before the Act 53 amendments, provided a means for insurers to assess an employee's earning power through an interview "by an expert approved by the department and selected by the insurer." The passage of Act 53 has eliminated the requirement that the Department approve these experts. Instead, insurers are now permitted to select experts "who meet the minimum qualifications established by the department through regulation."

The minimum qualifications in § 123.202 are the minimum qualifications specified in Act 53. Section 123.202 is consistent with Act 53's intent and purpose, and remains effective. To the extent that vocational experts must be "approved by the Department" to conduct vocational evaluations under section 449 of the act (77 P. S. § 1000.5), § 123.202 confers Department approval upon individuals possessing the qualifications expressed in § 123.202.

#### *Force and Effect*

This statement of policy provides guidance to Bureau staff, workers' compensation insurance carriers, self-insured employers, employees, workers' compensation practitioners and other interested parties with respect to the implementation and interpretation of the provisions of Act 53. This statement of policy is temporary and the Department intends to promulgate regulations on this issue as soon as possible.

STEPHEN M. SCHMERIN,  
*Secretary*

*(Editor's Note: The regulations of the Department are amended by adding a statement of policy in § 123.201a to read as set forth in Annex A.)*

**Fiscal Note:** 12-66. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 34. LABOR AND INDUSTRY

PART VIII. BUREAU OF WORKERS'  
COMPENSATIONCHAPTER 123. GENERAL PROVISIONS—PART II  
Subchapter C. QUALIFICATIONS FOR  
VOCATIONAL EXPERTS APPROVED BY THE  
DEPARTMENT**§ 123.201a. Effect of Act 53 of 2003 regarding qualifications of vocational experts—statement of policy.**

(a) The Department adopts this section so that all parties will have a clear understanding of their rights and obligations under section 306(b) of the act (77 P. S. § 512). This does not constitute a rule or regulation and is temporary. The Department intends to promulgate regulations on this topic.

(b) The minimum qualifications in § 123.202 (relating to qualifications) are the minimum qualifications established by the Department for vocational experts as specified in Act 53 of 2003 (P. L. 371, No. 53) (Act 53) which amended section 306(b) of the act, effective December 23, 2003.

[Pa.B. Doc. No. 04-522. Filed for public inspection March 26, 2004, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending March 16, 2004.

#### BANKING INSTITUTIONS

##### Holding Company Acquisition

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
3-10-04	Harleysville National Corporation, Harleysville, to acquire 100% of Millennium Bank, Malvern, by means of a merger of Millennium Bank with and into The Harleysville National Bank and Trust Company, wholly owned subsidiary of Harleysville National Corporation	Harleysville	Filed

##### Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-16-04	Meridian Bank Berwyn Chester County	Berwyn	Approved

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-16-04	Northwest Savings Bank, Warren, PA, and Leeds Federal Savings Bank, Baltimore, MD Surviving Institution— Northwest Savings Bank, Warren, PA	Warren	Filed

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-12-03	Premier Bank Doylestown Bucks County	801 Old York Road Jenkintown Abington Township Montgomery County	Opened
3-11-04	Northwest Savings Bank Warren Warren County	370 West Governor Road Hershey Derry Township Dauphin County	Opened

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-15-04	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	<i>To:</i> Southwest corner of Township Line Road and Peach Lane Drexel Hill Delaware County  <i>From:</i> 1230 Township Line Road Drexel Hill Delaware County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-30-03	Farmers First Bank Lititz Lancaster County	1419 Lancaster Road Manheim Lancaster County	Effective

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
3-10-04	Smithfield State Bank Smithfield Fayette County	Amendment to Article 5 reflects an increase in the number of authorized shares from 3,600 to 2 million shares and a reduction in the par value from \$50 per share to 25¢ per share to allow for a 200 for 1 stock split of the bank's common shares.	Approved and Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-523. Filed for public inspection March 26, 2004, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

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

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

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

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

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

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

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA00587363	ARCCA Real Estate Corporation 2288 Second Street Pike Penns Park, PA 18943	Bucks County Wrightstown Township	UNT to Neshaminy Creek	Y
PA0042641	Department of Conservation and Natural Resources 2808 Three Mile Road Perkasie, PA 18944-2065	Bucks County Bedminster Township	Tohickon Creek	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0063223	Martha J. Vetter P. O. Box 152 Damascus, PA 18415-0152	Wayne County Damascus Township	Delaware 1A	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0022543 Sewage	Borough of Bally S. 7th Street P. O. Box 217 Bally, PA 19503	Berk County Washington Township	West Branch Perkiomen Creek 3E	Y
PA0080241 Sewage	West Perry School District Middle/High School 2606 Shermans Valley Road Elliottsburg, PA 17024	Perry County Spring Township	Montour Creek 7A	Y
PA0082708 Sewage	Calamus Estates, LLP 652 Georgetown Road Ronks, PA 17572	Lancaster County Paradise Township	Calamus Run 7K	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.*

**PA0012190**, Industrial Waste, SIC 3356, **Mueller Streamline Company**, 287 Wissahickon Avenue, North Wales, PA 19454. This facility is in Upper Gwynedd Township, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge noncontact cooling water and stormwater from a facility that manufactures nonferrous tubing. There is no discharge of process wastewater.

The receiving stream, Wissahickon Creek, is in the State Water Plan watershed 3F and is classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Philadelphia Water Department is on the Schuylkill River, approximately 15.2 miles below the point of discharge.

The proposed effluent limits for Outfall 002 are based on a design flow of 0.002 mgd of noncontact cooling water and an average flow of a stormwater event. The limits are as follows:

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Semiannual	Maximum Daily	
Temperature (NCCW)			6.0 Inst. Min.		110°F
pH Std. Units (NCCW)			Monitor and Report	Monitor and Report	9.0
pH (stormwater)			Monitor and Report	Monitor and Report	
CBOD <sub>5</sub>			Monitor and Report	Monitor and Report	
COD			Monitor and Report	Monitor and Report	
Oil and Grease			Monitor and Report	Monitor and Report	
Total Suspended Solids			Monitor and Report	Monitor and Report	
Total Kjeldahl Nitrogen			Monitor and Report	Monitor and Report	
Total Phosphorus			Monitor and Report	Monitor and Report	
Iron, Dissolved			Monitor and Report	Monitor and Report	
Lead, Total			Monitor and Report	Monitor and Report	
Chromium, Total			Monitor and Report	Monitor and Report	
Copper, Total			Monitor and Report	Monitor and Report	
Cadmium, Total			Monitor and Report	Monitor and Report	
Arsenic, Total			Monitor and Report	Monitor and Report	

The EPA waiver is in effect.

**PA0027421**, Sewage, SIC 4952, **Norristown Municipal Waste Authority**, 235 East Airy St., 2nd Floor, Norristown, PA 19401. This proposed facility is in Norristown Borough, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated sewage from the Norristown Borough WWTP in Norristown Borough, Montgomery County. This is an existing discharge to the Schuylkill River.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3F and is classified for CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Philadelphia Water Department—Queen Lane Intake is on the Schuylkill River, 11.6 miles below the point of discharge.

The proposed effluent limits for Outfalls 001 and 002 are based on a design flow of 9.75 MGD.

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
CBOD <sub>5</sub>	2,030	3,250	25	40	50
Total Suspended Solids	2,440	3,660	30	45	60
Ammonia as N	1,630		20		40
Fecal Coliform			200#/100 mL		
Dissolved Oxygen			Monitor and Report		
pH			between 6—9 std. units at all times		
Total Residual Chlorine			0.5		
Total Copper			Monitor and Report		
Total Lead			Monitor and Report		
Total Zinc			Monitor and Report		

In addition to the effluent limits, the permit contains the following major special conditions: average weekly definition; remedial measures if unsatisfactory effluent; no new sources of stormwater; acquire necessary property rights; sludge report form and monthly operations report forms submission; test specifications; change in ownership; IW pretreatment; TRC data; sludge handling; discharge specific data; WET testing; CSO/LTCP requirement; and stormwater only outfall.

The EPA waiver is not in effect.

**PA0051934**, Sewage, **Limerick Township Municipal Authority**, 529 King Road, P. O. Box 29, Royersford, PA 19468. This proposed facility is in Limerick Township, **Montgomery County**.

Description of Proposed Activity: Discharge of treated sewage from King Road WWTP into the Schuylkill River in Limerick Township, Montgomery County.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3D and is classified for WWF and MF. The nearest downstream public water supply intake for Phoenixville is on the Schuylkill River, approximately 5 miles below the point of discharge.

The proposed effluent limits for Outfall 002 are based on a design flow of 1.6 MGD from permit issuance through completion of plant expansion are as follows:

Parameters	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	40	50
TSS	30	45	60
Ammonia as N	20		40
Fecal Coliform		#200/100 mL as geometric average	

## NOTICES

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen	Monitor and Report within limits of 6.0 to 9.0 STD units at all times		
pH			
Total Residual Chlorine	0.5		1.2

The proposed effluent limits for Outfall 002 are based on a design flow of 1.7 MGD from completion of expansion of WWTP lasting through expiration are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
TSS	30	45	60
Ammonia as N	20		40
Fecal Coliform	200/100 mL as geometric average		
Dissolved Oxygen	Monitor and Report within limits of 6.0 to 9.0 STD units at all times		
pH			

The proposed effluent limits for Outfalls 003, 004 and 005 are based on average stormwater from permit issuance through completion of plant expansion are as follows:

<i>Parameters</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	Monitor and Report
COD	Monitor and Report
Oil and Grease	Monitor and Report
pH	Monitor and Report
Total Suspended Solids	Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report
Total Phosphorus	Monitor and Report
Iron (Dissolved)	Monitor and Report

The EPA waiver is not in effect.

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

**PA0013862**, SIC Code 2834, Industrial Waste, **Wyeth Pharmaceuticals, Inc.**, 206 North Biddle Street, Marietta, PA 17547. This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to the Susquehanna River in East Donegal Township, **Lancaster County**.

The receiving stream, Susquehanna River, is in Watershed 7-J and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Columbia Borough Water Authority is on the Susquehanna River. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 004 for a design flow of 0.321 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50	62.5
Total Suspended Solids	30	60	75
Total Phosphorus	2	4	5
Total Residual Chlorine	0.5		1.6
Dissolved Oxygen	minimum 5.0 mg/l		
Fecal Coliform (10-1 to 4-30)	100,000/100 mL geometric mean		
(5-1 to 9-30)	200/100 mL geometric mean		
pH	6-9		
Total Copper	Monitor		
Total Mercury	Monitor		

The proposed effluent limits for Outfall 100 for a design flow of 0.2 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD <sub>5</sub>	45		
Total Suspended Solids	23.3		
COD	68	180	

The proposed effluent limits for Outfalls 002, 003 and 005—008 for stormwater are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD <sub>5</sub>		Monitor	
COD		Monitor	
Oil and Grease		Monitor	
pH		Monitor	
TSS		Monitor	
Total Kjeldahl Nitrogen		Monitor	
Total Phosphorus		Monitor	
Dissolved Iron		Monitor	

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

The EPA waiver is not in effect.

**PA0087971**, Industrial Waste, SIC Code Industrial Waste, **Bedford Water Authority**, 244 West Penn Street, Bedford, PA 15522. This facility is in Bedford Township, **Bedford County**.

Description of activity: Renewal of an NPDES permit for a existing discharge of treated industrial waste.

The receiving stream, an unnamed tributary to Raystown ranch Juniata River (Todd Spring Dam Reservoir), is in Watershed 11-C and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Bedford Water Authority is on an unnamed tributary to Raystown Branch Juniata River (Todd Spring Dam Reservoir). The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.079 MGD are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH (S. U.)		from 6.0 to 9.0 inclusive	
Total Suspended Solids	3.0	60	75
Iron (Total)	2.0	4.0	5.0
Aluminum (Total)	0.75	1.5	1.87
Manganese (Total)	1.0	2.0	2.5
Total Residual Chlorine	0.5	1.0	1.25

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

The EPA waiver is in effect.

**PA0247481**, CAFO, **Noah Kreider & Sons**, 1461 Lancaster Road, Manheim, PA 17545. This proposed facility is in South Annville Township, **Lebanon County**.

Description of Size and Scope of Proposed Operation/Activity: Mt. Pleasant Farm is a new egg-layer agriculture facility. Total AEUs of chicken/layers is 7,539. They raise laying hens for the production of eggs, also onsite is an egg processing and packaging facility. The layer manure generated by the facility will be temporarily stored in specially designed stacking areas connected to the animal housing units. No other materials will be commingled with the layer manure. No freestanding aboveground liquid manure will be used for this operation. Instead, temporary stacking areas have been designed and constructed connected to the animal housing units. Manure will be stored within these specially designed stacking areas prior to exportation to other farms for their use as fertilizer replacement. The largest percentage of manure will be brokered off the farm. Manure will be applied as needed to the adjacent farm ground. Additionally, to the land application of layer manure there will be egg wash water land applied. The total acres of operation is approximately 117 acres. Total acres where nutrients will be applied is 72.3 owned acres; 35,469 tons of manure will be exported annually.

The receiving stream, Quittapahilla Creek, is in watershed 7D-Swatara Creek and classified for TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with the State narrative water quality standards.

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

**PA0097756**, Industrial Waste, SIC, 4941, **Highland Sewer and Water Authority**, 120 Tank Drive, Johnstown, PA 15904. This application is for renewal of an NPDES permit to discharge treated filter backwash water and flow from sludge drying beds from the Beaverdam Water Treatment Plant in Summerhill Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Beaverdam Run, classified as a HQ CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Saltsburg Municipal Water Supply at Saltsburg, 50 miles below the discharge point.

*Outfall 001: existing discharge, design flow of 0.17 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>	<i>Instantaneous Maximum</i>
Flow (MGD)	0.5				
Total Suspended Solids			30		60
Total Iron			2		4
Aluminum (T)			0.7		1.4
Manganese (T)			1		2
Total Residual Chlorine			0.5		1
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PA0042579**, Sewage, **Smith Machine, Inc.**, P. O. Box 126, 780 Route 519, Eighty Four, PA 15330. This application is for renewal of an NPDES permit to discharge treated sewage from the Smith Machine Sewage Treatment Plant in Somerset Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as storm drain to unnamed tributary of Little Chartiers Creek, which are classified as a HQ-WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the West View Borough Municipal Water Authority on the Ohio River.

*Outfall 001: existing discharge, design flow of 0.0015 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	25			50
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 mL as a geometric mean			
(10-1 to 4-30)	2,000/100 mL as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0204161**, Sewage, **Valley School of Ligonier**, P. O. Box 616, Ligonier, PA 15658. This application is for renewal of an NPDES permit to discharge treated sewage from the Valley School of Ligonier Sewage Treatment Plant in Ligonier Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Linn Run, which are classified as a HQ CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Latrobe Municipal Water Authority on Loyalhanna Creek.

*Outfall 001: existing discharge, design flow of 0.00331 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	4.0			8.0
(11-1 to 4-30)	10.0			20.0
Fecal Coliform				
(5-1 to 9-30)	200/100 mL as a geometric mean			
(10-1 to 4-30)	10,000/100 mL as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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


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

**WQM Permit No. 1503433**, Sewerage, **East Fallowfield Township**, 100 Cheshire Court, Suite 204, Coatesville, PA 19320. This proposed facility is in East Fallowfield Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater pump station to serve a 27-lot single family residential subdivision.

**WQM Permit No. 1503434**, Sewerage, **Camphill Village—Kimberton Hills**, P. O. Box 1045, Camphill Drive, Kimberton, PA 19442. This proposed facility is in West Vincent Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wetland community sewage treatment system for a private residential development.

**WQM Permit No. 1503435**, Sewerage, **Elverson Municipal Authority**, 101 South Chestnut Street, P. O. Box 266, Elverson, PA 19520. This proposed facility is in Borough of Elverson, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a new pumping station for a new elementary center.

**WQM Permit No. 1503409, Amendment**, Sewerage, **East Fallowfield Township**, 2264 Strasburg Road, East Fallowfield, PA 19320-4437. This proposed facility is in East Fallowfield Township, **Chester County**.

Description of Proposed Action/Activity: Amending existing sewage pump station with a new capacity of 52,764 gpd.

**WQM Permit No. 0904402**, Sewerage, **Scott and Michelle Schetter**, 408 A Walnut Avenue, Horsham, PA 19044. This proposed facility is in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a small flow sewage treatment plant.

**WQM Permit No. 4604404**, Sewerage, **Roger Eastman**, 76 Smith Road, Collegeville, PA 19426. This proposed facility is in Lower Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a single residence sewage treatment plant.

**WQM Permit No. 0903420**, Sewerage, **Warminster Municipal Authority**, P. O. Box 2279, Warminster, PA 18974. This proposed facility is in Warminster Township, **Bucks County**.

Description of Proposed Action/Activity: Replacement of sewage ejector station no. 11 with a new pumping station.

**WQM Permit No. 1503415**, Sewerage, **Borough of Kennett Square**, 120 North Broad Street, Kennett Square, PA 19348. This proposed facility is in Kennett Square Borough, **Chester County**.

Description of Proposed Action/Activity: Wastewater treatment facility design organic loading rerate.

**WQM Permit No. 4604406**, Sewerage, **Lower Perkiomen Valley Regional**, 5 River Road, P. O. Box 613, Oaks, PA 19456-0613. This proposed facility is in Upper Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of the Oaks wastewater treatment plant to expand from 9.5 mgd to 14.25 mgd.

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

**WQM Permit No. 4504402**, **Alpine Rose Resorts Development**, 100 Ivy Hill Circle, Reading, PA 19606-9450. This proposed facility is in Eldred Township, **Monroe County**.

Description of Proposed Action/Activity: This project consists of the construction of a .012 mgd wastewater treatment facility and spray irrigation system to serve the Alpine Rose Resorts Development.

**WQM Permit No. 5804402**, **Camp Chen-A-Wanda**, 8 Claverton Court, Dix Hills, NY 11747. This proposed facility is in Ararat Township, **Susquehanna County**.

Description of Proposed Action/Activity: This project consists of the construction of a flow equalization tank to aid in overall treatment plant operation.

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

**WQM Permit No. 6704406**, Sewerage, **New Salem Borough**, 80 N. Water Street, P. O. Box 243, York New Salem, PA 17371. This proposed facility is in New Salem Borough, **York County**.

Description of Proposed Action/Activity: Construction of a sanitary sewer system for New Salem Borough with conveyance to North Codorus Township STP.

**WQM Permit No. 2804401**, Sewerage, **Foremost Industries, Inc.**, 2375 Buchanan Trail West, Greencastle, PA 17225. This proposed facility is in Montgomery Township, **Franklin County**.

Description of Proposed Action/Activity: Construction of sewage treatment facilities to serve their central production and warehouse facility.

**WQM Permit No. 3604409**, Sewerage, **Mount Joy Borough Authority**, 21 East Main Street, Mount Joy, PA 17552. This proposed facility is in Mt. Joy Borough, **Lancaster County**.

Description of Proposed Action/Activity: Replacement and upgrade of pump station no. 1.



**WQM Permit No. 3604410**, Sewerage, **West Earl Sewer Authority**, 157 West Metzler Road, Brownstown, PA 17508. This proposed facility is in West Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Replacement of the Main Street sewer interceptor.

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

**WQM Permit No. 3704403**, Sewerage, **Neshannock Township Sewer Department**, 3131 Mercer Road, New Castle, PA 16105. This proposed facility is in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for the construction of an interceptor and pump station to provide service to the proposed Millennium Technology Park to be on the east side of the Shenango River.

**WQM Permit No. 3704404**, Sewerage, **Edgewood Group Home, Human Services Center**, 130 West North Street, New Castle, PA 16101. This proposed facility is in Pulaski Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve an existing residence which houses eight autistic adults and a proposed residence to house eight elderly adults.

**WQM Permit No. 1604401**, Sewerage, **George A. White, Riverview Campground**, 587 Whitestown Road, Butler, PA 16001. This proposed facility is in Brady Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve a private campground.

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

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

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

##### *NPDES Permit*

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024504006	East Stroudsburg Area School District P. O. Box 298 East Stroudsburg, PA 18301	Monroe	Smithfield Township	Marshalls Creek HQ-CWF Delaware River WWF, MF
PAS10S036-1-R	Romec, Inc. P. O. Box 99 Pocono Lake, PA 18347	Monroe	Stroud Township	Flagler Run HQ-CWF Wigwam Run HQ-CWF

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

##### *NPDES Permit*

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024804006	David Jaindl Jaindl Land Company 3150 Coffeetown Rd. Orefield, PA 18069	Northampton	Hanover and Lower Nazareth Townships	Monocacy Creek HQ-CWF
PAI024804007	Northampton Hospital Corp. 250 South 21st St. Easton, PA 18042	Northampton	Wilson Borough	Bushkill Creek HQ-CWF
PAI024804008	Industrial Development International, Inc. Monarch Tower, Suite 1500 3424 Peachtree Road, N. E. Atlanta, GA 30326	Northampton	Hanover Township	Monocacy Creek HQ-CWF
PAI024804009	City of Bethlehem Steve DeSalva 10 E. Church St. Bethlehem, PA 18018	Northampton	City of Bethlehem Northampton/ Lehigh Counties	Monocacy Creek HQ-CWF
PAI024804010	Modern Concrete, Inc. 2863 Brodhead Rd. Bethlehem, PA 18020	Northampton	Forks Township	Bushkill Creek HQ-CWF

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

*Westmoreland County Conservation District: Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056504003	Bruce Henderson P. O. Box 945 Ligonier, PA 15658	Westmoreland	Ligonier Township	Tributary to North Fork HQ-CWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

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

**SAFE DRINKING WATER**

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

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

**Permit No. 5004501**, Public Water Supply.

Applicant	<b>Countryside Mobile Home Park</b>
Municipality	Carroll Township
County	<b>Perry</b>
Responsible Official	Edward M. Jones, Owner 7048 Wertzville Road Mechanicsburg, PA 17050
Type of Facility	PWS
Consulting Engineer	Stephen R. Morse, P. E. Skelly and Loy, Inc. 2601 North Front Street Harrisburg, PA 17110-1185
Application Received Date	February 4, 2004
Description of Action	Installation of manganese control equipment to the existing public water supply.

**Permit No. 0504502**, Public Water Supply.

Applicant	<b>Bedford Township Municipal Authority</b>
Municipality	Bedford Township
County	<b>Bedford</b>
Responsible Official	Owen K. Crist P. O. Box 371 Bedford, PA 15522
Type of Facility	PWS
Consulting Engineer	Timothy A. Cooper, P. E. Stiffler McGraw & Associates Inc. 19 N. Juniata Street Hollidaysburg, PA 16648
Application Received Date	February 10, 2004
Description of Action	Installation of 15,000 LF of water main, three pressure reducing stations, five fire hydrants, change of well no. 1 pump from a 30 hp to a 40 hp and change of ownership of 4,000 feet of water main from the Borough of Bedford.

**Permit No. 0603505**, Public Water Supply.  
 Applicant **Century Land Development Co.**  
 Municipality Marion Township  
 County **Berks**  
 Responsible Official Mark Powell, Owner, Developer  
 14 Summerhill Drive  
 Sinking Spring, PA 19608  
 Type of Facility PWS  
 Consulting Engineer Michael S. Moulds  
 Hanover Engineering Associates Inc.  
 20C Snyder Lane  
 Ephrata, PA 17522  
 Application Received Date November 18, 2003  
 Description of Action New Community Water System—Well source, distribution system, nitrate treatment and disinfection facilities.

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

**Permit No. Minor Amendment**, Public Water Supply.  
 Applicant **Boggs Township  
 William Griffith  
 Boggs Township Board of Supervisors**  
 1270 Runville Road  
 Bellefonte, PA 16823  
 Township Boggs Township, **Centre County**  
 Responsible Official Boggs Township  
 William Griffith  
 Boggs Township Board of Supervisors  
 1270 Runville Road  
 Bellefonte, PA 16823  
 Type of Facility PWS  
 Consulting Engineer Damon B. Wellman, P. E.  
 Modern Pump and Equipment, Inc.  
 P. O. Box H  
 709 East Sunbury Street  
 Millerstown, PA 17063  
 Application Received Date March 10, 2004  
 Description of Action Well no. 2 revitalization-replacement of the existing 500 gpm raw water supply pump. Pump and controls are to be used as a back-up system for the existing well no. 1 raw water supply. New pump capacity will be 50 to 80 gpm and will be operated on a manual on/off switch.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

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

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

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

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

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

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Thelma H. McGrail Trust**, Parkesburg Borough, **Chester County**. William F. Beers, Tetrahedron Consultants, Inc., P. O. Box 152, Oxford, PA 19363, on behalf of Thelma H. McGrail Trust, Daniel A. Winters, Trustee, 205 Chadds Ford Professional Center, Chadds Ford, PA 19317, has submitted a Notice of Intent to Remediate soils contaminated with inorganics and PCB. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on November 28, 2003.

**Darby Creek Joint Authority Former Sewage Treatment Plant**, Darby Township, **Delaware County**. Edward Kashdan, Gannett Fleming, Inc., P. O. Box 80794, Valley Forge, PA 19484-0794, on behalf of Darby Creek Joint Authority, Charles Barton, Chairperson, c/o DELCORA, 100 E. Fifth St., P. O. Box 999, Chester, PA 19016-0999, has submitted a Notice of Intent to Remediate soils contaminated with inorganics, PAH and PCB; and groundwater contaminated with inorganics. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Times* on February 17, 2004.

**Essington Sunoco Pipeline Release Site**, Tinicum Township, **Delaware County**. James H. Mulry, Mulry and Cresswell Environmental, Inc., 1691 Horseshoe Pike, Suite 3, Glenmoore, PA 19343, on behalf of Sunoco, Inc., Bradford L. Fish, P. O. Box 1135, Marcus Hook, PA 19061, has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with fuel oil no. 2, MTBE and unleaded gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Times* on February 12, 2004.

**Former Jesse Jones Box Corp. (Currently All American Supply Co.)**, City of Philadelphia, **Philadelphia County**. Timothy M. O'Hare, RT Environmental Services, Inc., 510 Heron Dr., P. O. Box 521, Bridgeport, NJ 08014, on behalf of Peter Choi, All American Supply Co., 499 E. Erie Ave., Philadelphia, PA 19124, has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with fuel oil no. 2 and leaded gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Inquirer* on March 1, 2004.

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

**656 North 12th Street Property**, City of Lebanon, **Lebanon County**. MACTEC Engineering and Consulting, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462, on behalf of Beneficial Communities, LLC, 3131 Clark Road, Suite 203, Sarasota, FL 34231 and George Christianson, 411 Chestnut Street, Lebanon, PA 17042, submitted a Notice of Intent to Remediate site soils contaminated with inorganics. The applicant proposes to remediate the site to meet the Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lebanon Daily News* on February 9, 2004.

**Reading Eagle Spruce Street Distribution Facility**, City of Reading, **Berks County**. Synergy Environ-

mental Inc., 607 Washington Street, Reading, PA 19601, on behalf of Reading Eagle Company/Reagle Realty Company, 345 Penn Street, P. O. Box 582, Reading, PA 19603-0582, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with chlorinated solvents, lead and other organics. The applicant proposes to remediate the site to meet the Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Reading Eagle* on February 26, 2004.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

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

### PLAN APPROVALS

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

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

**54-322-005: Commonwealth Environmental System LP** (P. O. Box 249, Dunmore, PA 18512) for expansion of their CES Landfill in Foster Township, **Schuylkill County**.

**39-316-004: North American Container Corp.** (2027 South 12th Street, Building 3, Allentown, PA 18103) for installation of an air cleaning device to control a sawing operation at their facility in Allentown, **Lehigh County**.

**48-318-135: CF Martin Guitar and Co.** (510 Sycamore Street, Nazareth, PA 18064) for modification of paint booth 108 to replace a wet filtering system with panel filters at their facility in Upper Nazareth Township, **Northampton County**.

**35-305-003: Northampton Fuel Supply Co., Inc.** (7500 Georgetown Road, Suite 13, Bethesda, MD 20814) for construction of a coal preparation plant and associated air cleaning device at their Powderly Bank Wet Mobile Processing Plant, Mayfield Borough and Carbondale Township, **Lackawanna County**.

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

**06-05078E: FR and S, Inc.** (727 Red Lane Road, Birdsboro, PA 19508) for installation of a second enclosed ground flare to control emissions from a municipal solid waste landfill in Exeter Township, **Berks County**. The source is subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources and Part 63, National Emission Standards for Hazardous Air Pollutants from Municipal Solid Waste Landfills.

**44-05002C: CNH America LLC** (P. O. Box 868, Belleville, PA 17004) for installation of a replacement paint spray booth at their farm equipment manufacturing facility in Union Township, **Mifflin County**. The replacement will not measurably impact emissions from the facility. The facility is a major source subject to Title V and 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants: Surface Coating of Miscellaneous Metal Parts and Products.

**67-05012A: Transcontinental Gas Pipe Line Corp.** (2800 Post Oak Boulevard (7705G), P. O. Box 1396, Houston, TX 77251-1396) for installation of NOx controls on two engines at their Station 195 facility in Peach Bottom Township, **York County**.

**67-05101B: Kinsley Construction, Inc.** (P. O. Box 2886, York, PA 17403) for modification of fuel oil requirements at their drum mix asphalt plant in West Manchester Township, **York County**.

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

**AMS 04072: Naval Surface Warfare Division—Ship System Engineering Station** (5001 South Broad Street, Code 357, Philadelphia, PA 19112) for transfer of 30.5 tons of NOx and 249.66 tons of VOC emission reduction credits to offset 171.2 tons of NOx emission increase authorized by Plan Approval 03165 in Philadelphia, **Philadelphia County**.

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

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

**46-0242: BAE Systems Aerospace Electronics, Inc.** (305 Richardson Road, Lansdale, PA) for modification of two natural gas-fired internal combustion engines and to install a nonselective catalytic reduction (NSCR) control in Montgomery Township, **Montgomery County**. This facility is a Major for NOx. Emissions from these two engines reduced to 16.22 tons of NOx using NSCR control and restricted operating hours. The plan approval will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**23-0098: SAP America, Inc.** (3999 West Chester Pike, Newtown Square, PA 19073) for installation of three dual fired boilers (6.28 mmBtu/hr each), four no. 2 fuel oil fired emergency generators (1.46 mW each) and one natural gas fired hot water heater (0.73 mmBtu/hr), at their facility in Newtown Township, **Delaware County**. This facility is a non-Title V facility. Facility-wide NOx emissions will not exceed 24 tpy and facility-wide VOC emissions will not exceed 1 tpy. The boilers and hot water are exempt sources. The only source requiring a Plan Approval and Operating Permit are the four emergency generators.

The emergency generators are equipped with turbo-charger and after-cooler. They shall only be used as a backup power source in the event of a blackout or power interruption. Potential emissions of NOx from the emergency generators shall be less than 12 tpy. Potential emissions of CO from the emergency generators shall each be less than 9 tons per year. Emissions of VOCs, PM and SOx from the emergency generators will each be less than 1 ton per year. The emergency generators will be restricted to a total of 500 hours of operation per year. The Plan Approval will contain recordkeeping and further operating restrictions designed to keep the facility operating within the allowable emissions and 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.*

**67-05103A: Metropolitan Edison Co.** (P. O. Box 16001, Reading, PA 19612-6001) for construction of eight 2,000 kW diesel-fired electrical generating units at their Menges Mills Substation in Jackson Township, **York County**. The facility has the following annual potential emissions: 72.6 tons NOx, 11.6 tons SOx, 10.2 tons CO, 1.8 tons VOC and 0.4 ton PM10. The plan approval and subsequent State-only operating permit will include emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements

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

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

**AMS 04058: Philadelphian Condominium** (2401 Pennsylvania Avenue, Philadelphia, PA 19130) for permitting use of natural gas in four existing boilers and operation of an existing dual fuel IC engine generator with no. 2 fuel oil only for up to 90 days in any rolling 12-month period in Philadelphia, **Philadelphia County**. This is a Title V facility. There will no increase in any existing permit limits as a consequence of these changes. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

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

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

**54-00060: Woodland Crematorium, Inc.** (1 Meadow Drive, Auburn, PA 17922) for operation of a crematorium in South Manheim Township, **Schuylkill County**.

**39-00033: Lutron Electronics Co., Inc.** (7200 Sutter Road, Coopersburg, PA 18036) for manufacture of electrical lighting controls in Lower Macungie Township, **Lehigh County**.

**39-00063: F. L. SMIDTH, Inc.** (P. O. Box 189, Catasauqua, PA 18032) for operation of a fabricated plate operation in Catasauqua Borough, **Lehigh County**.

**45-00001: East Stroudsburg University** (200 Prospect Street, East Stroudsburg, PA 18301) for operation of boilers in East Stroudsburg Borough, **Monroe County**.

**39-00068: Ransom Industries, LP** (101 North Church Street, Macungie, PA 18062-1180) for operation of a foundry in Macungie Borough, **Lehigh County**.

**45-00015: Selig Construction Co., Inc.** (HC 88, Box 185, Pocono Lake, PA 18347) for the mining and quarry operation in Tobyhanna Township, **Monroe County**.

**48-00002: Maier's Bakery** (2400 Northampton Street, Easton, PA 18042) for operation of a bakery in Palmer Township, **Northampton County**.

**39-00058: Packaging Corporation of America** (P. O. Box 58, Trexlertown, PA 18087) for manufacture of corrugated and solid fiber boxes in Upper Macungie Township, **Lehigh County**.

**45-00025: Kulp Foundry, Inc.** (30 Stokes Avenue, East Stroudsburg, PA 18301) for operation of a foundry in Stroud Township, **Monroe County**.

**48-00061: Haines and Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) for operation of an asphalt plant in Lower Mt. Bethel Township, **Northampton County**.

**48-00064: Ungerer and Company** (110 North Commerce Way, Bethlehem, PA 18017) for the operation of a boiler and spray driers in Hanover Township, **Northampton County**.

**39-00066: Eastern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034) for the operation of a stone crushing operation in Whitehall Township, **Lehigh County**.

**40-00072: Genova Products, Inc.** (502 Forest Road, Hazleton, PA 18202) for the manufacture of plastic and PVC products in Hazle Township, **Luzerne County**.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); 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:

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

\*The parameter is applicable at all times.

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

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**54860204R3 and NPDES Permit No. PA0593486. Premium Fine Coal, Inc.** (72 Lafayette Avenue, Tamaqua, PA 18252), renewal of an existing coal refuse reprocessing operation in Walker Township, **Schuylkill County**, affecting 57.0 acres. Receiving streams: Little Schuylkill River. Application received March 5, 2004.

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**32901602. NPDES Permit No. PA0214442, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to revise the permit for the I-22 Tipple in Burrell Township, **Indiana County** and related NPDES permit. No additional discharges. Application received February 18, 2004.

**63841302. NPDES Permit No. PA0090689, Maple Creek Mining, Inc.** (981 Route 917, Bentleyville, PA 15314), to revise the permit for the Maple Creek Mine in Carroll, Fallowfield, Nottingham and Somerset Townships, **Washington County**, to change the post-mining surface land use at Ginger Hill Shaft, Spinner Shaft, Park Shaft, Valley Shaft, Cherokee Shaft, Hazel-Kirk Supply Yard and Slurry Pond No. 2 Area. No additional discharges. Application received February 6, 2004.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**16840104 and NPDES Permit No. PA0602451. Ancient Sun, Inc.** (P. O. Box 129, Shippensburg, PA 16254), renewal of an existing bituminous surface strip and auger operation in Toby and Perry Townships, **Clarion County**, affecting 116.7 acres. Receiving streams: unnamed tributary to Black Fox Run, Black Fox Run and the Allegheny River (WWF). There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received March 8, 2004.

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

**32040101 and NPDES Permit No. PA0249548. Twin Brook Coal, Inc.** (P. O. Box 225, Clymer, PA 15728), commencement, operation and restoration of a bituminous surface and auger mine in Green Township, **Indiana County**, affecting 41.0 acres. Receiving streams: unnamed tributary to Dixon Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received January 30, 2004.

**32000102. Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701), surface mining permit renewal in White Township, **Indiana County**, affecting 1,053 acres. Receiving streams: Yellow Creek (TSF) and UNT to Yellow Creek (CWF). There are no potable water supply intakes within 10 miles, downstream. Application received March 10, 2004.

**32830113 and NPDES Permit No. PA0605778. Beilchick Brothers** (P. O. Box 7, Heilwood, PA 15745), SMP renewal in Buffington Township, **Indiana County**, affecting 410.5 acres. Receiving streams: UNT to Mardis Run and Mardis Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 10, 2004.

**07920101 and NPDES Permit No. PA0599581. Cooney Brothers Coal Company** (P. O. Box 246, Creson, PA 16630), SMP Transfer to E. P. Bender Coal Company, Inc. (P. O. Box 594, Carrolltown, PA 15722) in Allegheny Township, **Cambria County**, affecting 474 acres. Receiving streams: UNTs to Sugar Run and Sugar Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 8, 2004.

**56930109 and NPDES Permit No. PA0212571. Mountaineer Mining Corporation** (1010 Garrett Shortcut Road, Berlin, PA 15530), permit renewal, reclamation only in Jenner Township, **Somerset County**, affecting 57 acres. Receiving streams: Flat Run and Roaring Run to Quemahoning Creek to Stonycreek (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Quemahoning Surface Water Withdrawal. Application received February 26, 2004.

**32020107 and NPDES Permit No. PA0249092. KMP Associates** (1094 Lantz Road, Avonmore, PA 15618), SMP Transfer to KMP Associates, Inc. (1094 Lantz Road, Avonmore, PA 15618) in Blacklick Township, **Indiana County**, affecting 59.1 acres. Receiving streams: two UNTs to Aultman's Run and Aultman's Run (TSF). The first downstream potable water supply intake from the point of discharge is the Saltsburg Borough Indiana

County Municipal Waterworks Conemaugh River Surface Withdrawal. Application received February 18, 2004.

**32940109 and NPDES Permit No. PA0212954. KMP Associates** (1094 Lantz Road, Avonmore, PA 15618), SMP Transfer to KMP Associates, Inc. (1094 Lantz Road, Avonmore, PA 15618) in Young Township, **Indiana County**, affecting 133.1 acres. Receiving streams: UNT to and Whiskey Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received February 18, 2004.

**32990110 and NPDES Permit No. PA0235164. KMP Associates** (1094 Lantz Road, Avonmore, PA 15618) and SMP Transfer to KMP Associates, Inc. (1094 Lantz Road, Avonmore, PA 15618) in Young Township, **Indiana County**, affecting 41.3 acres. Receiving streams: UNT to Harpers Run, Harpers Run, Blacklegs Creek and Kiskiminetas River (CWF and WWF). There are no potable water supply intakes within 10 miles downstream. Application received February 18, 2004.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**03803044 and NPDES Permit No. PA0126375. C. H. Snyder Company** (P. O. Box 1022, Kittanning, PA 16201). NPDES renewal of an existing surface mine in East Franklin Township, **Armstrong County**, affecting 97.9 acres. Receiving streams: unnamed tributary to Limestone Run (CWF). The first potable water supply intake within 10 miles downstream from the point of discharge is the Cadogan Water Company. Renewal application received March 8, 2004.

**03010102 and NPDES Permit No. PA0202941. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Renewal application for an existing bituminous surface mine in Boggs Township, **Armstrong County**, affecting 115.8 acres. Receiving streams: Scrubgrass Creek to Mahoning Creek (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received March 8, 2004.

**26990103 and NPDES Permit No. PA0202576. Amerikohl Mining, Inc.** (P. O. Box 427, Acme, PA 15610). Renewal application for reclamation only of an existing bituminous surface mine in Springfield Township, **Fayette County**, affecting 58 acres. Receiving streams: unnamed tributary to Popular Run and Popular Run (CWF). The first potable water supply intake within 10 miles downstream from the point of discharge is the Indian Creek Valley Water Authority. Renewal application received March 10, 2004.

**03930107 and NPDES Permit No. PA0200425. B & B Coal Mining, Inc.** (R. D. 7, Box 375B, Kittanning, PA 16201). Renewal application for reclamation only of an existing bituminous surface mine in Wayne Township, **Armstrong County**, affecting 71.7 acres. Receiving streams: Mahoning Creek and unnamed tributaries to Mahoning Creek (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received March 12, 2004.

#### *Noncoal Applications Received*

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

\*The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 mL/l applied to surface runoff resulting from a precipitation event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**6875SM3C4 and NPDES Permit No. PA0612383. Eastern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit for discharge of treated mine drainage in Armagh Township, **Mifflin County**, receiving streams: Laurel Creek (HQ CWF). Application received March 3, 2004.

**44930301C4 and NPDES Permit No. PA0595985. Eastern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit for discharge of treated mine drainage in Armagh Township, **Mifflin County**. Receiving streams: Laurel Creek (HQ-CWF). Application received March 3, 2004.

**8074SM3C8 and NPDES Permit No. PA0118443. M & M Stone Company** (2840 West Clymer Ave., P. O. Box 189, Telford, PA 18969-0189), renewal of NPDES Permit for discharge of treated mine drainage in Lower Salford Township, **Montgomery County**. Receiving

streams: East Branch Perkiomen Creek and Perkiomen Creek (TSF). Application received March 8, 2004.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**3072SM3. Allegheny Mineral Corporation** (P. O. Box 1022, Kittanning, PA 16201-5022), renewal of NPDES Permit No. PA0605336, Mercer Township, **Butler County**. Receiving streams: two unnamed tributaries to McMurray Run, McMurray Run and an unnamed tributary to North Branch Slippery Rock Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received March 5, 2004.

**3076SM24. H & H Materials, Inc.** (190 Canon Road, Stoneboro, PA 16153), renewal of NPDES Permit No. PA0212083, New Vernon Township, **Mercer County**. Receiving streams: Little Shenango River (TSF). There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received March 11, 2004.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**3172SM4 and NPDES Permit No. PA0203289. Darlington Brick & Clay Products Co., LLC** (P. O.



Box 346, Darlington, PA 16115), NPDES renewal for continued mining of an industrial mineral surface mine in South Beaver Township, **Beaver County**, affecting 146 acres. Receiving streams: unnamed tributaries to Brush Run (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received March 8, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08010820. Gary R. Bartholomew** (R. R. 1, Box 256-C, Monroeton, PA 18823), transfer of an existing small industrials (flagstone) permit from Benjamin Stone in Sheshequin Township, **Bradford County**, affecting 3 acres. Receiving streams: unnamed tributary to Susquehanna River. Application received January 28, 2004.

**14032801. Raducz Stone Corporation** (284 Rockdale Road, Butler, PA 16002), transfer of an existing small industrials minerals (sandstone) permit application, from Two Rock Stone Company. The permit is in Howard Township, **Centre County** and affects 7 acres. Receiving streams; Bald Eagle Creek, tributary to West Branch Susquehanna River. Application received February 13, 2004.

**14022801. Raducz Stone Corporation** (284 Rockdale Road, Butler, PA 16002), transfer of an existing small industrial minerals (sandstone) permit from Two Rock Stone Company. The permit is in Howard and Marion Townships, **Centre County** and affects 5 acres. Receiving streams: Lick Run and Bald Eagle Creek, tributary to Bald Eagle Creek. Application received February 23, 2004.

**53040801. Gary L. Reese** (156 Cherry Spring Road, Coudersport, PA 16915), commencement, operation and restoration of a small industrial minerals (bluestone) permit in Sweden Township, **Potter County**, affecting 3.0 acres. Receiving streams: Mill Creek. Application received January 29, 2004.

**08040801. Walter Flagstone, Inc.** (R. R. 1, Box 40, Sugar Run, PA 188460), commencement, operation and restoration of a small industrial minerals (flagstone/shale) permit in Stevens Township, **Bradford County**, affecting 5 acres. Receiving streams: unnamed tributary to Cold Creek, Cold Creek, Wyalusing Creek. Application received February 4, 2004.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to

which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

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

### Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the FWPCA (33 U.S.C.A. § 1341(a)).

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E35-370. Karf, LLC**, 1000 Green Briar Drive, Clarks Summit, PA 18411 in Clarks Summit Borough, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To construct and maintain several commercial buildings in the floodway of a tributary to Leggetts Creek (CWF). The project is on the northeast side of Routes 6 and 11, approximately 0.4 mile southeast of its intersection with SR 0407 (Grove Street) (Scranton, PA Quadrangle N: 20.4 inches; W: 9.8 inches).

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

**E50-222: Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17103 in Northeast Madison Township, **Perry County**, ACOE Baltimore District.

To remove the existing bridge and then to construct and maintain a 14-foot by 5-foot concrete box culvert at the channel of Little Valley Creek (CWF) on SR 0850, Section 004, Segment 0030, Offset 2250, about 2.4 miles east of Honey Grove Village (McCoysville, PA Quadrangle N: 5.1 inches; W: 2.2 inches) in Northeast Madison Township, Perry County.

**E22-466: Derry Township Municipal Authority**, 670 Clearwater Road, Hershey, PA 17033 in Derry Township, **Dauphin County**, ACOE Baltimore District.

To extend and maintain an existing 42-inch diameter outfall into the Swatara Creek (WWF) for the purpose of updating to meet Act 537 requirements, to the north of the Clearwater Road Wastewater Treatment Plant (Hershey, PA Quadrangle N: 6.7 inches; W: 8.4 inches) in Derry Township, Dauphin County.

**E21-315: Logans Run Associates**, 15 Central Blvd., Camp Hill, PA 17011 East Pennsboro Township, **Cumberland County**, ACOE Baltimore District.

To: (1) fill and maintain 0.266 acre of wetlands; (2) install and maintain one 36-inch by 22-inch corrugated metal arch pipe; and (3) install and maintain one 18-inch corrugated metal storm sewer and one 8-inch PVC sanitary sewer line, to cross wetlands and an unnamed tributary to the Conodoguinet Creek (WWF), for the purpose of completing construction on the Penn Valley Development, approximately 0.6 mile north of Wertzville Road (SR 0944) and along the west side of Salt Road (Harrisburg West, PA Quadrangle N: 7.95 inches; W: 11.1 inches) in East Pennsboro Township, Cumberland County. The permittee is required to provide a minimum of 0.381 acre of replacement wetlands.

**E07-385: Ansley RV, Inc.**, P. O. Box 239, Duncansville, PA 16635 in Allegheny Township, **Blair County**, ACOE Baltimore District.

To construct and maintain 93 lineal feet of 48-inch smooth walled plastic pipe, two 15-inch smooth walled plastic pipe stormwater outfall structures and the placement of associated fill within the floodway of an UNT to Gillians Run (CWF) for the purpose of expanding a business parking lot (Hollidaysburg, PA Quadrangle N: 10.8 inches; W: 9.0 inches) in Allegheny Township, Blair County. The proposed project will result in 105 feet of impacts to the channel of UNT to Gillians Run.

**E05-321: Jeff Lesak**, 321 Leonard Road, Alum Bank, PA 15521 in West St. Clair Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain a stream rehabilitation project on an unnamed tributary to Ryot Run (WWF), a perennial stream, beginning at a point approximately 2,300 feet upstream of SR 4024 (Ogeltown, PA Quadrangle N: 5.95 inches; W: 6.3 inches) and extending to a point 1,158 feet upstream (Ogeltown, PA Quadrangle N: 6.2 inches; W: 6.5 inches) using a natural stream channel design approach involving floodway excavation, filling and grading, the placement of 14 rock and 1 log cross vane, 5 rock and 4 log J-hook vanes and 6 step-pool structures for the purpose of improving channel stability and aquatic habitat in West Saint Claire Township, Bedford County. The project proposes to directly affect 1,158 feet of an unnamed tributary to Ryot Run.

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

**E14-456. Ferguson Township**, 3147 Research Drive, State College, PA 16801. Shadow Oaks Drainage Improvement Project in Ferguson Township, **Centre County**, ACOE Baltimore District (Pine Grove Mills, PA Quadrangle N: 20.44 inches; W: 1.25 inches).

To remove the existing undersized single culvert stream enclosure and appurtenant structures that flood overtop regularly, then to construct and maintain: (1) a 574-foot by 18-foot by 6-foot temporary trench; (2) two 574-foot long by 64-inch by 43-inch CMP arch culverts and the associated concrete head wall; (3) a 90 linear foot by 5-foot by 6-foot cut stone right stream bank retaining wall immediately upstream of twin CMP arch culverts; (4) 170 linear feet of stream channel regrading immediately upstream of twin CMP arch culverts; (5) three upright railroad tie debris catchers 95 feet upstream of twin CMP arch culverts; (6) a permanent 350-foot by 15-foot by 4-foot roadside swale and a permanent 350-foot by 15-foot by 2.5-foot roadside swale, both to the left of the enclosure; (7) a concrete outfall for the twin culverts and two separate stormwater discharges; and (8) 50 linear feet of stream channel regrading and stabilization with R-5 and

R-3 riprap immediately downstream of twin CMP arch culverts, all of which is in a very intermittent upper reach of Slab Cabin Run (CWF, perennial). The project proposes to reduce local flooding and permanently impact 2,800 linear feet of Slab Cabin Run. This reach of the run is dry most of the year due to the normal flow going underground a few hundred feet upstream of the project.

**E57-104. Department of Conservation and Natural Resources, Bureau of Forestry**, P. O. Box 8451, Harrisburg, PA 17105-8451. Culvert replacement in Shrewsbury Township, **Sullivan County**, ACOE Baltimore District (Hills Grove, PA Quadrangle N: 1.8 inches; W: 6.0 inches).

To: (1) remove the existing 7-foot 5-inch by 4-foot 6-inch by 30-foot long corrugated metal arch pipe and to construct and maintain; (2) a 20-foot by 5-foot by 40-foot long reinforced concrete box culvert with concrete inlet and outlet wingwalls depressed 12 inches in the streambed; (3) inlet and outlet concrete aprons extending about 8 feet upstream and downstream from the culvert; and (4) R-6 riprap extending approximately 5 feet upstream and downstream from the apron extremities. The project is in Ogdonia Run (HQ-CWF) on Brummerdale Road, approximately 4 miles west of the intersection of Brunnerdale Road with Route 42. The project will not impact wetlands while impacting approximately 90 feet of waterway. The project will disturb approximately 0.07 acre of earth.

**E59-453. Elkland Borough**, 105 Parkhurst Street, Elkland, PA 16920. Gravel removal and steam maintenance in Elkland Borough, **Tioga County**, ACOE Baltimore District (Elkland, PA Quadrangle N: 19.7 inches; W: 8.8 inches).

To maintain the waterway opening of the length of the Cowanesque River (CWF) and levee within the site commonly referred to as the U. S. Army Corps of Engineers Elkland Flood Control Project. Maintenance items include gravel removal, restoration of eroded soils and riprap, reshaping/resloping of outlet drainage ditches, repair of flap gates and their structures and mowing of levee grass and filling in rodent holes. The project begins at the southeast corner of Osceola Village and continues in an easterly direction to a point approximately 700 feet beyond the eastern borough boundary line. The project will not impact wetlands while impacting approximately 3.2 miles of waterway.

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

**E56-330. Seven Springs Municipal Authority**, 290 Lagoon Lane, Champion, PA 15622. Seven Springs Recovery Water Impoundment in Middlecreek Township, **Somerset County**, Pittsburgh ACOE District (Kingwood, PA Quadrangle N: 22.35 inches; W: 4.65 inches) (Latitude: 39° 59' 53"—Longitude: 79° 16' 60"). The applicant proposes to place fill in 0.2 acre of wetland (PEM) for the purpose of constructing an approximately 50 million gallon reservoir, behind a dam. This reservoir will be used to store water from an existing wastewater lagoon and lakes, for the purpose of making snow and irrigation, at the Seven Springs Mountain Resort. The project site is approximately 1,700 feet south, off of Pritts Distillery Road.

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

**E43-304, Nancy Bires, Hermitage School District**, 411 North Hermitage Road, Hermitage, PA 16148-3316. West Branch Pine Hollow Run Stream Restoration in

Hermitage City, **Mercer County**, ACOE Pittsburgh District (Sharon East, PA Quadrangle N: 20.8 inches; W: 10.9 inches).

To construct and maintain a stream restoration project within West Branch Pine Hollow Run (WWF) for the purposes of: stream bank stabilization, improved sediment transport, establishment of riparian buffers and improved aquatic habitat while implementing a natural stream channel design approach consisting of the following construction activities: channel relocation, stream and floodway excavation and filling and the installation of cross vanes all beginning at a point approximately 2,300 feet northwest of the intersection of SR 62 and SR 18.

**E0514-001. Department of General Services, Bureau of Engineering and Architecture**, 18th and Herr Streets, Harrisburg, PA 17125, Hyndman Borough Flood Protection Project, **Bedford County**, ACOE Baltimore District.

The purpose of the project is to protect public health, safety and property by eliminating high-water events that overtop Wills Creek and flood through Hyndman Borough. A permit is requested to perform the following activities associated with the construction of the project in and along approximately 4,000 linear feet (approximately 9 acres) of Wills Creek (perennial, CWF):

1. To construct and maintain approximately 5,500 linear feet of rolled embankment levee on both banks of Wills Creek and along a tributary, known locally as the "back channel." The upstream ends of the levees will tie into existing high ground and the downstream ends will tie into the existing CSX Transportation (CSXT) railroad embankment. The levees will be protected with grouted riprap and drainage structures will be provided at regular intervals.

2. Widen the existing "back channel" and relocate existing palustrine emergent wetlands (0.71 acre) that will be disturbed by levee construction along Gooseberry Avenue.

3. To construct and maintain approximately 1,450 linear feet of diversion pipes that will collect discharge from CSXT stormwater outlets and convey it to Wills Creek to prevent flooding behind the levees during high water events on Wills Creek.

4. Remove an inactive railroad bridge and two piers (approximately 150-foot span) at the downstream end of the project to increase the cross-section of flow and reduce the likelihood of debris clogging and deposition. Abutment scour will be repaired and grouted riprap slope protection will extend a short distance downstream of the bridge-work proposed.

The project begins near the Hyndman Borough Corporate boundary with Londonderry Township along SR 3004 (Hyndman Quadrangle N: 13.9 inches, W: 2.5 inches) and terminates just downstream of the CSXT railroad bridge over Wills Creek (Hyndman Quadrangle N: 13.4 inches; W: 4.1 inches).

#### **WATER QUALITY CERTIFICATIONS REQUESTS**

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

*Initial Notice of Request for Certification under section 401 of the Federal Water Pollution Control Act*

The following requests have been made to the Department of Environmental Protection (Department) under section 401(a) of the Federal Clean Water Act (act) (33 U.S.C.A. § 1341(a)) for certification that the construction

and operation herein described will comply with the applicable provisions of sections 301, 302, 303, 306 and 307 of the act and that the construction will not violate applicable Federal and State water quality standards.

Prior to final approval of the proposed certification, consideration will be given to any comments/suggestions/objections which are submitted in writing within 30 days of the date of this notice. Comments should be submitted to the Department at the previous address for each request for certification. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments are addressed and a concise statement of comments/suggestions/objections in sufficient detail to inform the Department of the exact basis of the proposal and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given comments, if deemed necessary to resolve conflicts. Each individual will be notified in writing of the time and place of any scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are available for inspection and review at the previous address between 8 a.m. and 4 p.m., working days.

Final or proposed action on certain other certification requests for projects which required both a Water Obstruction and Encroachment permit and either a U. S. Army Corps of Engineers individual permit or a Nationwide permit 14, 18 or 26 will be published with the Actions of Applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

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

*Certification Request Initiated By:* David E. Zazworsky, Special Assistant to the Commissioners, Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676.

*Location:* Borough of Jefferson Hills, West Mifflin Borough, Borough of Dravosburg, City of Duquesne, North Versailles Township, Borough of East Pittsburgh, Borough of North Braddock, Borough of Braddock, Borough of Rankin, Borough of Swissvale, City of Pittsburgh, Borough of Turtle Creek, Wilkins Township, Municipality of Monroeville and Municipality of Penn Hills in Allegheny County.

*Project Description:* The proposed project is the construction of a 24-mile long, four-lane, limited access, tolled expressway beginning at SR 51 in the Borough of Jefferson Hills, Allegheny County and ending at the Parkway East (I-376) in the City of Pittsburgh, Allegheny County and at the Parkway East (I-376) in the Municipality of Monroeville, Allegheny County. The project will impact the following river and streams: Monongahela River (WWF), five unnamed tributaries to the Monongahela River (WWF), an unnamed tributary to Peters Creek (TSF), Thompson Run to Monongahela River (WWF), two unnamed tributaries to Thompson Run to Monongahela River (WWF), Turtle Creek (WWF), an unnamed tributary to Turtle Creek (WWF), Thompson Run to Turtle Creek (WWF), eight unnamed tributaries to Thompson Run to Turtle Creek (WWF), Sawmill Run to Turtle Creek (WWF), Chalfant Run (WWF), Leak Run (WWF), Ninemile Run (TSF), Streets Run (WWF) and Glass Run (WWF). In addition, a total of 10.36 acres of wetlands are proposed to be permanently impacted (6.23 acres PEM, 1.86 acres PSS, 0.35 acre PFO and 1.92 acres POW). Stream and wetland mitigation will be required.

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**ACTIONS**


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

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

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted 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.

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**I. NPDES Renewal Permit Actions**


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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0035271	Tall Timbers Village TTV-6 Factoryville, PA 18419	Lackawanna County La Plume Township	South Branch Tunkhannock Creek 4F	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0247154 Sewage	Possum Valley Municipal Authority P. O. Box 420 609 Clearview Road Bendersville, PA 17306-0420	Adams County Menallen Township	UNT Opossum Creek 7F	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0029785	Redbank Valley School District 920 Broad Street New Bethlehem, PA 16242	Armstrong County Mahoning Township	Tributary to Mahoning Creek	Y
PA0093891	Deer Creek Drainage Basin Authority P. O. Box 148 945 Little Deer Creek Road Russellton, PA 15076	Allegheny County West Deer Township	Dawson Run	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0002551	Calumet Lubricants Company—Rouseville Refinery 2 Main Street Rouseville, PA 16344	Rouseville Borough Venango County	Hamilton Run—Oil Creek 16-E	Y
PA0102288	McKean County Solid Waste Authority Kness Landfill 19 Ness Lane Kane, PA 16735	Sergeant Township McKean County	Unnamed tributary to Sicily Run	Y
PA0222526	Donick/Euliano SFTF 1030 East 5th Avenue Warren, PA 16365	Glade Township Warren County	Unnamed tributary to Quaker Run	Y
PA0103772	Hodapp Apartments 9291 Kuhl Road Erie, PA 16510	Greene Township Erie County	Unnamed tributary to Four Mile Creek	Y
PA0035696	Ramada Inn—Erie 6101 Wattsburg Road Erie, PA 16509-4037	Millcreek Township Erie County	Unnamed tributary to Mill Creek	Y
PA0101877	Bradford Regional Airport Star Route Box 176 Lewis Run, PA 16738	Lafayette Township McKean County	Unnamed tributary to Kinzua Creek	Y

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

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

**NPDES Permit No. PA0055565**, Industrial Waste, **Wings Field Preservation Associates, L. P.**, 1501 Narcissa Road, Blue Bell, PA 19422. This proposed facility is in Whitpain Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated stormwater runoff from Outfall 001 into Prophecy Creek in Watershed 3F-Wissahickon.

**NPDES Permit No. PA0012891**, Industrial Waste, **Upper Hanover Authority**, 1704 Pillsbury Road, P. O. Box 205, East Greenville, PA 18041. This proposed facility is in Upper Hanover Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into the Perkiomen Creek in Watershed 3E.

**NPDES Permit No. PA0051454**, Sewage, **Kimmel Enterprises**, 2931 Eagleview Road, Norristown, PA 19403. This proposed facility is in East Norriton Township, **Montgomery County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to Stony Creek in Watershed 3F-Wissahickon.

**NPDES Permit No. PA0055298**, Sewage, **Henry W. Anderson**, 2472 River Road, New Hope, PA 18938. This proposed facility is in Solebury Township, **Bucks County**.

Description of Proposed Action/Activity: Renewal to discharge into Rabbit Run in Watershed 2D-Three Mile Run.

**NPDES Permit No. PA0052761**, Sewage, **Buckingham Valley Nursing Home Association**, 820 Durham Road, P. O. Box 447, Buckingham, PA 18912. This proposed facility is in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to Mill Creek in Watershed 2F.

**NPDES Permit No. PA0036200**, Sewage, **Radley Run Mews Sewer Association**, 1131 Mews Lane, West Chester, PA 19382. This proposed facility is in Birmingham Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into Plum Run Watershed 3H-Brandywine Creek.

**NPDES Permit No. PA0040576**, Sewage, **Valleybrook Homeowners Association, Inc.**, P. O. Box 394, Chester Heights, PA 19017. This proposed facility is in Chester Heights Borough, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into the West Brach Chester Creek in Watershed 3G.

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

**NPDES Permit No. PAS216105**, Industrial Waste, **Lehigh Cement Company**, 3111 Water Street, Richmond, VA 23223. This proposed facility is in City of Aliquippa, **Beaver County**.

Description of Proposed Action/Activity: Bulk cement handling facility.

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

**NPDES Permit No. PA0239291**, Sewage, **Wintergreen Animal Hospital SFTF**, 8439 Wattsburg Road, Erie, PA 16509. This proposed facility is in Greene Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Four Mile Creek in Watershed 15-FM.

**NPDES Permit No. PA0239402**, Sewage, **Randy L. Huntington SFTF**, 2112 West State Road, Jamestown, PA 16134. This proposed facility is in West Shenango Township, **Crawford County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to the Shenango River in Watershed 20-A.

**NPDES Permit No. PA0239437**, Sewage, **Edgewood Group Home, Human Services Center**, 130 West North Street, Pulaski, PA 16101. This proposed facility is in Pulaski Township, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to the Shenango River in Watershed 20-A.

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

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

**WQM Permit No. 4603421**, Sewerage, **Franconia Township Sewer Authority**, 671 Allentown Road, P. O. Box 128, Franconia, PA 18924. This proposed facility is in Franconia Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a new sanitary pump extension with gravity and force main lines.

**WQM Permit No. 0902202**, Sewerage, **Exxon Mobil Corporation**, 220 Commerce Drive, Suite 205, Fort Washington, PA 19034. This proposed facility is in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Issuance of the permit to discharge treated groundwater to underground injection wells.

**WQM Permit No. 4603408**, Sewerage, **Limerick Township Municipal Authority**, 529 King Road, Royersford, PA 19468. This proposed facility is in Limerick Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction of wastewater treatment plant improvements to serve existing proposed development in Limerick Township.

**WQM Permit No. 1503417**, Sewerage, **East Coventry Township**, 855 Ellis Woods Road, Pottstown, PA 19465. This proposed facility is in East Coventry Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of sewerage facilities for four pumping stations.

**WQM Permit No. 1598412 Amendment**, Sewerage, **Greenhill Sewer Association**, 1000 Mill Road, West Chester, PA 19380. This proposed facility is in East Goshen Township, **Chester County**.

Description of Proposed Action/Activity: Amending existing permit.

**WQM Permit No. 0903414**, Sewerage, **Girl Scouts of Freedom Valley**, 100 Juliette Low Way, P. O. Box 814, Valley Forge, PA 19482-0814. This proposed facility is in Haycock Township and East Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Construction of an onsite wastewater treatment facilities to serve existing campground.

**WQM Permit No. 0903420**, Sewerage, **Warminster Municipal Authority**, P. O. Box 2279, Warminster, PA 18974. This proposed facility is in Warminster Township, **Bucks County**.

Description of Proposed Action/Activity: Replacement of sewage ejector station no. 11 with a new pumping station.

**WQM Permit No. 1503415**, Sewerage, **Borough of Kennett Square**, 120 North Broad Street, Kennett Square, PA 19348. This proposed facility is in Kennett Square Borough, **Chester County**.

Description of Proposed Action/Activity: Wastewater treatment facility design organic loading rerate.

**WQM Permit No. 1503206**, Sewerage, **Sunoco, Inc. (R & M)**, 20/10 Penn Center, 1801 Market Street, Philadelphia, PA 19103. This proposed facility is in New London Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a groundwater remediation system.

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

**WQM Permit No. 3503404**, Sewerage, **Sewer Authority of the City of Scranton**, 307 North Washington Avenue, Scranton, PA 18503. This proposed facility is in City of Scranton, **Lackawanna 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. 0604403**, Sewerage, **Washington Township Municipal Authority**, 120 Barto Road, P. O. Box 156, Barto, PA 19504. This proposed facility is in Washington Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of sewers and appurtenances.

**WQM Permit No. 3604406**, Sewerage, **Suburban Lancaster Sewer Authority**, 218 West Orange Street, P. O. Box 1271, Lancaster, PA 17603. This proposed facility is in West Lampeter Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization for construction/operation of sewerage facilities consisting of a submersible duplex pump station with approximately 1,280 feet of 4-inch force main, Hunters Glen Wendover Way Pump Station.

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

**WQM Permit No. 2003427**, Sewerage, **Randy L. Huntington**, 2112 West State Road, Jamestown, PA 16134. This proposed facility is in West Shenango Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve two homes.

**WQM Permit No. 2504402**, Sewerage, **Wintergreen Animal Hospital SFTF**, 8439 Wattsburgh Road, Erie, PA 16509. This proposed facility is in Greene Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage wastewater

treatment facility to service restrooms at a proposed animal hospital.

**WQM Permit No. 43044012**, Sewerage, **Springfield Township**, 1791 Perry Highway, Volant, PA 16156-1517. This proposed facility is in Springfield and Pine Townships, **Mercer County**.

Description of Proposed Action/Activity: This project is for pump station improvements including replacing pumps, discharge piping and valves at both pump stations and replacing the trash basket with a comminutor at the Springfield pump station.

**WQM Permit No. 2503423**, Sewerage, **Union City Borough Municipal Authority**, 12 South Main Street, Union City, PA 16438 This proposed facility is in Union City Borough, **Erie County**.

Description of Proposed Action/Activity: This project is for the replacement of the North Side lift station.

**WQM Permit No. 2403404**, Sewerage, **Johnsonburg Municipal Authority**, 520A Market Street, Johnsonburg, PA 15845-1240. This proposed facility is in Johnsonburg Borough, **Elk County**.

Description of Proposed Action/Activity: This project is to replace existing pneumatic ejector station equipment with a new submersible pumping system.

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

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

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

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use	Department Protocol (Y/N)
PAG136273	Frazer Township 2129 Butler Logan Road Tarentum, PA 15084	Allegheny	Frazer Township	Allegheny River WWF	N/A
PAG136279	Rankin Borough 320 Hawkins Avenue Braddock, PA 15104-1008	Allegheny	Rankin Borough	Monongahela River WWF	Y
PAG136355	Export Borough 6022 Kennedy Avenue Export, PA 15632	Westmoreland	Export Borough	Turtle Creek TSF	N/A

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

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

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

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

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI041403017	Pennsylvania State University Office of Physical Plant Physical Plant Bldg. University Park, PA 16802	Centre	State College Borough	UNT to Slab Cabin Run (Thompson Run) HQ-CWF Big Hollow CWF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041803005	Lock Haven University Facilities Bldg. 301 W. Church St. Room 104 Lock Haven, PA 17745	Clinton	City of Lock Haven	W. Branch Susquehanna River WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063303002	Department of Transportation Airport Access Rd. I-80 Interchange 2550 Oakland Avenue Indiana, PA 15701	Jefferson	Washington Township	Horm. Norris and Keys Runs CWF Kyle Run, UNT Kyle Lake 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*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lackawanna County City of Scranton	PAG2003504010	Michael Vacendak 9188 Valley View Dr. Clarks Summit, PA 18411	Lackawanna River WWF	Lackawanna County Conservation District (570) 281-9495
Lehigh County Whitehall Township	PAG2003904011	Bible Fellowship Church Homes, Inc. 3000 Fellowship Dr. Whitehall, PA 18052	Jordan Creek TSF, MF	Lehigh County Conservation District (610) 391-9583
Somerset County Somerset Township	PAG2005604001	Lowe's Home Centers, Inc. P. O. Box 1111 North Wilkesboro, NC 28659	Unnamed tributary to Somerset Lake WWF	Somerset County Conservation District (814) 445-4652
Westmoreland County S. Greensburg Borough	PAG2006504010	John Orsini 112 Oak Crest Lane Butler, PA 16002	Jacks Run WWF	Westmoreland County Conservation District (724) 837-5271



<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Erie County North East Township	PAG2002504003	Mercyhurst North East Health and Safety Building 16 West Division Street North East, PA 16428	Tributary of Sixteen Mile Creek WWF, MF	Erie County Conservation District (814) 825-6033
Erie County Millcreek Township	PAG2002504004	David Schmidt Schmidt Funeral Home 2926 Pine Avenue Erie, PA 16504	Mill Creek WWF, MF	Erie County Conservation District (814) 825-6033
Warren County Conewango Township	PAG2006204002	Northwest Savings Bank Operations Center Liberty and Second Street Warren, PA 16365	Conewango Creek WWF	Warren County Conservation District (814) 563-3117
Elk County Benezette Township	PAG2092404001	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Porcupine Run and Bennett Branch Sinnemahoning Creek CWF	Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800
<i>General Permit Type—PAG-3</i>				
<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Scranton City Lackawanna County	PAR202222	Global Metalform 733 Davis Street Scranton, PA 18505	Department of Transportation Storm Sewers	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
West Brunswick Township Schuylkill County	PAR232226	GHM, Inc. 17 Pinedale Industrial Rd. Orwigsburg, PA 17961-9727	Schuylkill River CWF	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Scranton City Lackawanna County	PAR602215	Lackawanna County Materials Recovery Facility 3400 Boulevard Avenue Scranton, PA 18512	Lackawanna River TSF	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Plains Township Luzerne County	PAR802206	Altec Industries, Inc. 210 Inverness Center Drive Birmingham, AL 35242	Susquehanna River	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Adams County Oxford Township	PAR203580	New Oxford Aluminum LLC 10350 Ormsby Park Place Louisville, KY 40223	South Branch Conewago Creek WWF	SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Blair County Tyrone Borough	PAR233510	Albemarle Corp. Tyrone Site 2 Adams Avenue Tyrone Industrial Park Tyrone, PA 16686-0216	Cooke Hollow Creek TSF	SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-5*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
South Strabane Township Washington County	PAG056190	Coen Oil Co. P. O. Box 34 1100 W. Chestnut Street Washington, PA 15301	UNT to Chartiers Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
South Middleton Township Cumberland County	PAG083532	Peck's Septic Waste Processing Facility 68 Pine School Rd. Gardners, PA 17324	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Carroll Township Washington County	PAG086114	Mon Valley Sewer Authority P. O. Box 792 Donora, PA 15033	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-12*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lebanon County Millcreek Township	PAG123581	Elvin Nolt 10 Setherb Road Richland, PA 17087	Tulpehocken Creek TSF/3-C	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (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.

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

#### Permit No. 4603505, Public Water Supply.

Applicant	<b>Schwenksville Borough Authority</b> P. O. Box 458 Schwenksville, PA 19473
Township	Lower Frederick
County	<b>Montgomery</b>
Type of Facility	PWS
Consulting Engineer	ARRO Consulting, Inc. 649 North Lewis Road Suite 100 Limerick, PA 19468
Permit to Construct Issued	March 12, 2004

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

**Permit No. 0603506**, Public Water Supply.  
 Applicant **Valley Run Water System**  
 Municipality Washington Township  
 County **Berks**  
 Type of Facility New community water system to serve the Ponds at Valley Run. Facilities include well no. 1 at 47 gpm, treatment using sodium hypochlorite, 115,000-gallon storage tank and distribution system.  
 Consulting Engineer Kevin D. Bomboy, P. E.  
 55 Shelbourne Road  
 Reading, PA 19606  
 Permit to Construct Issued: March 8, 2004

**Operations Permit** issued to **Spring Grove Water Company**, 7670091, Spring Grove Borough, **York County** on March 1, 2004, for the operation of facilities approved under Construction Permit No. 6703516 MA.

**Operations Permit** issued to **Red Lion Municipal Authority**, 7670086, Windsor Township, **York County** on March 10, 2004, for the operation of facilities approved under Construction Permit No. 6703504.

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

**Permit No. 6095501-T2—Operation.** Public Water Supply.  
 Applicant **Pine Valley MHP, LLC**  
**Rachel A. Wachs, President**  
 215 West Church Road, Suite 105  
 King of Prussia, PA 19406  
 Township West Buffalo Township  
 County **Union**  
 Type of Facility PWS—Operation of the existing water system including well nos. 1—3, disinfection facilities and a mobile home park distribution system.  
 Permit to Operate Issued: March 11 2004

**Permit No. MA-T1—Operation.** Public Water Supply.  
 Applicant **Pine Valley MHP, LLC**  
**Rachel A. Wachs, President**  
 215 West Church Road, Suite 105  
 King of Prussia, PA 19406  
 Township West Buffalo Township  
 County **Union**  
 Type of Facility PWS—Operation of the 40,000 gallon finished water storage tank, booster pump and interconnection with the campground distribution system.  
 Permit to Operate Issued: March 11 2004

**Permit No. 4596431-Amendment 2—Operation.** Public Water Supply.  
 Applicant **Cedar Mountain Springs Water Company**  
**c/o William E. Merkle**  
 R. R. 1 Box 215  
 Gaines, PA 16921  
 Township Elk Township  
 County **Tioga**  
 Type of Facility PWS—Operation of the three cartridge filters at the Cedar Mountain Springs Water Company bottling plant.  
 Permit to Operate Issued: March 16 2004

**Permit No. 4596431-Amendment 2—Construction.** Public Water Supply.  
 Applicant **Cedar Mountain Springs Water Company**  
**c/o William E. Merkle**  
 R. R. 1 Box 215  
 Gaines, PA 16921  
 Township Elk Township  
 County **Tioga**  
 Type of Facility PWS—Construction of the three cartridge filters at the Cedar Mountain Springs Water Company bottling plant.  
 Permit to Construction Issued: March 16 2004

**Permit No. 1702502—Operation.** Public Water Supply.  
 Applicant **Glen Hope Water Authority**  
**Ron Baer, President**  
 P. O. Box 116  
 Glen Hope, PA 16645  
 Borough Glen Hope Borough  
 County **Clearfield**  
 Type of Facility PWS—Operation of the pressure filtration plant.  
 Permit to Operate Issued: March 16 2004

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

**Operations Permit** issued to **Pine Grove Mobile Home Park**, 374 North Perry Highway, Mercer, PA 16137, PWS ID 6430046, Coolspring Township, **Mercer County**, on March 12, 2004, for the operation of well no. 6 and treatment associated with this source and existing sources, as approved under Construction Permit No. 4300502.

**Operations Permit** issued to **Pennsylvania American Water Company Clarion District**, 800 West Hersheypark Drive, Hershey, PA 17033, PWS ID 6160001, Clarion Township, **Clarion County**, on March 12, 2004, for the operation of the 4.0 mgd water treatment plant, as approved under Construction Permit No. 1601503.

**Operations Permit** issued to **Johnsonburg Municipal Authority**, 520 A Market Street, Johnsonburg, PA 15845, PWS ID 6240007, Ridgway Township, **Elk County**, on March 15, 2004, for the operation of the

silver Creek Plant backwash recycle system, as approved under Construction Permit No. 2402501.

**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>
Foster Township	P. O. Box 465 Freeland, PA 18224	Luzerne

**Plan Description:** The Plan calls for the construction of a new gravity wastewater collection system and associated pump stations and force mains to serve approximately 442 EDUs in the Woodside, Youngstown, Highland and Upper Lehigh areas of Foster Township, as specified in the Freeland Borough Alternative 2 text and mapping found in the Plan. The Plan also proposes replacement of the existing municipal wastewater collection system in Foster Township and known as Subarea 5 of the Freeland Area Wastewater Collection System. This system currently serves approximately 246 EDUs. Wastewater from all of the previously described areas, except Upper Lehigh, will be conveyed to an existing force main owned by the Freeland Municipal Authority (Authority) for transmission to the Authority's wastewater treatment facility for ultimate treatment and discharge. Wastewater from the Upper Lehigh area will be conveyed directly to the Authority's wastewater treatment facility via the proposed gravity interceptor, pump station and force main.

Financing of the wastewater collection and conveyance systems is to be provided by the Pennsylvania Infrastructure Investment Authority.

Implementation of the selected wastewater disposal alternative will require a Water Management Part II Permit for the construction and operation of the proposed sewage facilities. Other departmental permits may be required for construction if encroachment to streams or wetlands will result. The Department's review has also not identified any significant environmental impacts resulting from this proposal.

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

**Plan Location:**

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Jackson Township	439 Roth's Church Rd. Spring Grove, PA 17362	York

**Plan Description:** Pahagaco Heights II, A3-67934-199-3. The approved plan provides for a 99-lot single-family residential subdivision on 55 acres with total proposed sewage flows of 39,600 gpd tributary to the Jackson Township Wastewater Treatment Plant. The proposed development is at the end of Lakeview Drive, just east of the intersection of Pahagaco Road and Lake Road in Jackson Township, York County. Any required NPDES

permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

**HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988**

**Proposed Consent Order and Agreement Algonquin Chemical Company Site, Windsor Township and Hamburg Borough, Berks County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675), has entered into a proposed settlement with Windsor Industries, Inc. and its president and majority shareholder, Douglas Mehrkam (Settlors).

The proposed settlement resolves claims of the Department with the Settlors under the HSCA, CERCLA and other applicable law for response costs expended by the Department at the Algonquin Chemical Site (Site), Windsor Township and Hamburg Borough, Berks County.

The proposed settlement obligates the Settlors to pay to the Department \$2,500 in reimbursement of certain of its response costs expended at the Site. Settlors explicitly consent to the filing of a lien with the Berks County Recorder of Deeds in the amount of \$50,700. The Department agrees to postpone and forego any lien-based foreclosure against the real estate in question so long as the real estate is owned by the Settlors.

The Department believes that the proposed settlement is fair, reasonable, practicable in the public interest and in furtherance of the statutory goals of the HSCA and CERCLA.

Under section 1113 of the HSCA (35 P. S. § 6020.1113), the Department is publishing notice of this Consent Order and Agreement and will provide a 60-day period for public comment on the Consent Order and Agreement beginning March 27, 2004. Copies of the Consent Order and Agreement may be examined Monday through Friday from 8 a.m. to 4 p.m. at the Department of Environmental Protection, 909 Elmerton Avenue, Harrisburg, PA 17110 by contacting Crystal Snook, (717) 705-6645. The Consent Decree can also be reviewed at the Reading District Office, 1005 Crossroads Boulevard, Reading, PA 19605 from 8 a.m. to 4 p.m. by contacting Thomas Grubb, (610) 916-0100.

After review, the public may submit written comments on the Consent Order and Agreement, before May 27, 2004, by mailing them to Crystal Snook at the Department's Harrisburg office at the previous address. A person adversely affected by the settlement may also file an appeal from the Consent Order and Agreement to the Environmental Hearing Board. Questions concerning this notice should be directed to Crystal Snook.

The Department has reserved the right to withdraw its consent to the Consent Order and Agreement if comments submitted during the public comment period disclose facts or considerations which indicate, in the Department's discretion, that the Consent Order and Agreement is inappropriate or not in the public interest.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**230 Whelen Avenue and 312 Mary Street,** Downingtown Borough, **Chester County.** Michael S. Welsh, P. E., Applied Environmental Management, Inc., 16 Chester County Commons, Malvern, PA 19355, has submitted a Final Report concerning remediation of site soil contaminated with fuel oil no. 2. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Former Olivetti Supplies, Inc.,** Susquehanna Township, **Dauphin County.** Science Applications International Corp., 6310 Allentown Boulevard, Harrisburg, PA

17112, on behalf of Union Deposit Corporation, 651 East Park Drive, Harrisburg, PA 17111-4153 and Olivetti North America, Inc., 22425 East Appleway Avenue, Liberty Lake, WA 99019-9534, submitted a Final Report concerning remediation of site groundwater contaminated with solvents. The report is intended to document remediation of the site to the Site-Specific Standard.

**Cabela's Hamburg Store,** Tilden Township, **Berks County.** Advantage Engineering, 20 South 36th Street, Camp Hill, PA 17011, on behalf of Cabela's Lodging, LLC and Cabela's Retail, LLC, One Cabela's Drive, Sidney, NE 69160, submitted a Final Report concerning remediation of site soils contaminated with lead. The report is intended to document remediation of the site to the Statewide Health Standard.

**Niles Associates (Partnership),** Springettsbury and York Townships, **York County.** Richenderfer & Associates, Inc., P. O. Box 1199, Carlisle, PA 17013, on behalf of Niles Associates, 1777 Fifth Avenue, York, PA 17403, submitted a Final Report concerning remediation of site soils and groundwater contaminated with chlorinated solvents, diesel fuel, fuel oil no. 2, leaded gasoline, lead, MTBE, kerosene, unleaded gasoline and used motor oil. The report is intended to document remediation of the site to a combination of the Statewide Health and Background Standards.

**Arntz Residence,** West Donegal Township, **Lancaster County.** Earth Tech, Inc., 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of Esther Arntz, 1872 Harrisburg Avenue, Mount Joy, PA 17552, submitted a Final Report concerning remediation of site groundwater contaminated with fuel oil no. 2. The report is intended to document remediation of the site to the Statewide Health Standard.

**Roberto Clemente Park,** City of Lancaster, **Lancaster County.** Environmental Standards, Inc., 1140 Valley Forge Road, Valley Forge, PA 19482, on behalf of the Inner City Group, 545 Pershing Avenue, Lancaster, PA 17602 and the School District of Lancaster, 1020 Lehigh Avenue, Lancaster, PA 17602, submitted a Baseline Environmental Report concerning remediation of site soils and groundwater contaminated with inorganics, lead and chlorinated solvents. The applicant proposes to remediate the site as a Special Industrial Area.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of

the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Former Ennis Oil and Burner Service Terminal**, Chester Heights Borough, **Delaware County**. Jason Plucinski, React Environmental Services, Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142, on behalf of James R. and David Ennis Partnership, Rte. 1 and Valleybrook Rd., Chester Heights, PA 19017, has submitted a Final Report Addendum concerning the remediation of site soil contaminated with benzene and groundwater contaminated with lead, benzene, dichloroethane, 1, 2 and ethylene dibromide. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 8, 2004.

**The Reserve at Gwynedd (Groundwater)**, Upper Gwynedd Township, **Montgomery County**. William F. Schmidt, P. E., Pennoni Associates, Inc., 3001 Market St., Philadelphia, PA 19104, on behalf of The Reserve at Gwynedd, 470 E. Norristown Rd., Suite 100, Blue Bell, PA 19422, has submitted a Remedial Investigation/Risk Assessment Report Addendum, concerning remediation of site groundwater contaminated with chlorinated solvents, diesel fuel, fuel oil no. 2, inorganics, leaded gasoline, lead, other organics, PAH and unleaded gasoline. The report addendum was approved by the Department on March 10, 2004.

**Shez Ray, LLC**, Norristown Borough, **Montgomery County**. Cliff Harper, P. G., Harper Environmental Asso-

ciates, Inc., 771 Hideaway Lane, Harleysville, PA 19438, on behalf of Ray Cannon, Shez Ray LLC, 625 Beech St., Norristown, PA 19404, has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents and PCB. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 10, 2004.

**Parkway Apartments**, City of Philadelphia, **Philadelphia County**. Jaron J. Frieden, Vertex Engineering Services, Inc., 400 Libbey Parkway, Weymouth, MA 02189, on behalf of Steve Gilbert, ITW Mortgage Investments Corp., 1818 Market St., Philadelphia, PA 19103, has submitted a combined Remedial Investigation/Risk Assessment/Cleanup Plan/Final Report concerning remediation of site soil contaminated with fuel oil no. 4; and groundwater contaminated with leaded gasoline and PAH. The combined report demonstrated attainment of Site-Specific Standards and was approved by the Department on March 8, 2004.

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

**Lancaster Shopping Center**, City of Lancaster, **Lancaster County**. Environmental Standards, Inc., 1140 Valley Forge Road, Valley Forge, PA 19482 and PPL, 651 Delp Road, Lancaster, PA 17601, on behalf of Lancaster Shopping Center, 1645 Lititz Pike, Lancaster, PA 17601, submitted a Final Report concerning remediation of site soils contaminated with PCBs. The report was submitted within 90 days of a release. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 23, 2003.

**Ross Technology Corporation**, Upper Leacock Township, **Lancaster County**. GemChem, Inc., 53 North Cedar Street, P. O. Box 384, Lititz, PA 17543-0384, on behalf of Ross Technology Corporation, 104 North Maple Avenue, Leola, PA 17540, submitted a Final Report concerning remediation of site soils and groundwater contaminated with chlorinated solvents. The final report demonstrated attainment of the Statewide Health and Site-Specific Standards and was approved by the Department on February 26, 2004.

**Plowfield Mobile Home Park**, Ephrata Borough, **Lancaster County**. RETTEW Associates, Inc., 320 Columbia Avenue, Lancaster, PA 17603, on behalf of Frederick B. and Doris M. Plowfield, 286 South Reading Road, Ephrata, PA 17522, submitted a Final Report concerning remediation of site soils contaminated with no. 2 fuel oil and kerosene. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on February 25, 2004.

**Mark Hershey Farms, Inc.**, West Cornwall Township, **Lebanon County**. Hafer Environmental Services, Inc., on behalf of Mark Hershey Farms, Inc., 479 Horseshoe Pike, Lebanon, PA 17042, submitted a Final Report concerning remediation of site soils contaminated with fuel oil no. 2. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 1, 2004.

**Riverview Architectural Products**, West Manchester Township, **York County**. Langan Engineering & Environmental Services, Inc., 30 South 17th Street, Suite 1500, Philadelphia, PA 19103-4005, on behalf of KADG General Partnership c/o Riverview Architectural Products, Inc., 268 West Beaver Street, Suite 107B, Hellam, PA 17406 and Trolley Road, LP, 1420 Sixth Avenue, York, PA 17402 submitted a Final Report concerning remediation of site soils contaminated with PAHs

and VOCs and groundwater contaminated with VOCs. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 9, 2004.

**Fort Indiantown Gap**, Annville Township, **Lebanon County**. Environmental Compliance Monitoring, Inc., 349 Route 206, Hillsborough, NJ 08844, on behalf of the National Guard Training Center, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Final Report concerning remediation of site soils contaminated with no. 2 fuel oil. The report was submitted within 90 days of the contaminant release. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 4, 2004.

#### DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Determination of Applicability for General Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Number WMGR023D001. COT-Puritech Inc.**, 2993 Perry Dr. SW, Canton, OH 44706. The general permit authorizes processing of waste oil (excluding used oil) and unused oil contaminated with water in mobile units for the purpose of reconditioning the oil that shall be reused by the generator of the waste oil or unused, contaminated oil. The approved processing is limited to filtration, centrifugation, ultrafiltration and vacuum distillation. The Department issued the determination of applicability on March 10, 2004.

Persons interested in reviewing the general permit should 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 should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP1-22-3026A: Milton Hershey School** (P. O. Box 830, 801 Spartan Lane, Hershey, PA 17033-0830) on March 9, 2004, to authorize the use of the general permit for three natural gas boilers in Derry Township, **Dauphin County**.

**GP3-38-03043: Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17105) on March 15, 2004, to use their

general permit for portable nonmetallic mineral processing plant in South Lebanon Township, **Lebanon County**.

**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**46-0005X: Merck and Co., Inc.** (770 Sumneytown Pike, West Point, PA 19486) on March 10, 2004, to operate a 375 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

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

**13-308-104: Horsehead Corp.** (900 Delaware Avenue, Palmerton, PA 18071) on February 27, 2004, to modify the no. 1 waelzing/calcine kiln, two storage silos and one emergency generator and the associated air cleaning devices at their facility in Palmerton Borough, **Carbon County**.

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

**07-03047A: Grannas Brothers Stone and Asphalt Co., Inc.** (P. O. Box 488, Hollidaysburg, PA 16648) on March 11, 2004, to replace an existing vertical shaft impact crusher at their limestone crushing operation at the Ganister Quarry in Catharine Township, **Blair County**.

**31-03033: Stone Valley Welding** (R. D. 2, Box 213, Huntingdon, PA 16652) on March 12, 2004, to operate a metal surface coating booth using solvent coatings in Jackson Township, **Huntingdon County**.

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

**26-00488C: Laurel Aggregates, Inc.** (P. O. Box 1209, Morgantown, WV 26507) to increase their allowable throughput from 1 million tons per year to 3 million tons per year at Wymps Gap Quarry/Lake Lynn Quarry in Springhill Township, **Fayette County**.

**30-00089B: Dominion Transmission, Inc.** (625 Liberty Avenue, Pittsburgh, PA 15222) on March 11, 2004, to install two turbines at Crayne Station in Franklin Township, **Greene County**.

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

**AMS 03065: Southwest Water Pollution Control Plant—Biosolids Recycling Center** (8200 Enterprise Avenue, Philadelphia, PA 19153) to install four 25.5 mmBtu/hr boilers to replace four existing boilers in Philadelphia, **Philadelphia County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**46-0232: Cemco Lift, Inc.** (P. O. Box 500, 2801 Township Line Road, Hatfield, PA 19440) on March 8, 2004, to operate a spray paint booth in Hatfield Township, **Montgomery County**.

**09-0040B: Consolidated Graphics** (315 West Street Road, Warminster, PA 18974) on March 8, 2004, to operate five lithographic printing presses in Warminster Township, **Bucks County**.

**46-0069B: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19462) on March 8, 2004, to operate a dryer burner in Whitemarsh Township, **Montgomery County**.

**09-0063A: New Hope Crushed Stone** (P. O. Box 248, New Hope, PA 18938) on March 8, 2004, to operate a stone crushing plant in Solebury Township, **Bucks County**.

**46-0112: Palmer International, Inc.** (P. O. Box 315, Skippack, PA 19474) on March 8, 2004, to operate a thermal oxidizer in Skippack Township, **Montgomery County**.

**23-0017A: Exelon Generation Co.** (No. 1 Industrial Highway, Philadelphia, PA 19101) on March 8, 2004, to operate boilers 1 and 2 in Eddystone Borough, **Delaware County**.

**46-0036C: Visteon Systems LLC** (2750 Morris Road, Lansdale, PA 19446) on March 10, 2004, to operate a selective solder no. 8 in Worcester Township, **Montgomery County**.

**09-0050: Better Materials Corp.** (P. O. Box 231, Easton, PA 18044) on March 11, 2004, to operate one crusher and two conveyor belts in Wrightstown Township, **Bucks County**.

**46-0108A: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on March 18, 2004, to operate a cyclone and baghouse in Marlborough Township, **Montgomery County**.

**46-0069A: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19462) on March 15, 2004, to operate two baghouses in Whitemarsh Township, **Montgomery County**.

**15-0039: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on March 15, 2004, to operate a dryer burner in East Caln Township, **Chester County**.

**46-0191B: Merck and Co., Inc.** (P. O. Box 1000, UG1M-05, North Wales, PA 19486) on March 17, 2004, to operate a 100 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**12-399-015C: GE Transportation Systems** (55 Pine Street, Emporium, PA 15834) on March 8, 2004, to operate an armature coating operation on a temporary basis, until July 6, 2004, in Emporium Borough, **Cameron County**. The plan approval has been extended.

**41-00010B: Andritz, Inc.** (35 Sherman Street, Muncy, PA 17756) on March 9, 2004, to operate a thermal foundry sand reclamation system and associated air cleaning devices (two fabric collectors) on a temporary basis, until July 7, 2004, in Muncy Borough and Muncy Creek Township, **Lycoming County**. The plan approval has been extended.

**8-318-027: Mill's Pride—Pennsylvania** (100 Lamoka Road, Sayre, PA 18840) on March 12, 2004, to operate a wood kitchen cabinet finishing line and associated air cleaning device (a thermal oxidizer), various pieces of woodworking equipment and associated air cleaning devices (fabric collectors) and various other pieces of equipment on a temporary basis, until July 10, 2004, in Athens Township, **Bradford County**. The plan approval has been extended.

**8-318-027A: Mill's Pride—Pennsylvania** (100 Lamoka Road, Sayre, PA 18840) on March 12, 2004, to operate a wood kitchen cabinet glazing line on a temporary basis, until July 10, 2004, in Athens Township, **Bradford County**. The plan approval has been extended.

**19-00006B: DLM Foods, LLC** (6670 Low Street, Bloomsburg, PA 17815) on March 11, 2004, to operate two 26.6 million Btu per hour natural gas/no. 6 fuel oil-fired boilers on a temporary basis, until July 9, 2004, in South Centre Township, **Columbia County**. The plan approval has been extended.

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

**30-00099A: Allegheny Energy Supply** (4350 Northern Pike, Monroeville, PA 15146) on March 9, 2004, to install three boilers at their Hatfield Power Station in Monongahela Township, **Green County**. This plan approval was extended.

**04-00681B: Joseph J. Brunner, Inc.** (211 Brunner Road, Zelienople, PA 16063) on March 9, 2004, to construct a landfill in New Sewickley Township, **Beaver County**. This plan approval was extended.

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

**43-011A: Greenville Metals, Inc.** (99 Crestview Drive, Transfer, PA 16154) on March 9, 2004, to operate an exothermic reaction process in Pymatuning Township, **Mercer County**.

**43-277B: George and Thomas Cone Co.—Joy Cone** (3435 Lamor Road, Hermitage, PA 16148) on March 9, 2004, for an incinerator in Hermitage, **Mercer County**.

**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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

**36-05015: Dart Container Corp.** (P. O. Box 546, Leola, PA 17540) on March 11, 2004, to operate a plastic products manufacturing facility in Upper Leacock Township, **Lancaster 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.*



**33-00033: Owens-Brockway Glass Container Inc.—Plant No. 18** (Cherry Street, Brockway, PA 15824) on March 9, 2004, to reissue a Title V Permit to operate a glass containers manufacturing facility in Brockway Borough, **Jefferson County**. The facility's major emission sources include glass melting furnace, refiner, two forehearth, two lehrs, eight raw material handling and silos, cullet handling and storage, batch gathering and mixing, miscellaneous combustion sources, two container forming machines, road fugitives and 100 kW emergency generator and two degreaser units. The facility is a major facility for Title V due to its potential to emit of NOx and SOx.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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

**06-03057: Borough of Bally** (P. O. Box 187, Bally, PA 19503) on March 10, 2004, to operate a dual stripping tower at their facility in the Borough of Bally, **Berks County**.

**06-05076: Quadrant EPP, Inc.** (2120 Fairmont Avenue, P. O. Box 14235, Reading, PA 19612) on March 11, 2004, to operate their engineered plastics manufacturing facility in the City of Reading, **Berks County**.

**07-05030: Vesuvius USA** (R. R. 6 Box 1497A, Altoona, PA 16601) to operate a refractory material production facility in Logan Township, **Blair County**.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

*Coal Permit Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**49970203R. Mid-Valley Coal Sales, Inc.** (1380 Tioga Street, Coal Township, PA 17866), renewal of a coal refuse reprocessing operation in Coal Township, **Northumberland County**, affecting 533.0 acres. Receiving streams: None. Application received January 7, 2003. Renewal issued March 12, 2004.

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**30841316. NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company** (P. O. Box 355, 172 Route 519, Eighty Four, PA 15330), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County**, to longwall mine 25 acres at the 6H longwall panel. No additional discharges. Permit issued March 9, 2004.

**30841317. NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company** (P. O. Box 355, 172 Route 519, Eighty Four, PA 15330), to revise the permit for the Enlow Fork Mine in East Finley Township, **Washington County**, to install a ventilation borehole. Surface Acres Proposed 0.25. No additional discharges. Permit issued March 9, 2004.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**33020107 and NPDES Permit No. PA0242233. P. and N. Coal Company, Inc.** (P. O. Box 332, Punxsutawney, PA 15767), commencement, operation and restoration of a bituminous strip and auger operation in Oliver Township, **Jefferson County**, affecting 138.7 acres. Receiving streams: Hadden Run. Application received October 10, 2002. Permit issued March 4, 2004.

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

**32960102 and NPDES Permit No. PA0213314. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), permit revision to change the land use from pastureland to unmanaged natural habitat in Canoe Township, **Indiana County**, affecting 262.0 acres. Receiving streams: unnamed tributaries of Canoe Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received January 6, 2004. Permit issued March 1, 2004.

**32020106 and NPDES Permit No. PA0249271. Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701), permit revision for a stream variance within 100 feet of UNT No. 2 to Tearing Run in Center Township, **Indiana County**, affecting 274.1 acres. Receiving streams: unnamed tributary to Yellow Creek (CWF); unnamed tributaries to Tearing Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received December 19, 2003. Permit issued March 4, 2004.

**56823066 and NPDES Permit No. PA0608611. Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552), permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine in Elk Lick Township, **Somerset County**, affecting 224.5 acres. Receiving streams: unnamed tributaries to Elk Lick Creek and unnamed tributaries to the Casselman River (CWF). There are no potable water supply intakes within 10 miles downstream. Application received December 22, 2003. Permit issued March 4, 2004.

**32813031 and NPDES Permit No. PA0125547. Keystone Coal Mining Corporation** (P. O. Box 219, Shelocta, PA 15774), permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine in Center Township, **Indiana County**, affecting 924.1 acres. Receiving streams: Tearing Run and unnamed tributary to Tearing Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received December 23, 2003. Permit issued March 4, 2004.

**56880103 and NPDES Permit No. PA0598142. Future Industries, Inc.** (P. O. Box 157, Meyersdale, PA

15552), permit renewal and for continued operation of a bituminous surface mine in Summit Township, **Somerset County**, affecting 785.0 acres. Receiving streams: unnamed tributary to Casselman River, the Casselman River, two unnamed tributaries to Lick Run, Lick Run, two unnamed tributaries to Bigby Creek and one unnamed tributary to Cranberry Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received February 4, 2003. Permit issued March 9, 2004.

**56703107 and NPDES Permit No. PA0605956. Hoffman Mining, Inc.** (P. O. Box 130, 118 Runway Road, Friedens, PA 15541), permit revision for a variance for a stream crossing that involves the construction of a haulroad across Kaufman Run in Paint Township, **Somerset County**, affecting 863.0 acres. Receiving streams: unnamed tributary to Paint Creek; to Kaufman Run; to unnamed tributaries to Kaufman Run; to Stony Creek and to Shade Creek (CWF and WWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Stonycreek Surface Water Withdrawal. Application received November 19, 2003. Permit issued March 9, 2004.

#### *Noncoal Permit Actions*

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**10980302 and NPDES Permit No. PA0227641. I. A. Construction Corporation** (2100 Garden Drive, Seven Fields, PA 16046), transfer of an existing limestone operation in Cherry and Slippery Rock Townships, **Butler County**, affecting 119.9 acres. This permit is transferred from Ben Hal Mining Company. Receiving streams: unnamed tributary to McMurray Run. Application received October 23, 2003. Permit issued March 4, 2004.

#### **ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**21044006. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Hillside Farms in Silver Springs Township, **Cumberland County**, with an expiration date of March 31, 2005. Permit issued March 10, 2004.

**21044007. Cumberland Valley Drilling & Blasting** (6820 Wertzville Road, Enola, PA 17025), construction blasting at Hilleside Farms Development in Silver Springs Township, **Cumberland County**, with an expiration date of March 31, 2005. Permit issued March 10, 2004.

**28044007. David H. Martin, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at Light Estates in Greene Township, **Franklin County**, with an expiration date of March 31, 2005. Permit issued March 10, 2004.

**38044001. Austin Powder Company** (P. O. Box 289, Northampton, PA 18067), construction blasting at Glen Mara Commercial Site in Moosic Borough, **Lackawanna County**, with an expiration date of April 7, 2005. Permit issued March 11, 2004.

**21044008. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting in Southampton Township, **Cumberland County**, with an expiration date of June 30, 2004. Permit issued March 11, 2004.

**28044008. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting at Manure Pit—Harshman Farm in Antrim Township, **Franklin County**, with an expiration date of July 31, 2004. Permit issued March 11, 2004.

**28044009. D. L. George & Sons Construction Co.** (13321 Midvale Road, Waynesboro, PA 17268) and **John W. Gleim Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Nottingham Meadows Development in Antrim Township, **Franklin County**, with an expiration date of September 30, 2004. Permit issued March 11, 2004.

**01044005. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Pine Run Retirement Community in Hamilton Township, **Adams County**, with an expiration date of March 31, 2005. Permit issued March 11, 2004.

**28044010. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting at Thornwood Development in Southampton Township, **Franklin County**, with an expiration date of March 31, 2005. Permit issued March 11, 2004.

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.

#### **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 con-

struction 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**

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

**E50-221: Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17103 in Tuscarora Township, **Perry County**, ACOE Baltimore District.

To remove the existing bridge and then to construct and maintain a single span bridge of 71.5 feet with an underclearance of 22.3 feet across Raccoon Creek (CWF) on SR 4006, Section 003, Segment 0200, Offset 0000 (Sugar Run Road), about 0.5 mile south of Millerstown Borough (Millerstown, PA Quadrangle N: 7.8 inches; W: 4.35 inches) in Tuscarora Township, Perry County.

**E38-142: Farmer's Pride, Inc.**, P. O. Box 39, 154 West Main Street, Fredricksburg, PA 17026 in Bethel Township, **Lebanon County**, ACOE Baltimore District.

To: (1) install and maintain an open bottom culvert; (2) remove a multiple pipe culvert crossing and stabilize the area; (3) construct and maintain a 5,430 ft<sup>2</sup> building addition; and (4) construct an at-grade access road, all encroaching into the floodway of Deep Run (WWF), for the purpose of expanding operations at the Bell & Evans, Farmers Pride Chicken Plant, 154 West Main Street, just

north of Route 343 (Fredricksburg, PA Quadrangle N: 13.0 inches; W: 8.3 inches) in Bethel Township, Lebanon County.

**E36-768: JoAnn Realty Associates, LTD**, 160-A Route 41, P. O. Box 529, Gap, PA 17527 in Salisbury Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain: (1) a single cell concrete box culvert having a 25-foot clear span and 6-foot rise and associated endwalls; (2) a 95 linear foot rock retaining wall; (3) an expansion of an existing pond from 0.39 acre to 0.57 acre; (4) a new pond outfall consisting of an 8-inch SLCPP; and (5) a pond intake structure consisting of a 3-inch schedule 40 PVC pipe all within the channel and 100-year floodway of Houston Run (CWF), approximately 2,100 feet east of the intersection of SR 741 and Brackbill Road (Gap, PA Quadrangle N: 20.6 inches; W: 5.2 inches) in Salisbury Township, Lancaster County. The project will impact 0.04 acre of Palustrine Emergent Wetland. The amount of wetland impact is considered a de minimis impact of 0.04 acre and wetland replacement is not required.

**E21-359: GVH (Carlisle) LP**, 323 Union Street, Nashville, TN 37201 in Carlisle Borough, **Cumberland County**, ACOE Baltimore District.

To: (1) install and maintain two 15-inch diameter outfall structures with riprap aprons; (2) remove an approximate 1,950 square foot building which currently lies within the floodway; and (3) to complete minor cutting and grading along the stream banks, all impacting an unnamed tributary to Letort Spring Run (HQ-CWF), locally known as Molly Grub Run, for the purpose of constructing an Eckerd Pharmacy on a previously developed site at a point on the northwest corner of Hanover and Willow Streets (Carlisle, PA Quadrangle N: 12.65 inches; W: 9.05 inches) in Carlisle Borough, Cumberland County.

**E21-356: Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17103 in Shippensburg Township, **Cumberland County**, ACOE Baltimore District.

To extend and maintain the length of an existing 14-foot by 4.63-foot concrete box culvert at the channel of Burd Run (CWF) on SR 0174, Section 0011, Segment 020, Offset 135 to construct a turning lane for the proposed Wal-Mart shopping center, about 0.8 mile west of the I-81 and SR 174 Interchange (Walnut Bottom, PA Quadrangle N: 10.75 inches; W: 16.95 inches) in Shippensburg Township, Cumberland County.

**E21-351: Shippensburg Properties, L. P.**, One Atlantic Avenue, Pittsburgh, PA 15202 in Shippensburg Township, **Cumberland County**, ACOE Baltimore District.

To install and maintain: (1) an open bottom culvert; (2) three utility line crossings; (3) one aerial line crossing; (4) three outfalls; and (5) to remove an existing culvert, all crossing Burd Run (CWF) on a 53-acre parcel of land to the north side of SR 174 (Walnut Bottom, PA Quadrangle N: 11.15 inches; W: 17.2 inches) in Shippensburg Township, Cumberland County.

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

**E12-146. Steve Tronccone**, 585 East 2nd St., Emporium, PA 15834. Tronccone Gravel Removal in Shippen Township, **Cameron County**, ACOE Baltimore District (Cameron, PA Quadrangle N: 22.25 inches; W: 11.5 inches).

To remove a vegetated gravel bar 150 linear feet long to an elevation of 6 inches above the water surface. This permit authorizes the removal once and does not authorize operation and maintenance. The gravel bar is in the Driftwood Branch of the Sinnemahoning Creek (TSF). This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E17-392. Department of Conservation and Natural Resources, Bureau of Forestry**, P. O. Box 8451, Harrisburg, PA 17105-8451. Forestry District No. 9 Reservoir Road bridge replacement in Karthaus Township, **Clearfield County**, ACOE Baltimore District (Devils Elbow, PA Quadrangle N: 15.0 inches; W: 3.6 inches).

To remove an existing single span bridge and construct, operate and maintain public road crossing Upper Three Runs to provide public access within the Moshannon State Forest. The minor road crossing shall be constructed with a corrugated metal culvert pipe that has a minimum rise of 5.6 feet, span of 7.1 feet and length of 30 feet at a skew of 75 degree. The corrugated metal culvert pipe shall be installed at stream low flow with a 1-foot depression, masonry headwalls and masonry wingwalls. In-stream construction of the public road crossing shall be completed dry work conditions by dam and pumping or cofferdams diverting stream flow around work areas. Since Upper Three Runs is a wild trout stream, no construction or future repair shall be conducted in or along the stream channel between October 1 and December 31 without prior written permission from the Fish and Boat Commission. The project is approximately along the eastern right-of-way of SR 1011, approximately 1.6 miles east of Reservoir Road and SR 1011 intersection. This permit also authorizes the construction, operation, maintenance and removal of temporary road crossings, stream diversions and cofferdams. All temporary structures shall be constructed from clean rock or other nonpolluting materials. Upon completion of the project, all temporary structures shall be completely removed with areas restored to original contours and elevations. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E17-395. Jordan Township**, 3879 Ansonville Road, Irvona, PA 16656. Bridge deck and scour protection of T-430 Bridge across Green Run in Jordan Township, **Clearfield County**, ACOE Baltimore District (Irvona, PA Quadrangle N: 19.8 inches; W: 12.8 inches).

To repair, operate and maintain an existing single span bridge to carry T-430 across Green Run. Bridge repair work shall include replacement of the existing bridge deck and rock scour protection of bridge footings and wingwalls. All bridge repair work shall be completed to maintain a minimum 15-foot span, 20-foot width and 4.5-foot underclearance. All bridge repair work shall be conducted at stream low flow and rock scour protection shall be installed in dry work conditions by dams and pumping or diverting stream flow around work area. Since Green Run is a stock trout fishery, no repair work shall be conducted in or along the stream channel between March 1 and June 15 without prior written approval of the Fish and Boat Commission. The project is along the western right-of-way of SR 0729 approximately 530 feet north of Jordan Township Road T-420 and T-430 intersection. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E57-102. Game Commission**, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797. Culvert Bridge Maintenance in Davidson Township, **Sullivan County**, ACOE Baltimore District (Sonestown, PA Quadrangle N: 12.4 inches; W: 0.93 inch).

To maintain:

(1) The following wood plank bridges on stone masonry abutment walls:

(a) 6-foot span with 45 square foot waterway opening over an unnamed tributary to West Branch Fishing Creek (Elk Grove, PA Quadrangle N: 9.25 inches; W: 10.62 inches).

(b) 7-foot span with 28 square foot waterway opening over Big Run (Elk Grove, PA Quadrangle N: 9.0 inches; W: 11.30 inches).

(c) 10-foot span with 5 square foot waterway opening over Deep Hollow (Elk Grove, PA Quadrangle N: 11.25 inches; W: 14.83 inches).

(d) 10-foot span with 65 square foot waterway opening over Laurel Run (Elk Grove, PA Quadrangle N: 15.70 inches; W: 15.70 inches).

(2) Streambed with concrete wingwalls including about 75 linear feet of R-5 riprap 24 inches thick along the west bank placed from the wingwall upstream in Hemlock Run (Sonestown, PA Quadrangle N: 12.40 inches; W: 0.93 inch).

(3) Double CMPA culverts 67 inches by 95 inches by 25-foot long with concrete wingwalls and headwalls in West Branch Fishing Creek (Sonestown, PA Quadrangle N: 12.65 inches; W: 2.17 inches).

CMPA culvert 84 inches by 132 inches by 25-foot long depressed 1 foot in the facilities are in the vicinity of West Branch Fishing Creek Road, about 1 mile west of Elk Grove. The facilities will not impact wetlands or waterways. The previous streams are classified as HQ-CWF. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E02-1425. Department of Transportation, Engineering District 11-0**, 45 Thoms Run Road, Bridgeville, PA 15017. Grant Street Bridge in Shaler Township, **Allegheny County**, Pittsburgh ACOE District (Glenshaw, PA Quadrangle N: 1.7 inches; W: 9.9 inches) (Latitude: 40° 30' 13"—Longitude: 79° 56' 53"). To remove the existing temporary Grant Street Bridge and the existing upstream retaining walls and to construct and maintain a new bridge having a normal span of 52.4 feet with an underclearance of 13.0 feet across the channel of Pine Creek (TSF), to construct and maintain a 40.0-foot long retaining wall along the right bank of said stream and a 450.0-foot long concrete wall along the left bank of said stream. Both walls are on the upstream end of the proposed bridge which is on Grant Avenue (SR 4017, Section A27) at the intersection of Grant Avenue and Butler Street (Glenshaw, PA Quadrangle N: 0.6 inch; W: 10.2 inches) in Etna Borough. Also, to widen, operate and maintain two existing arch culverts, one having a clear span of 66.0 feet with an underclearance of 10.7 feet across Pine Creek on SR 0008, Sta 36+50 (Glenshaw, PA Quadrangle N: 1.7 inches; W: 9.9 inches) and one having a clear span of 56.0 feet with an underclearance of 13.5 feet across Little Pine Creek East on SR 0008, Sta 31+50 (Glenshaw, PA Quadrangle N: 2.0 inches; W: 10.0

inches). This permit also authorizes the construction and maintenance of temporary stream diversions, cofferdams and channel excavation. The project will directly impact a total of 504 linear feet of stream channel. No vegetated wetlands will be impacted.

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

**E42-297, David Mays**, 13 Church Street, Westline, PA 16751. David Mays SRSTP Outfall in Lafayette Township, **McKean County**, ACOE Pittsburgh District (Westline, PA Quadrangle N: 4.8 inches; W: 3.25 inches).

To install and maintain a 3-inch or 4-inch diameter outfall pipe along the left bank of a tributary to Kinzua Creek from a single residence small flow sewage treatment system at 13 Church Street, Westline.

**E43-298, Christner Realty**, 235 Alpha Drive, Pittsburgh, PA 15238. Village Park Phase IV, Lots 108-111 in Pine Township, **Mercer County**, ACOE Pittsburgh District (Grove City, PA Quadrangle N: 3.2 inches; W: 10.0 inches).

To fill a 0.27-acre wetland for development of Lots 108-111 between Hunt Drive and Park Drive within the Village Park Phase IV residential development southeast of Grove City. Project includes creation of 0.75 acre of replacement wetland adjacent to an existing 0.66 acre wetland replacement area from previous DEP Permit No. E43-270.

**E61-264, Wyattville Country Store**, 2810 US 322, Franklin, PA 16323. Wyattville Country Store greenhouses in Sugarcreek Borough, **Venango County**, ACOE Pittsburgh District (Utica, PA Quadrangle N: 13.5 inches; W: 3.0 inches).

To complete construction and operate and maintain greenhouse buildings and associated fill area measuring approximately 250 feet long by 150 feet wide by 1.5 feet deep within the mapped FEMA floodway of Sugar Creek between the existing building along SR 322 just east of SR 427 and the left bank of Sugar Creek. No in-stream work or wetland impacts occur as a result of this project.

[Pa.B. Doc. No. 04-524. Filed for public inspection March 26, 2004, 9:00 a.m.]

### Energy Advisory Board Meeting

The Department of Environmental Protection's (Department) Energy Advisory Board (Board) will hold its first meeting on April 8, 2004, at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Board is a newly created advisory board that will assist the Department in developing clean energy initiatives for this Commonwealth.

Questions concerning this meeting should be directed to Gary Obleski, (717) 783-8727, gobleski@state.pa.us. The agenda and meeting materials for the meeting will be available on the Department's website: www.dep.state.pa.us (DEP Keyword: Participate).

Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-8727 or through the Pennsylvania AT&T Relay

Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-525. Filed for public inspection March 26, 2004, 9:00 a.m.]

### Water Resources Regional Committee Meetings Schedule for April 2004

The following is a list of April 2004 meetings of the six water resources regional committees (regional committees) associated with the Department of Environmental Protection (Department). Notice of these meetings is being given in accordance with 65 Pa.C.S. §§ 701-716 (relating to Sunshine Act).

These schedules and an agenda for each meeting, including meeting materials, will be available through the Public Participation Center on the Department's website: www.dep.state.pa.us (DEP Keyword: Participate).

The six regional committees listed were created under 27 Pa.C.S. Chapter 31 (relating to water resources planning) to help guide the development of a new State Water Plan (plan) for this Commonwealth. The regional committees' purpose is to develop the regional component of the overall plan and to provide recommendations to the Statewide Water Resources Committee, which is charged under 27 Pa.C.S. Chapter 31 to develop the plan.

The April 2004 meeting dates of the six regional committees are as follows:

#### *Lower Susquehanna Water Resources Regional Committee*

The April meeting of the Lower Susquehanna Water Resources Regional Committee will be held at 10 a.m. at the following location:

April 5, 2004 Department of Environmental  
Protection Southcentral Regional Office  
909 Elmerton Ave.  
Harrisburg, PA 17110

Questions concerning this meeting should be directed to Leslie Sarvis, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634, lsarvis@state.pa.us.

#### *Ohio Water Resources Regional Committee*

The April meeting of the Ohio Water Resources Regional Committee will be held at 10 a.m. at the following location:

April 12, 2004 Westmoreland Conservation District  
Center for Conservation Education  
211 Donohoe Road—"The Barn"  
Greensburg, PA 15601

Questions concerning this meeting should be directed to Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, laumohr@state.pa.us.

#### *Great Lakes Water Resources Regional Committee*

The April meeting of the Great Lakes Water Resources Regional Committee will be held at 10 a.m. at the following location:

April 13, 2004 Erie Conservation District  
1927 Wager Road  
Erie, PA 16509

Questions concerning this meeting should be directed to Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, laumohr@state.pa.us.

*Delaware Water Resources Regional Committee*

The April meeting of the Delaware Water Resources Regional Committee will be held at 10 a.m. at the following location:

April 14, 2004 The Nature Conservancy Hauser  
Nature Center  
Long Pond Road  
P. O. Box 55  
Long Pond, PA 18334

Questions concerning this meeting should be directed to Leslie Sarvis, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634, lsarvis@state.pa.us.

*Potomac Water Resources Regional Committee*

The April meeting of the Potomac Water Resources Regional Committee will be held at 10 a.m. at the following location:

April 16, 2004 Fulton County Theatre  
102 North Second Street  
McConnellsburg, PA 17233

Questions concerning this meeting should be directed to Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, laumohr@state.pa.us.

*Upper/Middle Susquehanna Water Resources Regional Committee*

The April meeting of the Upper/Middle Susquehanna Water Resources Regional Committee will be held at 10 a.m. at the following location:

April 29, 2004 Centre County Solid Waste Authority  
Interpretive Center  
253 Transfer Road  
Bellefonte, PA 16823

Questions concerning this meeting should be directed to Leslie Sarvis, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634, lsarvis@state.pa.us.

Persons with a disability who require accommodations to attend any of the meetings should contact the Department at (717) 705-2425 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-526. Filed for public inspection March 26, 2004, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Infant Hearing Screening Advisory Committee Meeting

The Infant Hearing Screening Advisory Committee, established under the Infant Hearing Education, Assessment, Reporting and Referral Act (11 P. S. §§ 876-1—876-9), will hold a public meeting on Thursday, April 1, 2004, from 10 a.m. to 4 p.m. in Room 125, Training Room A, Keystone Building, Commonwealth and Forster Streets, Harrisburg, PA.

The Department of Health reserves the right to cancel this meeting without prior notice.

For additional information or persons with a disability who wish to attend the meeting and require auxiliary aid, service or other accommodation to do so, contact Karl Hoffman, Program Administrator, Hearing Program, Division of Newborn Disease Prevention and Identification, (717) 783-8143, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 04-527. Filed for public inspection March 26, 2004, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### 2003 Group Two Exception Requests; Medical Assistance Long Term Care Participation Review

By this notice, published under 55 Pa. Code § 1187.21a(e)(4) (relating to nursing facility exception requests—statement of policy), the Department of Public Welfare (Department) announces the 2003 Group Two Exception Requests covering the submission period of July 1, 2003, through December 31, 2003.

#### Expansion Requests

<i>Number</i>	<i>Name</i>	<i>Address</i>	<i>County</i>	<i>Beds</i>
JD03002	Laurel Wood Care Center	100 Woodmont Road Johnstown, PA 15905	Cambria	60
JD03003	Country Meadows Nursing Center of Bethlehem	4025 Green Pond Road Bethlehem, PA 18020	Northampton	60
JD03004	Willowcrest	5501 Old York Road Philadelphia, PA 19141	Philadelphia	71
JD03006	Mon Valley Care Center	200 Stoops Drive Monongahela, PA 15063	Washington	30

Number	Name	Address	County	Beds
JD03007	Rheems Nursing Center	P. O. Box 8 Broad and Heisey Streets Rheems, PA 17570	Lancaster	45

**New Facility Requests**

Number	Name	Address	County	Beds
JD03001	Northwood Nursing and Convalescent Center	4621 Castor Avenue Philadelphia, PA 19124	Philadelphia	148
JD03005	Holland-Glen	412 South York Road Hatboro, PA 19080	Montgomery	39

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.

*Fiscal Impact*

This notice will have no fiscal impact.

*Public Comment*

Interested persons are invited to submit written comments regarding this notice within 30 days of publication to the Department of Public Welfare, Bureau of LTC Programs, Attention: Policy Section, P. O. Box 2675, Harrisburg, PA 17105. Comments received will be reviewed and considered.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-382. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 04-528. Filed for public inspection March 26, 2004, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Mother's Day Bouquet '04 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 Mother's Day Bouquet '04.

2. *Price:* The price of a Pennsylvania Mother's Day Bouquet '04 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Mother's Day Bouquet '04 instant lottery game ticket will contain one play area featuring a "Winning Symbols" area and a "Your Symbols" area. The play symbols and their captions located in the "Winning Symbols" area are: Money Symbol (MONEY), House Symbol (HOUSE), Star Symbol (STAR), Necklace Symbol (NCKLACE), Ring Symbol (RING), Candy Symbol (CANDY), Sun Symbol (SUN), Emerald Symbol (EMERALD), Diamond Symbol (DIAMOND), Heart Symbol (HEART), Gift Symbol (GIFT), Watch Symbol (WATCH), Mink Coat Symbol (MINK), Car Symbol (CAR) and Balloon Symbol (BALLOON). The play symbols and their captions located in the "Your Symbols" area are: Money Symbol (MONEY), House Symbol (HOUSE), Star Symbol (STAR), Necklace Symbol (NCKLACE), Ring Symbol (RING), Candy Symbol (CANDY), Sun Symbol (SUN), Emerald Symbol (EMERALD), Diamond Symbol (DIAMOND), Heart Symbol (HEART), Gift Symbol (GIFT), Watch Symbol (WATCH), Mink Coat Symbol (MINK), Car Symbol (CAR), Balloon Symbol (BALLOON) and Rose Symbol (ROSE).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Symbols" area are: \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in this game are \$5, \$10, \$15, \$20, \$25, \$50, \$100, \$500 and \$50,000. A player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 2,040,000 tickets will be printed for the Pennsylvania Mother's Day Bouquet '04 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$50,000 (FTY THO) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$500 (FIV HUN) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$500 (FIV HUN) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$100 (ONE HUN) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$100 (ONE HUN) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$50\$ (FIFTY) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$50\$ (FIFTY) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$25\$ (TWY FIV) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(i) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$25\$ (TWY FIV) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$25.

(j) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$20\$ (TWENTY) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$20\$ (TWENTY) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$15\$ (FIFTN) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(m) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$15\$ (FIFTN) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$15.

(n) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$10<sup>00</sup> (TEN DOL) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$10.

(p) Holders of tickets upon which any one of the "Your Symbols" play symbols is a Rose Symbol (ROSE), and a prize play symbol of \$5<sup>00</sup> (FIV DOL) appears under the Rose Symbol (ROSE) on a single ticket, shall be entitled to a prize of \$5.

(q) Holders of tickets upon which any one of the "Your Symbols" play symbols matches any of the "Winning Symbols" play symbols and a prize play symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Symbols Match Any of the Winning Symbols, Win With Prizes(s) of:</i>	<i>Win</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 2,040,000 Tickets</i>
\$5	\$5	20	102,000
\$5 w/Rose	\$5	20	102,000
\$5 × 2	\$10	30	68,000
\$10 w/Rose	\$10	30	68,000
\$10	\$10	30	68,000
\$5 × 3	\$15	300	6,800
\$10 + \$5	\$15	300	6,800
\$15 w/Rose	\$15	300	6,800
\$15	\$15	150	13,600
\$5 × 4	\$20	300	6,800
\$5 × 2 + \$10	\$20	300	6,800
\$10 × 2	\$20	300	6,800
\$20 w/Rose	\$20	300	6,800
\$20	\$20	300	6,800
\$5 × 5	\$25	300	6,800
\$5 × 3 + \$10	\$25	300	6,800
\$10 + \$15	\$25	300	6,800
\$25 w/Rose	\$25	300	6,800
\$25	\$25	300	6,800
\$5 × 10	\$50	200	10,200
\$10 × 5	\$50	300	6,800



When Any of Your Symbols Match Any of the Winning Symbols, Win With

Prizes(s) of:	Win	Approximate Odds of 1 In:	Approximate No. of Winners Per 2,040,000 Tickets
\$25 × 2	\$50	600	3,400
\$50 w/Rose	\$50	600	3,400
\$50	\$50	200	10,200
\$10 × 10	\$100	8,000	255
\$20 × 5	\$100	8,000	255
\$25 × 4	\$100	8,000	255
\$100 w/Rose	\$100	8,000	255
\$100	\$100	7,059	289
\$50 × 10	\$500	60,000	34
\$100 × 5	\$500	60,000	34
\$500 w/Rose	\$500	120,000	17
\$500	\$500	60,000	34
\$50,000	\$50,000	680,000	3

Rose = Win prize automatically

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Mother's Day Bouquet '04 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 Mother's Day Bouquet '04, prize money from winning Pennsylvania Mother's Day Bouquet '04 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 Mother's Day Bouquet '04 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 (72 P.S. §§ 3761-101—3761-314), 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 Mother's Day Bouquet '04 or through normal communications methods.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 04-529. Filed for public inspection March 26, 2004, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority in section 2002(c) of The Administrative

Code of 1929 (71 P.S. § 512(c)) and 67 Pa. Code § 495.4 (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by the Sports and Exhibition Authority of Pittsburgh and Allegheny County seeking to lease highway right-of-way located beneath the Veterans Bridge (SR 0579) between River Avenue and Progress Street, 23rd Ward, City of Pittsburgh, Allegheny County, containing 65,575± square feet or 1.505± acres, for purposes of parking and staging area.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions or objections regarding the approval of this application to Earl Neiderhiser, P. E., Acting District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use should be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 04-530. Filed for public inspection March 26, 2004, 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, March 11, 2004, and announced the following:

*Regulation Deemed Approved under section 5(g) of the Regulatory Review Act—Effective March 10, 2004*

Department of Health #10-173: Schedules of Controlled Substances (amends 28 Pa. Code Chapter 25)

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 04-531. Filed for public inspection March 26, 2004, 9:00 a.m.]

PA 17120, (717) 782-4298 at least 24 hours in advance so that arrangements can be made.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-533. Filed for public inspection March 26, 2004, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Agency Contract Termination of Wagner-Huffnagle & Associates Inc. under Act 143; National Grange Mutual Insurance Company; Doc. No. AT04-03-009

A pre-review telephone conference initiated by this office is scheduled for April 12, 2004, at 10:30 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before March 31, 2004. A date for a review shall be determined, if necessary, at the pre-review telephone conference.

Motion preliminary to those at the review, protests, petitions to intervene or notices of intervention, if any, must be filed on or before April 2, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before April 9, 2004.

No pre-review memoranda or other written submissions are required for the pre-review conference; however, the parties are encouraged to discuss settlement and possible stipulations pending the conference.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-532. Filed for public inspection March 26, 2004, 9:00 a.m.]

### Children's Health Insurance Program; Children's Health Advisory Council Meeting

The Insurance Department (Department) has scheduled a meeting of the Children's Health Advisory Council (Council) on Thursday, April 15, 2004, at 10 a.m. in the Honors Suite, 1st Floor, Education Building, 333 Market Street, Harrisburg, PA. The Children's Health Care Act (40 P. S. §§ 991.2301—991.2361) charges the Council with the responsibilities of overseeing outreach activities and evaluating access and quality of service provided to children enrolled in the Children's Health Insurance Program. The public is invited to attend. Persons who need accommodations due to a disability who wish to attend the meeting should contact Tracey Pontius, Insurance Department, 1300 Strawberry Square, Harrisburg,

### Jay David Lebowitz; Prehearing

#### License Denial; Doc. No. AG04-03-014

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

A prehearing telephone conference initiated by this office is scheduled for April 28, 2004, at 10 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before March 31, 2004. A date for a hearing shall be determined, if necessary, at the prehearing/settlement conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before April 16, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before April 23, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-534. Filed for public inspection March 26, 2004, 9:00 a.m.]

### Brian K. Ober; Hearing

#### Appeal of Brian K. Ober under 40 P. S. §§ 991.2101—991.2193; Doc. No. HC04-03-017

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on April 30, 2004, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 31, 2004. The hearing shall occur on May 13, 2004, at 1 p.m. in Room 200, Administrative Hearing Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 3, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene shall be filed on or before May 10, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-535. Filed for public inspection March 26, 2004, 9:00 a.m.]

### **Review Procedure Hearings; Cancellation or Refusal of Insurance**

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, Philadelphia and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Michael J. and Cynthia A. Small; file no. 04-265-00418; Nationwide Insurance Companies; doc. no. PH04-03-008; March 24, 2004, 1 p.m.

Appeal of Cassandra Kottler; file no. 04-181-01640; State Farm Mutual Automobile Insurance Company; doc. no. P04-03-018; April 22, 2004, 10:30 a.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Barbara J. Keiser and David M. Gould; file no. 03-215-06037; Encompass Insurance Company; doc. no. PH04-03-007; May 12, 2004, 11 a.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Daniel A. and Denise Kozlina Deceder; file no. 04-308-70415; Erie Insurance Exchange; doc. no. PI04-03-020; April 29, 2004, 2 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured

wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-536. Filed for public inspection March 26, 2004, 9:00 a.m.]

### **Review Procedure Hearings under the Unfair Insurance Practices Act**

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the company's termination of the insureds' policy. The administrative hearing will be held in the Insurance Department's regional office in Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Steven and Theresa Shuback; file no. 04-303-70308; Millers Capital Insurance Company; doc. no. PI04-03-019; April 29, 2004, 3 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the

hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-537. Filed for public inspection March 26, 2004, 9:00 a.m.]

**State Farm Mutual Automobile Insurance Company; Requesting Authority to Increase Rates and Modify the Attained Age Rating Structure for Individual Standardized Medicare Supplement Plans; Rate Filing**

On March 12, 2004, the Insurance Department (Department) received from State Farm Mutual Automobile Insurance Company a filing to increase rates and modify the attained age rating structure for its individual Medicare supplement plans. The filing applies to forms 97037, 97038, 97039 and 97041, which correspond to standardized plans A, C, F and B, respectively. The company requests an aggregate rate increase of 6.3% for each form to be effective September 1, 2004, with actual adjustments ranging from -4.4% to 19.9% depending on the age of the insured. The proposed adjustment will affect 11,998 insureds and will result in additional annual premium of approximately \$1.2 million.

Unless formal administrative action is taken prior to June 10, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, select "Consumer Information" on the left side. Under the "General Information" heading, click on "Notices." The PDF copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-538. Filed for public inspection March 26, 2004, 9:00 a.m.]

**Michael R. Toney; Hearing**

**License Denial; Doc. No. AG04-03-015**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

A prehearing telephone conference initiated by this office is scheduled for April 28, 2004, at 11 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before March 30, 2004. A hearing shall occur on May 18, 2004, at 1 p.m. in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA.

On or before May 4, 2004, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 7, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before May 14, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-539. Filed for public inspection March 26, 2004, 9:00 a.m.]

**Robert F. Walters, Jr.; Hearing**

**Order to Show Cause; Doc. No. SC03-12-021**

A prehearing telephone conference initiated by this office is scheduled for April 14, 2004, at 10:30 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before March 26, 2004. A hearing shall occur on April 27, 2004, at 10:30 a.m. in the Administrative Hearings Office, Capitol Associates Buildings, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

On or before April 16, 2004, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with

a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

On or before April 16, 2004, the parties shall file a joint statement of stipulated facts and documents. Stipulation to a fact or to admissibility of a document will not waive or impair a party's right to argue weight or relevancy. Facts and documents contained in the stipulation need not be recited in prehearing statements.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before April 2, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answers to petitions to intervene, if any, shall be filed on or before April 9, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-540. Filed for public inspection March 26, 2004, 9:00 a.m.]

## OFFICE OF ATTORNEY GENERAL

### Initial Publication of Tobacco Product Manufacturer Directory

The Tobacco Product Manufacturer Directory required under 35 P.S. § 5702.301 will appear on the website of the Office of Attorney General, [www.attorneygeneral.gov](http://www.attorneygeneral.gov), on March 27, 2004.

GERALD J. PAPPERT,  
*Attorney General*

[Pa.B. Doc. No. 04-541. Filed for public inspection March 26, 2004, 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, April 5, 2004, at 9:30 a.m. at 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, (717) 346-0469.

ALAN B.K. RABINOWITZ,  
*Administrator*

[Pa.B. Doc. No. 04-542. Filed for public inspection March 26, 2004, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by April 19, 2004. 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-00111011, Folder 4. The Rose Limousine Service, Inc.** (676 Main Road, Hanover Township, Luzerne County, PA 18706-6055), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the County of Luzerne, and from points in said county, to points in Pennsylvania, and return.

#### **Application of the following for certificate of public convenience approving the operation of motor vehicles as *common carriers* for the transportation of *household goods* by transfer as described under the application.**

**A-00120525, Folder 2. Anthony G. Furman t/d/b/a Platinum Moving Company** (2332 North 29th Street, City and County of Philadelphia, PA 19132)—household goods in use, between points in the City and County of Philadelphia, and from points in said city and county, to points in Pennsylvania, and vice versa.

#### **Applications of the following for *amendment* to the certificate of public convenience approval of the right and privilege to *discontinue/abandon* operating as *common carriers* by motor vehicle and for cancellation of the certificate of public convenience as described under each application.**

**A-00117022, Folder 2, Am-A. Aloysius K. Drapcho t/d/b/a Drapcho Shuttle Service** (607 Dwight Street, Coudersport, Potter County, PA 16915)—discontinuance of service—persons, in paratransit service, between points in the Borough of Coudersport, Potter County, and within an airline distance of 20 statute miles of the limits of said borough, and from points in said territory, to points in Pennsylvania, and return.

**A-00117022, Folder 1, Am-A. Aloysius K. Drapcho t/d/b/a Drapcho Shuttle Service** (607 Dwight Street, Coudersport, Potter County, PA 16915)—discontinuance of service—persons, in airport transfer service, from points in the Borough of Coudersport, Potter County, and within an airline distance of 30 statute miles of the limits of said borough, to airports located in Pennsylvania.

**Complaint**

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Travel With Comfort, Inc.; Doc. No. A-00115561C; A-00115561; Fs. 1 & 3*

**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 Travel With Comfort, Inc., respondent, maintains its principal place of business at P. O. Box 23105, Philadelphia, PA 19124.

2. That respondent was issued a certificate of public convenience by this Commission on July 8, 2003, at Application Docket No. A-00115561.

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 2001, 2002 and 2003.

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-00115561 Fs. 1 & 3.

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.

**Complaint**

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. S. J. Falbo Italian Cheese Co.; Doc. No. A-00112881C; A-00112881; Fs. 1 & 3*

**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 S. J. Falbo Italian Cheese Co., respondent, maintains its principal place of business at 9 Empire Boulevard, Moonachie, NJ 07074.

2. That respondent was issued a certificate of public convenience by this Commission on August 18, 1997, at Application Docket No. A-00112881.

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 2001, 2002 and 2003.

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-00112881.

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.

**Complaint**

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Michael J. Alexander t/a Alexander's Delivery; Doc. No. A-00112496C; A-00112496*

**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 Michael J. Alexander, t/a Alexander's Delivery, respondent, maintains his principal place of business at 1119 Fifth Street, Sandusky, OH 17660.

2. That respondent was issued a certificate of public convenience by this Commission on April 11, 1996, at Application Docket No. A-00112496.

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 2001, 2002 and 2003.

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-00112496.

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.

### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Dispatch Trucklines, Inc.; Doc. No. A-00111144C; A-00111144*

### 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 Dispatch Trucklines, Inc., respondent, maintains its principal place of business at 85 Adams Cir., Pinhurst, NC 28374.

2. That respondent was issued a certificate of public convenience by this Commission on January 13, 1995, at Application Docket No. A-00111144.

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 2001, 2002 and 2003.

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-00111144.

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. 04-543. Filed for public inspection March 26, 2004, 9:00 a.m.]

### Water Service

**A-210104F0049. 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 Caln Township, Chester 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 April 12, 2004. 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:* Mark J. Kropilak, Esquire,  
762 West Lancaster Avenue, Bryn Mawr, PA 19010.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-544. Filed for public inspection March 26, 2004, 9:00 a.m.]



### Water Service

**A-212640F2000. Roulet Water Company.** Application of Roulet Water Company for approval of: (1) the transfer by sale of Roulet Water Company to the Township of Roulette; and (2) the abandonment or discontinuance of water utility service by Roulet Water Company in the Township of Roulette, Potter 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 April 12, 2004. 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:* Roulet Water Company

*Through and By Counsel:* Patrick H. Larsen, Esquire, Acker and Larsen, P. C., 215 North Main Street, Coudersport, PA 16915.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-545. Filed for public inspection March 26, 2004, 9:00 a.m.]

## SECURITIES COMMISSION

### Securities Transaction Exemption for SEC Rule 144A Exchange Transactions in Debt Securities with Certain Accredited Investors; Exemption Order

*Whereas*, Rule 144A adopted by the United States Securities and Exchange Commission (SEC) under the Securities Act of 1933 (1933 Act) (17 C.F.R. § 230.144A) applies to private resales of securities purchased by a Qualified Institutional Buyer (QIB) from an issuer (Rule 144A Issuer) in a nonpublic offering of securities exempt under Section 4(2) of the 1933 Act (Rule 144A Offering); and

*Whereas*, Under SEC Rule 144A, a QIB may effect a private resale of securities purchased in a Rule 144A Offering to an institutional accredited investor as defined in Rule 501(a)(1), (2), (3) or (7) of SEC Regulation D (17 C.F.R. §§ 230.501(a)(1)—(3), (7)) (Institutional Accredited Investor); and

*Whereas*, It is not uncommon for a Rule 144A Issuer to file a registration statement with SEC under Section 5 of

the 1933 Act subsequent to a Rule 144A Offering in which the Rule 144A Issuer seeks to register debt securities with the same characteristics as the debt securities it sold in the Rule 144A Offering (Registered Debt) and, for no additional consideration, exchange the Registered Debt for debt securities sold in the Rule 144A Offering (Exchange Transaction); and

*Whereas*, An Institutional Accredited Investor located in the Commonwealth of Pennsylvania that holds debt securities sold in the Rule 144A Offering may receive an offer to exchange those debt securities for Registered Debt; and

*Whereas*, The Pennsylvania Securities Commission (Commission), after due deliberation, has determined that it is necessary and appropriate and consistent with the purposes fairly intended by the Pennsylvania Securities Act of 1972 (1972 Act) to issue the following order:

*Now, Therefore*, on this 16th day of March 2004, the Commission, pursuant to Section 203(r) of the 1972 Act, finds that it is neither necessary nor appropriate for the protection of investors to require registration under Section 201 of the 1972 Act for the offer or sale of a security in a transaction if the following requirements are met:

(1) A person who owns outstanding debt securities (and any related guarantees) exchanges those securities for debt securities (and any related guarantees) of the same issuer which are the subject of an effective registration statement filed with the United States Securities and Exchange Commission (SEC) under Section 5 of the Securities Act of 1933 (15 U.S.C. § 77(e)) (Exchange Transaction).

(2) The outstanding debt securities (and any related guarantees) are "restricted securities" as that term is defined in SEC Regulation 144(a)(3) (17 C.F.R. § 230.144(a)(3)).

(3) No consideration is paid by the owner of the outstanding debt securities (and any related guarantees) in connection with the Exchange Transaction.

(4) There are no material differences in the terms of the outstanding debt securities (and any related guarantees) and the debt securities (and any related guarantees) which are the subject of the Exchange Transaction.

The effective date of this Order shall begin on the date the Order is published in the *Pennsylvania Bulletin* and shall end on the date of publication in the *Pennsylvania Bulletin* of a final rule adopted by the Commission codifying an exemption containing substantially the same terms as this Order in Title 64, Chapter 203 of the *Pennsylvania Code*.

JEANNE S. PARSONS,  
*Secretary*

[Pa.B. Doc. No. 04-546. Filed for public inspection March 26, 2004, 9:00 a.m.]