

PENNSYLVANIA BULLETIN

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Agencies in this issue:

The Courts
Department of Agriculture
Department of Banking
Department of Environmental Protection
Department of General Services
Department of Health
Department of Revenue
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Environmental Hearing Board
Fish and Boat Commission
Health Care Cost Containment Council
Independent Regulatory Review Commission
Insurance Department
Liquor Control Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Public School Employees' Retirement Board
State Board of Vehicle Manufacturers, Dealers and
Salespersons

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No. 367, June 2005

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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 2005.

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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Rule 215 of the Pennsylvania Rules of Disciplinary Enforcement; No. 42 Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 24th day of May 2005, Rule 215(c) of the Pennsylvania Rules of Disciplinary Enforcement is amended to read as follows.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin* and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 215. [Resignations by attorneys under disciplinary investigation] Discipline on consent.

(a) **Voluntary resignation.**—An attorney who is the subject of an investigation into allegations of misconduct by the attorney may submit a resignation, but only by delivering to the Board a verified statement stating that the attorney desires to resign and that:

* * * * *

(b) **Order of disbarment.**—Upon receipt of the required statement, the Board shall file it with the Supreme Court and the Court shall enter an order disbarring the attorney on consent.

(c) **Confidentiality of resignation statement.**—The order disbarring the attorney on consent shall be a matter of public record, but for the purposes of Enforcement Rule 402(a)(1) (relating to confidentiality) the order shall not be an order for the imposition of public discipline. The statement required under the provisions of subdivision (a) of this rule shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement proceeding except:

* * * * *

(d) **Other Discipline on Consent.**—At any stage of a disciplinary investigation or proceeding, a respondent-attorney and Disciplinary Counsel may file a joint Petition in Support of Discipline on Consent. The Petition shall include the specific

factual allegations that the attorney admits he or she committed, the specific Rules of Professional Conduct and Rules of Disciplinary Enforcement allegedly violated and a specific recommendation for discipline. The Petition shall be accompanied by an affidavit stating that the attorney consents to the recommended discipline and that:

(1) the consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of submitting the consent; and whether or not the attorney has consulted or followed the advice of counsel in connection with the decision to consent to discipline;

(2) the attorney is aware that there is presently pending an investigation into, or proceeding involving, allegations that the respondent-attorney has been guilty of misconduct as set forth in the Petition;

(3) the attorney acknowledges that the material facts set forth in the Petition are true; and

(4) the attorney consents because the attorney knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, the attorney could not successfully defend against them.

(e) **Handling of Petition.**—The Petition shall be filed with the Board. The filing of the Petition shall stay any pending proceeding before a hearing committee, special master or the Board. The Petition shall be reviewed by a panel composed of three members of the Board who may approve or deny.

(f) **Private discipline.**—If a panel approves a Petition consenting to an informal admonition or private reprimand, with or without probation, the Board shall enter an appropriate order, and it shall arrange to have the attorney appear before Disciplinary Counsel for the purpose of receiving an informal admonition or before a designated panel of three members selected by the Board Chair for the purpose of receiving a private reprimand.

(g) **Public discipline.**—If a panel approves a Petition consenting to public censure or suspension, the Board shall file the recommendation of the panel and the Petition with the Supreme Court. If the Court grants the Petition, the Court shall enter an appropriate order disciplining the attorney on consent. The order and the Petition shall be a matter of public record in accordance with Enforcement Rule 402.

(h) **Denial of Petition.**—If either the panel of the Board or the Supreme Court denies a Petition, the members of the Board who participated on the reviewing panel shall not participate in further consideration of the same matter. Any stayed proceedings shall resume as if the Petition had not been filed and neither the Petition nor the affidavit may be used against the attorney in any disciplinary proceeding or any other judicial proceeding.

(i) **Costs.**—The panel of the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the matter shall be paid by the attorney as a condition to the

grant of the Petition. All expenses taxed under this subdivision shall be paid by the attorney before the imposition of discipline under subdivision (f) or (g).

[Pa.B. Doc. No. 05-1113. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IV]

Rule 404 Amendment and Revision of Comment

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Amendment and Comment Revision to Pa.R.E. 404. These changes are being proposed to eliminate inconsistencies with other rule and conflicts with certain statutes.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed changes precede the Report. Additions are bold, and deletions are bold and in brackets.

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

Richard L. Kearns
Staff Counsel
Supreme Court of Pennsylvania
Committee on Rules of Evidence
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than July 11, 2005

By the Committee on Rules of Evidence

HONORABLE RICHARD A. LEWIS,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 404. Character Evidence Not Admissible To Prove Conduct; Exceptions; Other Crimes.

(a) *Character Evidence Generally.* Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except [**as follows**]:

(1) *Character of Accused.* In a criminal case, evidence of a pertinent trait of character of the accused is admissible when offered by the accused, or by the prosecution to rebut the same. **If evidence of a trait of character of the alleged victim of the crime is offered by an accused and is admitted under subsection (2), evidence of the same trait of character of the accused is admissible if offered by the prosecution.**

(2) *Character of [Complainant] Alleged Victim.*

(i) In a criminal case, **subject to limitations imposed by statute**, evidence of a pertinent trait of character of the [**complainant**] **alleged victim** is admissible when offered by the accused, or by the prosecution to rebut the same.

* * * * *

(b) *Other Crimes, Wrongs, or Acts.*

* * * * *

(4) In criminal cases, the prosecution shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of **the general nature** of any such evidence it intends to introduce at trial.

Comment—2005

[**The basic principle of Pa.R.E. 404 is consistent with F.R.E. 404 and prior Pennsylvania case law. Pa.R.E. 404, with certain enumerated exceptions, provides that character evidence cannot be used to prove conduct. Under this rule, evidence that an employee had a character trait of absent-mindedness would not be admissible to prove that on a particular occasion he or she failed to fasten the safety latch on a piece of equipment. The rule does not preclude the use of character evidence for other purposes, including where character is an element of a claim or defense. See, e.g., *Dempsey v. Walso Bureau, Inc.*, 431 Pa. 562, 246 A.2d 418 (1968) (negligent employment); *Commonwealth ex rel. Grimes v. Grimes*, 281 Pa. Super 484, 422 A.2d 572 (1980) (parental fitness).**

The exceptions to the rule differ from F.R.E. 404 as indicated below.

***Subsection (a).* Subsection (a) of the rule differs from F.R.E. 404(a).**

Paragraph (a)(1) has not been amended to conform with the December 1, 2000 amendments to F.R.E. 404(a)(1), which provide that the prosecution may respond to the accused's offer of evidence of the character of the alleged victim of a crime by offering evidence of the same trait of character of the defendant.

Subsection (a)(2) is consistent with prior Pennsylvania case law. See, e.g., *Commonwealth v. Dillon*, 528 Pa. 417, 598 A.2d 963 (1991); *Commonwealth v. Amos*, 445 Pa. 297, 284 A.2d 748 (1971); see also Pa.R.E. 405 (regarding means of proof of the complainant's character for violence).

The exception provided at Pa.R.E. 404(a)(2)(iii) does not appear in the federal rule. It is consistent with Pennsylvania decisional law. See *Bell v. Philadelphia*, 341 Pa. Super. 534, 491 A.2d 1386 (1985).

***Subsection (b).* This paragraph is similar to F.R.E. 404(b) in recognizing legitimate evidentiary purposes for the introduction of evidence of other crimes, wrongs or bad acts. Unlike the Federal rule, however, Pennsylvania law provides a distinct standard for balancing the inherent prejudice of such evidence against its probative value. Under federal law, if evidence of other crimes, wrongs or bad acts is offered for a legitimate evidentiary purpose, the evidence is admissible if it meets the general standard of F.R.E. 403. F.R.E. 403 provides that relevant evidence is admissible unless its probative value is**

substantially outweighed by prejudicial danger. Under Pennsylvania law, evidence of other crimes, wrongs or bad acts offered for a legitimate evidentiary purpose is admissible only if its probative value outweighs the potential for prejudice. See *Commonwealth v. Morris*, 493 Pa. 164, 425 A.2d 715 (1981). Pa.R.E. 404(b)(3) codifies Pennsylvania decisional law and is an exception to the general rule defined by Pa.R.E. 403.]

Pa.R.E. 404 is an exception to the general rule set forth in Pa.R.E. 402 that all relevant evidence is admissible. Pa.R.E. 404 is, in principle, consistent with F.R.E. 404. However, the Pennsylvania rule uses more subdivisions to enhance clarity and readability. A few substantive differences accommodate Pennsylvania statutory and prior case law.

Section (a)

This section promulgates a general rule that evidence of a person's character or trait of character is not admissible to prove conduct in conformity therewith on a particular occasion. The rationale is that the relevance of such evidence is usually outweighed by its potential for creating unfair prejudice, particularly with a jury. Though this disqualifies it for admission under Rule 403, the importance of such evidence, and the frequency with which it is encountered, merits special treatment.

This general rule of inadmissibility is consistent with prior Pennsylvania case law. See, e.g., *Greenberg v. Aetna Ins. Co.*, 427 Pa. 494, 235 A.2d 582 (1967) (reversible error to permit the plaintiff to testify that he served in the United States Armed Forces in World War II and distinguished himself with a heroic record).

This section does not preclude the introduction of evidence of a person's character, or trait of character, to prove something other than conduct in conformity therewith. For example, a party must sometimes prove a person's characteristic because it is an element of the party's claim or defense. See, e.g., *Dempsey v. Walso Bureau, Inc.*, 431 Pa. 562, 246 A.2d 418 (1968) (alleged negligent employment of a violence-prone security guard); *Commonwealth ex rel. Grimes v. Grimes*, 281 Pa. Super 484, 422 A.2d 572 (1980) (parental fitness in a custody case); *Christiansen v. Silfies*, 667 A.2d 396 (Pa. Super. 1995) (alleged negligent entrustment of a truck to a man with a poor driving record).

A person's trait of character is not the same as a person's habit. The distinction is discussed in the Comment to Rule 406, *infra*. If a person's trait of character leads to habitual behavior, evidence of the latter is admissible to prove conduct in conformity therewith on a particular occasion, pursuant to Rule 406.

Like the federal rule, section (a) has three subsections of exceptions. They should be read together with section (a) of Rule 405, which describes two methods of proving a person's character, or trait of character.

Subsection (1), which deals with the character of a defendant in a criminal case, is essentially the same as subsection (1) of F.R.E. 404(a). It allows the defendant to "put his character in issue," usually by calling character witnesses to testify to his good

reputation for a law-abiding disposition, or other pertinent trait of character. If the defendant does so, the Commonwealth may (1) cross-examine such witnesses, subject to the limitations imposed by Rule 405(a), and (2) offer rebuttal evidence.

If a defendant in a criminal case chooses to offer evidence of a pertinent trait of character of an alleged victim under subsection (2)(i), then subsection (1) allows the Commonwealth to offer evidence that the defendant has the same trait of character. For example, in an assault and battery case, if the defendant introduces evidence that the alleged victim was a violent and belligerent person, the Commonwealth may counter by offering evidence that the defendant was also a violent and belligerent person. Thus, the jury will receive a balanced picture of the two participants to help it decide who was the first aggressor.

Subsection (2), unlike subsection (2) of F.R.E. 404(a), is divided into three subsections.

Subsection (i), like the federal rule, gives an accused the right to introduce evidence of a pertinent trait of character of alleged the victim of the crime with which the accused is charged. However, the Pennsylvania rule differs from the federal rule by recognizing statutory limitations on this right. In particular, 18 Pa.C.S. § 3104 (the Rape Shield Law) often prohibits the accused from introducing evidence of the alleged victim's past sexual conduct, including reputational evidence thereof. See Comment under Rule 412 (not adopted), *infra*.

Subsection (ii), which is essentially the same as the federal rule, applies only in homicide cases in which the defendant offers evidence that the deceased was the first aggressor. It allows the Commonwealth to rebut the defendant's evidence by introducing evidence of the deceased's good reputation for peacefulness.

Subsection (iii), which applies only to a civil action for assault and battery, is not part of the federal rule. It is based on *Bell v. Philadelphia*, 341 Pa. Super. 534, 491 A.2d 1386 (1985).

Section (b)

While Pa.R.E. 404(b) uses the comprehensive word "acts," the vast majority of cases applying it, and its federal counterpart, are criminal cases that deal with *bad* acts, i.e., acts that are also either crimes or non-criminal wrongs. However, the rule applies in civil cases, too, and it applies to good acts as well. See *Ansell v. Green Acres Contracting Co., Inc.*, 347 F.3d 515, 520 (3d Cir. 2003), interpreting the similar federal rule.

Evidence of other crimes, wrongs or bad acts, is powerful evidence. This is particularly so when it is offered against a defendant in a criminal case. By far the issue most often litigated under Rule 404(b) is whether such evidence can be introduced against an accused for some reason other than to prove that the accused acted in conformity with his (or her) prior bad conduct.

Section (b) is similar to section (b) of F.R.E. 404. Unlike the federal rule, it is divided into four subsections to enhance clarity:

Subsection(1), which uses the same language as the federal rule, treats evidence of other crimes, wrongs, or acts, the same as section (a) treats

evidence of a person's character, or trait of character, i.e., it makes such evidence inadmissible to prove conduct in conformity therewith.

Subsection (1) is consistent with prior Pennsylvania case law. See *Commonwealth v. Fortune*, 464 Pa. 367, 346 A.2d 783 (1975) (in murder case, reversible error to admit evidence that the defendant participated in six robberies other than the one that culminated in the murder with which he was charged); *Commonwealth v. Seiders*, 531 Pa. 582, 614 A.2d 689 (1992) (in statutory rape case, reversible error to admit evidence that the defendant had previously been convicted of indecent assault and endangering the welfare of children).

Subsection (1) rejects the alternate holding in *Commonwealth v. Amos*, 445 Pa. 297, 284 A.2d 748 (1971), a murder case in which the defendant pled self-defense, that it was error to preclude the defendant from introducing the alleged victim's criminal record to prove that the victim was a man of "quarrelsome and violent character," and thus the aggressor.

Subsection (2), like the federal rule, contains a non-exhaustive list of purposes, other than proving character in order to show action in conformity therewith, for which evidence of other crimes, wrongs, or acts committed by a person may be admitted. When the evidence is admitted for such a purpose, the party against whom it is offered is entitled, upon request, to a limiting instruction to the jury. See *Commonwealth v. Hutchinson*, 571 Pa. 45, 811 A.2d 556 (2002). See also Pa.R.E. 105.

Subsection (3) is an adjunct to subsection (2). However, subsection (3) applies only in criminal cases. Unlike the federal rule, it creates a special balancing test that makes it harder for a party, usually but not always the Commonwealth, to introduce relevant evidence of other crimes, wrongs, or acts committed by a person. Under Rules 402 and 403, most other evidence, as far as relevance is concerned, is admissible unless its probative value is outweighed by one or more of the six negative factors set forth in Rule 403. Under subsection (3), relevant evidence of other crimes, wrongs, or acts committed by a person is admissible only if its probative value outweighs its potential for prejudice. This is a codification of an evidential rule enunciated in *Commonwealth v. Morris*, 493 Pa. 164, 425 A.2d 715 (1981).

When weighing the potential for prejudice of evidence of other crimes, wrongs, or acts, the trial court may consider whether, and how much, such potential for prejudice can be reduced by cautionary instructions. See *Commonwealth v. Nolen*, 535 Pa. 77, 634 A.2d 192 (1993); *Commonwealth v. LaCava*, 542 Pa. 160, 666 A.2d 221 (1995); *Commonwealth v. Miles*, 545 Pa. 500, 681 A.2d 1295 (1996).

Subsection (4), which applies only in criminal cases, and only to the Commonwealth, requires that reasonable notice be given before evidence of other crimes, wrongs, or acts is introduced at trial. It is the same as the federal rule. Its purpose is to prevent unfair surprise, and to give the defendant reasonable time to prepare an objection to, or ready a rebuttal for, such evidence.

* * * * *

REPORT

Proposed Amendment and Comment Revision to Pa.R.E. 404

The current subsection (a)(1) gives a defendant in a criminal case the option to introduce evidence of a pertinent character trait of the alleged victim. However, unlike F.R.E. 404(a)(1), it fails to give the prosecution the right to counter by introducing evidence of the same character trait of the defendant. This change will give the trier of fact a balanced picture of the two participants.

In subsection (a)(2), the word "complainant" is changed to "alleged victim" to conform to the federal rules and the rules of other states. This subsection is subordinated to statutory limitations, specifically the Rape Shield law with which the current subsection conflicts.

With respect to subsection (b)(4), the notice provision is changed to conform with the federal rule and the rule in most states.

The Comment revisions reflect the changes in the text of the rule.

[Pa.B. Doc. No. 05-1114. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Technical Amendments to Rules 205.4, 216 and 237.1; No. 431 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 19th day of May, 2005, Pennsylvania Rules of Civil Procedure 205.4, 216 and 237.1 are amended to read as follows.

Whereas prior distribution and publication of these amendments would otherwise be required, it has been determined that the amendments are of a perfunctory nature and that immediate promulgation is required in the interests of justice and efficient administration.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 205.4. Electronic Filing and Service of Legal Papers.

(a) As used in this rule, the following words shall have the following meanings:

* * * * *

"legal paper," a pleading or other paper filed in an action, but not including

* * * * *

(2) a notice of appeal from an award of a board of arbitrators or a notice of appeal or other legal paper, the filing of which is prescribed by the Rules of Civil Procedure Governing Actions and Proceedings before **Magisterial District [Justices] Judges**.

* * * * *

Rule 216. Grounds for Continuance.

(A) The following are grounds for a continuance:

* * * * *

(4) Such special ground as may be allowed in the discretion of the court[.];

(5) The scheduling of counsel to appear at any proceeding under the Pennsylvania Rules of Disciplinary Enforcement, whether:

* * * * *

(c) as a member of the Disciplinary Board[.];

(6) The scheduling of counsel to appear at any proceeding involving the discipline of a justice, judge or **magisterial district [justice] judge** under Section 18 of Article V of the Constitution of Pennsylvania, whether:

(a) as counsel for a justice, judge, or **magisterial district [justice] judge** before the special tribunal provided for in 42 Pa.C.S. § 727, the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board; or

* * * * *

Rule 237.1. Notice of Praecept for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead.

(a)(1) As used in this rule,

“judgment of non pros” means a judgment entered by praecipe pursuant to Rules 1037(a) and 1659;

Official Note: When a defendant appeals from a judgment entered in a **magisterial district [justice] judge** court, Pa.R.C.P.M.D.J. 1004(b) authorizes the appellant to file a praecipe for a rule as of course upon the appellee to file a complaint or suffer entry of a judgment of non pros. The entry of the judgment of non pros is governed by Pa.R.C.P. 1037(a) and is subject to this rule.

* * * * *

[Pa.B. Doc. No. 05-1115. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Amendment of Local Rule 1920.51(f)(3)(x) and (xi); Family Court Administrative Regulation No. 05-02

Effective immediately, Rule 1920.51(f)(3)(x) and (xi) are amended to provide as follows:

(x) Either party may within twenty (20) days after the mailing date of the Master’s report and proposed Order, file with the Clerk of Family Court a Praecipe for a trial de novo by a Judge, and shall forthwith serve time-

stamped copies thereof on the opposing counsel of record or unrepresented party, [Clerk of the Family Court], and the Permanent Master. The case thereafter shall be listed before a Judge for a full evidentiary hearing.

(xi) In the event there is no demand for a trial filed within twenty (20) days following mailing of the Report and proposed Order of the Permanent Master, such Report and proposed Order shall be submitted to the Court for approval and entry of a Decree.

By the Court

MYRNA FIELD,
Administrative Judge

[Pa.B. Doc. No. 05-1116. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Adoption of Local Rule of Criminal Procedure 106—Continuances in Summary and Court Cases; No. 103 MI 00

Administrative Order No. 12-2005

And Now, this 27th day of May, 2005, in order to provide for efficient use of judicial resources and maintain proper caseflow management, it is hereby

Ordered and Decreed, that effective July 1, 2005, the Carbon County Court of Common Pleas *Adopts* new Local Rule of Criminal Procedure CARB.R.Crim.P. 106 governing continuances in summary and court cases.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order and Rule with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of this Administrative Order and Rule in the Clerk of Court’s Office.

By the Court

ROGER N. NANOVIC,
President Judge

Rule 106 Continuances in Summary and Court Cases

All Motions for Continuance shall be filed at least three (3) working days before the scheduled event.

Any motion filed that is not in compliance with this rule shall be entertained only if the opportunity to timely file it did not exist previously or the interest of justice requires it.

[Pa.B. Doc. No. 05-1117. Filed for public inspection June 10, 2005, 9:00 a.m.]

JUNIATA AND PERRY COUNTIES**Repeal and Adoption of Rules of Civil Procedures; No. 192 of 2005; No. 2005-18****Order**

And Now, May 5, 2005, it is hereby ordered and decreed that all Perry County Rules of Civil Procedure filed prior to this date are repealed effective the date that the rules herein become effective.

The Court hereby adopts the following Perry/Juniata County Rules of Civil Procedure to be effective as follows:

(1) Local Rules 205.2(a), 206.1(a), 206.4(c), 208.2(c), 208.2(d), 208.3(a), 208.3(b), 210, 1028(c), 1034(a), and 1035.2(a) shall be effective upon publication on the UJS Web Portal (<http://ujportal.pacourts.us>),

(2) All remaining following local rules shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall file

(a) seven (7) certified copies of the Local Rules with the Administrative Office of Pennsylvania Courts,

(b) two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*,

(c) one (1) certified copy to the Civil Procedural Rules Committee, which shall then forward a copy to the Administrative Office of Pennsylvania Courts for publication on the AOPC web site,

(d) The Local Rules shall be kept continuously available for public inspection and copying in the Office of the Prothonotary and upon request and payment of reasonable costs of reproduction and/or mailing the Prothonotary shall furnish to any person a copy of the requested Local Rules.

By the Court

C. JOSEPH REHKAMP,
President Judge

Local Rules of Civil Procedure

The rules of construction found in the Pennsylvania Rules of Civil Procedure shall apply to all Local Rules of the Court of Common Pleas of the 41st Judicial District, Perry and Juniata County Branches.

BUSINESS OF THE COURTS**Rule 205.2 Filing Legal Papers with the Prothonotary**

Upon the filing of a pleading or other paper that complies with the Pennsylvania Rules of Civil Procedure, the Prothonotary shall docket the matter and coordinate with the Court Administrator's Office, to the extent

possible, to have the matter assigned to one Judge for the duration of the case. With the exception of any Petitions for Emergency Relief, all subsequent pleadings or papers filed to that docket number shall be assigned to the same Judge when and if available.

Rule 205.2(a) Requirements for Pleadings and Other Legal Papers

(1) All pleadings and other legal papers filed with the Prothonotary shall be on paper size 8 1/2 × 11 inches and secured by one staple located in the upper left hand corner.

(2) All pleadings and papers filed with the Prothonotary shall have a margin of at least one (1) inch on the top, bottom and left and at least a one-half (1/2) inch margin on the right of the page.

(3) All pleadings and papers shall be filed without blue backs, toppers or cover sheets of any kind.

Rule 206.1(a) Petition. Definition. Content. Form

(1) A petition is a request which seeks relief ancillary to a given cause of action and which avers facts not of record.

(2) The designated applications which are to proceed in a manner of a petition under Pa.R.C.P. No. 206.1 et. seq. would be an Application to Open a Default Judgment or a Judgment of Non Pros, a request for emergency relief and any application for relief other than a motion and not otherwise covered by these rules, for which a Rule to Show Cause is sought.

(3) *Emergency Relief.*

(a) Where a party files a petition seeking emergency relief, said petition shall be designated as such in the title of the petition.

(b) Upon filing the Petition for Emergency Relief, the attorney or pro se party may deliver the petition to the Court Administrator for presentation to the available Judge or deliver directly to the Judge if the Court Administrator is unavailable. Said delivery of the time stamped petition may be through the Prothonotary's Office, by hand delivery or by facsimile.

(c) The attorney or pro se party filing the Petition for Emergency Relief shall contact the Court Administrator as soon as it is determined that a Petition for Emergency Relief will be filed and shall seek to determine a time when a Judge will be available to review the petition. The attorney or pro se party shall arrange to present the Petition for Emergency Relief to the Court based on the Judge's availability.

(d) If the respondent to the Petition for Emergency Relief has counsel of record, the pro se petitioner or the petitioner's counsel shall, if possible, notify the respondent's counsel of record of the intent to file the petition as early as possible. If there is no counsel of record, the pro se petitioner or the petitioner's counsel shall, if possible, make a good faith effort to notify the pro se respondent of the intent to file the petition as early as possible.

Rule 206.3 Verification

A petition or answer to a petition containing an allegation of fact not otherwise on the record must be accompanied by a verification.

Rule 206.4(c) Rule to Show Cause. Alternative Procedures (Discretionary Issuance)

(1) Upon petition, the issuance of a Rule to Show Cause shall be discretionary pursuant to Pa.R.C.P. No. 206.5.

(2) The petition must be accompanied by an order in the form of a Rule to Show Cause pursuant to Pa.R.C.P. No.206.5. If appropriate to do so, the Court will issue the rule, set a time to respond thereto, set a deadline to file briefs, complete depositions or other appropriate discovery and schedule Argument or an Evidentiary Hearing.

(3) When any matter submitted to the Court requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(4) After the Court issues the rule, counsel for the petitioner must serve the petition and rule upon all other parties or their counsel.

Rule 208.1 Motion. Definition. Scope

Motions are defined as set forth in Pa.R.C.P. 208.1.

Rule 208.2(c) Statement of Applicable Authority

All motions shall contain a specific citation to the relevant constitutional provision, case law, statute, regulation, rule of Court or other applicable legal authority that permits the Court to grant the relief requested.

Rule 208.2(d) Certification for Uncontested Motion

If the moving party determines that the motion is uncontested, the motion shall include the written consent by opposing counsel and all unrepresented parties or the motion shall include a certification that the moving party has been in contact with opposing counsel and all unrepresented parties and that opposing counsel and all unrepresented parties do not contest the motion.

Rule 208.3(a) Alternative [Motions] Procedures

(1) All motions shall be accompanied by a proposed order setting forth the relief requested and shall indicate if briefs are requested including a proposed schedule for the same. If the moving party seeks relief based on disputed facts for which a record must be developed, the Court, upon its own motion or the request of any party including the moving party, may enter an order in the form set forth in paragraph (2) of Rule 208.4(b) providing for the issuance of a Rule to Show Cause. The procedure following issuance of the Rule to Show Cause shall be in accordance with Rule 206.7. The order required shall be substantially in the form outlined in Rule 208.4(b) (2).

(2) A motion need not be verified unless verification is required by general rule governing a particular motion or by order of Court.

(3) If a party seeks oral argument, the moving party shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(4) Upon receipt of a motion and scheduling order, the Court shall determine if Argument or an Evidentiary Hearing is necessary and issue the appropriate order.

(5) If appropriate, the Court may enter an order without Argument or an Evidentiary Hearing, however, the Court shall not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the other parties are given an opportunity for Argument or an Evidentiary Hearing.

(6) The Court, in its discretion, may deny the moving party's request for relief without the opportunity for Argument or an Evidentiary Hearing where the motion is procedurally defective, is untimely filed or fails to set forth adequate grounds for relief.

(7) The moving party shall serve a copy of the motion, any proposed order and any order scheduling Argument or an Evidentiary Hearing on opposing counsel and all unrepresented parties.

Rule 208.3(b) Alternative Procedures—Brief Required

Where the Court determines that a response or brief is required, an order shall be issued requiring the party to file an answer or brief within twenty (20) days of service of the motion, unless the time period is modified by the Court. The original brief shall be filed with the Prothonotary's Office with a Courtesy copy to the Court Administrator for transmittal to the appropriate Judge.

Rule 210 Form of Briefs

In addition to the requirements of Pa.R.C.P. No. 210, briefs shall contain:

1. a procedural history of the case;
2. a statement or counter-statement of facts;
3. a statement of the questions involved;
4. an argument with citations to the authority relied upon;
5. a conclusion setting forth the requested relief sought.

Unless special permission is obtained from the Court, briefs shall be no more than ten (10) pages in length.

Rule 211 Oral Argument

When any matter submitted to the Court requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

Rule 216 Continuances

(a) Grounds for continuances in any matter shall be those set forth in Pa.R.C.P. 216.

(b) *Procedure.*

(i) Where a party seeks a continuance for matters scheduled before a Judge, that party shall file with the Prothonotary a Motion for a Continuance and order that will allow the Court to either grant or deny said motion. The motion shall state the grounds for which a continuance is sought and whether any continuances have been granted previously. The moving party shall indicate whether the other parties object to said continuance or what efforts have been made in contacting other parties. The motion shall be filed and presented to the Court at least five (5) business days prior to the scheduled proceeding where the circumstances for the continuance allow. As soon as possible thereafter, the Court shall either grant the motion to be rescheduled by Court Administration at a later time or deny the motion for cause. Any denial of the motion shall be in writing and state the reason for the denial. The Court shall forward the Order granting or denying the continuance to the Prothonotary for filing. The moving party shall serve a

copy of the motion and order granting or denying the continuance to counsel of record, and all pro se parties.

(ii) If the proceeding relates to a support matter, the same procedure applies as in paragraph (i) of this rule above except, the moving party shall file the Motion for Continuance with the Domestic Relations Office. Said motion shall be forwarded to the Judge for consideration. The moving party shall notify Domestic Relations and indicate in the motion, if their office objects to said motion prior to the filing of the motion.

(iii) Where a party seeks a continuance for a matter scheduled before an arbitration panel, that party shall file, with the Prothonotary, a Motion for a Continuance and order that will allow the Court to either grant or deny said motion. The motion shall state the grounds for which a continuance is sought and whether any continuances have been granted previously. The moving party shall indicate whether the other parties object to said continuance or what efforts have been made in contacting other parties. The motion shall be filed and presented to the Court at least five (5) business days prior to the scheduled proceeding. Any continuances made less than five (5) business days prior to the scheduled arbitration date, except for extenuating circumstances, will require the moving party to pay a relist fee. The party filing the motion shall forward a copy of the motion and order to the Arbitration Panel Chairperson. As soon as possible thereafter, the Court shall either grant the motion to be rescheduled by Court Administration at a later time or deny the motion for cause. Any denial of the motion shall be in writing and state the reason for the denial. The Court shall forward the Order granting or denying the continuance to the Prothonotary for filing. The moving party shall serve a copy of the motion and order granting or denying the continuance to the Arbitration Panel Chairperson, counsel of record, and all pro se parties.

CIVIL ACTIONS

Rule 1028(c) Preliminary Objections

(1) Upon receipt of Preliminary Objections, the Court shall schedule a time and date for the Preliminary Objections to be heard. The moving party shall submit a scheduling order.

(2) When Preliminary Objections are submitted to the Court, which requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(3) If the Preliminary Objections are cured by the filing of an amended pleading prior to the scheduled Argument or Hearing, it is the responsibility of the party that filed the Preliminary Objections to notify the Court that the scheduled Argument or Hearing is no longer required by filing a Praecipe to Withdraw said objections.

(4) If the Court determines that briefs will be necessary in order to dispose of the Preliminary Objections or if requested by a party, either before or after Argument, a briefing schedule shall be set by the Court. The original brief shall be filed with the Prothonotary's Office with a Courtesy copy to the Court Administrator for transmittal to the appropriate Judge.

(5) The moving party shall serve a copy of the motion, any proposed order and any order scheduling argument or setting up a briefing schedule on opposing counsel and all unrepresented parties.

Rule 1034(a) Motion for Judgment on the Pleadings

(1) Upon receipt of a Motion for Judgment on the Pleadings and scheduling order in accordance with Pa.R.C.P. 1034, the Court may schedule a time and date for Argument on the motion.

(2) When a Motion for Judgment on the Pleadings is submitted to the Court, which requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(3) If the Court determines that briefs are necessary or if requested by a party, either before or after Argument, a briefing schedule shall be set by the Court. The original brief shall be filed with the Prothonotary's Office with a Courtesy copy to the Court Administrator for transmittal to the appropriate Judge.

(4) The moving party shall serve a copy of the motion, any proposed order and any order scheduling Argument or setting up a briefing schedule on opposing counsel and all unrepresented parties.

Rule 1035.2(a) Motion [for Summary Judgment]

Motions for Summary Judgment shall be disposed of in the same manner as Motions for Judgment on the Pleadings under Local Rule 1034(a).

COMPULSORY ARBITRATION

Rule 1301 Scope [Cases for Submission]

A. Compulsory arbitration of matters, as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S. § 7361, shall apply to all civil cases wherein the amount in controversy, exclusive of interest and costs, shall be thirty-five thousand dollars (\$35,000.00) or less, including appeals from a civil judgment of a Magisterial District Judge, except those involving title to real estate, actions in equity, or actions for declaratory relief. Such actions shall be submitted to and heard by a Board of Arbitration consisting of three attorneys.

B. The amount in controversy generally will be determined by the pleadings or by an agreement of the attorneys, however, the Court, on its own motion or on the motion of any party, may, based upon affidavits, depositions, stipulations of counsel or after hearing, determine that the amount actually in controversy does not exceed thirty-five thousand dollars (\$35,000.00) and enter an order certifying the case to a board of arbitration. In the event that a case within the arbitration limits is consolidated with a case involving more than the arbitration limits after the former has been referred to a Board of Arbitrators, the order of consolidation will remove the same from the jurisdiction of the Board of Arbitrators.

C. An action will be referred to arbitration when either party or its counsel files a praecipe with the Prothonotary certifying that the pleadings are closed and the matter is ready for arbitration and shall include the estimated amount of time needed for the arbitration and list all counsel of record. A copy of the arbitration praecipe shall immediately be delivered to Court Administration and all other counsel.

D. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference.

Rule 1301.1 Agreement of Reference

Cases, whether or not in litigation and regardless of the amount in controversy, may be heard by a Board of Arbitration upon agreement of counsel for all parties in the case. Such agreement shall be evidenced by providing in writing a document signed by counsel for all sides and shall be filed with the Prothonotary, who will forward a copy to Court Administration. Said agreement shall define the issues involved for determination by the Board of Arbitrators and may contain stipulations with respect to facts.

Rule 1302 List of Arbitrators. Appointment to Board. Oath

A. Court Administration shall maintain a Master List of Arbitrators consisting of attorneys actively engaged in the practice of law primarily in the 41st Judicial District.

B. Court Administration shall assign each case for which a praecipe has been received to an Arbitration Board consisting of three (3) members chosen from the Master List. At least one Arbitrator shall have practiced law for at least three (3) years. Six Arbitrators will be selected for Perry County and the Chairman shall assign the cases to said Arbitrators. No two members shall be appointed from the same firm or association of attorneys, nor shall an attorney be appointed to a Board who shall be related by blood or marriage or who shall be a law partner or an associate of any Arbitrator or attorney of record in the case. Any attorney, who shall be disqualified for appointment to a Board for any of the foregoing reasons, shall be appointed to another Board for which he shall not be disqualified.

C. The Chairman of the Arbitration Board shall be selected by the Court Administrator from the Master List. The Chairman must have been admitted to the practice of law for at least 3 years. Following his or her selection the Chairman shall be responsible for notifying each other member of the Arbitration Board the case upon which he or she will serve. In determining what case a member of the Arbitration Board shall serve in the Chairman shall take into consideration all potential conflicts of interest which a member may have. The Chairman shall provide notice of the date and time for each Arbitration Hearing as required by Local Rule 1303.

D. The Court of Common Pleas in conjunction with the Board of Commissioners will establish, from time to time, the amount and method of compensation for Arbitrators. The members of the board shall not be entitled to receive their fees until after filing a report and award with the Prothonotary. A copy of said award shall be forwarded to Court Administration by the Chairperson for each case listed.

E. Any continuances made less than five (5) business days prior to the scheduled arbitration date in accordance with Local Rule 216, except for extenuating circumstances will require the moving party to pay a \$25.00 relist fee to the Prothonotary's Office. The Prothonotary will notify the Court Administrator, when said fee has been paid.

Rule 1303 Hearing. Notice

A. At the beginning of each year, the Court Administrator shall affix one day in each calendar quarter for the holding of Arbitration Hearings. All such hearings shall be held at either the Perry County or Juniata County Court House unless otherwise scheduled by the Court Administrator.

B. Upon being selected, the Chairman of the Arbitration Board shall review all cases set for arbitration on the date established by the Court Administrator and assign members of the Arbitration Board to the cases in accordance with Local Rule 1302 and the meeting room and time for the Arbitration Hearing.

C. The Chairman shall notify each of the members of the Arbitration Board of their respective assignment(s) and each of the members of the Arbitration Board, counsel of record and all unrepresented parties of the time and location of the hearings scheduled for that Arbitration day. Such notice shall be in writing and shall provide not less than thirty (30) days notice to the parties or their attorneys of record. The Chairman may send out said notice to all indicated parties or provide the same to the Prothonotary for service.

Rule 1308 Appeal. Arbitrators' Compensation. Notice

An Appeal from an Award of Arbitrators shall be filed in the Office of the Prothonotary in duplicate and shall be accompanied by the non-refundable filing fee. A copy of said Appeal shall be transmitted immediately to Court Administration. Court Administration will schedule a Pre-trial Conference on the case immediately following receipt of said Appeal. The Prothonotary shall send notice thereof to counsel of record and unrepresented parties.

Rule 1312 Form of Oath, Award and Notice of Entry of Award

A. The oath or affirmation shall be administered by the Prothonotary.

B. The Arbitration Report and Award shall be in the form set forth in Pa.R.C.P. 1312.

ABUSE ACT ACTIONS

Rule 1901.2 Scheduling

A hearing will be scheduled by Court Administration within ten (10) days from the filing of a petition. The Court will grant liberally, at the time of the hearing, continuance requests in an effort to resolve the matter short of a full hearing.

CUSTODY & VISITATION

Rule 1915.1 Scope. Definitions

These rules shall govern all actions for custody, partial custody, and visitation, including original actions to modify decrees and contempt. The rules shall be interpreted as supplementing the Rules of Civil Procedure governing custody actions. Pa.R.C.P. 1915.1 et seq.

Rule 1915.3-1 Commencement of Action

The original and three (3) copies of a Custody Complaint, or Divorce Complaint with a Custody Count or Petition for Modification or for Contempt and a Scheduling Order for Custody Court shall be filed with the Prothonotary who shall thereafter forward the original to the Court for scheduling a date in Custody Court. Said documents shall contain the information as required by Local Rules 1915.15 and 1920.12 as provided therein.

Service of any complaint or petition, notice and order referenced herein above shall be in accordance with Pa.R.C.P. 1930.4.

Rule 1915.3-2 Appointment of Conciliator and Duties

The Court shall appoint a member(s) of the Bar or other appropriate person, as an official of the Court, to:

- (a) Conciliate custody cases filed with the Court;
- (b) Recommend to the Court that Interim or Temporary Orders be entered in appropriate custody cases;
- (c) Recommend appointment of counsel for the child;
- (d) Recommend the utilization of home studies and/or expert witnesses and make a recommendation regarding the payment of the fees related to the same.
- (e) Recommend that the Court require one or more parties to attend the Parent Education Seminar in accordance with Local Rule 1919 if the same had been previously waived by the Court.
- (f) Address the issue of resolutions for contempt proceedings filed by a party in a case and make recommendations to the Court for hearing or resolution. The conciliator may not represent parties in custody matters before the Court while serving as Conciliator for the Court. The compensation of Custody Conciliators shall be set by order of Court.

Rule 1915.3-3 Conciliation Process

(a) Request for Conciliation Conference.—

After the parties have appeared for Custody Court, a Custody Conciliation Conference may be requested orally at Custody Court or thereafter by either party filing a request to schedule for conciliation. All custody matters not specifically reserved to the Court shall be scheduled for a conference before the conciliator not more than forty-five (45) days from the date of assignment by the Court.

(b) Court Ordered Participation in Conciliation—

The Court on its own motion and at any time may require the parties to attend conciliation.

(c) Attendance by the Parties—

All parties are mandated to be present at the Conciliation Conference unless attendance of the party is specifically waived by the Conciliator. Failure of a party to appear at the conference after proof of service has been filed by Petitioner may provide grounds for the entry of a Temporary Order by the Court upon the recommendation of the Conciliator. Conciliation shall commence at the designated time with or without counsel for the parties being present.

(d) Attendance of Children—

Children shall not attend the conciliation conference unless said attendance is specifically directed by the conciliator. If a party desires the child(ren) to be present at the Conciliation Conference, he/she shall make said request in writing of the Conciliator and shall furnish a copy of said request to the other party no later than seven (7) days prior to the scheduled conference. The Conciliator shall determine the appropriateness of the request on a case-by-case basis after consultation with counsel for both parties or a pro se party.

(e) Service of Motion for Custody Conciliation and Scheduling Order—

Counsel for the moving party shall serve a copy of the Scheduling Order for Conciliation upon the Respondent in accordance with Pennsylvania Rules of Civil Procedure. The petitioner shall file an Affidavit of Service verifying that the defendant was served at least ten (10) calendar days prior to the Conciliation Conference.

(f) Continuances

Continuances may be granted:

(1) If the parties believe they have an agreement which has not been fully executed, by their mutual agreement and upon 1 (one) business day's notice to the Conciliator, the conciliation may be generally continued for thirty (30) days to allow the parties to execute the agreement. Said agreement shall be finalized in accordance with Local Rule 1915.3-8. If after thirty (30) days the parties have neither presented an Agreement nor requested the conciliation to be re-scheduled, then the Conciliator will relinquish jurisdiction and a new motion and scheduling order will be required to schedule a new date for the conciliation. If before the end of the thirty day continuance it appears that the parties are unable to reach an agreement, either party may make a request that the conciliation be re-scheduled to the Conciliator.

(2) If a party or counsel desires a continuance of the Conciliation Conference for any reason other than an agreement, that party shall file a motion for a continuance with the Prothonotary. The motion shall state the grounds for which a continuance is sought and whether any continuances have been granted previously. The moving party shall indicate whether the other parties object to said continuance or what efforts have been made in contacting other parties. The motion shall be filed and presented to the Court at least five (5) business days prior to the scheduled proceeding where the circumstances for the continuance allow. The moving party shall serve said continuance and order to counsel of record or the parent, if they are proceeding unrepresented, at the last known address of record via first class mail postage pre-paid. The rescheduled date shall not be more than ninety (90) days from the date of assignment by the Court Administrator.

Rule 1915.3-4 Pre-Hearing Statement

(a) At the conference, each party shall provide the conciliator and each other with a pre-hearing statement substantially in the form provided in Local Rule 1915.26 insofar as said information is then available.

(b) A party is under a duty seasonably to amend a Pre-Hearing Statement if he or she obtains information upon the basis of which he or she knows that

i. the response was incorrect when made, or

ii. the response though correct when made is no longer true. A duty to supplement a Pre-Hearing Statement may be imposed by Order of Court.

(c) Nothing herein shall be considered to give any rights to discovery in custody matters otherwise prohibited by Pa.R.C.P. 1930.5.

Rule 1915.3-5 Statements by Parties at Conciliation

To facilitate the conciliation process and encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses, shall not be admissible as evidence in Court. The custody conciliator shall not be subject to the subpoena power of this Court to force testimony regarding information revealed during the Conciliation Conference or be a witness for or against any party, neither shall the conciliator permit the recording in any way of the proceeding.

Rule 1915.3-6 Conduct of Parties at Conciliation

The Conciliation Conference is an informal proceeding designed to assist the parties in identifying areas of agreement or disagreement and developing a parenting plan that is in the best interests of the children. The proceeding is neither confrontational nor adversarial.

Participation shall be limited to the parties and/or their counsel. All participants shall act in a cooperative manner and comply with the directives of the Conciliator.

If at any time during the conciliation process a party and/or their counsel engages in conduct inconsistent with the Rules of Professional Conduct or disrupts the conciliation process or interferes with the function of the Conciliator, the Conciliator may recess the proceeding, remove the violator and reconvene if appropriate. If a party is removed, an order may be entered in his or her absence. If an attorney is removed, his or her client can choose to continue in the process if they so desire. Any violator may be referred to a contempt proceeding.

Rule 1915.3-7 Report of Conciliator and Proposed Order

The Conciliator has fourteen (14) days within which to file a Conference Summary Report with the Prothonotary who shall forward the same to the Court. This report shall contain facts gathered by the conciliator during the conference. This report shall become a part of the Court records and a copy thereof shall be provided to the parties. The Conciliator at his or her sole discretion may recommend to the Court Interim or Temporary orders for consideration pending a custody hearing before the Court.

If recommended by the conciliator or requested by either party by the filing of a praecipe within ten (10) days of the date of mailing of the recommended Order, the Court shall direct the matter for hearing.

Rule 1915.3-8 Settled Case

If at any time prior to a scheduled proceeding, the parties are able to reach an agreement, counsel shall file within thirty (30) days an original and three (3) copies of the fully executed stipulation with three proposed orders of Court with the Prothonotary who shall forward the same to the Court for disposition. Counsel shall forward a copy of the executed stipulation to the Conciliator.

Rule 1915.5 Question of Jurisdiction or Venue. No Responsive Pleading by Defendant Required. Counterclaim. Discovery

Preliminary Objections to Jurisdiction and Venue- If a question of jurisdiction or venue is raised in Preliminary Objections, filed prior to the Conciliation Conference, such objections shall be filed with the Prothonotary and referred to the Court for disposition and the Conciliator shall continue the Conciliation Conference generally pending disposition of the Preliminary Objections. Following the disposition of Preliminary Objections, the Court may refer the matter to Conciliation. If the responding party intends to file counterclaims or cross-claims, the same shall be filed prior to the Conciliation Conference, where possible.

Rule 1915.15 Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order

(1) In addition to the information required by Pa.R.C.P. 1915.15, every complaint for Custody, Partial Custody, Visitation or Modification shall contain one of the following averments:

A. Plaintiff has been advised of the requirement to attend the seminar titled "Education Program for Separated Parents" offered by Penn State. or

B. The parties have previously attended the "Education Program for Separated Parents" program as evidenced by certificates of attendance contained in the official Court file to the following referenced case number _____ and/or verification of certificate attached hereto.

(2) The Order and Notice shall also include the following:

A. "The Court directs that within sixty (60) days after service, both parties shall register and attend the program by mailing the pre-printed "Education Program for Separated Parents" registration form, along with a registration fee of \$45.00 to Education Program for Separated Parents, Penn State Justice and Safety Institute, The Pennsylvania State University, 305 Lubert Building, Innovation Park at Penn State, University Park, PA 16802-7009."

or

B. "The parties have previously attended the "Education Program for Separated Parents" as evidenced by certificates of attendance in the official Court file to the following referenced case number _____."

Rule 1915. 26 Pre-Hearing Information

The Pre-Hearing Information required pursuant to Local Rule 1915.3-4 shall be in substantially the following form:

**Pre-Hearing Information
(to be submitted at the Conciliation Conference)***Proposed Parenting Plan:*

1. Names, addresses, ages and employment of parents and/or guardians (if different from Custody Complaint or Petition for Modification)

2. Names and ages of all children involved—state with whom living (if different from Custody Complaint or Petition for Modification)

3. Names and addresses of other parties involved (if any—Children and Youth, grandparents, foster parents, etc)

4. Has any party ever been referred to a Children and Youth Agency for alleged abuse or neglect for the subject children or any other children?

5. Has there been a Protection from Abuse Order entered against any party in the past twenty-four (24) months? If so, when?

6. Status of current Custody Orders or custody arrangements.

7. What schedule do you propose for consideration?

8. Addresses of children for past 5 years, state who had custody at each location (if different from Custody Complaint or Petition for Modification)

9. State who you believe should have legal custody (i.e. the right to make major decisions regarding the subject children.)

10. State what living arrangements you consider to be in the child(ren)'s best interests (i.e. where children should spend weekdays, weekends, holidays, vacations, where they should attend school.)

11. State any special needs your child/children may have.

12. State the kind of environment that you can provide (i.e. information about your home, neighborhood, school district, family and friend support, child care, work schedule, your availability).

13. What other issues are relevant to the resolution of this custody dispute?

Pre-Hearing Information:

1. List of Witnesses you intend to call:
 - a. fact witnesses.
 - b. Expert witnesses (attach copies of any reports currently available.)
2. Issues for resolution (e.g. suitability of physical environment, suitability of parent, unusual opportunities for enrichment, particular skills of a parent, transportation, issues related to other household members).
3. Estimated length of trial.
4. Any other reports to be used.

Rule 1919 Mandatory Seminar for Separating Parents

1. In all divorce and custody proceedings filed on or after May 1, 2004, and in such other cases as the Court shall direct, where the interests of children under the age of 18 years are involved, the parties shall, within sixty (60) days of the date a claim is filed, attend a four-hour mandatory seminar entitled "Education Program for Separated Parents."

2. In all custody/visitation proceedings filed on or after May 1, 2004, each Notice Order and complaint shall include the additional information in accordance with Perry or Juniata County Civil Rule 1915.15.

3. In all divorce proceedings filed on or after May 1, 2004, where the parties have a child or children under the age of eighteen years, every complaint shall contain the additional information required by Perry or Juniata County Civil Rule 1920.12. It shall also have attached thereto an Order directing attendance at the Seminar in the form set forth in Perry or Juniata County Civil Rule 1920.12(3).

4. The moving party shall serve the responding party with a copy of the Court Order directing attendance at the Seminar at the time a Divorce Complaint is served. A program brochure/registration form shall also be provided by the moving party to the responding party at the time of service of the complaint. A supply of said brochure/registration forms can be obtained in the Office of the Prothonotary or Court Administrator.

5. The affidavit of service shall include a statement that the opposing party was advised of the requirement to attend the "Education Program for Separated Parents" and served with the registration form.

6. Within sixty (60) days after service, both parties are required to register and attend the program by mailing the pre-printed "Education Program for Separated Parents" registration form, along with a registration fee of \$45.00 to Education Program for Separated Parents, Penn State Justice and Safety Institute, The Pennsylvania State University, 305 Lubert Building, Innovation Park at Penn State, University Park, PA 16802-7009. Any re-

quests for waiver or reduction of attendance fee can only be granted by Penn State.

7. Court approval is required for an extension of time to complete the seminar. Said requests for extension shall be made in writing and forwarded to Court Administration.

8. Failure to register and complete the program will be brought to the attention of the Court and may result in a finding of contempt and the imposition of sanctions.

DIVORCE OR ANNULMENT

Rule 1920.12 Complaint

1. In addition to the information required by Pa.R.C.P. 1920.12, every Complaint in Divorce shall contain one of the following averments:

- a. Plaintiff avers that there are no children under the age of eighteen (18) years born of the marriage; or
- b. Plaintiff avers that there are children under the age of eighteen (18) years born of the marriage namely, to wit: (list names and dates of birth.)

2. If there are children under the age of eighteen (18) years born of the marriage, the complaint shall include one of the following averments:

- a. Plaintiff has been advised of the requirement to attend the seminar "Education Program for Separated Parents;" or
- b. The parties have previously attended the "Education Program for Separated Parents" as evidenced by certificates of attendance contained in the official Court file to the following referenced case number (list case number.)

3. In the event there are children under the age of eighteen (18) years of age born of the marriage, and there is no averment that the parties previously attended the "Education Program for Separated Parents," the divorce complaint shall have attached thereto, an order in substantially the following [order] form:

: IN THE COURT OF COMMON PLEAS
 vs. : OF THE 41ST JUDICIAL DISTRICT
 : (INSERT) COUNTY, PENNSYLVANIA
 : NO.

ORDER OF COURT

AND NOW, _____, the Court directs that within sixty (60) days after service, both parties shall register and attend the program by mailing the pre-printed "Education Program for Separated Parents" registration form, along with a registration fee of \$45.00 to Education Program for Separated Parents, Penn State Justice and Safety Institute, The Pennsylvania State University, 305 Lubert Building, Innovation Park at Penn State, University Park, PA 16802-7009.

cc: Plaintiff
 Defendant
 Court Administration

Rule 1920.51 Payment of Deposit for Appointment of Master.

A deposit as determined by the Court in separate order shall be paid to the Prothonotary at the filing of the Motion for the appointment of a master. Said deposit shall be applied to the Master's bill of cost as submitted by the Master and approved by the Court.

Rule 1920.51(a)(1) Hearing by the Court. Appointment of Master. Notice of Hearing

The Order of Appointment shall note that the appointment is for all issues in all pleadings before the Court unless the same are specifically excluded.

Rule 1920.55-2 Master's Report. Notice. Exceptions. Final Decree

If exceptions are filed, the first party filing exceptions must pay in full all outstanding master's fees and costs as

set forth on the Master's Bill of costs, regardless of the recommendation of the Master as to allocation of the payment. The Court may address the issue of master's fees and costs at the time of the disposition of the exceptions.

[Pa.B. Doc. No. 05-1118. Filed for public inspection June 10, 2005, 9:00 a.m.]

RULES AND REGULATIONS

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITIES

[52 PA. CODE CH. 101]

[L-00040166]

Public Utility Security Planning and Readiness

Public Meeting held
March 3, 2005

Commissioners Present: Wendell F. Holland, Chairperson;
Robert K. Bloom, Vice Chairman; Kim Pizzingrilli

*Rulemaking Re: Public Utility Security Planning and
Readiness; Docket No. L-00040166*

Revised Final Rulemaking Order

By the Commission:

The intent of this rulemaking has always been to improve the security monitoring of our jurisdictional utilities. As mentioned in our prior orders, this rulemaking requires all jurisdictional utilities to develop and maintain written physical security, cyber security, emergency response and business continuity plans to protect the Commonwealth's infrastructure and ensure safe, continuous and reliable utility service. In accordance with the regulations, jurisdictional utilities will submit a Public Utility Security Planning and Readiness Self Certification Form (Self Certification Form) to the Public Utility Commission (Commission) attesting to compliance with the attached regulations.

Background

In the past several years, the Commission has worked closely with its jurisdictional utilities to ensure the safe and reliable delivery of utility services to citizens in the Commonwealth and to refine the emergency management and response processes.

Beginning in 1998, the Commission instituted a Year 2000 technology (Y2K) readiness formal investigation which examined the readiness of approximately 750 public utilities and conducted an assessment of Y2K readiness for twenty-three jurisdictional companies. As a result of the increased security threats across the nation, the Commission immediately surveyed its jurisdictional companies, the PJM Interconnection, and the Pennsylvania Rural Electric Association (PREA). Rail safety inspectors, gas safety inspectors and telecommunications staff were also contacted to assess their industries.

In addition, the Commission began coordinating its security efforts with the state Office of Homeland Security and submitted several comprehensive reports to the House of Representatives and the state Office of Homeland Security. Through this process, the Commission developed a security self certification process for all Commission jurisdictional utilities. The Commission directed that the Self Certification Form be submitted to the Commission yearly as part of each utility's Annual Financial or Annual Assessment Report.

Procedural History

The Physical and Cyber Security Program Self Certification Requirements for Public Utilities were issued by the Commission in a Tentative Order¹ entered on August 5, 2003 and published in the *Pennsylvania Bulletin* on August 16, 2003. Comments to the Tentative Order were due on September 5, 2003.

Comments were filed by the Pennsylvania Telephone Association (PTA), the Energy Association of Pennsylvania (EAP), Pennsylvania-American Water Company (PA-American) and The Peoples Natural Gas Company d/b/a

¹ Docket No. M-00031717.

The Pennsylvania Public Utility Commission on March 3, 2005, adopted a revised final rulemaking order requiring jurisdictional utilities to develop and maintain written physical, cyber security, emergency response and business continuity plans. The contact persons are Kimberly A. Joyce, Law Bureau, (717) 705-3819 and Darren Gill, Bureau of Fixed Utility Services, (717) 783-5244.

Executive Summary

Pursuant to 66 Pa.C.S. § 1501, public utilities must furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and make changes, alterations, and improvements in or to such service and facilities as shall be necessary for the accommodation, convenience, and safety of its patrons, employees, and the public.

The regulations require jurisdictional utilities to develop and maintain written physical security, cyber security, emergency response, and business continuity plans. In addition, jurisdictional utilities must file a Self Certification Form with the Commission documenting compliance with the above mentioned plans.

These regulations will ensure that jurisdictional utilities are effectively equipped and prepared to provide safe and reliable utility service when faced with security concerns. In addition, jurisdictional utilities will be required to review and exercise their ability to detect, prevent, respond to and recover from abnormal operating conditions on an annual basis.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 3, 2004, the Commission submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 3138 (June 19, 2004), to IRRC and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 27, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 28, 2005, and approved the final-form rulemaking.

Dominion Peoples (Dominion Peoples). Columbia Gas of Pennsylvania, Inc. (Columbia) provided late comments on September 8, 2003.

In an order entered on December 9, 2003, the Commission responded to the filed comments and determined that a self certification process for utility security programs should be instituted for the current and anticipated security compliance of all jurisdictional utilities. The Commission ordered that jurisdictional utilities complete and file with the Commission the Self Certification Form. Beginning on or after January 1, 2004,² utilities under the reporting requirements of 52 Pa. Code §§ 27.10, 57.47, 59.48, 61.28, 63.36, or 65.19 must file the Self Certification Form at Docket No. M-00031717, at the time each Annual Financial Report is filed. Beginning on or after January 1, 2004,³ utilities not subject to the reporting requirements above, but subject to the reporting requirements of 52 Pa. Code §§ 29.43, 31.10 or 33.103 must file the Self Certification Form at Docket No. M-00031717, at the time each Annual Assessment Report is filed.

The December 9, 2003 Order requires all jurisdictional utilities (including railroads) to file the Self Certification Form. The December 9, 2003 Order was not challenged by any utility and all utilities must file the Self Certification Form informing the Commission as to whether or not they have a physical security, cyber security, emergency response, and business continuity plan in place.

In the December 9, 2003, Order, the Commission further ordered the Law Bureau, in conjunction with the Bureau of Fixed Utility Services and the Bureau of Transportation and Safety, to initiate a rulemaking to include the requirement for jurisdictional utilities to develop and maintain appropriate written physical and cyber security plans, emergency response plans and business continuity plans as part of the Commission's regulations.

To be clear, the rulemaking goes further than the December 9, 2003 Order and requires jurisdictional utilities to affirmatively state that they have the four plans in place, as described in the rulemaking. This rulemaking also includes the requirement that jurisdictional utilities submit the Self Certification Form to the Commission.

On March 18, 2004, at Docket No. L-00040166, the Commission adopted the proposed regulations governing the security planning and readiness of Commission jurisdictional utilities in Pennsylvania. This Proposed Rulemaking Order was published in the *Pennsylvania Bulletin* on June 19, 2004 with comments due on July 19, 2004. After publication in the *Pennsylvania Bulletin* and service upon numerous associations including those that commented to HR 361, the Commission received timely filed comments from the following parties: the Pennsylvania Telephone Association (PTA), Allegheny Power Company (Allegheny Power), AT&T Communications of Pennsylvania, LLC (AT&T) and joint comments from United Telephone Company of Pennsylvania (United Telephone) and Sprint Communications Company L.P. (Sprint), collectively referred to as Sprint. The Commission also received comments on August 18, 2004 from the Independent Regulatory Review Commission (IRRC).

On October 5, 2004, the Commission entered an Order considering the comments timely filed by all of the parties

² This group includes common carriers of passengers and/or household goods and jurisdictional telecommunications, electric, gas, steam heating and water/wastewater utilities.

³ This group includes common carriers and forwarders of property and railroad carriers.

and IRRC. As a result of the comments, the Commission made several changes to the proposed regulations. The Final Rulemaking Order was then sent to IRRC for approval its public meeting, which was scheduled on November 18, 2004.

On November 12, 2004, after the due date⁴ for comments had expired, Norfolk Southern Railway Company, CSX Transportation, Inc., Canadian National Railway Company, Canadian Pacific Railway, and Consolidated Rail Corporation (hereinafter referred to as Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail) sent comments via email and facsimile to the Commissioners of the PUC and its Chief Counsel regarding the Final Rulemaking Order previously entered on October 5, 2004.

In their comments, Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail asserted that the Public Utility Security Planning and Readiness regulations attached to the Final Rulemaking Order should not apply to them. After a series of four Commission Orders, this was the first time that Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail had commented in this proceeding.

In order to more fully understand Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail's concerns with the Final Rulemaking Order and their objection to filing the Self Certification Form pursuant to the Commission's regulation, the Commission withdrew the Final Rulemaking Order and issued a Secretarial Letter on December 29, 2004 providing notice of a revision to the Final Rulemaking Order.⁵

In the Secretarial Letter, the Commission proposed an addition to the rulemaking limiting the applicability of the regulation for those entities regulated by the Federal Railroad Safety Act (FRSA), 49 U.S.C.A. §§ 20101—20153, and the Hazardous Materials Transportation Act (HMTA), 49 U.S.C.A. §§ 5101—5127. Second, the Commission sought comment on the Commission's rulemaking in relation to Act 183 (new Chapter 30), which applies to the telecommunication's industry. 66 Pa.C.S. § 3010—3019.

Before discussing comments from the above mentioned parties, we note one change in the final form regulation. The Self Certification Form was attached to the proposed rulemaking for informational purposes. Comments made to this form by IRRC and the other parties will be addressed later in this order. However, the Self Certification Form will not be included as an Appendix in the final form regulation. As stated in the final form regulations, at § 101.3(d), the Self Certification Form is available at the Secretary's Bureau and on the Commission's website.

Discussion

Upon due consideration of the comments, we make the following determinations regarding each proposed section at 52 Pa. Code §§ 101.1—101.6.

Proposed regulations at 52 Pa. Code §§ 101.1—101.7

§ 101.1. Purpose

This section of the proposed regulation establishes the purpose of Chapter 101, relating to public utility security preparedness through self certification.

⁴ Comments were due on July 19, 2004.

⁵ The due date for comments to the Secretarial Letter was later extended to February 11, 2004.

Positions of the Parties

IRRC comments that the terms “jurisdictional utility” and “infrastructure” need to be defined or cross referenced as used in this section.

Disposition

The Commission has authority to supervise and regulate certain utilities within the Commonwealth. 66 Pa.C.S. § 501(b). “Jurisdictional utility” refers to all of those utilities which fall within the Commission’s jurisdiction to supervise and regulate. Those utilities that must comply with the subject regulations are listed in § 101.4. After reading § 101.4, a utility will be able to determine whether or not the subject regulations apply to it and will be able to discern if it falls under the Commission’s jurisdiction. In order to further clarify, we will adopt IRRC’s suggestion and define the term “jurisdictional utility” in Section 101.2 as “[a] utility subject to the reporting requirements of § 27.10, § 29.43, § 31.10, § 33.103, § 57.47, § 59.48, § 61.28, § 63.36 or § 65.19.”

The USA Patriot Act of October 24, 2001, defines critical infrastructure in Title X, Section 1016(e) as the “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.” We will adapt the Patriot Act definition to define infrastructure for the purposes of this proposed regulation as “the systems and assets so vital to the utility that the incapacity or destruction of such systems and assets would have a debilitating impact on security, economic security, public health or safety, or any combination of those matters.”

§ 101.2. Definitions.

Emergency response plan, business continuity plan, contingency planning and business resumption definitions

Positions of the Parties

In its comments, IRRC states that the proposed regulation uses three phrases to describe potential service interruptions. These include “change or unforeseen circumstances” in the definition of business continuity plan and contingency planning; “natural causes or sabotage” in the definition of emergency response plan; and “disaster” in the definition of business resumption. IRRC suggests replacing these phrases with the defined terminology “abnormal operating conditions.”

Disposition

We agree with the comments submitted by IRRC and will replace the three phrases described above with the defined terminology “abnormal operating conditions.”

Physical and cyber security plans, emergency response plan and business continuity plan definitions

Positions of the Parties

IRRC states that the physical and cyber security plans, emergency response plan and business continuity plan definitions all contain a brief description of the term and duties for jurisdictional utilities to perform. IRRC submits that the duties should not be included in the definitions, but rather, should be moved to § 101.3.

Disposition

We agree with IRRC’s comments and will place the jurisdictional utilities’ duties in § 101.3.

Critical functions definition

Positions of the Parties

IRRC states that the phrase “several business days” in the critical functions definition is vague and should be replaced with a specific time frame.

Disposition

While we understand the nature of IRRC’s concern, we believe that each utility should have the opportunity to discern the specific amount of time that it can maintain operations with the loss of a critical function. We emphasize that this rulemaking applies to jurisdictional utilities which vary in nature, including, inter alia, common carriers of passengers, telecommunications utilities, electric utilities, and railroad carriers. Therefore, the subject business activity or information for each utility that cannot be interrupted or unavailable without significantly jeopardizing operations of the utility will also vary. The language, as currently drafted, allows each utility to tailor its plan within this regulation depending on size and type.

Business recovery definition

Positions of the Parties

IRRC submits that the phrase “less time-sensitive business operations” in the business recovery definition should be more fully described, including examples, in the preamble or the final-form regulation.

Disposition

“Less time-sensitive business operations” include all other operations not subsumed under the critical functions definition. We believe that each utility should have the opportunity to discern what “less time-sensitive business operations” are, emphasizing that they may be different for the various utilities that must comply with the regulation. An example of a “less time-sensitive business operation” is billing.

Cyber security plan definition

Positions of the Parties

IRRC submits that the phrase “appropriate backup” found in the cyber security plan definition should be defined in the final-form regulation or the Commission should provide examples of “appropriate backup.” IRCC also submits that the phrase “a recognition of” in paragraph (iv) is superfluous, and should be deleted.

Disposition

We agree with the comment provided by IRRC and will provide an example of “appropriate backup” at § 101.3(a)(2)(II) that reads as follows: “Appropriate backup may include having a separate distinct storage media for data or a different physical location for application software.”

In response to IRRC’s comment that the phrase “a recognition of” in paragraph (iv) is superfluous, we clarify that we are not requiring that a plan set forth a specific time period. Rather, we are directing utilities to consider this time period when writing their plan.

Emergency response plan definition

Positions of the Parties

IRRC states that the phrase “emergency management system” used in the emergency response plan definition should be defined in the final-form regulation.

Disposition

We agree with the comment provided by IRRC that the phrase “emergency management system” needs to be further defined. In order to add clarification to the proposed regulation, we will replace the phrase “emergency management system” with “appropriate emergency services and emergency preparedness support agencies and organizations” as it is now found in § 101.3.

*Business continuity plan definition**Positions of the Parties*

The proposed definition of business continuity plan states that the written plan will “ensure” the continuity or uninterrupted provision of operations and services. Sprint is concerned with the reference to “ensure” in the definition. Sprint states that no plan can absolutely “ensure” uninterrupted operations and service 100% of the time regardless of the nature or gravity of the circumstances. Sprint submits that it is cognizant of its obligations under the Public Utility Code and will endeavor to implement a business continuity plan that *reasonably* ensures uninterrupted operations and services. Sprint recommends modification of the proposed definition of business continuity plan to state: “A written plan that will *reasonably* ensure the continuity or uninterrupted provision of operations and services . . .”

Disposition

While we appreciate Sprint’s concern that no plan can absolutely ensure uninterrupted operations and service regardless of the nature or gravity of the circumstances, we do not wish to lessen the impact of this regulation by adding Sprint’s suggested language. We prefer to keep the language as written understanding that no plan will absolutely guarantee uninterrupted operations and service, but stress that uninterrupted operations and service is the goal for which all utilities should strive.

§ 101.3. Plan requirements.

In the Proposed Rulemaking Order we proposed that a jurisdictional utility develop and maintain written physical and cyber security, emergency response and business continuity plans.

*Development and maintenance of plans—§ 101.3(a)**Positions of the Parties*

The PTA, AT&T, Sprint and IRRC seek clarification as to whether the four plans may exist within a single document, and whether certification of compliance of that single document attests to compliance with all four plans.

Also, Sprint and AT&T seek clarification on the acceptability of plans designed and maintained to protect assets on a national level for utilities that serve nationwide. Finally, Sprint suggests that the Commission should clarify that the use of the term “written” includes electronic means of storing and updating security plans required by these regulations.

Disposition

The goal of this proposed regulation is to ensure that each jurisdictional utility has written plans that can be viewed as demonstrating each utility’s ability to secure its operations and respond to emergency situations. If this objective can be demonstrated through the use of one interwoven plan incorporating the objectives and goals of all four plans, then this Commission would find one comprehensive plan acceptable for purposes of the self certification form.

However, we caution our jurisdictional utilities utilizing a single plan to ensure that the intertwined nature of one consolidated plan does not detract from the clarity necessary to implement one or more of the four plans. Additionally, in addressing Sprint’s request for clarification of the use of the term “written,” we remind Sprint that retrieval of electronically stored plans and data may not be possible during certain abnormal operating conditions. Therefore, while we are not opposed to utilities maintaining plans in electronic format, we caution each utility to not rely on the retrieval of those electronic plans as the sole repository for physical and cyber security, business continuity and emergency response plans.

*Development and maintenance of plans—§ 101.3(c)**Positions of the Parties*

IRRC states that while § 101.3 requires utilities to maintain a testing schedule of plans, the proposed regulation does not specifically state the requirement to test the four plans. IRRC submits that if the Commission’s intent is to require annual testing of the plans, then the final-form regulation should be amended to reflect this requirement.

Allegheny Power and IRRC request that the term “test” be defined in the proposed regulation. Allegheny Power requests recognition that the four plans do not need to be entirely tested within a calendar year, and that testing of a portion of a plan constitutes a test of a plan. Allegheny points to the Commission’s December 9, 2003, Order at Docket No. M-00031717 in which the Commission recognized that testing of the plans should be an ongoing process, but not necessarily a distinct annual drill where an entire plan is tested from beginning to end.

Sprint avers that an annual review or testing requirement is unnecessary and unwise, since some processes will be reviewed more than annually, while others less frequently. Sprint also submits that § 101.3(c) should be clarified to allow intra-company assessments of plans to be accepted as compliance with this proposed regulation. Sprint recommends that the proposed § 101.3(c) should be modified to include “a testing or assessment schedule of these plans.”

Disposition

In response to IRRC’s concern over whether the regulation requires actual testing or simply a test plan, we will revise the wording in § 101.3(c) to read: “A jurisdictional utility shall maintain and implement an annual testing schedule.” This emphasizes our desire to have our jurisdictional utilities actually test their plans. In light of this, we will not accept Sprint’s suggestion that § 101.3(c) should be clarified to allow intra-company assessments of plans to be accepted as compliance with this proposed regulation or Sprint’s recommendation to modify § 101.3(c) to include the language “a testing or assessment schedule of these plans.”

We also agree with IRRC’s comment to add the definition of “test” to § 101.2. “Test” will be defined as “A trial or drill of physical security, cyber security, emergency response and business continuity plans. Testing may be achieved through a sum of continuous partial testing rather than one distinct annual drill where an entire plan is tested from beginning to end.” We believe this additional language also addresses Sprint’s comments about annual testing.

We agree with Allegheny Power’s reemphasis of our December 9, 2003, Order at Docket No. M-00031717. Again, we believe that, in some cases, testing of physical

security, cyber security, emergency response and business continuity plans are ongoing and security is achieved through a sum of continuous partial testing rather than one big test undertaken over some specified time table.

§ 101.4. Reporting requirements.

In the Proposed Rulemaking Order we stated that each jurisdictional utility shall file a self certification form with the Commission.

Self certification form title—§ 101.4(a) and (b)

Positions of the Parties

IRRC submits that the Physical and Cyber Security Planning Self Certification Form referred to in this section is titled differently in various sections of the proposed regulation. IRRC states that the title of the form needs to be made consistent throughout the proposed rulemaking.

Disposition

We agree with IRRC’s comment concerning a consistent reference to the self certification form. The form’s title shall be changed to “Public Utility Security Planning and Readiness Self Certification,” consistent with the proposed regulation’s Subpart E title. Accordingly, all other references to the self certification form in the proposed regulation shall be changed to maintain consistency.

Self certification form question numbers 2, 5, 9 and 12—§ 101.3(a) and (b)

Positions of the Parties

Question numbers 2, 5, 9 and 12 of the self certification form ask if specific plans have been “reviewed and updated in the past year.” IRRC recommends that the proposed rulemaking be changed to read “reviewed and updated as needed.” This recommendation is based on the assertion that not every review will necessitate an update.

Disposition

We agree with the IRRC assertion that not every plan review will necessarily result in an update to such plan. Therefore, we will amend self certification form question numbers 2, 5, 9 and 12 to include the language “. . . reviewed in the last year and updated as needed.”

Self certification form question numbers 7—§ 101.3(a) and (b)

Positions of the Parties

Question number 7 of the self certification form asks “Has your company performed a vulnerability or risk assessment analysis as it relates to physical and/or cyber security?” Allegheny Power and IRRC state that the terms “vulnerability” and “risk assessment” need to be defined in § 101.2 of the proposed regulation. Additionally, IRRC comments that the “and/or” terminology needs clarification.

Disposition

In our review of question number 7 from the self certification form, we find that it is unnecessary and should be deleted from the form. We believe that in order for a utility to formulate a proper physical or cyber security program, a vulnerability or risk assessment would have been performed. Therefore, question number 7 is redundant, since the answer to this question is subsumed within the jurisdictional utility’s response to

question numbers 1 and 4. Therefore, we will remove question number 7 from the final form.

§ 101.5. Confidentiality of self certification form

In the Proposed Rulemaking Order we stated that the self certification form is not a public document or record and is deemed confidential and proprietary.

Filing method—§ 101.5

Positions of the Parties

IRRC inquires as to whether the self certification form can be filed electronically with the Commission. IRRC submits that the Commission should consider allowing electronic submission of the self certification form.

Disposition

While we understand the benefits of electronic filing and hope to explore this possibility in the future, our Commission cannot accept the Self Certification Form through an electronic filing method under our current filing system. At this time, the Commission does not have the capability to accept filings to the Secretary’s Bureau in electronic format. In addition, the Commission does not have the technology in place to ensure the security of an electronic filing.

§ 101.6. Compliance

In the Proposed Rulemaking Order we proposed that the Commission may review a jurisdictional utility’s physical, cyber, business continuity and emergency response plans as necessary and may inspect a utility’s facilities to assess compliance monitoring. It also allows a utility to utilize a substantially similar plan, formulated for another jurisdiction, for compliance with this proposed regulation.

Plan review and utility site review—§ 101.6(b) and (c)

Positions of the Parties

Section 101.6(b) and (c) state that the Commission may review the plans of a utility and inspect a utility’s facility. IRRC submits that the Commission should explain the manner in which it will request to review a utility’s plans or inspect a utility’s site and the amount of prior notice a utility should expect before a review or site visit.

Sprint seeks clarification regarding § 101.6(c)’s reference to “facility.” Sprint suggests that § 101.6(c) should be modified in relevant part as follows: “The Commission may inspect a utility’s facility, to the extent utilized for or necessary to the provision of utility service, so as to assess performance of its compliance monitoring under 66 Pa.C.S. §§ 504—506.”

Sprint also comments that there is no reference made in the proposed § 101.6(c) regarding the level of confidentiality that will be extended during and following any such Commission inspection. Sprint avers that any information or data gathered during a Commission inspection pursuant to § 101.6(c) must be accorded confidentiality (e.g., inspector must execute a nondisclosure agreement) and must not be accessible as a public document.

Disposition

IRRC expresses concern over the manner in which the Commission will request to review a utility’s plans or inspect a utility’s site and the amount of prior notice given. We understand IRRC’s concern and comment that the Commission has in the past and, for the purposes of this regulation, will most likely give prior notification by letter or phone and arrive during normal business hours.

However, several factors favor not setting forth the exact protocol for Commission inspection in the regulation. Pursuant to 66 Pa.C.S. § 506, the Commission already has the full power and authority to inspect and investigate a utility's equipment and facilities. In the performance of such duties, the Commission may further inspect pertinent records and documents. We do not wish to limit our authority under Section 506 by setting forth specific protocols before inspecting a utility through this regulation.

Since the Commission has already been charged with this authority, we are uncomfortable adopting any restrictive language. In addition, we note the twenty-four hour operational nature of most of the utilities subject to this regulation. As has happened in the past, required site visits may need to occur during non-traditional business hours.

Sprint seeks clarification on § 101.6(c)'s reference to "facility." We agree with Sprint's suggested change and will adopt the language to modify § 101.6(c) to read: The Commission may inspect a utility's facility, *to the extent utilized for or necessary to the provision of utility service*, to assess performance of its compliance monitoring pursuant to 66 Pa.C.S. §§ 504, 505 and 506.

Sprint further comments on the level of confidentiality during an inspection and any information gathered at such an inspection. We agree with Sprint that any information or data gathered during a Commission inspection pursuant to Section 101.6(c) should be accorded confidentiality. However, as indicated above, the Commission has the full power and authority to inspect and investigate a utility's equipment and facilities. 66 Pa.C.S. § 506. In the performance of such duties, the Commission may further inspect pertinent records and documents. *Id.* Since the Commission has already been charged with this authority and we do not know what kind of information could be gathered at this time, we decline to adopt Sprint's comment in the final-form regulation.

Substantially similar plans—§ 101.6(d)

Positions of the Parties

IRRC comments that the phrase "substantially similar plan" is vague and the Commission should include specific guidelines in the final-form regulation for a jurisdictional utility to determine whether the plan it must file with another entity could also be used to fulfill the requirements set forth in this section of the proposed regulation.

Furthermore, IRRC questions whether security information provided to another entity as part of its plans, but not required by the Commission, would be considered public or proprietary information by the Commission.

Disposition

We agree with IRRC's suggestion to use the phrase "meets the requirements of" instead of "substantially similar plan" and will modify § 101.6(d) to read as follows: "A utility that has developed and maintained a cyber security, physical security, emergency response or business continuity plan under the directive of another state or federal entity that meets the requirements of § 101.3 may utilize that plan for compliance with this subpart, upon the condition that a Commission representative be permitted to review the cyber security, physical security, emergency response or business continuity plan. A company that is utilizing another entity's plan shall briefly describe the alternative plan and identify the

authority that requires the alternative plan along with the Self Certification Form filed with the Commission."

As to IRRC's second concern, the Commission is not requiring the filing of plans. Rather, through this proposed rulemaking, jurisdictional utilities are required to file a Self Certification Form. Any information submitted with the Self Certification Form would be deemed confidential and proprietary pursuant to § 101.5. If a specific plan does fall under review, security information provided in another entity's plan, but not required by the Commission, would likely be considered confidential and proprietary information by the Commission. However, not knowing the content of this information, we decline to include this in the final-form regulation.

Discussion of Additional Comments

On January 21, 2005, Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail submitted joint comments via electronic email to the Commissioners of the PUC. On January 24, 2004, the same comments were filed with the Secretary's Bureau. On February 11, 2005, the Pennsylvania Telephone Association filed its comments with the Secretary's Bureau.

Before discussing the proposed revision to the Final Rulemaking Order, the Commission makes the following observations on the joint comments filed by Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail. In the joint comments, the railroads suggest they may have been "unintentionally swept up" in the Final Rulemaking Order. This suggestion is without merit. The Commission did not "unintentionally" include the rail industry in the previous four Orders that it issued relating to this matter. A railroad is unquestionably included in the definition of a public utility in the Pennsylvania Public Utility Code. 66 Pa.C.S. § 102. In addition, the Commission's Bureau of Transportation and Safety, Rail Safety Division, is responsible for the administration and processing of rail safety complaints and safety inspections for compliance with the Federal Railroad Administration's (FRA) track, operating practice, and freight standards. The division is responsible for rail crossing and bridge safety.

Second, Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail assert that they were unaware of the Final Rulemaking Order. The joint railroad comments do not state whether they were aware of the other three Commission orders addressing this matter that were issued over the past several years. In response, we point out that the Proposed and Final Rulemaking Orders were published in the *Pennsylvania Bulletin* and both Orders were served on those jurisdictional respondents to HR 361, which included Norfolk Southern. In fact, over twenty other railroads have properly filed the Self Certification Form with the Commission. This information belies Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Railroad's assertion that they were unable to discern that the regulation entitled Rulemaking Re: Public Utility Security Planning and Readiness applied to them.

Third, the Commission emphasizes the importance of this regulation as highlighted in our previous Orders. In this new age, the Commission's attention to safety and security of utilities within the Commonwealth is certainly a priority. The Commission is committed to doing everything it can to help protect the citizens of this Commonwealth from a terroristic or other abnormal event. The self certification process was developed to make sure that

all utilities that are located or travel (fixed and nonfixed) within the Commonwealth are proactively examining their security plans on an ongoing basis and testing these plans with the realization that in each passing year, circumstances change and new threats may be present. This is especially true of those utilities that transport hazardous material directly through our cities and across the state. We expect that all those utilities doing business with and serving the citizens of this Commonwealth share our same goal and will endeavor to cooperate with our efforts to secure our state.

Fourth, the intent of this rulemaking is to create a minimum set of requirements that can be consistently implemented with sufficient flexibility to account for differences in the types of utilities under the Commission's jurisdiction. We reiterate that the regulations do not require utilities to file copies of their physical security, cyber security, emergency response, and business continuity plans with the Commission. The regulation only requires utilities to have physical security, cyber security, emergency response, and business continuity plans in place and does not impose any detailed plans or specific timeframe for testing them. Compliance with this regulation is not an onerous task, but rather a reasonable and important exercise to help ensure that our critical infrastructure is protected.

Lastly, we have acknowledged that protecting the Commonwealth's infrastructure and key assets necessitates a cooperative paradigm. Homeland security requires coordinated action on the part of federal, state, and local government; the private sector, and citizens. The Commission, as it has said in its prior Orders, has no desire or intent to replicate rules and regulations that are already in place and required by the federal government or other agencies. However, it is our duty to identify and secure the critical infrastructure and key assets within the Commonwealth.⁶ As such, the Self Certification Form and regulation is drafted so that any overlapping reporting duties or regulation by other state and federal agencies will not overly burden utilities.

Position of Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail

In Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail's comments, they assert that federal law preempts state and local regulation of railroad safety and security. They maintain that they have already adopted their own security plans in conformance with the Association of American Railroads, the U.S. Department of Transportation, and the Department of Homeland Security and because railroads already have taken such appropriate action pursuant to federal requirements, the following language should be included in the Final Rulemaking Order:

§ 101.7 Applicability

This chapter does not apply to interstate freight railroads regulated by the Federal Railroad Safety Act and the Hazardous Materials Transportation Act if, within 60 days following the effective date of this

⁶ See HR 361 (The Pennsylvania Public Utility Commission is responsible for inspecting utility facilities to assure the safe and reliable delivery of utility service and for evaluating programs that ensure the stability of complex and interdependent utility systems in the Commonwealth).

chapter, the railroads submit a certification to the PUC that the railroads are in compliance with the security plan requirements of those statutes.

Disposition

We will first address the preemption argument. The Federal Railroad Safety Act (FRSA), 49 U.S.C.A. §§ 20101—20153, provides that the law and regulations related to rail safety and security⁷ must be nationally uniform to the extent practicable. 49 U.S.C. A. § 20106. A state may adopt a regulation relating to railroad safety or security until the Secretary of Transportation (with respect to railroad safety) or the Secretary of Homeland Security (with respect to railroad security) prescribes a regulation covering the subject matter of the state requirement. Id.

The railroads do not rely on any security regulations prescribed by the Secretary of Homeland Security for their preemption argument. Rather, the railroads assert that the preemptive umbrella of the FRSA extends to "rail safety/security" matters under the HMTA and prescribed by the Secretary of Transportation.

We note that the Department of Homeland Security issues security regulations; not the Department of Transportation which generally issues safety regulations. Nevertheless, the railroads assert that the Commission is preempted because the HMTA requires each person who transports hazardous material to develop and adhere to a security plan. 49 CFR 172.800. All railroads carrying hazardous material in Pennsylvania must comply with this regulation. Id.

The HMTA is not as comprehensive as the Commission's Final Rulemaking Order, mainly because it is limited to the transport of hazardous material and does not require a per se business continuity plan, cyber security plan, and emergency response plan.⁸ Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Railroad have not produced specific federal regulations that require a business continuity plan, cyber security plan, or emergency response plan. Instead, the railroads assert that their security plans are based on Association of American Railroad (AAR) guidelines.

The Commission is not persuaded by the genuine legality of the railroads' preemption concerns. However, we note that the Transportation Security Administration (TSA) recently evaluated the measures currently required under Department of Transportation hazmat and rail regulations, the nature of rail operations, and the security enhancements completed by railroads. Upon this review, the TSA concluded that, for the present, those provisions adequately address the security concerns of which it is aware.⁹ (Hazardous Materials: Transportation of Explosives by Rail, 68 F. Reg. 34,374 (June 9, 2003)).

⁷ The FRSA was amended on November 25, 2002 to include the national uniformity of security regulations, in addition to safety regulations.

⁸ Under the HMTA, a security plan must include an assessment of possible transportation security risks for shipments of hazardous material and appropriate measures to address the assessed risk. At a minimum, a security plan must include: (1) measures to confirm information provided by job applicants hired for positions that involve access to and handling of the hazardous material; (2) measures to address the assessed risk that unauthorized persons may gain access to the hazardous materials covered by the security plan; and (3) measures to address the security risks of shipments of hazardous materials covered by the security plan en route from origin to destination. 49 CFR § 172.802.

⁹ Similarly, in response to House Resolution 361, the Commission and the Pennsylvania Emergency Management Agency issued "Protecting Critical Infrastructure: Keeping Pennsylvania Safe" where we examined rail safety in Pennsylvania. The Commission reported that the railroad industry is accustomed to dealing with emergency situations (i.e., derailments and hazardous material spills) and has extensive emergency response plans. Generally, the report found that railroad emergency plans include: assessing assets and vulnerabilities, threats, and risks; determining countermeasures and actions; setting up alert actions and railroad actions; implementing, monitoring, and testing the plan; security instructions; and tank car vulnerability.

With that being said, we will adopt the railroads proposal in part. The railroads submit that they have already taken appropriate action with respect to the four areas of concern in the Commission's regulations: physical security, cyber security, emergency response, and business continuity. Certainly, "appropriate action" would include, at the very minimum, having a plan in place. Therefore, the following addition to the regulation address the preemption concerns of Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Railroad's, plus meet the security concerns¹⁰ of this Commission:

§ 101.7 Applicability.

This chapter does not apply to an entity regulated by the Federal Railroad Safety Act (FRSA), 49 U.S.C. § 20101—20153, and the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. § 5101—5127, if within 60 days following the effective date of this chapter, it submits a certification to the Commission indicating that it has its own written physical and cyber security, emergency response, and business continuity plans in place and is in compliance with the requirements of the FRSA and HMTA.

Position of the Pennsylvania Telephone Association

After the comments were sent by Norfolk Southern, CSX, Canadian National, Canadian Pacific, and Consolidated Rail and the resulting withdrawal of the Final Rulemaking Order before IRRC, Act 183 was enacted into law.¹¹ Act 183 applies to the telecommunications industry in the Commonwealth and addresses, inter alia, reports filed to the Commission.

The PTA filed timely comments on February 11, 2005. The PTA asserts that Act 183 limits the reporting of the incumbent local exchange companies to nine specifically enumerated reports and thus, the Commission does not have the authority to require filing of the Self Certification Form. See 66 Pa.C.S. § 3015(e).

Disposition

While arguing that this rulemaking is "improper under Act 183" and raising four arguments in support of that position, PTA ultimately states that its member companies "will not oppose the continued annual filing of the Physical and Cyber Security Self Certification Form." We commend the PTA for its cooperation in this important endeavor. We do recognize PTA's position that the agreement to file this form is not intended to waive PTA's right to advocate its position regarding the reporting requirements set forth in Act 183. Since PTA agrees to file this report, disposition of PTA's Act 183 arguments is not necessary at this time though they may need to be addressed in the future.

Overall, we believe that the regulations, as herein revised and amended in consideration of comments received, and as attached hereto as Annex A, are consistent with the public interest and shall be adopted at this time through final order. Accordingly, under authority at Sections 501, 504, 505, 506, 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 505, 506, 1501, 66 Pa.C.S.

¹⁰ Federal regulations concerning rail transportation anticipate state participation in investigative and surveillance activities under the federal railroad safety laws and regulations. 49 CFR 212.1. Thus, even with the revised rulemaking, the Commission has the means to inspect and monitor a railroad's compliance with federal regulations and maintains a staff to do so. 49 CFR 212.101(d).

¹¹ House Bill 30 was signed into law by Governor Rendell on November 30, 2004 and became effectively immediately.

§§ 2801 et seq. and the regulations promulgated thereunder at 52 Pa.Code §§ 57.191—57.197; and sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa.Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 732.204(b)); and section 612 of The Administrative Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder at 4 Pa.Code §§ 7.251—7.235, we adopt the revised regulations set forth in Annex A; *Therefore,*

It is Ordered that:

1. The regulations of the Commission, 52 Pa. Code, are amended by the addition §§ 101.1—101.7 to read as set forth in Annex A.

2. The Secretary shall submit this Revised Final Rulemaking Order and Annex A for review and approval by the designated Standing Committees of both houses of the General Assembly, and for review and approval of the Independent Regulatory Review Commission.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit a copy of this Order and Annex A to the Office of Attorney General for review as to legality.

5. The Secretary shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

6. The revisions to Chapter 101 embodied in Annex A shall become effective upon final publication in the *Pennsylvania Bulletin*.

7. A copy of this Order and Annex A be filed in the folder regarding physical and cyber security program self-certification requirements for public utilities at M-0031717.

8. A copy of this Order and Annex A be served upon the Pennsylvania Emergency Management Agency, the Pennsylvania Office of Homeland Security, the Pennsylvania Department of Environmental Protection, the Energy Association of Pennsylvania, the Pennsylvania Telephone Association, the Pennsylvania Motor Truck Association, the Pennsylvania Bus Association, the Pennsylvania Taxicab and Paratransit Association, Pennsylvania Moving and Storage Association, the Pennsylvania Limousine Association, the Pennsylvania Chapter of the National Association of Water Companies, the Pennsylvania Section of the American Water Works Association, the Pennsylvania Rural Water Association, Pennsylvania League of Cities and Municipalities, Pennsylvania State Association of Boroughs, Pennsylvania Local Government Commission, Pennsylvania State Association of Township Supervisors, Keystone Rail Association, and the PUC jurisdictional respondents to House Resolution 361.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 35 Pa.B. 2972 (May 14, 2005).)

Fiscal Note: Fiscal Note 57-234 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

Subpart E. PUBLIC UTILITY SECURITY PLANNING AND READINESS

CHAPTER 101. PUBLIC UTILITY PREPAREDNESS THROUGH SELF CERTIFICATION

Sec.	
101.1.	Purpose.
101.2.	Definitions.
101.3.	Plan requirements.
101.4.	Reporting requirements.
101.5.	Confidentiality of self certification form.
101.6.	Compliance.
101.7.	Applicability.

§ 101.1. Purpose.

This chapter requires a jurisdictional utility to develop and maintain appropriate written physical security, cyber security, emergency response and business continuity plans to protect this Commonwealth's infrastructure and ensure safe, continuous and reliable utility service. A jurisdictional utility shall submit a Self Certification Form to the Commission documenting compliance with this chapter.

§ 101.2. Definitions.

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

Abnormal operating condition—A condition possibly showing a malfunction of a component or deviation from normal operations that may:

- (i) Indicate a condition exceeding design limits.
- (ii) Result in a hazard to person, property or the environment.

Business continuity plan—A written plan that will ensure the continuity or uninterrupted provision of operations and services through arrangements and procedures that enable a utility to respond to an event that could occur by abnormal operating conditions.

Business recovery—The process of planning for and implementing expanded operations to address less time-sensitive business operations immediately following an abnormal operating condition.

Business resumption—The process of planning for and implementing the restarting of defined business operations following an abnormal operating condition, usually beginning with the most critical or time-sensitive functions and continuing along a planned sequence to address all identified areas required by the business.

Contingency planning—The process of developing advance arrangements and procedures that enable a jurisdictional utility to respond to an event that could occur by abnormal operating conditions.

Critical functions—Business activities or information that cannot be interrupted or unavailable for several business days without significantly jeopardizing operations of the organization.

Cyber security—The measures designed to protect computers, software and communications networks that sup-

port, operate or otherwise interact with the company's operations.

Cyber security plan—A written plan that delineates a jurisdictional utility's information technology disaster plan.

Emergency response plan—A written plan describing the actions a jurisdictional utility will take if an abnormal operating condition exists.

Infrastructure—The systems and assets so vital to the utility that the incapacity or destruction of the systems and assets would have a debilitating impact on security, economic security, public health or safety, or any combination of those matters.

Jurisdictional utility—A utility subject to the reporting requirements of § 27.10, § 29.43, § 31.10, § 33.103, § 57.47, § 59.48, § 61.28, § 63.36 or § 65.19.

Mission critical—A term used to describe essential equipment or facilities to the organization's ability to perform necessary business functions.

Physical security—The physical (material) measures designed to safeguard personnel, property and information.

Physical security plan—A written plan that delineates the response to security concerns at mission critical equipment or facilities.

Responsible entity—The person or organization within a jurisdictional utility designated as the security or emergency response liaison to the Commission.

Self Certification Form—The Public Utility Security Planning and Readiness Self Certification Form.

Test—A trial or drill of physical security, cyber security, emergency response and business continuity plans. Testing may be achieved through a sum of continuous partial testing rather than one distinct annual drill when an entire plan is tested from beginning to end.

§ 101.3. Plan requirements.

(a) A jurisdictional utility shall develop and maintain written physical and cyber security, emergency response and business continuity plans.

(1) A physical security plan must, at a minimum, include specific features of a mission critical equipment or facility protection program and company procedures to follow based upon changing threat conditions or situations.

(2) A cyber security plan must, at a minimum, include:

(i) Critical functions requiring automated processing.

(ii) Appropriate backup for application software and data. Appropriate backup may include having a separate distinct storage media for data or a different physical location for application software.

(iii) Alternative methods for meeting critical functional responsibilities in the absence of information technology capabilities.

(iv) A recognition of the critical time period for each information system before the utility could no longer continue to operate.

(3) A business continuity plan must, at a minimum, include:

(i) Guidance on the system restoration for emergencies, disasters and mobilization.

(ii) Establishment of a comprehensive process addressing business recovery, business resumption and contingency planning.

(4) An emergency response plan must, at a minimum, include:

(i) Identification and assessment of the problem.

(ii) Mitigation of the problem in a coordinated, timely and effective manner.

(iii) Notification of the appropriate emergency services and emergency preparedness support agencies and organizations.

(b) A jurisdictional utility shall review and update these plans annually.

(c) A jurisdictional utility shall maintain and implement an annual testing schedule of these plans.

(d) A jurisdictional utility shall demonstrate compliance with subsections (a)—(c), through submittal of a Self Certification Form which is available at the Secretary's Bureau and on the Commission's website.

(e) A plan shall define roles and responsibilities by individual or job function.

(f) The responsible entity shall maintain a document defining the action plans and procedures used in subsection (a).

§ 101.4. Reporting requirements.

(a) A utility under the reporting requirements of § 27.10, § 57.47, § 59.48, § 61.28, § 63.36 or § 65.19 shall file the Self Certification Form at the time each Annual Financial Report is filed, under separate cover at Docket No. M-00031717.

(b) A utility not subject to the financial reporting requirements in subsection (a), but subject to the reporting requirements of § 29.43, § 31.10 or § 33.103 (relating to assessment reports; assessment reports; and reports) shall file the Self Certification Form at the time each Annual Assessment Report is filed, under separate cover at Docket No. M-00031717.

§ 101.5. Confidentiality of self certification form.

A Public Utility Security Planning and Readiness Self Certification Form filed at the Commission is not a public document or record and is deemed confidential and proprietary.

§ 101.6. Compliance.

(a) The Commission will review a Self Certification Form filed under § 101.4 (relating to reporting requirements).

(b) The Commission may review a utility's cyber security plan, physical security plan, emergency response plan and business continuity plan under 66 Pa.C.S. §§ 504—506 (relating to reports by public utility; duty to furnish information to commission; and inspection of facilities and records).

(c) The Commission may inspect a utility's facility, to the extent utilized for or necessary to the provision of utility service, to assess performance of its compliance monitoring under 66 Pa.C.S. §§ 504—506.

(d) A utility that has developed and maintained a cyber security, physical security, emergency response or business continuity plan under the directive of another state or Federal entity that meets the requirements of § 101.3

(relating to plan requirements) may utilize that plan for compliance with this subpart, upon the condition that a Commission representative be permitted to review the cyber security, physical security, emergency response or business continuity plan. A company that is utilizing another entity's plan shall briefly describe the alternative plan and identify the authority that requires the alternative plan along with the Self Certification Form filed with the Commission.

§ 101.7. Applicability.

This chapter does not apply to an entity regulated by the Federal Railroad Safety Act (FRSA) (49 U.S.C.A. §§ 20101—20153) and the Hazardous Materials Transportation Act (HMTA) (49 U.S.C.A. §§ 5101—5127), if by August 10, 2005, it submits a certification to the Commission indicating that it has its own written physical and cyber security, emergency response and business continuity plans in place and is in compliance with the FRSA and HMTA.

[Pa.B. Doc. No. 05-1119. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 91]

Boating

The Fish and Boat Commission (Commission) amends Chapter 91 (relating to general provisions). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking relates to the age of operation for personal watercraft (PWC) and boats propelled by motors in excess of 25 horsepower.

A. Effective Date

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

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

C. Statutory Authority

The amendments to § 91.4 (relating to age of operator) are published under the statutory authority of section 5123 of the code (relating to general boating regulations). A person violating this section commits a summary offense of the third degree for which a \$50 fine is imposed.

D. Purpose and Background

The Commission previously adopted limitations on the age of operation to address concerns for the safety of young operators of larger boats and PWC and those that boat around them. At the time the regulation was adopted, 10 horsepower was considered to be a satisfactory horsepower limitation. Youthful operators could operate larger boats (that is, boats with motors in excess of 10 horsepower) after obtaining a Boating Safety Education

Certificate (certificate) or if they had an older operator onboard. A recent amendment to section 5103 of the code (relating to boating education) that provides for mandatory boating education increased the minimum horsepower to 25. Specifically, this section provides that a person born on or after January 1, 1982, may not operate a motorboat greater than 25 horsepower without first obtaining a certificate.

To be consistent with the code and to eliminate some complexity in the regulations, the Commission proposed to amend § 91.4. Specifically, the Commission proposed to simplify the existing regulation and make it consistent with provisions of the mandatory education law. The Commission also proposed to eliminate the distinction between PWC and other motorboat operation by applying the same standards to both. The Commission further proposed to increase the minimum age of operation of PWC to 16 years of age, effective January 1, 2008. A notice of proposed rulemaking was published at 34 Pa.B. 4151 (August 7, 2004).

At a subsequent meeting, the Commission considered the proposed rulemaking and the public comments that it received. The comments were generally in favor of the proposed rulemaking increasing the minimum age of PWC operation but suggested that a phased approach to implementation would be more appropriate than increasing the minimum age of operation to 16 years of age, effective January 1, 2008, as set forth in the notice of proposed rulemaking. The Commission, upon further consideration of the matter, agreed that a phased approach may find the most acceptance among the boating public and approved the republication of a notice of proposed rulemaking seeking public comments on a phased approach. A notice of proposed rulemaking was republished at 34 Pa.B. 6425 (December 4, 2004).

Under the republished notice of proposed rulemaking, the minimum age of operation would be 13 years of age, effective immediately upon publication of the final-form rulemaking. The minimum age of operation would increase to 14 years of age effective January 1, 2006, 15 years of age effective January 1, 2007, and 16 years of age effective January 1, 2008. The proposed rulemaking also increased the minimum age of any passenger on PWC operated by a person 15 years of age or younger to 18 years of age. This part of the regulation would become moot on January 1, 2008, if the rulemaking were adopted as proposed.

Upon consideration on final-form rulemaking, the Commission chose not to increase the minimum age of operation for PWC. The Commission also chose not to adopt the proposed amendment making it unlawful for a person 15 years of age or younger to operate PWC if there are any passengers onboard 17 years of age or younger. As set forth in the republished notice of proposed rulemaking, the Commission adopted the proposed amendment making it unlawful for a person 11 years of age or younger to operate a boat propelled by a motor greater than 25 horsepower instead of the current 10 horsepower restriction and determined that the requirement should apply to PWC operation as well. The Commission also deleted the requirement in subsection (b), as set forth in the notice of proposed rulemaking, that makes it unlawful for a person 12 years of age through 15 years of age to operate a boat propelled by a motor greater than 10 horsepower unless the person has obtained and has in his

possession a certificate or at least one person 16 years of age or older is present onboard.

E. *Summary of Changes.*

Under § 91.4, as amended, a person 11 years of age or younger may not operate PWC or a boat propelled by a motor greater than 25 horsepower, and a person 12 years of age through 15 years of age may not operate PWC if there are any passengers onboard 15 years of age or younger. The Commission amended § 91.4 to read as set forth in Annex A.

F. *Paperwork*

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

G. *Fiscal Impact*

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

H. *Public Involvement*

The Commission published a notice of proposed rulemaking at 34 Pa.B. 4151. A second notice of proposed rulemaking was republished at 34 Pa. B. 6425.

Prior to the formal public comment period for the republished notice of proposed rulemaking, the Commission received five comments concerning the proposal. Four support raising the minimum age of operation for PWC to 16 years of age, but three of the four do not support a phased approach. They believe that it is too complicated and that 16 years of age as the minimum age of operation should go into effect immediately. One believes that the minimum age of operation should be 14 years of age with the completion of a safe boating course. The Commission did not receive any public comments during the formal public comment period. The Commission received 16 public comments after the formal public comment period: one commentator believes that the minimum age should be 18 years of age, not 16 years of age; 13 support the proposed amendment, but at least one commentator recommends a "grandfathering" provision; and two commentators oppose the proposal. Copies of all public comments were provided to the Commissioners.

Findings

The Commission finds that:

- (1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided and the comments received were considered.
- (3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 91, are amended by amending § 91.4 to read as set forth in Annex A.

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

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

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

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

Fiscal Note: Fiscal Note 48A-162 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 91. GENERAL PROVISIONS

§ 91.4. Age of operator.

(a) A person 11 years of age or younger may not operate a personal watercraft or a boat propelled by a motor greater than 25 horsepower.

(b) A person 12 through 15 years of age may not operate a personal watercraft if there are any passengers onboard 15 years of age or younger.

[Pa.B. Doc. No. 05-1120. Filed for public inspection June 10, 2005, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Fertilizer Nutrient Values

The Secretary of Agriculture, under 3 Pa.C.S. §§ 6701—6725 (relating to Fertilizer Act), establishes the commercial values per pound of nitrogen, available phosphate and soluble potash.

The values are established as follows:

Nitrogen	37¢ per pound
Available phosphate	31¢ per pound
Soluble potash	22¢ per pound

Further Information

Further information is available by contacting John W. Breitsman, Chief, Division of Agronomic and Regional Services, Bureau of Plant Industry, Department of Agriculture, 2301 N. Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4843.

Effective Date

These commercial values are effective July 1, 2005, and shall remain effective until further notice.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-1121. Filed for public inspection June 10, 2005, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending May 31, 2005.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-25-05	First Priority Bank Malvern Chester County	Malvern	Approved

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-23-05	Investors Trust Company Wyomissing Berks County	Wyomissing	Effective

Represents conversion from a Pennsylvania State chartered trust company to a limited purpose National banking association with trust/fiduciary powers, to be known as National Penn Investors Trust, Wyomissing. The trust company is a wholly owned subsidiary of National Penn Bancshares, Inc., Boyertown.

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-23-05	S & T Bank Indiana Indiana County	603 Stanwix Street Pittsburgh Allegheny County	Filed
5-31-05	Orrstown Bank Shippensburg Cumberland County	3045 Market Street Camp Hill Cumberland County	Filed

NOTICES

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-23-05	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	<i>To:</i> Corner of Green Ridge St. and Ross Avenue Scranton Lackawanna County <i>From:</i> Greenridge Plaza Scranton Lackawanna County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
5-25-05	Fairless Credit Union Morrisville Bucks County	Morrisville	Effective
	Represents conversion from an occupational-based credit union to a community charter; the conversion is completed by filing Articles of Amendment with the Department of State (see following).		
5-26-05	Belco Community Credit Union Harrisburg Dauphin County	Harrisburg	Filed
	Application represents conversion from an occupational-based credit union to a community charter with a proposed field of membership consisting of those who live, work, worship, volunteer or attend school in the Counties of Adams, Cumberland, Dauphin, Lancaster, Lebanon, Perry and York located in this Commonwealth; also businesses and other legal entities in these counties.		

Articles of Amendment

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
5-25-05	Fairless Credit Union Morrisville Bucks County	Amendment to Article II, Section 1 of the Articles of Incorporation provides for a change in the field of membership of the credit union to be: "Membership shall be limited to persons who live, work, worship, perform volunteer services, or attend school in Bucks County and family members and organizations of such persons; also businesses and other legal entities in Bucks County."	Effective

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 05-1122. Filed for public inspection June 10, 2005, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0007919 IW	Cascade Tissue Group PA, Inc. 901 Sathers Drive Vogelbacher Industrial Park Pittston Township, PA 18640	Ransom Township Lackawanna County	Susquehanna River (7K)	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0032051 (Sewage)	Granville Township Board of Supervisors 100 Helen Street Lewistown, PA 17044-2411	Mifflin County Granville Township	Juniata River/12A	Y
PA0083984 (Sewage)	Ranch House Restaurant R. D. 4 Box 4876 Duncannon, PA 17020	Perry County Watts Township	Susquehanna River/6C	Y
PA0024074 (Sewage)	Shoemakersville Municipal Authority 242 Main Street Shoemakersville, PA 19555-1410	Berks County Shoemakersville Borough	Schuylkill River/3B	Y
PA0014656 (Industrial Waste)	Exide Technologies 3000 Montrose Avenue Reading, PA 19605	Berks County Hamburg Borough	UNT Schuylkill River/3B	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0086525 (Sewage)	Centre Township Municipal Authority—Kingsgate East 449 Bucks Hill Road Mohrsville, PA 19541	Berks County Centre Township	UNT Irish Creek/3B	Y
PA0081213 (Sewage)	Clay Township Supervisors 870 Durlach Road Stevens, PA 17578	Lancaster County Clay Township	UNT Middle Creek/7J	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0022373	Lakeview Joint Sewer Authority WWTP Route 62 North P. O. Box 357 Stoneboro, PA 16153-0357	Sandy Lake Township Mercer County	Sandy Creek 16-G	Y
PA0104213	Peaceful Rest Home, Inc. 3472 County Line Road Cochranton, PA 16314	French Creek Township Mercer County	UNT to Foulk Run 16-C	Y
PA0100111	Lake Lucy Trailer Court R. R. 1, Box 121 Tionesta, PA 16353-9801	Washington Township Clarion County	UNT to Hemlock Creek 16-E	Y
PA010170a2	Rocky Ridge Village MHP Castle Haven, Inc. P. O. Box 870 Franklin, PA 16323	Sandycreek Township Venango County	UNT to Ditzenberger Run 16-G	Y
PA0223069	Cool Spring-Jackson Lake Latonka Joint Authority 365 North Cottage Road Mercer, PA 16137	Coolspring Township Mercer County	Cool Spring Creek 20-A	Y
PA0223051	Connoquenessing Borough P. O. Box 471 228 Constitution Avenue Connoquenessing, PA 16027-0471	Connoquenessing Borough Butler County	UNT to Connoquenessing Creek 20-C	Y
PA0222518	Lazar SFTF 10368 Dutch Road Waterford, PA 16441	Greene Township Erie County	UNT to East Branch LeBoeuf Creek 16-A	Y
PA0092201	Penn Christian Academy School 199 West Airport Road Butler, PA 16002	Penn Township Butler County	UNT to Thorn Creek 20-C	Y
PA0210056	Amsterdam Estates MHP 39 Amsterdam Road Grove City, PA 16127	Liberty Township Mercer County	UNT to Black Run 20-C	Y
PA0103675	Miracle Mountain Ranch Missions, Inc. Eldred Hill Road R. D. 1, Box 95 Spring Creek, PA 16436	Spring Creek Township Warren County	UNT to Brokenstraw Creek 16-B	Y

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

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

Application No. PA 0081345, Sewage, **Grier Foundation**, P. O. Box 308, Tyrone, PA 16686-0308. This facility is located in Warriors Mark Township, **Huntingdon County**.

Description of activity: The application is for renewal of an NPDES permit for existing discharge of treated sewage.

The receiving stream, Little Juniata River, is in Watershed 11-A and classified for trout stocking, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Newport Water Authority is

located on the Juniata River, approximately 103 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0225 mgd are:

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

Individuals may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

Application No. PA 0026735, Sewage, **Swatara Township Authority**, 8675 Paxton Street, Hummelstown, PA 17036. This facility is located in Swatara Township, **Dauphin County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Swatara Creek, is in Watershed 7-D and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Borough Municipal Authority is located on the Susquehanna River, approximately 27 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 6.3 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	19	30	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	6		12
(11-1 to 4-30)	18		36
Total Phosphorus	2		4
Total Residual Chlorine	0.5		1.6
TKN	Monitor and Report		
NO ₂ + NO ₃	Monitor and Report		
Total Nitrogen	Monitor and Report		
(TKN + NO ₂ + NO ₃)			
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0 to 9.0 inclusive		
Fecal Coliform	200/100 ml as a geometric average		
(5-1 to 9-30)	9,000/100 ml as a geometric average		
(10-1 to 4-30)			

Individuals may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is not in effect.

Application No. PA 0247359, Industrial Waste, SIC Code 3089, **Key Plastics, LLC**, 12367 Mt. Olivet Road, Felton, PA 17322-8449. This facility is located in Winterstown Borough, **York County**.

Description of activity: The application is for the issuance of an NPDES permit for existing discharges of cooling water blowdown and fire pump tank water.

The receiving stream, UNT of East Branch Codorus Creek, is in Watershed 7-H and is classified for high quality CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake, York Water Company, is located approximately 16 miles downstream on the South Branch Codorus Creek. The discharges are not expected to affect the water supply.

The proposed effluent limitations for Outfalls 001 and 002 (blowdown) based on a combined discharge rate of approximately 0.001 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (S.U.)		from 6.0 to 9.0 inclusive	
Total Residual Chlorine	0.26	XXX	0.85
Osmotic Pressure	XXX	50	XXX

Monitoring requirements for Temperature, Conductivity, Total Suspended Solids, Total Dissolved Solids, Chloride, Bromide, Total Copper, Total Zinc, Chloroform and Bromoform are proposed for Outfalls 001 and 002.

Outfall 003 is an overflow from a fire pump tank and the only proposed effluent limit is pH from 6.0 to 9.0 S.U. with daily flow monitoring.

Individuals may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0252905, CAFO, **MEC Pennsylvania Racing, Inc.**, P. O. Box 449, Racetrack Road, Meadow Lands, PA 15347-0449. MEC Pennsylvania Racing, Inc. has submitted an application for an Individual NPDES permit for an existing CAFO known as The Meadows Racetrack, located in North Strabane Township, **Washington County**.

The CAFO is situated near Chartiers Creek in Watershed 20F, which is classified as a WWF. The CAFO consists of an animal population of approximately 1,025 animal equivalent units (AEUs) consisting of approximately 1,025 horses. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southwest Regional Office of the Department. Individuals may make an appointment to review the files by calling the file review coordinator at (412) 442-4000.

Persons who wish to comment on the proposed permit are invited to submit written comments to the Department at the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

PA0094846, Sewage, **United Mobile Homes, Inc.**, 3499 Route 9 North, Suite 3C, Freehold, NJ 07728. This application is for renewal of an NPDES permit to discharge treated sewage from Somerset Estates STP in Adams Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of East Branch Coxes Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Ohiopyle Borough Municipal Water Works on the Youghiogheny River.

Outfall 001: existing discharge, design flow of 0.065 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	7.5			15.0
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				
(1st month—36th month)	1.4			3.3
(37th month—expiration)	0.7			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0239585, Sewage, **Lawrence J. Adams**, 416 Little Creek Road, Harmony, PA 16037. This proposed facility is located in Muddy Creek Township, **Butler County**.

Description of Proposed Activity: a new discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is discharge.

The receiving stream, UNT to Big Run, is in watershed 20-C and classified for: HQ-CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD ₅	10		20
Total Suspended Solids	10		20
Fecal Coliform	200/100 ml		1,000/100 ml
Total Residual Chlorine	0.5		1.2
pH	6.0 to 9.0 standard units at all times		

The EPA waiver is in effect.

PA0239526, Industrial Waste, **PA Industrial Heat Treaters, Inc.**, P. O. Box 348, St. Marys, PA 15857-0348. This proposed facility is located in St. Marys, **Elk County**.

Description of Proposed Activity: discharge of stormwater and noncontact cooling water in the event of power outage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is PA American Water Company and the West Branch Susquehanna River located at Milton Borough, approximately 118 miles below point of discharge.

The receiving stream, a UNT to West Creek, is in watershed 8-A and classified for: HQ CWF, aquatic life, water supply and recreation.

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

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	XX		
Chemical Oxygen Demand	XX		
Oil and Grease	XX		
Total Suspended Solids	XX		
Lead	XX		
Copper	XX		
Cadmium	XX		
Arsenic	XX		
Total Iron	XX		
pH	6.0 to 9.0 standard units at all times		

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

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	XX		
Chemical Oxygen Demand	XX		
Oil and Grease	XX		
Total Suspended Solids	XX		
Lead	XX		
Copper	XX		
Cadmium	XX		
Arsenic	XX		
Total Iron	XX		
pH	6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 003 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Oil and Grease	15		30

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	XX		
Temperature	XX		
pH		6.0 to 9.0 standard units at all times	

The proposed effluent limits for Outfall 004 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Oil and Grease	15		30
Total Suspended Solids	XX		
Temperature	XX		
pH		6.0 to 9.0 standard units at all times	

The proposed effluent limits for Outfall 005 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Oil and Grease	15		30
Total Suspended Solids	XX		
Temperature	XX		
pH		6.0 to 9.0 standard units at all times	

The EPA waiver is in effect.

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

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

WQM Permit No. 3601405 Amendment 05-1, Sewerage, **Black Rock Retreat Association**, 1345 Kirkwood Pike, Quarryville, PA 17566. This proposed facility is located in Colerain Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction of four new disposal beds and the addition of a third recirculating sand filter bed.

WQM Permit No. 0605407, Sewerage, **Bern Township Municipal Authority**, 1069 Old Bernville Road, Reading, PA 19605. This proposed facility is located in Bern Township, **Berks County**.

Description of Proposed Action/Activity: Construction of a sanitary sewer collection system and pump station.

WQM Permit No. 0605408, Sewerage, **Bear Creek Management Company, LLC**, 1950 Old Gallows Road, Suite 600, Vienna, VA 22182. This proposed facility is located in Longswamp Township, **Berks County**.

Description of Proposed Action/Activity: Construction of a sewer collection system, treatment plant and drip irrigation system.

WQM Permit No. 0605409, Sewerage, **Borough of Kutztown**, Borough Hall, 45 Railroad Street, Kutztown, PA 19530-1112. This proposed facility is located in Kutztown Borough, **Berks County**.

Description of Proposed Action/Activity: Construction of a sanitary sewage collection system and pump station for the proposed housing subdivision.

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

WQM Permit No. 1405201, Industrial Waste, SIC 2033 and 2037, **Hanover Foods Corporation**, P. O. Box 193, Centre Hall, PA 16828. This existing facility is located in Potter Township, **Centre County**.

Description of Proposed Action/Activity: The applicant is applying for a permit to authorize the construction and operation of improvements to the aeration system serving the aerated treatment lagoon and the addition of a chlorine contact tank for disinfection purposes.

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

WQM Permit No. 0279202-A5, Industrial Waste, **Neville Chemical Company**, 2800 Neville Road, Pittsburgh, PA 15225-1496. This proposed facility is located in Neville Township, **Allegheny County**.

Description of Proposed Action/Activity: Application to install a new pipeline from No. 1 Wet Well to the Batch Treatment Tanks.

WQM Permit No. 0289422-A1, Sewerage, **Collier Township Municipal Authority**, 2418 Hilltop Road, Presto, PA 15142. This proposed facility is located in Collier Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for modification of existing lift station.

WQM Permit No. 6505403, Sewerage, **Hempfield Township Municipal Authority**, R. D. 6, Box 500, Greensburg, PA 15601. This proposed facility is located in Hempfield Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application to install 24" PVC sanitary sewer interceptor from Earl Lohr Plant and tie into the South of Greensburg Interceptor.

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAI130546	Chester County 2 North High St West Chester, PA 19380	Chester	West Chester Borough	3D, 3F, 3G, 3H, 3I and 7K Watersheds	Y

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

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

<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
Hallstead Borough P. O. Box 366 Hallstead, PA 18822	Susquehanna	Hallstead Borough	Susquehanna River
Jeddo Borough R. R. 1, Box Box 1269 Freeland, PA 18224	Luzerne	Jeddo Borough	Black Creek CWF
West Abington Township R. R. 3, Box 26 Dalton, PA 18414	Lackawanna	West Abington Township	UNT to South Branch of Tunkhannock Creek CWF
Great Bend Borough P. O. Box 745 Great Bend, PA 18821	Susquehanna	Great Bend Borough	Susquehanna River WWF
New Milford Township P. O. Box 276 New Milford, PA 18834	Susquehanna	New Milford Township	Salt Lick and Beaver Creeks

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.

Carbon County Conservation District: 5664 Interchange Rd., Lehighton, PA 18235-5114, (610) 377-4894.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021305007	Department of General Services 18th and Herr Streets Harrisburg, PA 17125	Carbon	Kidder Township	Black Creek HQ-CWF
PAI021305008	Patrick Aviles 424 Grape St. Whitehall, PA 18052	Carbon	Franklin Township	Pine Run EV

Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025205006	Forest Glen Estates, LLC 155 3rd Street Brooklyn, NY 11231-4822	Pike	Delaware Township	Dingmans Creek HQ-CWF Adams Creek EV

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.
Clinton County Conservation District: 45 Cooperation Lane, Bellefonte, PA 17751, (570) 726-3798.*

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041805001	Department of Transportation P. O. Box 342 Clearfield, PA 16830	Clinton	Chapman Township	Left Branch Young Woman 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, (724) 837-5271.

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI056505004	Dominion Transmission, Inc. 445 West Main Street Clarksburg, WV 26301	Westmoreland	Hempfield, Penn and Salem Townships	Beaver Run (HQ-CWF), Brush Creek (TSF), Little Sewickley Creek (TSF)

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

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

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 5205503, Public Water Supply

Applicant	S & S Construction Group
Township or Borough	Dingman Township
County	Pike
Responsible Official	Xui Quan Shi, President P. O. Box 1126 Montague, NJ (973) 293-3546
Type of Facility	Community Water System
Consulting Engineer	Brian D. Swanson, P. E. Swanson Engineering, P. C. 435 Green Ridge Street Scranton, PA 18509 (570) 558-2727
Application Received Date	May 13, 2005
Description of Action	Application for construction of a new supply well, along with two 3,000 gallon finished water storage tanks, chemical treatment facilities and distribution to supply expansion of the existing Maple Park Garden residential townhouse development.

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

Permit No. 0604521, Public Water Supply.

Applicant	Genesis Elder Care Corporation
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Municipality Tilden Township
 County **Berks**
 Responsible Official Randy S Eddinger,
 Consultant/PADEP Operator
 1697 Swamp Pike
 Gibertsville, PA 19525
 Type of Facility Public Water Supply
 Consulting Engineer George W Ruby, P. E.
 Ruby Engineering
 P. O. Box 127
 Rexamont, PA 17085-0127
 Application Received Date 12/7/2004
 Description of Action Addition of pH adjustment to
 provide corrosion control to
 existing facility.

Permit No. 3805504, Public Water Supply.
 Applicant **Cornwall Borough, Lebanon
 County Municipal Authority**
 Municipality Cornwall Borough
 County **Lebanon**
 Responsible Official Kathleen G Schaeffer,
 Chairperson
 P. O. Box 667
 36 Burd Coleman Rd.
 Cornwall, PA 17016
 Type of Facility Public Water Supply
 Consulting Engineer James C Elliot, P. E.
 Gannett Fleming, Inc.
 P. O. Box 67100
 Harrisburg, PA 17106-7100
 Application Received Date 5/16/2005
 Description of Action Construction of a new Alden
 Place Storage Tank, and booster
 chlorination system at the
 existing Borough Garage
 Pumping Station, repainting of
 the Cold Spring Storage Tank
 and distribution pipeline
 improvement.

MINOR AMENDMENT

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

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

Application No. Minor Amendment.
 Applicant **Country Club Estates
 Condominium Association,
 Inc.**
 Township or Borough Mahoning Township
Carbon County
 Responsible Official Steven J. Rose, President
 Country Club Estates Condo.
 Assn., Inc.
 2930 Fairview Street
 Allentown, PA 18103
 (610) 821-5775
 Type of Facility Community Water System

Consulting Engineer N/A
 Application Received Date May 10, 2005
 Description of Action Application for transfer of PWS
 Permit No. 3130035, issued
 October 3, 2002, from Equitis
 Group, LP to Country Club
 Estates Condominium
 Association, Inc.

WATER ALLOCATIONS

**Applications received under the act of June 24,
 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641)
 relating to the Acquisition of Rights to Divert
 Waters of this Commonwealth**

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

WA-67, Water Allocations. **Aqua Pennsylvania, Inc.**,
 762 West Lancaster Avenue, Bryn Mawr, PA 19010, Lower
 Providence Township, **Montgomery County**. Renewal of
 existing Water Allocation Permit for the right to with-
 draw 16.5 mgd from the Perkiomen Creek at the
 Wetherill Dam and Pumping Station.

*Southcentral Region: Water Supply Management Pro-
 gram Manager, 909 Elmerton Avenue, Harrisburg, PA
 17110-8200.*

WA 06-1021, Water Allocations. **Ontelaunee Town-
 ship Municipal Authority, Berks County**. Subsidiary
 water allocation to allow Ontelaunee Township to pur-
 chase water from the Reading Area Water Authority.
 Consulting Engineer: Carl Frankdicker Jr, Spotts Stevens
 McCoy Inc Date Application Received: 1/16/2004.

WA 36-574F, Water Allocations. **East Petersburg Bor-
 ough, Lancaster County**. The right to purchase 500,000
 gallons per day, based on a 30-day average, from the City
 of Lancaster Consulting Engineer: Cynthia L Zawrotuck,
 ARRO Consulting Inc Date Application Received: 5/10/
 2005.

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

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

Sections 302—305 of the Land Recycling and Environ-
 mental 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 Stan-
 dard, the Site-Specific Standard or who intend to remedi-
 ate 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 demon-

strates 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.

Friends Hospital, City of Philadelphia, **Philadelphia County**. Cliff Harper, Harper Environmental, 1811 Hale Hollow Rd., Bridgewater Corners, VT 05035 on behalf of David Liddle, Friends Hospital, 4641 Roosevelt Blvd., Philadelphia, PA 19126 has submitted a Notice of Intent to Remediate. Soil at the site was has been impacted by unleaded gasoline.

CSX Pier 124, City of Philadelphia, **Philadelphia County**. George E. Tieman, Triad Eng., Inc., P. O. Box 1435, St. Albans, WV 25177 on behalf of Kevin Boland, CSX Real Prop., Inc. has submitted a Notice of Intent to Remediate. Soil at the site was impacted by PAHs and inorganics.

Cope Tract/Ridgewood, Skippack Township, **Montgomery County**. Jonathan M. Rybacki, Apex Env., Inc., 269 Great Valley Parkway, Malvern, PA 19355 on behalf of John Gigliotti, Gigliotti Group—Squirrel Hill Assoc., LP, Summit Square Center, Suite 2G-H, Route 413 and Doublewoods Rd., Langhorne, PA 19047 has submitted a Notice of Intent to Remediate. Soil at the site was impacted by inorganics other organics, lead and arsenic.

The Wharf at Rivertown, City of Chester, **Delaware County**. Mark Eschbacher, P. G., RT Env. Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Larry Wygant, Preferred Real Estate Investments, 1001 E. Hector St., Suite 101, Conshohocken, PA 19428 has

submitted a Notice of Intent to Remediate. Soil at the site was impacted by PCBs, inorganics and chlorinated solvents.

Atoll Prop., Royersford Borough, **Montgomery County**. Richard Johnson, P. G., RT Env. Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Joseph Price, Riverfront at Royersford, LP, 721 Dresher Rd., Horsham, PA 19044 has submitted a Notice of Intent to Remediate. Soil and groundwater were impacted by chlorinated solvents and other organics.

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

Sunoco Inc, Shippensburg Borough, **Cumberland County**. Aquaterra Technologies, Inc., 122 South Church Street, West Chester, PA 19381, on behalf of Sunoco, Inc. R & M, 5733 Butler Street, Pittsburgh, PA 15201, submitted a Notice of Intent to remediate site soils and groundwater impacted with benzene, toluene, ethylbenzene, xylene, MTBE, isopropylbenzene and naphthalene. The applicant proposes to remediate the property to meet the Site Specific Standard requirement. The property will continue to be used as a gasoline station and convenience store.

Fort Indiantown Gap Army National Guard Training Center, Area 19-116, East Hanover Township, **Lebanon County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Department of Military and Veterans Affairs, Building 11-19, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil. The applicant proposes to remediate the site to a Statewide health standard. The site will continue to be used for residential and nonresidential purposes.

Fort Indiantown Gap Army National Guard Training Center, Area 11-17, East Hanover Township, **Lebanon County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Department of Military and Veterans Affairs, Building 11-19, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil. The applicant proposes to remediate the site to a Statewide health standard. The site will continue to be used for residential and nonresidential purposes.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications submitted Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit Application No. 101678. Tri-County Landfill Inc., 159 TCI Park Drive, Grove City, PA 16127, Liberty and Pine Townships, **Mercer County**. The application to repermit and expand the Tri-County Landfill was originally submitted by Tri-County Landfill, Inc. on August 23, 2004. This application was subject to the Local Municipality Involvement Process Policy and the Alternative Project Timeline requirement. The LMIP was held on September 29, 2004, and the alternative timeline was finalized on October 28, 2004. The application was

found to be administratively complete on February 8, 2005, and a public meeting regarding the benefits and harms of the proposed project was held on April 12, 2005. The Department of Environmental Protection is currently in the review stage of the Environmental Assessment/Benefits and Harms portion of the application.

Permit Application No. 300995. Crompton Petrolia, 100 Sonneborn Lane, Petrolia, PA 16050, Fairview Township, **Butler County**. Permit reissuance application for the transfer of the Crompton/Witco Petrolia facility which is a captive residual waste landfill. The permit is being reissued to Sonneborn, Inc. The application was received by Northwest Regional Office on May 16, 2005.

Comments concerning the application should be directed to Todd Carlson, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335. Persons interested in obtaining more information about the general permit application may contact the Northwest Regional Office, (814) 332-6848. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

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

PLAN APPROVALS

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

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

06-03132: Ernst Cabinet Works (51 Primrose Street, Hamburg, PA 19526) for construction of a surface coating operation (wooden furniture) controlled by dry filters in the Borough of Hamburg, **Berks County**.

06-05149: Fleetwood Industries (3001 St. Lawrence Avenue, Reading, PA 19533) for construction of a wooden furniture (kitchen cabinets) manufacturing facility controlled by dry filters in Ontelaunee Township and the Borough of Leesport, **Berks County**.

38-05019C: AES Ironwood, LLC (305 Prescott Road, Lebanon, PA 17042) to modify the language for start-ups, shutdowns and load changes in the current approval. The facility is in South Lebanon Township, **Lebanon County** and is subject to the Title V permitting requirements and 40 CFR Part 60, Subpart GG for stationary gas turbines.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

08-00003C: CraftMaster Manufacturing, Inc. (Shiner Road, P. O. Box 311, Towanda, PA 18848) for a heat input increase to wood waste fired boiler No. 3 at their CraftMaster facility in Wysox Township, **Bradford County**.

60-318-011A: Pik Rite Inc. (60 Pik Rite Lane, Lewisburg, PA 17837) for construction of a fabricated steel parts surface coating operation in Buffalo Township, **Union County**.

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

24-012E: C/G Electrodes LLC—St. Marys Plant (800 Theresia Street, St. Marys, PA 15857-1898) for construction of four carbottom kilns Nos. 491—494 to the existing thermal incinerator and scrubber in St. Marys City, **Elk County**. This is a Title V facility.

42-158J: Temple Inland Forest Products (147 Temple Drive, Mt. Jewett, PA 16740) for modification of plan approval 42-158I to incorporate two additional sources previously omitted and clarification of CAM condition for their Mount Jewett Complex in Sargeant Township, **McKean County**. The facility is a Title V Facility.

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

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

35-00014: Keystone Landfill, Inc. (P. O. Box 249, Dunmore, PA 18512) for incorporation of the requirements from Plan Approval 35-399-040 into the renewal Title V operating permit for their facility in Dunmore Borough, **Lackawanna County**.

40-303-020B: Reading Materials, Inc. (P. O. Box 1467, Skippack, PA 19474) for modification of an existing batch asphalt plant to utilize alternative fuels, to include waste derived liquid fuel, in the process at their Pikes Creek Asphalt facility in Lehman Township, **Luzerne County**. This facility is not a Title V facility. The company has elected to take a voluntary production restriction of 400,000 tons of asphalt per year. The asphalt plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources for Hot Mix Asphalt Facilities, 40 CFR 60.90—60.93. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the batch asphalt plant operating within all applicable air quality requirements.

45-303-009: Haines and Kibblehouse, Inc.—Locust Ridge Quarry (P. O. Box 196, Skippack, PA 19474) for modification of an existing batch asphalt plant to utilize alternative fuels, to include waste derived liquid fuel, in the process at their Locust Ridge Quarry facility in Tobyhanna Township, **Monroe County**. This facility is not a Title V facility. The company has elected to take a voluntary production restriction of 400,000 tons of asphalt per year. The asphalt plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources for Hot Mix Asphalt Facilities, 40 CFR 60.90—60.93. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the batch asphalt plant operating within all applicable air quality requirements.

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

34-05001B: Armstrong Cabinet Products (R. R. No. 2, Box 171C, Thompsettown, PA 17094) for addition of 650 hangers to the facility's existing cabinet finishing operations in Delaware Township, **Juniata County**. The addition of the hangers will allow for an increase in the facility's production capacity and increase the potential emissions of VOCs by about 37 tons per year. The facility is subject to 40 CFR Part 63, Subpart JJ—National Emission Standards for Wood Furniture Manufacturing Operations. The plan approval will include restrictions, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

55-00010A: National Limestone Quarry, Inc. (P. O. Box 397, Middleburg, PA 17842) for construction of 14 conveyors (the conveyors) and installation of a water

spray dust suppression system (ID C03) associated with the conveyors at their Paxtonville Quarry in Franklin Township, **Snyder County**.

The conveyors will be a source of PM and PM10 emissions. The new sources will emit up to 0.59 ton of PM and 0.19 ton of PM10 in any 12 consecutive month period (CMP). The facility will emit less than 100 tons of PM/PM10 in any 12 CMP. The facility will have the potential to emit less than 100 tons of SO_x, NO_x, CO, 50 tons of VOCs, 10 tons of any individual hazardous air pollutant (HAP), and less than 25 tons of combined HAPs in any 12 CMP. The facility will be considered as a natural minor facility.

The Department of Environmental Protection's (Department) review of the information provided by National Limestone Quarry, Inc. indicates that the new sources will comply with all Air Quality requirements pertaining to air contamination sources and the emission of air contaminants, including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the construction of 14 conveyors and installation of a water spray dust suppression system associated with the conveyors.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements.

1. Under the best available technology provisions in 25 Pa. Code §§ 127.1 and 127.12, an operable water truck equipped with a pressurized water spray mechanism shall be kept onsite and filled with water at all times (except when refilling the truck) that the conveyors are in operation. This water truck shall be used, as needed, for the prevention and control of fugitive air contaminant emissions from plant roadways, and the like.

2. All conditions contained in State-only operating permit NMOP 55-00010 and Plan Approval No. 55-310-002A remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition contained in this plan approval and a condition contained in State Only operating permit NMOP 55-00010 or Plan Approval No. 55-310-002A, the permittee shall comply with the condition contained in this plan approval.

3. Under the best available technology provisions in 25 Pa. Code §§ 127.1 and 127.12, if at any time it is determined that the operation of any conveyor is resulting in the emission of air contaminants in excess of any applicable limitations specified in 25 Pa. Code § 123.1, the company shall immediately install additional water spray dust suppression nozzles and/or take such other control measures as are necessary to reduce the air contaminant emissions to within the applicable limitations.

4. Under the best available technology provisions in 25 Pa. Code §§ 127.1 and 127.12, the particulate matter emissions from the conveyors shall be controlled by a water spray dust suppression system that shall, at a minimum, incorporate the following spray nozzles:

(a) Three nozzles at the discharge of the 30" by 100" Melot conveyor (No. 65),

(b) Two nozzles at the discharge of the 24" by 80" LB Smith conveyor (No. 66),

(c) Two nozzles at the discharge of the 30" by 100" Melot radial stacker (No. 70),

(d) Two nozzles at the discharge of the 36" by 90' Melot conveyor (No. 74),

(e) Three nozzles at the discharge of the 36" by 103' LB Smith radial stacker (No. 75).

More spray nozzles may be added without the necessity of obtaining Department plan approval, but none of those identified herein may be deleted or removed without prior Department approval. In addition, each spray nozzle shall be equipped with a filter/strainer.

5. Under the best available technology provisions in 25 Pa. Code §§ 127.1 and 127.12, the water spray dust suppression system associated with the conveyors shall be connected to an on-demand water source capable of delivering an adequate supply of water at anytime the conveyors are in operation. On-demand shall be interpreted as meaning that adequate water can be provided to all spray nozzles at anytime with no more effort than turning a valve. The water spray dust suppression system associated with the conveyors shall be operated on any and all occasions that the conveyors are operated, except in those unusual instances where conditions are such that operation of the conveyors without the simultaneous operation of the water spray dust suppression system can take place without creating air contaminant emissions in excess of the limitations specified in 25 Pa. Code §§ 123.1 and 123.2. If, however, the water spray dust suppression system associated with the conveyors is incapable of operation due to weather conditions or any other reason, the conveyors may not be operated at all.

6. Under the replacement provisions in 40 CFR 60.672(d), any of the conveyors can be replaced without obtaining plan approval provided that the replacement conveyors are of equal or smaller size as defined in 40 CFR 60.671 and provided that the replacement conveyor is of equivalent design and function (that is, a conveyor may be replaced with a same sized conveyor, and the like). The permittee shall notify the Department, in writing, prior to the replacement.

7. The conveyors are subject to 40 CFR Part 60, Subpart OOO. The permittee shall comply with all the applicable requirements specified in 40 CFR 60.670—60.676.

8. The conveyors consist of a 24" by 10' LB Smith conveyor (facility ID No. 60), a 42" by 25' Simplicity conveyor (facility ID No. 63), a 24" by 93' LB Smith conveyor (facility ID No. 64), a 30" by 100' Melot conveyor (facility ID No. 65), a 24" by 80' LB Smith conveyor (facility ID No. 66), a 24" by 15' Simplicity conveyor (facility ID No. 67), a 24" by 53' LB Smith conveyor (facility ID No. 69), a 30" by 100' Melot radial stacker (facility ID No. 70), a 24" by 75' LB Smith conveyor (facility ID No. 71), a 36" by 20' LB Smith conveyor (facility ID No. 72), a 36" by 90' Melot conveyor (facility ID No. 74), a 36" by 103' LB Smith radial stacker (facility ID No. 75), a 30" by 20' LB Smith conveyor (facility ID No. 76) and a 24" by 20' LB Smith conveyor (facility ID No. 77). The water spray system is a Cedar Rapids CR16 Water Spray Dust Control System.

Copies of the application are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling (570) 327-3693.

Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmen-

tal Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

08-00003B: CraftMaster Manufacturing, Inc. (P. O. Box 311, Shiner Road, Towanda, PA 18848) for their facility in Wysox Township, **Bradford County**. The respective facility is a major facility for which a Title V operating permit (TVOP 08-00003) has been issued. The Department of Environmental Protection intends to issue a plan approval to authorize a throughput increase for the following sources:

A first pass trim surface coating operation (SCO) to work in conjunction with the existing lap siding line SCO (TVOP Source ID 189P), or separately, to produce the MiraTEC trim product (or similar trim product produced on the Line 2 Press (TVOP Source ID 172P)). The first pass trim SCO consists of the following equipment:

1. Spray booth No. 1.
2. Spray booth No. 2.
3. Preheat IR oven manufactured by TEC with a rated heat input of 4.263 mmBtu/hr.
4. HVHA oven No. 1 manufactured by TEC with a rated heat input of 3.0 mmBtu/hr.
5. HVHA oven No. 2 manufactured by TEC with a rated heat input of 6.0 mmBtu/hr.
6. Final IR oven manufactured by TEC with a rated heat input of 4.263 mmBtu/hr.

The throughput increase will result in the following annual emission increases: 8.0 tons of VOCs and 0.9 ton of PM, including PM10. Consequently, the first pass trim SCO has the potential to emit the following air contaminants on an annual basis: 22 tons of VOCs, 2.2 tons of NOx, 3.8 tons of CO, 3.7 tons of PM/PM10 and 1.3 tons of HAPs.

The Department of Environmental Protection's (Department) review of the information contained in the application indicates that the first pass trim SCO will comply with all applicable requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of 40 CFR Part 63, Subpart QQQQ—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products. Based on this finding, the Department intends to approve the application and issue plan approval for the proposed throughput increase.

The Department proposes to place in the plan approval the following conditions to ensure compliance with all applicable regulatory requirements:

1. This condition supersedes condition No. 13 of plan approval 08-00003A The MiraTEC Trim Product (or similar trim product produced on the Line 2 Press) shall be the only product coated in the first pass trim SCO.

2. This condition supersedes condition no. 4 of plan approval 08-00003A Under the best available technology provisions in 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the first pass trim SCO shall not exceed the following:

<i>Air Contaminant</i>	<i>Limitation in Tons in any 12 Consecutive Month Period</i>
VOCs	22
NOx	2.2

<i>Air Contaminant</i>	<i>Limitation in Tons in any 12 Consecutive Month Period</i>
CO	3.8
PM/PM10	3.7
HAPs	1.3

3. The first pass trim SCO shall continue to comply with all conditions of plan approval 08-00003A except for the two conditions specifically superseded by conditions contained herein.

4. The issuance of an operating permit for all sources and air cleaning devices is contingent upon all sources and air cleaning devices being maintained and operated, as described in the plan approval and supplemental materials submitted for this application, and in accordance with all conditions contained herein, and upon satisfactory demonstration that any air contaminant emissions are in compliance with all limitations specified herein, as well as in compliance with all requirements specified in, or established under 25 Pa. Code Part I, Subpart C, Article III.

Copies of the application are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling (570) 327-3693.

Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

62-017K: United Refining Co. (15 Bradley Street Warren, PA 16335-3481) for modification of the Distillate Hydrotreater 2 (DHT2), the Reformer unit and increase sulfur recovery in the City of Warren, **Warren County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the City of Warren, Warren County. This plan approval will authorize the applicant to modify the DHT2, the Reformer unit and increase sulfur recovery. These units will be modified to meet the United States Environmental Protection Agency's Ultra Low Sulfur Diesel requirements of 40 CFR Part 80. The current sulfur content of the diesel produced by United is in the range of 390-500 ppm. By June 2006, United is required to reduce the average to 15 ppm. This will be accomplished with a change of the catalyst in DHT2 and the existing reformer unit will be utilized to create more hydrogen in a process known as reduced pressure reforming. These changes will be accomplished by June 1, 2006. The new DHT2 catalyst will consume more hydrogen and will allow for more aggressive sulfur removal that will be processed through SRU2. The result will be a reduction of sulfur in on-road diesel. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information provided by the applicant and Department's own analysis, the project will increase NO_x, CO, PM10 and SO_x emissions by 39.8 TPY, 31.6 TPY,

12.7 TPY, 10.9 TPY and 36.3 TPY, respectively. The increases are less than the significant emission thresholds. The permit will incorporate monitoring requirements for the fuel and analysis of the heat content to ensure compliance with the emission limits. In addition, the facility will be required to keep records of the fuel and emission rates. The permit also incorporates the Federal MACT requirements for the heaters as well as the reformer and the sulfur recovery unit (40 CFR Part 63, Subparts DDDDD and UUU, respectively). The permit will also incorporate conditions to ensure compliance with all applicable State and Federal Air Quality Requirements as well as the National Ambient Air Quality Standards.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335. To make an appointment, contact Records Management at (814) 332-6338.

Individuals wishing to provide the Department with additional information they believe should be considered may submit the information to the previous address. Comments must be received by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of proposed Plan Approval No. 62-017K.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, when the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to John F. Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335.

10-0062C: Slippery Rock University (Slippery Rock, PA 16057-1326) for modification of Boiler No. 3 at their maintenance facility in Slippery Rock, **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval to for modification of Boiler No. 3 at their maintenance facility in Slippery Rock, Butler County. The facility currently has a Title V permit No. 10-00062. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Plan approval No. 10-062C is for the modification of Boiler No. 3. The boiler will have the existing coal fired grating removed and a natural gas fired burner with low NO_x burner installed. The results from the modification will be reduced NO_x and particulate emissions. The facility will be required to comply with fugitive, particulate mater, odor and visible emission standards of 25

Pa. Code Chapter 123. The facility will conduct stack tests to confirm compliance with the nitric oxide and carbon monoxide standards.

Copies of the application, Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at 230 Chestnut Street, Meadville, PA 16335.

Individuals who wish to provide Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the previous address. The Department will consider any written comments received within 30 days of the publication of this notice. Written comments must contain the followings:

Name, address and telephone number of the person submitting the comments.

Identification of proposed Permit No. PA-10-0062C.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, when the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to William Holden, Air Pollution Control Engineer, Bureau of Air Quality, 230 Chestnut Street, Meadville, PA 16335.

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

If a plan approval has not undergone the public notice process the change to an operating permit must be treated as a significant modification. In these situations the Department should follow the procedures described in 25 Pa. Code §§ 127.421—127.431 for State only operating permits or 25 Pa. Code §§ 127.521—127.524 for Title V operating permits.

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

AMS 04264: University of Pennsylvania (3451 Walnut Street, Philadelphia, PA 19104) for installation of 25 emergency generators ranging in size from 15 kW to 1275 kW. The allowable combined NOx emission from the units is restricted to 18.19 tons per rolling 12-month period. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

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

67-05052: New York Wire Co. (P. O. Box 1749, York, PA 17405) for operation of their Weaving Facility in York

City, **York County**. The facility has the following annual potential emissions: 72 tons VOC; 9 tons xylene; and 13 tons aggregate HAPs. The Title V operating permit renewal 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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

49-00009: Mohawk Flush Doors, Inc. (980 Point Township Drive, Northumberland, PA 17857) for renewal of a Title V Operating Permit for their wood door manufacturing facility in Point Township, **Northumberland County**.

The facility incorporates woodworking operations, five spray booths, a roller coating line and various ancillary operations. A Title V operating permit is required for the respective facility because it has the potential to emit 10 tons or more per year of any single hazardous air pollutant and/or 25 tons or more per year of all hazardous air pollutants combined. The facility also has the potential to emit up to 50 tons of VOCs per year.

The Department intends to renew Title V Operating Permit 49-00009. The Department proposes to incorporate into this renewal all conditions currently contained in Title V Operating Permit 49-00009 with minor exceptions (none of which will impact the nature or quantity of air contaminants emitted from the facility). The Department additionally proposes to incorporate into the renewal conditions requiring an existing parts cleaner to comply with all applicable requirements specified in 25 Pa. Code § 129.63, conditions requiring the facility's finishing (coating) operations to comply with all applicable requirements specified in Subpart QQQQ of the National Emission Standards for Hazardous Air Pollutants, 40 CFR 63.4680—63.4781, by May 28, 2006, and conditions establishing a 500 hour per year operating restriction and associated recordkeeping requirement for an existing propane-fired emergency generator.

The conditions contained in the proposed Title V operating permit renewal are intended to ensure compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants.

The proposed Title V operating permit renewal will be submitted to the United States Environmental Protection Agency for approval as a permit issued in accordance with the permit program requirements of 40 CFR Part 70.

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

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

25-00943: Serv-All Concrete (2 East Bay Drive, Erie, PA 16512) a Natural Minor operating permit for concrete batching and delivery in the City of Erie, **Erie County**.

PUBLIC HEARINGS

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

39-00064B: Howmet Castings—Alcoa (2175 Avenue C, Bethlehem, PA 18017-2119) for the amended Reasonably Available Control Technology (RACT) plans submitted by Howmet Castings in the City of Bethlehem, Lehigh County.

The Department of Environmental Protection (Department) will hold a public hearing on July 20, 2005, at 11 a.m. at the Department's Bethlehem District Office, 4530 Bath Pike, Bethlehem, PA to take testimony concerning the amended RACT plans submitted by Howmet Castings in the City of Bethlehem, Lehigh County.

These plans are for the operation of Howmet's investment casting processes and heating equipment that emit VOCs and ammonia emissions at their facility. By submittal of this application (No. 39-00064B) Howmet intends to meet the requirements under 25 Pa. Code §§ 129.91—129.95. The final amended RACT approval will be submitted to the United States Environmental Protection Agency as a revision to the Commonwealth's State Implementation Plan.

Individuals who wish to present testimony during the hearing should contact Mark Carmon, Community Relations Coordinator at (570) 826-2035 by July 13, 2005, to register. Those unable to attend the hearing, but wishing to comment, should provide written comment to Thomas DiLazaro, Regional Air Quality Manager, Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790 on or before July 20, 2005.

Copies of the RACT Application are available for review from 8 a.m. to 4 p.m. in the Department office, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Persons with disabilities who wish to attend the hearing and who require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Christine Domashinski at (570) 826-2060 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

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

Coal Applications Received

Effluent Limits

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

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

¹ The parameter is applicable at all times.

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

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

32000104 and NPDES No. PA0235318. Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, revision of an existing bituminous surface mine to include an additional 2.0 acres of which 0.4 acre is projected for coal removal in Pine Township, **Indiana County**, affecting 57.3 acres. Receiving streams: UNT to Yellow Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 12, 2005.

56050105 and NPDES No. PA0249793. Svonavec, Inc., 150 West Union Street, Suite 201, Somerset, PA 15501, commencement, operation and restoration of a bituminous surface mine in Milford Township, **Somerset County**, affecting 273.6 acres. Receiving streams: UNTs to and Middle Creek and UT to and South Glade Creek classified for the following uses: TSF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 13, 2005.

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

65-05-04 and NPDES Permit No. PA0250716. Bedrock Mines, LP (101 Emerson Avenue, Pittsburgh, PA 15215). Application for a Government Financed Construction Contract, located in Washington Township, **Westmoreland County**, affecting 9.8 acres. Receiving stream: UNT to Beaver Run, classified for the following use: TSF. The first potable water supply intake within 10 miles downstream from the point of discharge: Beaver Run Reservoir. GFCC application received: May 10, 2005.

65030103 and NPDES Permit No. PA0250481. Sosko Coal Co., Inc. (R. R. 3, Box 330, Mt. Pleasant, PA 15666). Revision application to add 23.1 acres to an existing bituminous surface mine, located in East Huntingdon Township, **Westmoreland County**, affecting 103 acres. Receiving streams: Stauffer Run and unnamed tributary to Stauffer Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received: May 20, 2005.

63743212. Washington Energy Processing, Inc. (P. O. Box 528, Lawrence, PA 15055). Renewal application for reclamation only of a coal refuse reprocessing surface mine, located in Robinson Township, **Washington County**, affecting 4.3 acres. Receiving stream: none. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: May 20, 2005.

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

17870129 and NPDES Permit No. PA0116190. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), revision to an existing bituminous surface mine permit for a road variance to mine within 100 feet of the eastern side of Township Road T-680, Hill Road. The variance begins approximately 4,600 feet north of T-680/SR 53 intersection and extends north for a distance

of approximately 5,000 feet. Receiving streams: Emigh Run, a tributary to Moshannon Creek; UNT to Laurel Run; tributary to Moshannon Creek. Application received: April 11, 2005.

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

40940205R2 and NPDES Permit No. PA0223441. Northampton Fuel Supply Co., Inc., (1 Horwith Drive, Northampton, PA 18067), renewal of an existing coal refuse reprocessing operation and NPDES Permit for discharge of treated mine drainage in Hanover Township, **Luzerne County** affecting 124.0 acres, receiving stream: Nanticoke Creek. Application received May 16, 2005.

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

30841307. Emerald Coal Resources, LP, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Emerald Mine No. 1 in Greene and Franklin Townships, **Greene County**, ACOE Pittsburgh District. (Garards Fort, PA quadrangle from N: 19.55 inches; W: 12.9 inches to N: 19.7 inches; W: 12.95 inches and from N: 22.2 inches; W: 17.0 inches to N: 23.7 inches; W: 17.15 inches and the Mather, PA quadrangle from N: 0.3 inch; W: 17.3 inches to N: 0.5 inch; W: 17.4 inches.)

This is a Chapter 105 Water Obstruction and Encroachment permit application (Stream Module 15), and 401 Water Quality Certification request, if applicable, submitted as part of the mining permit revision application to authorize the restoration of Coal Lick Run and Frosty Run in the event of stream pooling due to longwall mining.

Written comments or objections on the request for section 401 Water Quality Certification or to the issuance of the Water Obstruction and Encroachment Permit, (Stream Module 15) may be submitted to the Department within 30 days of the date of this notice to the District Mining Office previously identified. Comments should contain the name, address and telephone number of the person commenting, identification of the request for 401 Water Quality Certification and Chapter 105 permit application, (Stream Module 15) to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including relevant facts upon which they are based.

The Water Obstruction and Encroachment permit application is available for review at the California District Mining Office, by appointment, at the previous address. Application received April 26, 2005

30841316 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** to add acreage for corridor development mining. Underground acres proposed 5.21, scp acres proposed 1,327.39. No additional discharges. Application received April 29, 2005.

30841302 and NPDES Permit No. PA0213918, Consolidation Coal Company, (1800 Washington Road, Pittsburgh, PA 15241), to renew the permit for the Humphrey Mine No. 7 in Perry Township, **Greene County** and related NPDES permit for reclamation only. No additional discharges. Application received May 5, 2005.

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

33980110 and NPDES Permit No. PA0227901. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Revision to an existing bituminous surface strip operation in Perry Township, **Jefferson County** affecting 137.0 acres. Receiving streams: UNT to Mahoning Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to add 14.7 acres to the permit.

Application received: May 23, 2005.

Noncoal Applications Received

Effluent Limits

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹			
pH ¹		greater than 6.0; less than 9.0	

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

08000810. Donald E. Johnson, Jr. (R. R. 2, Box 48H, Wysox, PA 18854), transfer of an existing small industrial minerals (bluestone) permit from Donald E. Johnson, Sr., located in Warren Township, **Bradford County** affecting 5 acres. Receiving streams: UNT, tributary to Wappasening Creek and Pendleton Creek. Application received: March 25, 2005.

08050803. Anthony P. Bennett (R. R. 4, Box 4056, Wyalusing, PA 18853). Commencement, operation and restoration of a small industrial minerals (flagstone/shale) permit in Herrick Township, **Bradford County**, affecting 5 acres. Receiving stream(s): unnamed tributary, tributary to Camp Creek. Application received: April 11, 2005.

08052801. Daggett Sand & Gravel, Inc. (R. R. 2, Box 258, Millerton, PA 16936). Commencement, operation and restoration of a small industrial minerals (sand and gravel) permit in Wells Township, **Bradford County** affecting 5 acres. Receiving streams: Seeley Creek, tributary to Chemung River. Application received: April 12, 2005.

08940807. Nancy S. Preston (R. R. 1, Box 20A1, Wyalusing, PA 18853), transfer of an existing small industrial minerals (flagstone) permit from John Preston. The permit is located in Wyalusing Township, **Bradford County** and affects 5 acres. Receiving streams: Wyalusing Creek, tributary to the Susquehanna River. Application received: April 11, 2005.

08010820. Gary E. Benjamin (105 Walnut Street, Athens, PA 18810), transfer of an existing small industrial minerals (bluestone) permit from Gary R. Bartholomew. The permit is located in Sheshequin Township, **Bradford County** and affects 3 acres. Receiving streams: UNT, tributary to the Susquehanna River. Application received: May 3, 2005.

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

4274SM11 and NPDES Permit No. PA0212512. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprises, PA 16664, permit revision to increase

the permitted depth of the quarry from elevation 950 feet to elevation 900 feet on the Phase I (northern) dolomite area only in Taylor Township, **Blair County**, affecting 430 acres. Receiving streams: Plum Creek and Halter Creek classified for the following use: WWF. As part of the application review, the Department will be evaluating whether Halter and Plum Creeks have an existing use (CWF or HQ-CWF) different than the currently designated use of WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 28, 2005.

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

43020305. Development of Sharpsville Furnace, LTD (1127 Main Street, Sharpsville, PA 16150). Transfer of an existing slag operation in Sharpsville Borough, **Mercer County** affecting 32.8 acres. Receiving streams: Shenango River, classified for the following uses: WWF. The first downstream potable water supply intake from the point of discharge is Consumers PA Water Company. Transfer from SQP Industries. Application received: May 26, 2005.

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

28010301T and NPDES Permit No. PA0123811. RA Hill, Inc., (1364 Lincoln Highway East, Chambersburg, PA 17201), transfer of an existing quarry operation from Myron A. Young in Hamilton Township, **Franklin County** affecting 31.54 acres, receiving stream: unnamed tributary to Conococheque Creek. Application received May 20, 2005.

6775SM1A1C3 and NPDES Permit No. PA0613819. National Limestone Quarry, Inc., (P. O. Box 397, Middleburg, PA 17842), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Beaver and Franklin Townships, **Snyder County**, receiving stream: Middle Creek, classified for the following use: TSF. Application received May 23, 2005.

58930805. Pro-Seal Paving, (P. O. Box 91, Hallstead, PA 18822), Stages I and II bond release for a quarry operation in Liberty Township, **Susquehanna County** affecting 3.0 acres on property owned by Tom Shields. Application received May 25, 2005.

7475SM5C3 and NPDES Permit No. PA0223522. Essroc Cement Corp., (Route 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Nazareth Borough, **Northampton County**, re-

ceiving stream: Shoeneck Creek, classified for the following use: warm water fishes. Application received May 27, 2005.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

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

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

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E35-384. Rapid Pallet Company, P. O. Box 123, Jermyn, PA 18433, in Jermyn Township, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To fill 1.13 acres of POW wetlands and 0.22 acre of PEM wetlands for the purpose of creating additional usable area for the expansion of an industrial facility. The project is located at the southwest corner of Rushbrook Street (SR 0107) and Bonnie Drive (Carbondale, PA Quadrangle N: 4.9 inches; W: 4.0 inches).

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

E36-797: Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699 in East Lampeter Township, **Lancaster County**, ACOE Baltimore District.

To remove the existing structures and then to construct and maintain a single span bridge of 74 feet with an underclearance of 7 feet and 1 inch over the channel of Mill Creek (WWF); an 8-foot by 8-foot box culvert at the channel of a adjacent millrace and associated improvements to improve the traffic safety condition of SR 2029, Section B01, Segment 0190, Offset 0047 located about 0.5 mile south from its intersection with United States Route 30 (Leola, PA Quadrangle N: 4.75 inches; W: 16.45 inches) in East Lampeter Township, Lancaster County.

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

E17-408. Decatur Township, 575 Fairview Road, Osceola Mills, PA 16666, Cornell Correction Sanitary Sewer Project, Decatur Township, **Clearfield County**, ACOE Baltimore District (Philipsburg, PA Quadrangle N: 7.32 inches; W: 16.82 inches).

To construct, operate and maintain a 4-inch diameter high-density polyethylene pipe as a force main to convey municipal wastewater beneath Laurel Run (CWF) and its associated wetlands. Eight hundred and fifty feet of the 4-inch diameter force main shall be installed by directional drilling to avoid stream and wetland impacts; whereas, an additional 560 feet of 4-inch force main shall be installed through wetlands by either directional drilling or open cut that may result in 0.4 acre of temporary wetland impact. The project is located along the northern right-of-way of SR 0322 at the intersection of T-676 and SR 0322.

E17-409. Cooper Township Municipal Authority, P. O. Box 446, Winburne, PA 16879. Pale Moon Road Crossing Browns Run, in Cooper Township, **Clearfield County**, Baltimore ACOE District (Black Moshannon, PA Quadrangle N: 17.5 inches; W: 16.89 inches).

To operate and maintain a road crossing Browns Run (CWF) to provide access to the Lanse Municipal Wastewater Vacuum Station. The road crossing was constructed and shall be maintained with two plastic culvert pipes each having a minimum length of 22 feet and a diameter of 2.5 feet. Construction and future work of the road crossing shall be conducted at stream low flow. As constructed, the Pale Moon Road crossing does not impact wetlands while impacting 35 feet of waterway. The road crossing is located along the eastern right-of-way of Cooper Township Road T-721 approximately 875 feet east of T-721 and SR Pale Moon Road intersection. This permit does not authorize any temporary or permanent wetland impacts, and as such, the permittee shall ensure no wetland impacts result from the operation and maintenance of the road crossing.

E41-549. The Faxon Company, 442 William Street, Williamsport, PA 17701. Home Depot—Loyalsock/Faxon Property Site, in Loyalsock Township, **Lycoming County**, Baltimore ACOE District (Montoursville North, PA Quadrangle N: 22.4 inches, W: 13.4 inches).

The applicant proposes to develop an approximate 10-acre site to construct a Home Depot store. The proposed project will impact two Palustrine Forested (PFO) wetlands, which will result in 0.27 acre of permanent wetland impact. The applicant proposes to construct a 0.54-acre PFO wetland as compensation for wetland impact. The project site is located near the I-180 Faxon

interchange (Exit No. 25), in the vicinity of East Third Street, Northway Road and Russell Avenue.

E49-287. Ray S. Hendricks, 9 East Sunbury Road, Danville, PA 17821. Gravel removal and stream bank stabilization in Rush Township, **Northumberland County**. Baltimore ACOE District (Riverside, PA Quadrangle N: 6.7 inches, W: 6.9 inches).

The applicant proposes to remove approximately 1.5 feet of gravel from a 50-foot section of the streambed of a UNT to Gravel Run to restore the previous channel depth and to remove the exposed portions of gravel bars in 75 feet of the channel immediately downstream. The purpose of the project is to reduce flooding by restoring channel capacity and reconfiguring the channel to the dimensions of the adjacent upstream section that does not contain excessive gravel deposits. The UNT to Gravel Run is a perennial stream classified as a CWF.

E59-467. Phoenix Resources, Inc. 782 Antrim Road, Wellsboro, PA 16901. Sedimentation Pond 3, in Duncan Township, **Tioga County**, ACOE Baltimore District (Antrim, PA Quadrangle N: 2.5 inches; W: 2.7 inches)

To place and maintain fill in 0.55-acre wetland complex for the purpose of constructing a permitted sedimentation basin required for adjacent landfill. The site is located approximately 1 mile northeast of the small town of Antrim, PA and can be accessed off of SR 3009.

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

E11-308. Barry L. Saylor, Say-Core, Inc., 132 Block Road, Portage, PA 15946. To construct a pipe stream enclosure in Portage Township, **Cambria County**, Pittsburgh ACOE District. (Ebensburg, PA Quadrangle N: 3.75 inches; W: 4.5 inches and Latitude: 40° 23' 14"—Longitude: 78° 38' 39"). The applicant proposes to construct and maintain a 200-foot long, 84-inch diameter R.C. pipe stream enclosure and a 200-foot long channel relocation in Spring Run (CWF) for the purpose of access to a concrete waste material stockpile for removal of concrete waste material.

E26-326. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106. To construct Section 51 B of the Mon Fayette Expressway in Menallen and North Union Townships, **Fayette County**, Pittsburgh ACOE District. (New Salem, PA Quadrangle N: 11.1 inches; W: 0.97 inch and Latitude: 39° 56' 10"—Longitude: 79° 45' 25"). The applicant proposes to construct and maintain: 1) a 5-span bridge on north bound of SR 0043, Station 207+24, across a UNT to Jennings Run (WWF) having spans of 175 feet, 216 feet, 250 feet, 216 feet and 175 feet (New Salem, PA Quadrangle N: 11.45 inches; W: 1.36 inches and Latitude: 39° 56' 17"—Longitude: 79° 45' 35"); 2) a 5-span bridge on the south bound of SR 0043, Station 207+24, across said stream having spans of 176 feet, 207 feet, 240 feet, 207 feet and 172 feet (New Salem, PA Quadrangle N: 11.45 inches; W: 1.3 inches and Latitude: 39° 56' 17"—Longitude: 79° 45' 35"); 3) 489 linear feet of channel

relocation of a UNT to Jennings Run SR 0043, Station 161+00; 4) a 4-span bridge on north bound of SR 0043, Station 159+85 across Jennings Run and over Fan Hollow Road having spans of 131 feet, 180 feet, 220 feet and 160 feet (New Salem, PA Quadrangle N: 12.41 inches; W: 00 inch and Latitude: 39° 56' 36"—Longitude: 79° 45' 00"); 5) a 4-span bridge on south bound of SR 0043, Station 159+85 across Jennings Run and over Fan Hollow Road having spans of 151 feet, 207 feet, 207 feet and 151 feet (New Salem, PA Quadrangle N: 12.41 inches; W: 00 inch and Latitude: 39° 56' 36"—Longitude: 79° 45' 00"); 6) a 628 foot long, 36-inch diameter pipe stream enclosure in a UNT to Jennings Run, SR 0043, Station 220+00. This structure qualifies for Department waiver 105.12(a)(2); 7) a 392-foot long, 36-inch diameter pipe stream enclosure in a UNT to Jennings Run, SR 0043, Station 177+00. This structure qualifies for Department waiver 105.12(a)(2). A rock drainage gallery at Station 180+00, SR 0043, 187 linear feet of a UNT to Jennings Run will be lost; and 8) the project will impact 0.34 acre of wetlands.

Department of Environmental Protection, Bureau of Waterways Engineering, Water Management Program Manager, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8554, Harrisburg, PA 17105-8554.

E3314-058A, Borough of Brockway, 501 Main Street, Brockway, PA 15824, Little Toby Creek, Brockway Borough and Snyder Township, **Jefferson County**, ACOE Pittsburgh District.

Project proposes to amend an existing permit to construct, operate and maintain a stream restoration and enhancement project including constructing rock vanes, regrading stream banks, excavating and removing excess floodplain sediments and planting riparian vegetation in and along Little Toby Creek (CWF) within the existing flood protection levees. The project will temporarily impact approximately 0.09 acre of riverine habitat and approximately 0.23 acre of wetlands (PEM). The project will commence at a point immediately downstream of the Route 28 (Main Street) Bridge (Falls Creek, PA Quadrangle; latitude: 41° 14' 56", longitude: 78° 47' 48") and continue downstream approximately 6,850 feet (Carman, PA Quadrangle; latitude: 41° 15' 45', longitude: 78° 48' 27").

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D40-051A. Meadow Run/Mountain Lake Park Assn., P. O. Box 112, Bear Creek Township, PA 18602-0112. To modify, operate and maintain Meadow Run Dam across Meadow Run (HQ-CWF), impacting 0.07 acre of wetlands (Palustrine Scrub-shrub) and 300 feet of stream and providing 0.07 acre of wetland mitigation, for the purpose of rehabilitating the existing dam to address hydraulic, hydrologic and structural deficiencies (Pleasant View Summit, PA Quadrangle N: 17.1 inches; W: 6.1 inches) in Bear Creek Township, **Luzerne County**.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of

Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0035009 (Minor Sewage)	Lake Lehman School District P. O. Box 38 Lehman, PA 18627	Luzerne County, Lehman Township	East Fork of Harvey's Creek (5B)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0086941 (Sewage)	Dwayne Kocher Stardust Motel R. D. 4, Box 4960 Duncannon, PA 17020-0445	Perry County Watts Township	Susquehanna River 6-C	Y
PA0070335 (Industrial Waste)	Michael Fluck McConway & Torley Corporation 230 Railroad Street Kutztown, PA 19530	Berks County Kutztown Borough	Saony Creek 3B	Y
PA0088072 (Industrial Waste)	Wayne Anderson Stericycle R. R. 1, Box 364 1525 Chestnut Hill Road Morgantown, PA 19543	Berks County Robeson Township	Hay Creek 3C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0024341	Canton Borough Authority P. O. Box 237 Canton, PA 17724-0237	Bradford County Canton Borough	Towanda Creek (SWP 4C)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0001272 Industrial Waste	Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033	Washington County Union Township	Monongahela River	Y
PA0005746 Industrial Waste	World Kitchen, Inc. 100 Eighth Street Charleroi, PA 15022	Washington County Charleroi Township	Monongahela River	Y
PA0034282 Sewage	Maple Grove Modulars, Inc. 1536 Roseberry Street Pittsburgh, PA 15216	Washington County Robinson Township	St. Patrick Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0102326 Amendment No. 1	State Regional Correction Center at Mercer 801 Butler Pike Mercer, PA 16137	Findley Township Mercer County	Neshannock Creek 20-A	Y
PA0104272	Fish and Boat Commission North East Access Area STP 450 Robinson Lane Bellefonte, PA 16823-9620	North East Township Erie County	UNT to Lake Erie 15-LE	Y
PA0221601	Allegheny Valley Development at Hunter's Station Township Road T-750 P. O. Box 258 Tionesta, PA 16353-0258	Tionesta Township Forest County	Allegheny River 16-E	Y

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

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

WQM Permit No. 5405402, Sewerage, **Mahanoy City Sewer Authority**, 130 East Centre Street, Mahanoy City, PA 17948. This proposed facility is located in Mahanoy Township, **Schuylkill County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

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

NPDES Permit No. PA0252727, Sewage, **Empire Mortgage Inc.**, 11350 McCormick Road, Hunt Valley, MD 21031. This proposed facility is located in Mt. Pleasant Township, **Washington County**.

Description of Proposed Action/Activity: For discharge to the receiving waters known as UNT of Cherry Run.

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

NPDES Permit No. PA0239551, Sewage, **The Camping Association of the Presbyteries of Northwestern Pennsylvania, Westminster Highlands Church Camp**, 114 West Venango Street, Mercer, PA 16137-1109. This proposed facility is located in Scrubgrass Township, **Venango County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an UNT to Little Scrubgrass Creek in Watershed 16-G.

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

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

WQM Permit No. 3601202, Amendment 05-1, Industrial Waste, **John Cope's Food Products, Inc.**, 156 West Harrisburg Avenue, P. O. Box 419, Rheems, PA 17570-0429. This proposed facility is located in West Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: Change specific requirements for spray application frequency at their Rheems Processing Plant.

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

WQM Permit No. 6304404, Sewerage, **Empire Mortgage, Inc., c/o Gary Olshansky**, 11350 McCormick Road, Hunt Valley, MD 21031. This proposed facility is located in Mt. Pleasant Township, **Washington County**.

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

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

WQM Permit No. WQG018378, Sewerage, **Lonnie L. and Sheila F. Heeter**, 208 West 5th Street, Warren, PA 16365. This proposed facility is located in Conewango Township, **Warren County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. WQG018380, Sewerage, **Patrick E. Dotson**, 911 Poplar Avenue, Hershey, PA 17033. This proposed facility is located in Liberty Township, **McKean County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 2505405, Sewerage, **Summit Township Sewer Authority**, 8890 Old French Road, Erie, PA 16509-5459. This proposed facility is located in Summit Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the improvements to the existing Holiday Inn lift station located on Route 97 South of Interstate 90.

WQM Permit No. 3704407, Sewerage, **Neshannock Township**, 3131 Mercer Road, New Castle, PA 16105. This proposed facility is located in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for a pump station and sewer extension to serve the proposed Autumn Hills Development consisting of up to 40 villas and 20 single family dwellings and a community hall.

WQM Permit No. 4305401, Sewerage, **City of Farrell**, 500 Roemer Boulevard, Farrell, PA 16121. This proposed facility is located in City of Farrell, **Mercer County**.

Description of Proposed Action/Activity: This project is for the replacement of the Kiefer Pump Station along with pumps, motors and controls and the replacement of the existing 8-inch force main with a 12-inch force main.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAI-131500050001	Department of Transportation 400 North Street Harrisburg, PA 17105	Statewide	Statewide	Statewide	Y

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023904032	Blue Ridge Development, LLC 11 Hillside Dr. Annadale, NJ 08801	Lehigh	Lower Macungie Township	Swabia Creek HQ-CWF
PAI024804023	Signature Homes 610 Farm Lane Doylestown, PA 18901	Northampton	Forks Township	Bushkill Creek HQ-CWF
PAI024804039	Bethlehem Area School District 1516 Sycamore St. Bethlehem, PA 18017	Northampton	Bethlehem Township	Tributary to Monocacy Creek and Nancy Run HQ-CWF, MF
PAI024805010	Bethlehem Area School District 1516 Sycamore St. Bethlehem, PA 18017	Northampton	Bethlehem City	Monocacy Creek HQ-CWF Lehigh River WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033604011	Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103-1699	Lancaster	Drumore Township and East Drumore Township	Fishing Creek HQ-CWF
PAI036704003	Adhesives Research Inc.	York	Springfield Township	Seak Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106-1	Robert Cooper Pennsylvania State University Office of Physical Plant 101P Physical Plant Bldg. University Park, PA 16802	Centre	State College Borough and College Township	Big Hollow Run CWF Thompson Run 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, (724) 837-5271.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056503001-1	Manor Development Group II 109 Gateway Avenue Suite 202 Wexford, PA 15090	Westmoreland	Murrysville	UNT to Steels Run (HQ-CWF)

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Wright Township Luzerne County	PAG2004005004	Northeast Sports & Fitness Complex, Inc. 297 Hemlock Terrace Mountain Top, PA 18707	Bow Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Lower Saucon Township Northampton County	PAG2004805011	Scott Kerr 1806 Meadowridge Court Bethlehem, PA 18015	Saucon Creek CWF	Northampton Co. Cons. Dist. (610) 746-1971
City of Carbondale Lackawanna County	PAG2003505004	Patrick Trichilo 25-27 Dundaff St. Carbondale, PA 18407	UNT to the Lackawanna River CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
Bradford County North Towanda Township	PAG2000805005	Memorial Hospital, Inc. 1 Hospital Dr. Towanda, PA 18848	Susquehanna River WWF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539, Ext. 205
Centre County College Township	PAG2001403003	Mt. Nittany Terrace Phase II John Mitchell P. O. Box 215 Lemont, pA 16851	UNT Spring Creek CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 8355-6817
Centre County Ferguson Township	PAG2001405005	Jeff Grubb The Storing Crew 2121 Old Gatesburg Rd. Suite 200 State College, PA 16803	Big Hollow Run CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 8355-6817
Centre County Potter Township	PAG2001405002	Karen Michael Department of Transportation Dist. 2-0 P. O. Box 342 Clearfield, PA 16830	Sinking Creek & Potter Run CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 8355-6817
Columbia County Scott Township	PAG2001905010	St. Luke Lutheran Church Frank Beishline 9 St. Luke Way Bloomsburg, PA 17815	Fishing Creek WWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Union County East Buffalo Township	PAG2000805004	Bret Barrick Farmstead 109 S. 3rd St. Lewisburg, PA 17817	Turtle Creek WWF	Union County Conservation District 88 Bull Run Crossing Suite 5 Lewisburg, PA 17837 (570) 523-8782
Beaver County North Sewickley Township	PAG2000403014	Bryan Wright 134 Glendale Road Beaver Falls, PA 15010	UNT to Bennett's Run (WWF)	Beaver County CD (724) 378-1701
Beaver County Center Township	PAG2000405009	Center Area School District 160 Baker Road Ext. Monaca, PA 15061	UNT to Elkhorn Run (WWF)	Beaver County CD (724) 378-1701

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Armstrong County Manor Township	PAG2000304009	Larry Messick First Church of God 629 Woodward Avenue Kittanning, PA 16201	Rupp Run and Garretts Run (WWF)	Armstrong County CD (724) 548-3425
Armstrong County Manor Township	PAG2000305004	Roy Edwards Western PA Chapter of Outlaws, Inc. P. O. Box 77 McGrann, PA 16238	UNT to Garretts Run (WWF)	Armstrong County CD (724) 548-3425
Cambria County Upper Yoder Township	PAG2001105008	Westmont Hilltop School District 827 Diamond Blvd. Johnstown, PA 15905	St. Clair Run (CWF)	Cambria County CD (814) 472-2120
Westmoreland County East Huntingdon Township	PAG2006504027	David Herrholtz P. O. Box 214 Laughlintown, PA 15655	Jacobs Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Washington Township	PAG2006504045	A. R. Kacin 3875 Old William Penn Hwy. Murrysville, PA 15668	Tributary to Pucketa Creek (TSF)	Westmoreland County CD (724) 837-5271
Westmoreland County Penn Township	PAG2006504046	Rivendell Development 4149 Kellington Court Murrysville, PA 15668	UNT to Bushy Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County North Huntingdon Township	PAG2006504047	Fred Reitano CANH Associates 1051 Brinton Road Pittsburgh, PA 15221	Brush Creek (TSF)	Westmoreland County CD (724) 837-5271
Westmoreland County Penn Township	PAG2006504050	Richard and Susan Nernberg 5541 Walnut Street Pittsburgh, PA 15232	UNT to Brush Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Hempfield Township	PAG2006504052	Gregory Lane R. D. 6 Box 51AA Greensburg, PA 15601	UNT to Jacks Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Washington Township	PAG2006504053	Dominion Exploration & Production, Inc. 1380 Rt. 286 Hwy. East Indiana, PA 15701	Pine Run (WWF) Beaver Run Watershed (TSF)	Westmoreland County CD (724) 837-5271
Westmoreland County Hempfield Township	PAG2006505006	ACL/THF Joint Venture LP 2127 Innerbelt Business Center Drive Suite 200 St. Louis, MO 63114	Turtle Creek (TSF)	Westmoreland County CD (724) 837-5271
Westmoreland County South Greensburg Borough	PAG2006505009	Woodman Construction 459 Slate Run Road Greensburg, PA 15601	UNT to Jacks Run (WWF)	Westmoreland County CD (724) 837-5271

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Westmoreland County Derry Township	PAG2006505012	Department of Transportation P. O. Box 459 Uniontown, PA 15401	Loyalhana Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Hempfield Township	PAG2006505013	Greensburg CMSA Church R. R. 6, Box 63A Greensburg, PA 15601	Jacks Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County North Huntingdon Township	PAG2006505014	H. D. J. K. Development 242 N. Hamilton Ave. Greensburg, PA 15601	Brush Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County City of Lower Burrell	PAG2006505022	Gary M. Sukala 1723 Ridge Avenue Arnold, PA 14068	Chartiers Creek (TSF) Allegheny River (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Sewickley Township	PAG2006505025	Westinghouse P. O. Box 158 Madison, PA 15663	Big Sewickley Creek (WWF)	Westmoreland County CD (724) 837-5271
Olyphant Borough Throop Borough Lackawanna County	PAG2113504001	Department of Transportation Bureau of Abandoned Mine Reclamation 2 Public Sq. Fifth Floor Wilkes-Barre, PA 18711-0790	Lackawanna River (WWF)	Department of Transportation Bureau of Abandoned Mine Reclamation 2 Public Sq. Fifth Floor Wilkes-Barre, PA 18711-0790 (570) 826-2371

*General Permit Type—PAG-3**Facility Location &
Municipality*

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lancaster County Manheim Township	PAR803677	Lancaster Airport Authority 500 Airport Road Suite G Lititz, PA 17543	Little Conestoga Creek TSF UNT to Conestoga WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Blair County Altoona City	PAR203516	Cookson Electronics 4100 6th Avenue Altoona, PA 16602	Mill Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bradford Township Clearfield County	PAR224831	Weyerhaeuser Company R. R. 1, Box 3131C Woodland, PA 16881	Roaring Run to Clearfield Creek (CWF)	NorthCentral Regional Office 208 West Third Street Williamsport, PA 17701-6448 (570) 327-3664
Kittanning Borough Armstrong County	PAR216129	The Bauer Company, Inc. P. O. Box 1022 Kittanning, PA 16201	Allegheny River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
East Franklin Township Armstrong County	PAR326105	Glacial Sand & Gravel Company P. O. Box 1022 Kittanning, PA 16201	Limestone Run and Allegheny River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
White Township Indiana County	PAR216128	The Bauer Company, Inc. P. O. Box 1022 Kittanning, PA 16201	UNT to Yellow Creek and Two Lick Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Jefferson Borough Allegheny County	PAR806120-A1	Clairton Slag, Inc. Rt. 837 and Madison St. West Elizabeth, PA 15088	Monongahela River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
City of Hermitage Mercer County	PAR808372	Champion Carrier Corporation 2755 Kirila Road Hermitage, PA 16148	Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Bedford County Kimmel Township	PAG043525	Clair Bennett Glass 2944 Schellsburg Road Claysburg, PA 16625	UNT Beaverdam Creek 11A	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Exeter Township	PAG043631	Jaime Kirlin 5454 Oley Turnpike Road Reading, PA 19606	3D	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Greene Township Erie County	PAG048314	Edward A. Nies 2005 Gunnison Road Erie, PA 16509-5825	UNT to Mill Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Girard Township Erie County	PAG048693	Michael J. Bray Jr. 8223 Mill Street Girard, PA 16417	UNT to Halls Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Conewango Township Warren County	PAG049170	Lonnie L. and Sheila F. Heeter 208 West 5th Street Warren, PA 16365	UNT to Conewango Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Liberty Township, McKean County	PAG049172	Patrick E. Dotson 911 Poplar Avenue Hershey, PA 17033	UNT to Sartwell Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8 (SSN)

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Franklin County Quincy Township	PAG083590	Mont Alto Municipal Authority 3 North Main Street P. O. Box 407 Mont Alto, PA 17237	Melvin Horst Farm, Quincy Township Franklin County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*Facility Location:
Municipality &
County*

Berks County
Union Township

Permit No.

PAG070003
PAG070005
PAG080002
PAG080003
PAG080006
PAG080008
PAG082201
PAG082202
PAG083501
PAG083502
PAG083506
PAG083515
PAG083517
PAG083518
PAG083522
PAG083535
PAG083540
PAG083542
PAG083547
PAG083551
PAG083825
PAG088903
PAG089904
PAG089905

*Applicant Name &
Address*

SYNAGRO
1605 Dooley Road
P. O. Box B
Whiteford, MD 21160

*Site Name &
Location*

Loius Mascaro Farm
Union Township
Berks County

*Contact Office &
Phone No.*

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110-8200
(717) 705-4707

Berks County
Union Township

PAB1G9903

SYNAGRO
1605 Dooley Road
P. O. Box B
Whiteford, MD 21160

Louis Mascaro Farm
Union Township,
Franklin County

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110-8200
(717) 705-4707

General Permit Type—PAG-9 (SSN)

*Facility Location &
County/Municipality*

Ebert Farm Biosolids Site
Derry Township
Westmoreland County

Applicant Name & Address

Redevelopment Authority of the City
of Johnstown
241 Asphalt Road
Johnstown PA 15006

Contact Office & Phone No.

Southwest Regional Office:
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh PA 15222-4745
(412) 442-4000

General Permit Type—PAG-13

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

*NPDES
Permit No.*

PAG133705

*Applicant Name &
Address*

Township of Antrim
10655 Antrim Church
Road
P. O. Box 130
Greencastle, PA 17225

County

Franklin

Municipality

Antrim
Township

*Receiving
Water/Use*

UNT to Conococheague Creek
WWF
UNT to Marsh Run West
Branch
WWF
UNT to Marsh Run
WWF

*DEP Protocol
(Y/N)*

Y

**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 (35 P. S. §§ 721.1—721.17).

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

Permit No. 1516532, Public Water Supply.

Applicant **American Aqueduct, Inc**
8027 Old York Road
Elkins Park, PA 19027

Township City of Philadelphia

County **Philadelphia**

Type of Facility Retail Water System

Consulting Engineer R. E. Coleman Associates, Inc.
604 Brandywine Parkway
West Chester, PA 19380

Permit to Construct May 26, 2005
Issued

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

Permit No. 4805501, Public Water Supply.

Applicant **Easton Suburban Water Authority**
2414 Butler Street
Easton, PA 18043

Borough or Township City of Easton and Wilson Borough

County **Northampton**

Type of Facility PWS

Consulting Engineer James Elliot, P. E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Permit to Construct May 17, 2005
Issued

Operations Permit issued to: **Bezdecki Family, LLC d/b/a Sutton Springs**, 1823 Sutton Road, Shavertown, PA 18708 (PWSID 2406272) Jackson Township, **Luzerne County** on May 11, 2005, for the operation of facilities approved under Construction Permit No. 4005503 issued May 9, 2005.

Operations Permit issued to: **Summit Management & Utilities, Inc.**, P. O. Box 666, Lake Harmony, PA 18624 (PWSID 3130053) Kidder Township, **Carbon County** on May 20, 2005, for the operation of facilities approved under Construction Permit No. 1301503 issued October 25, 2002.

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

Permit No. 6704513, Public Water Supply.

Applicant **Lower Windsor Township**

Municipality Windsor Township

County **York**

Type of Facility New Municipal Building with onsite well requiring the installation of nitrate, iron and manganese treatment.

Consulting Engineer Kent A Bitting, P. E.
C S Davidson Inc
38 North Duke Street
York, PA 17401

Permit to Construct 5/19/2005
Issued:

Permit No. 7670307, Public Water Supply.

Applicant **Lower Windsor Township**

Municipality Windsor Township

County **York**

Type of Facility New municipal building with onsite well requiring the installation of nitrate, iron and manganese treatment. Original application number 6704513.

Consulting Engineer Kent A Bitting, P. E.
C S Davidson Inc
38 North Duke Street
York, PA 17401

Permit to Construct 5/19/2005
Issued:

Permit No. 0605503 AM, Minor Amendment, Public Water Supply.

Applicant **Pennsylvania-American Water Company**

Municipality Wyomissing Borough

County **Berks**

Type of Facility Addition of emergency shut off system for chlorine gas tanks used in disinfection at Well 18A.

Consulting Engineer Steven E Riley, P. E.
Spotts Stevens & McCoy, Inc.
345 North Wyomissing Boulevard
Reading, PA 19530-0307

Permit to Construct 5/23/2005
Issued:

Operations Permit issued to: **Exelon Nuclear—Peach Bottom Atomic Power Station**, 7670905, Delta Borough, **York County** on 5/25/2005 for the operation of facilities approved under Construction Permit No. 6704516 MA.

Operations Permit issued to: **R. R. P. Recreation Limited Partnership**, 4310821, Lincoln Township, **Huntingdon County** on 5/27/2005 for the operation of facilities approved under Construction Permit No. 3104503 MA.

Operations Permit issued to: **The York Water Company**, 7670100, Lower Windsor Township, **York County** on 5/23/2005 for the operation of facilities approved under Construction Permit No. 6703502.

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>
Nuangola Borough	5150 Nuangola Road Mountain Top, PA 18707	Luzerne

Plan Description: The Plan calls for the construction of a low-pressure wastewater collection/conveyance system to serve the currently developed areas of Nuangola Borough (approximately 388 equivalent dwelling units) as described in the Plan. Wastewater will be conveyed through a low-pressure force main from the Borough through neighboring Rice Township to the Mountain Top Area Joint Sanitary Authority's (MAJSA) Wastewater Pumping Station located south and adjacent to the Interstate 81 Southbound Roadside Rest Area operated by the Department of Transportation. This pumping station and its discharge force main will be upgraded/expanded as part of the Borough's proposed project to accommodate the new wastewater flows from the Borough's wastewater collection system.

The Plan further calls for the abandonment of the existing wastewater treatment facility located at the Crestwood School District's Rice Elementary School in Rice Township. Wastewater from the school will be discharged to the proposed low-pressure force main that will be installed along Church Road in Rice Township. This is the only connection to the proposed wastewater collection/conveyance system outside of the Borough's municipal boundaries that is permitted under this approval correspondence.

Treatment of the Borough's wastewater will occur at the MAJSA's Wastewater Treatment Facility, located in Dorrance Township, with ultimate discharge of the treated wastewater to Big Wapwallopen Creek.

The Borough also proposes to implement an interim sewage management program to better manage the operation of the Borough's on-lot wastewater disposal systems until the proposed wastewater collection/conveyance system is constructed and placed into operation.

Implementation of the selected wastewater disposal alternative and operation of the proposed facilities will be performed by a municipal authority to be established by the Borough in conjunction with the MAJSA.

The approval of the Plan is conditioned, though, upon ultimate compliance with the provisions of the History Code (37 Pa.C.S § 507). The costs of conducting any required survey work related to compliance with the History Code must be included in the cost of the proposed sewage facilities project. If recovery work or system re-design is required as a result of attaining compliance with the requirements of the Pennsylvania Historical and Museum Commission, the Department's Northeast Regional Office must be notified immediately.

Financing of the proposed wastewater collection and conveyance system is to be provided by the United States Department of Agriculture's Rural Development Program.

This approval correspondence covers only the wastewater planning aspects of the selected wastewater disposal alternative as it relates to your municipality's Official

Sewage Facilities Plan. 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. This permit application must be submitted in the name of the Authority or the Borough. Issuance of a Part II Permit will be based upon a technical evaluation of the permit application and supporting documentation. Starting construction prior to obtaining a Part II Permit is a violation of The Clean Streams Law. Include a copy of this approval correspondence with the Water Management Part II Permit Application when it is submitted to this office. The Department's review has also not identified any significant environmental impacts resulting from this proposal.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Foster Township	1185 East Main Street Bradford, PA 16701	McKean

Plan Description: The approved plan provides for the extension of sanitary sewers to serve areas of the township with high levels of on-lot sewage system malfunctions. Wastewater will be conveyed and treated at the Bradford Sanitary Authority. The \$6.9 million project will be financed by PENNVEST over 10 years. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Greene Township	9333 Tate Road Erie, PA 16509	Erie

Plan Description: The approved plan provides for the construction of a new .390 MGD wastewater treatment plant in Greene Township and the construction of a sanitary sewer collection/conveyance system to serve on existing 925 equivalent dwelling units within the study area. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Hamburg Borough	61 N 3rd St. Hamburg PA 19526	Berks

Plan Description: The approved plan provides for the expansion of the Hamburg Municipal Authority Wastewater Treatment Plant to expand from a capacity of 1.0 mgd to 1.5 mgd and an expansion on of the Pine Street pump station (DEP Code Number A3-06805-024-3). This expansion and upgrade is proposed to meet the projected growth in Hamburg Borough, Tilden Township, Windsor Township and Port Clinton Borough. The Department's review of the sewage facilities update revision has not

identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 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.

Righters Ferry Rd. Site, Lower Merion Township, **Montgomery County**. Justin R. Lauterbach, RT Env. Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Sean McCloskey, Footbridge, LP & Bridgehead, LP, c/o Penn Real Estate Group, 4427 Spruce St.,

Philadelphia, PA 19104 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with PAH and inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Tube City, Inc. Facility, Falls Township, **Bucks County**. Donald A. Coleman, P. G., Penn E & R, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Parker Adams, United States Steel Corp., 600 Grant St., Pittsburgh, PA 15219 has submitted a Final Report concerning remediation of site soil contaminated with inorganics and lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Cianciulli & Pino Tracts, Limerick Township, **Montgomery County**. Donald G. Coleman, P. G., Penn E & R, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Roger Bucchianeri, Brandolini, Co., 1301 Lancaster Ave., Berwyn, PA 19312 has submitted a Final Report concerning remediation of site groundwater contaminated with MTBE. The report is intended to document remediation of the site to meet the Background Standard.

7401 State Rd. Site, City of Philadelphia, **Philadelphia County**. Michael Christie, Penn Env. & Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Daniel, Franklin and Bernard Featherman, 9695 San Vittore St., Lake Worth, FL 33467 has submitted a Remedial Investigation, Risk Assessment Report and Cleanup Plan Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents, PAH, PCB's and inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Laser Labs, City of Philadelphia, **Philadelphia County**. Richard Werner, P. G., Env. Consulting, Inc., 500 E. Washington St., Norristown, PA 19401 on behalf of Tilak Singh, Sant Prop., 380 Red Lion Rd., Huntingdon Valley, PA 19006 has submitted a Remedial Investigation Report, Risk Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with chlorinated organics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

Agway Lebanon Surplus Property, West Lebanon Township, **Lebanon County**. Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of Agway, Inc., 333 Butternut Drive, Syracuse, NY 13214, submitted a Remedial Investigation Report concerning remediation of site soils and groundwater impacted by volatile and semivolatile compounds, fuel-related volatile organic compounds, naphthalene and used motor oil. The site is being remediated to a Site Specific Standard.

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

Catawissa Lumber Farm Property, Scott Township, **Columbia County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, has submitted a Final Report concerning soil contaminated with lead. This Final Report is intended to demonstrate attainment of the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

7-Eleven Store No. 21218, City of Philadelphia, **Philadelphia County**. Richard C. Firely, Jr., ENSR Intl, 2005 Cabot Blvd., West, Suite 100, Langhorne, PA 19047

on behalf of has submitted a Final Report concerning the remediation of site groundwater contaminated with leaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 19, 2005.

7401 State Rd. Site, City of Philadelphia, **Philadelphia County**. Michael Christie, Penn Env. & Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Daniel, Franklin and Bernard Featherman, 9695 San Vittore St., Lake Worth, FL 33467 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, PAH, PCB and inorganics. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan were approved by the Department on May 25, 2005.

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

Former Zeigler Gulf Station, Carroll Township, **York County**. ARM Group Inc., 1129 West Governor Road, P. O. Box 797, Hershey, PA 17033-0797, on behalf of Deborah A. Bortner, 447 Miller Avenue, Mechanicsburg, PA 17055 submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with PHCs. The combined report demonstrated attainment of the Site-specific standard, and was approved by the Department on May 24, 2005.

HAZARDOUS WASTE ACTION

Proposed action on an application for a post closure permit under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for the post-closure care of a hazardous disposal facility.

Intent to Issue Permit

Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

PAD000739672. U. S. Steel Corporation, South Taylor Environmental Park. Post closure care of a hazardous waste disposal facility located in West Mifflin Borough, **Allegheny County**. The application to renew and modify the post closure permit for U. S. Steel's hazardous waste landfill was considered for intent to issue by the Regional Office on May 31, 2005.

Persons wishing to comment on the proposed action are invited to submit a statement to the Regional Office indicated as the office responsible within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer; and concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed action. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

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

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

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 101494. Waste Mgmt. of PA Inc, 1121 Bordentown Rd., Morrisville, PA 19067, Falls Township and Borough of Tullytown, **Bucks County**. The existing Tullytown Resource Recovery Facility Landfill's permit term was renewed for a period of 6 years from the date of issuance. The permit was issued by the Southeast Regional Office on May 23, 2005.

Permit No. 101429. Richard S Burns & Co Inc, 4300 Rising Sun Ave, Philadelphia, PA 19140-2720, City of Philadelphia. This permit is for the 10-year renewal of the solid waste permit for the continuing operation of the municipal and construction/demolition waste transfer facility. The permit was issued by the Southeast Regional Office on May 27, 2005.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Beneficial Use of Residual Waste

On October 6, 2004, the Department of Environmental Protection (Department) received a request for the beneficial use of residual waste. The request from Reliant Energy is for the use of fly ash generated by Cheswick Power Station located in Cheswick Borough, Allegheny County. The Department reviewed the request and has determined that it is consistent with 25 Pa. Code §§ 287.601—287.666.

Persons requiring additional information should contact David E. Eberle, Facilities Manager, Waste Management, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

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.

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

GP-42-194: Glenn O. Hawbaker, Inc.—Shinglehouse (497 Horserun Road, Shinglehouse, PA 16748) on May 25, 2005, to operate a portable nonmetallic mineral processing plant in Ceres Township, **McKean County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

09-0180: White Engineering Surfces Corp. (One Pheasant Run, Newtown, PA 18940) on May 26, 2005, to operate a batch degreaser in Newtown Township, **Bucks County**.

09-0180A: White Engineering Surfces Corp. (One Pheasant Run, Newtown, PA 18940) on May 26, 2005, to operate a dust collector in Newtown Township, **Bucks County**.

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

10-348A: Amerikohl Mining, Inc. (PA Route 58, Butler PA 16001) on May 18, 2005, to construct a 200 tph coal crusher/stockpile at their Hortert Mine, SMP No. 10990101, in Venango Township, **Butler County**.

25-501A: Corry Forge Co. (441 East Main Street Corry PA 16407) on May 6, 2005, to construct two new 15.9 mmBtu/hr forge furnaces to replace two existing larger furnaces that were installed in the late 1970s in the City of Corry, **Erie County**. The facility is a Title V Facility.

10-281E: II-VI, Inc. (375 Saxonburg Boulevard, Saxonburg, Butler, PA 16056-9499) on May 23, 2005, to construct a new isopropanol dryer (degreaser) in Clinton Township, **Butler County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

09-0087B: Air Products and Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on May 25, 2005, to operate a SiF4 process scrubber in Falls Township, **Bucks County**.

09-0087C: Air Products and Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on May 25, 2005, to operate an ammonia process in Falls Township, **Bucks County**.

09-0105B: Naceville Materials (483 Springfield Street, Coopersburg, PA 19474) on May 25, 2005, to operate a 20,000 gallon storage tank in Springfield Township, **Bucks County**.

09-0156: Jolly Gardener Products, Inc. (500 E Pumping Station, Quakertown, PA 18951) on May 25, 2005, to operate a two diesel engines and wood processing in Richland Township, **Bucks County**.

46-0025C: Lonza Inc. (900 River Road, Conshohocken, PA 19428) on June 1, 2005, to operate a waste incinerator in Upper Merion Township, **Montgomery County**.

46-0031B: SmithKline Beecham Corp d/b/a Glaxo SmithKline (1250 South Collegeville Road, Collegeville, PA 19486) on May 23, 2005, to operate a 2mW No. 2 fuel oil-fired generators in Upper Providence Township, **Montgomery County**.

46-317-005E: Moyer Packing Co. (P. O. Box 395, Souderton, PA 18964) on May 25, 2005, to operate various rendering equipment and a scrubber in Franconia Township, **Montgomery County**.

15-0120: Veterinary Referral Center (340 Lancaster Avenue, Frazer, PA 19355) on May 25, 2005, to operate a crematory in East Whiteland Township, **Chester County**.

46-0005V: Merck and Co., Inc. (Sumneytown Pike, P. O. Box WP20, West Point, PA 19486) on May 25, 2005, to operate a biological manufacturing building in Upper Gwynedd Township, **Montgomery County**.

46-0069A: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on May 25, 2005, to operate a stone crushing plant in Whitemarsh Township, **Montgomery County**.

46-0013A: Hatfield Quality Meats Inc.—sub Clemens (2700 Funks Road, P. O. Box 902, Hatfield, PA 19440) on May 27, 2005, to operate a 49 mmBtu/hr Heat Input Boiler in Hatfield Township, **Montgomery County**.

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

01-05016D: ISP Minerals, Inc. (P. O. Box O, Blue Ridge Summit, PA 17214) on May 1, 2005, to install a new 250-ton per hour bucket elevator controlled by a fabric filter at their Charmian facility in Hamiltonban Township, **Adams County**. This facility is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. This plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

18-315-001: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17745) on May 24, 2005, to extend the deadline for the installation of a continuous nitrogen oxides monitoring system on several natural gas/propane-fired boilers associated with a paper machine until October 1, 2005, and to extend the deadline for the completion of relative accuracy testing on the respective monitoring system, and the commencement of collection of accurate data by the system, until December 31, 2005, in Castanea Township, **Clinton County**.

41-303-008A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on May 24, 2005, to operate a reprocessed oil-fired drum mix asphalt concrete plant and associated air cleaning device (a fabric collector) on a temporary basis until September 21, 2005, in Loyalsock Township, **Lycoming County**. The plan approval has been extended.

41-303-008A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on May 27, 2005, to decrease an annual production limitation for a drum mix asphalt concrete plant to 1,302,000 tons of product in any 12 consecutive month period in Loyalsock Township, **Lycoming County**.

49-00010A: Fleetwood Motor Homes of Pennsylvania, Inc. (Route 487, P. O. Drawer No. 5, Paxinos, PA 17860) on May 3, 2005, to construct a recreational vehicle surface coating operation identified in the respective plan approval on a temporary basis, until September 1, 2005, at their Paxinos facility in Ralpho Township, **Northumberland County**. The plan approval has been extended.

08-00003A: CraftMaster Manufacturing, Inc. (P. O. Box 311, Shiner Road, Towanda PA 18848) on May 27, 2005, to operate the trim surface coating operation and air cleaning devices (two cyclonic separators and two

fabric collectors) identified in the respective plan approval on a temporary basis until October 3, 2005, at their facility in Wysox Township, **Bradford 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.

32-00040B: Reliant Energy (121 Champion Way, Suite 200, Canonsburg, PA 15317) on May 10, 2005 to allow startup and shakedown of the Circulating Fluidized Bed boiler at their Seward Power Station in East Wheatfield Township, **Indiana County**. This plan approval was extended.

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

33-155B: Trail King Industries, Inc. (Interstate 80, Exit 14, Brookville, PA 15825) on June 30, 2005, to construct a grit blast booth in Brookville, **Jefferson County**.

37-243C: International Metals Reclamation Co. (245 Portersville Road, Ellwood City, PA 16117) on June 30, 2005, to construct cadmium distillation furnaces in Ellwood City, **Lawrence County**.

25-025E: General Electric (2901 East Lake Road, Erie, PA 16531) on April 30, 2005, to construct an emergency boiler in Lawrence Park Township, **Erie County**.

10-284C: Seneca Landfill, Inc. (Hartman Road, Mars, PA 16046) on April 30, 2005, to modify the gas management system in Jackson Township, **Butler County**.

24-083F: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) on April 30, 2005, to construct Carbon Baking Kiln No. 34 with a thermal oxidizer and connecting to an existing scrubber in St. Marys City, **Elk County**. This is a Title V facility.

37-306A: Atlantic States Materials of PA Inc.—Taylor Run Mine (Route 106, Slippery Rock, PA 16057) on April 30, 2005, to construct a sand and gravel processing plant in Scott Township, **Lawrence County**.

37-319A: Atlantic States Materials of PA, Inc.—Wampum Plant (Route 18, Wampum, PA 16157) on April 30, 2005, to construct a sand and gravel processing plant in North Beaver Township, **Lawrence County**.

37-304B: Heraeus Electro-Nite (3 Fountain Avenue, Ellwood City, PA 16117) on May 4, 2005, to add a skiving machine and replace the existing baghouse with a larger baghouse in Ellwood City Borough, **Lawrence County**. This is a State Only V facility.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00019: Lockheed Martin Corp. (P. O. Box 8048, Building 100, Room L1002, Philadelphia, PA 19101-8048) on May 24, 2005, to operate a facility Title V Operating Permit in Upper Merion Township, **Montgomery County**.

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

05-05005: Bedford Materials Co., Inc. (7676 Allegheny Road, Manns Choice, PA 15550-8967) on May 23, 2005, for their flexible insulating materials production facility in Napier Township, **Bedford County**. This is a renewal of the Title V operating permit.

21-05002: PPG Industries, Inc. (400 Park Drive, Carlisle, PA 17013-9271) on May 25, 2005, to operate a flat glass manufacturing facility in South Middleton Township, **Cumberland County**. This is a renewal of the Title V operating permit.

36-05028: CNH America, LLC (500 Diller Avenue, New Holland, PA 17557-9301) on May 23, 2005, to operate a farm equipment manufacturing facility in New Holland Borough, **Lancaster County**. This is a renewal of the Title V operating permit.

67-05032: Harley Davidson Motor Company Operations, Inc. (1425 Eden Road, York, PA 17402-1599) on May 23, 2005, for their York motorcycle assembly plant in Springettsbury Township, **York 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.

25-00541: Penn-Union Corp. (229, Waterford Street, Edinboro, PA 16412-2381) on May 24, 2005, to reissue their Title V Operating Permit to manufacture current-carrying wiring devices in Edinboro Borough, **Erie County**. The facility's major emission sources include boilers, a batch cold cleaning degreaser, shot blast, grinding machines, electric induction furnaces, rotary casting unit, manual casting line, push out furnace, sand return/mixing unit, deslagging ladles and miscellaneous natural gas usage. The facility is a major facility due to its potential to emit of perchloroethylene and VOCs. This facility is not subject to compliance assurance monitoring because individual source's pre-controlled emission does not exceed the Title V emission threshold.

43-00182: Wheatland Tube Co. (One Council Avenue, Wheatland, PA 16161) on May 25, 2005, to reissue their Title V Permit to operate a steel pipe and tubes manufacturing facility in Wheatland Borough, **Mercer County**. The facility's major emission sources include natural gas fired boilers, continuous weld furnace, galvanizing kettles, coating lines, conduit metallizer, sulfuric acid pickling, chrome treatments, coupling department, blow stations, pm threaders, pipe coating, galvanizing furnaces, miscellaneous heaters, lime silo and a wastewater evaporator. The facility is a major facility due to its potential to emit volatile organic compounds and oxides of nitrogen.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

09-00134: Reed Minerals (P. O. Box 8888, Camp Hill, PA 17001) on May 24, 2005, to operate a Natural Minor Operating Permit in Falls Township, **Bucks County**.

23-00092: Abbonizio C Contractors, Inc. (Front and Thurlow Streets, Chester, PA 19013) on May 20, 2005, to operate a Natural Minor Operating Permit in City of Chester, **Delaware County**.

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

24-00062: Metal Powder Products Co. (879 Washington Street, Saint Marys, PA 15857-3644) on May 24, 2005, to operate their fabricated metal products facility in Saint Marys City, **Elk County**. The significant sources are natural gas fired boiler (3), sizing operation, vapor degreasing, sintering ovens (13), parts washer and rust inhibitors. The facility was previously a Title V facility and has reduced the potential to emit VOCs to a level that is below the Title V emission threshold by changing the solvents and through modifications.

27-00018: National Fuel Gas Supply Corp. (Queen Road, East Hickory, PA 16923) on May 24, 2005, to perform natural gas transmission at the Queen compressor station in Hickory Township, **Forest County**.

37-00008: Ellwood City Forge (800 Commercial Avenue, Ellwood City, PA) on May 26, 2005, to operate a steel forging operation in Ellwood City Borough, **Lawrence County**. This plant was previously permitted as a major source Title V facility but is taking restrictions on nitrogen oxide emissions to obtain a Synthetic Minor Permit.

25-00464: Klein Plating Works, Inc. (2020 Greengarden Road, Erie, PA 16502) on May 26, 2005, to issue a Natural Minor operating permit for metal finishing operations in the City of Erie, **Erie County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00020: Superior Tube Co. Inc. (3900 Germantown Pike, Collegetown, PA 19426) on May 25, 2005, a Title V Operating Permit was issued as an Administrative Amendment for a Change of Ownership of their facility formerly owned by Superior Tube Company, in Lower Providence Township, **Montgomery County**. The Administrative Amendment of the Title V Operating Permit was issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amended Title V Operating Permit did not change and contains all of the applicable regulatory requirements including monitoring recordkeeping, reporting and emission limits. The initial permit was issued December 5, 2003.

46-00041: Smurfit-Stone Container Enterprises, Inc. (1035 Longford Road, Phoenixville, PA 19460) on May 24, 2005, a Title V Operating Permit was issued as an Administrative Amendment for a Change of Ownership of the facility formerly owned by Jefferson Smurfit Corporation (US) in Upper Providence Township, **Montgomery County**. The facility's major emission points include printing presses containing VOCs and HAPs. The responsible official has also been updated. The Administrative Amendment of the Title V Operating Permit was issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amended Title V Operating Permit did not change and contains all of the applicable regulatory requirements including monitoring recordkeeping, reporting and emission limits. The initial Title V Operating Permit was issued November 15, 2001.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

41-303-008: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on May 27, 2005, via the minor operating permit modification requirements of 25 Pa. Code § 127.462, to decrease an annual production limitation for a drum mix asphalt concrete plant to 1,302,000 tons of product in any 12 consecutive month period in Loyalsock Township, **Lycoming County**.

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

24-00145: GE Thermometrics, Inc. (967 Windfall Road, St. Marys, PA 15857) on May 24, 2005, for an administrative amendment to their Title V Permit to correct the frequency of monitoring for fugitive and visible emissions at their electronic resistor manufacturing facility in the City of St. Marys, **Elk County**.

10-00037: Sonneborn, Inc. (100 Sonneborn Lane, Petrolia, PA 16050) on May 26, 2005, for an administrative amendment to the Title V Permit to change the ownership of their facility from Crompton Corporation to Sonneborn, Inc. The facility is in the Borough of Petrolia, **Butler County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

02941601 and NPDES Permit # PA0215627, Weleski Terminals, Inc. (151 West Fourth Avenue, P. O. Box 428, Tarentum, PA 15084), to renew the permit for the Allegheny River Dock in Tarentum Borough, **Allegheny County** and related NPDES permit. No additional discharges. Permit issued May 20, 2005.

56951301 and NPDES Permit # PA0214850, RoxCOAL, Inc. (P. O. Box 149, Friedens, PA 15541), to revise the permit for the Augustus Mine in Shade Township, **Somerset County** to amend the subsidence control plan. No additional discharges. Permit issued May 24, 2005.

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

63980103 and NPDES Permit No. PA0202215. Joseph Rostosky Coal Co. (2578 Country Lane, Monongahela, PA 15063). Revision permit issued for land use change from forestland to pastureland to a bitumi-

nous surface mine, located in California borough, **Washington County**, affecting 24.4 acres. Receiving streams: UNTs to Pike Run. Revision application received: March 4, 2005. Revision permit issued: May 18, 2005.

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

10000104 and NPDES No. PA0241784. Ben Hal Mining Company, 389 Irishtown Road, Grove City, PA 16127. Revision to an existing bituminous strip operation to change the post-mining land use from forestland to unmanaged natural habitat on the DeWayne Majors and John P. Stoops, Sr. properties in Slippery Rock and Cherry Townships, **Butler County**. Receiving streams: Unnamed tributary to Slippery Rock Creek. Application received: March 22, 2005. Permit Issued: May 18, 2005.

Noncoal Permits Actions

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

4274SM11 and NPDES Permit No. PA0212512. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664-0077, renewal of NPDES Permit in Taylor Township, **Blair County**. Receiving streams: Halter Creek and Plum Creek classified for the following use: warm water fishery. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received June 21, 2004. Permit issued May 17, 2005.

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

58050810. Robert Staudt (348 Main Street, Apalachin, NY 13732), commencement, operation and restoration of a bluestone quarry operation in Choconut Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received March 7, 2005. Permit issued May 16, 2005.

66880301T and NPDES Permit #PA0594229. Reading Materials, Inc. (P. O. Box 1467, Skippack, PA 19474), transfer an existing quarry operation and renewal of NPDES Permit for discharge of mine drainage in Falls Township, **Wyoming County** affecting 328.6 acres, receiving stream: Buttermilk Creek. Application received December 20, 2004. Transfer/Renewal issued May 17, 2005.

6277SM1A1C5 and NPDES Permit #PA0595080. Compass Quarries, Inc. d/b/a Independence Construction Materials (47 McIlvaine Road, Paradise, PA 17562), renewal of NPDES Permit for discharge of treated mine drainage from quarry operation in Paradise Township, **Lancaster County**, receiving stream: Londonland Run. Application received March 31, 2005. Renewal issued May 19, 2005.

4873SM3C2 and NPDES Permit #PA0595021. Kinsley Construction, Inc. (2700 Water Street, P. O. Box 2886, York, PA 17405), renewal of NPDES Permit for discharge of treated mine drainage from quarry operation in Springettsbury Township, **York County**, receiving stream: UNT to Codorus Creek. Application received April 4, 2005. Renewal issued May 19, 2005.

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

3474SM45 and NPDES permit No. PA0589853. Collier Stone Company (80 Noblestown Road, Pittsburgh, PA 15106). NPDES renewal of a noncoal surface mine, located in Collier Township, **Allegheny County**, affecting 33.7 acres. Receiving streams: Scotts Run and Robinson

Run. Renewal application received: March 21, 2005. Renewal permit issued: May 20, 2005

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

Small Noncoal Permit—Final Bond Release

59041002. Terry Jacobson (P. O. Box 32, Sabinsville, PA 16943). Final bond release for a small noncoal mining operation in Nelson Township, **Tioga County**. Restoration of 2 acres completed. Application for final bond release received: December 30, 2004. Final bond release approved: May 20, 2005.

59041003. Terry Jacobson (P. O. Box 32, Sabinsville, PA 16943). Final bond release for a small noncoal mining operation in Nelson Township, **Tioga County**. Restoration of 2 acres completed. Application for final bond release received: December 30, 2004. Final bond release approved: May 20, 2005.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

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

41054001. Great Lakes Geophysical, Inc. (P. O. Box 127, Williamsburg, MI 49690), for oil and gas exploration blasting, located in Cummings, Watson, Cogan House, Anthony, Snow Shoe, Boggs, Morris and Graham Townships, **Lycoming, Centre and Clearfield Counties**, with an expected duration of 208 days. Permit issued: May 6, 2005.

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

06054008. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Reedy Run Development in Spring Township, **Berks County** with an expiration date of May 15, 2006. Permit issued May 16, 2005.

23054006. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at Martins Run Subdivision in Concord Township, **Delaware County** with an expiration date of June 9, 2006. Permit issued May 16, 2005.

36054011. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Spring Garden Mennonite Church Cemetery in Salisbury Township, **Lancaster County** with an expiration date of April 30, 2006. Permit issued May 16, 2005.

36054012. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Butterfield Development in Manheim Township, **Lancaster County** with an expiration date of May 31, 2006. Permit issued May 16, 2005.

48054006. MF Ronca & Sons (179 Mikron Road, Bethlehem, PA 18020) and **Bernard J. Hasara**, (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting at Forks Village in Forks Township, **Northampton County** with an expiration date of September 16, 2005. Permit issued May 16, 2005.

22054105. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Heather Glen Development in West Hanover Township, **Dauphin County** with an expiration date of May 31, 2006. Permit issued May 16, 2005.

46054117. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Ashbourne Estates in Lower Salford Township, **Montgomery County** with an expiration date of December 23, 2005. Permit issued May 16, 2006.

28054012. Charles E. Brake Company, Inc. (6450 Lincoln Way West, St. Thomas, PA 17252), construction blasting for Gastroenterology Associates/5th Avenue Commercial Center in Chambersburg Borough, **Franklin County** with an expiration date of December 31, 2005. Permit issued May 17, 2005.

28054013. P & W Excavating, Inc. (P. O. Box 712, McConnellsburg, PA 17233) and **Winchester Building Supply**, (2001 Millwood Pike, Winchester, VA 22602), construction blasting for the Duane Reisinger Home (Hade Church Road) in Antrim Township, **Franklin County** with an expiration date of May 31, 2006. Permit issued May 17, 2005.

67054021. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Enclave Housing Development in Conewago Township, **York County** with an expiration date of April 15, 2006. Permit issued May 17, 2005.

67054020. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Hunter's Run in Conewago Township, **York County** with an expiration date of May 15, 2006. Permit issued May 17, 2005.

28054122. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), blasting for a Parklawn Memorial Gardens & Mausoleum in Greene Township, **Franklin County** with an expiration date of May 13, 2010. Permit issued May 17, 2005.

28054123. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Countryside Greenhouse in Washington Township, **Franklin County** with an expiration date of May 31, 2006. Permit issued May 17, 2005.

28054124. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Hawkstone Development in Washington Township, **Franklin County** with an expiration date of May 31, 2005. Permit issued May 17, 2005.

36054121. Keystone Blasting Service (3811 Reifsnyder Road, Lititz, PA 17543), construction blasting for Blue Ball Commons in East Earl Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued May 17, 2005.

09054103. Rock Work, Inc. (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Berlinger Estate in Warwick Township, **Bucks County** with an expiration date of June 4, 2006. Permit issued May 20, 2005.

09054104. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Penn Ridge School in East Rockhill Township, **Bucks County** with an expiration date of May 30, 2006. Permit issued May 20, 2005.

35054108. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Veras Partners Site in Jessup Borough, **Lackawanna County** with an expiration date of May 17, 2006. Permit issued May 20, 2005.

52054108. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Environmental Center in Lehman Township, **Pike County** with an expiration date of May 14, 2006. Permit issued May 20, 2005.

64054104. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for a home in Salem Township, **Wayne County** with an expiration date of May 14, 2006. Permit issued May 20, 2005.

64054105. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Fox Ledge in Dyberry Township, **Wayne County** with an expiration date of May 17, 2006. Permit issued May 20, 2005.

06054108. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for a pole barn in District Township, **Berks County** with an expiration date of December 23, 2005. Permit issued May 23, 2005.

06054109. Schlouch, Inc. (P. O. Box 69, Blandon, PA 19510), construction blasting for Union Green in Union Township, **Berks County** with an expiration date of May 21, 2006. Permit issued May 23, 2005.

15054109. Schlouch, Inc. (P. O. Box 69, Blandon, PA 19510), construction blasting for Heather Glen in East Coventry Township, **Chester County** with an expiration date of May 20, 2006. Permit issued May 23, 2005.

21054133. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for a swimming pool in West Pennsboro Township, **Cumberland County** with an expiration date of May 30, 2006. Permit issued May 23, 2005.

21054134. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for home in Hampden Township, **Cumberland County** with an expiration date of May 30, 2006. Permit issued May 23, 2005.

21054135. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting for a home in Southampton Township, **Cumberland County** with an expiration date of May 19, 2006. Permit issued May 23, 2005.

28054127. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting on Kolpack Drive in Guilford Township, **Franklin County** with an expiration date of May 19, 2006. Permit issued May 23, 2005.

28054128. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting in Southampton Township, **Franklin County** with an expiration date of May 30, 2006. Permit issued May 23, 2005.

36054122. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Elm Tree Properties in Rapho Township, **Lancaster County** with an expiration date of May 20, 2006. Permit issued May 23, 2005.

46054119. Rock Work, Inc. (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Providence Chase in Upper Providence Township, **Montgomery County** with an expiration date of June 1, 2006. Permit issued May 23, 2005.

46054120. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Acorn Hills in New Hanover Township, **Montgomery County** with an expiration date of May 19, 2006. Permit issued May 23, 2005.

15054111. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for New Daleville Subdivision in Londonderry Township, **Chester County** with an expiration date of December 23, 2005. Permit issued May 24, 2005.

15054112. Rock Work, Inc. (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Weatherstone Development in West Vincent Township, **Chester County** with an expiration date of June 3, 2006. Permit issued May 24, 2005.

36054123. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Gideon Stoltzfus Project in Salisbury Township, **Lancaster County** with an expiration date of June 30, 2005. Permit issued May 24, 2005.

01054002. Explosives Experts, Inc. (P. O. Box 879, Sparks, MD 21152), construction blasting at Section 3 of Hickory Run Development in Bonneauville Borough, **Adams County** with an expiration date of July 31, 2005. Permit issued May 24, 2005.

38054001. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Arbor Greene Housing Subdivision in North Londonderry Township, **Lebanon County** with an expiration date of June 1, 2006. Permit issued May 25, 2005.

44054001. Mashuda Corp. (21101 Route 19, Cranberry Township, PA 16066), construction blasting for Department of Transportation S.R. 0022 Sec. A02 in Granville and Derry Townships and Lewistown Borough, **Mifflin County** with an expiration date of October 31, 2005. Permit issued May 24, 2005.

46054010. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting at Providence Chase Development in Upper Providence Township, **Montgomery County** with an expiration date of December 31, 2005. Permit issued May 25, 2005.

46054011. Joao & Bradley Construction (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC**, (P. O. Box 20412, Bethlehem, PA 18002), construction blasting at Ardsley Sanitary Sewer Project in Abington Township, **Montgomery County** with an expiration date of December 31, 2005. Permit issued May 25, 2005.

64054003. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting for a house foundation (Bob Holiday Homes) in Paupack Township, **Wayne County** with an expiration date of July 6, 2005. Permit issued May 24, 2005.

15054110. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for King's Grant Subdivision in Caln Township, **Chester County** with an expiration date of December 23, 2005. Permit issued May 25, 2005.

15054111. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for King's Grant Subdivision in Caln Township, **Chester County** with an expiration date of May 30, 2006. Permit issued May 25, 2005.

15054112. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for Manchester Farms Development in East Fallowfield Township, **Chester County** with an expiration date of May 30, 2006. Permit issued May 25, 2005.

35054124. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Joe Oberholtzer Barn in Earl Township, **Lancaster County** with an expiration date of June 30, 2005. Permit issued May 25, 2005.

45054004. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting for a house foundation (TM Builders) in Smithfield Township, **Monroe County** with an expiration date of July 27, 2005. Permit issued May 26, 2005.

06054110. Schlouch, Inc. (P. O. Box 69, Blandon, PA 19510), construction blasting for High Meadows Estates in Amity Township, **Berks County** with an expiration date of June 1, 2006. Permit issued May 26, 2005.

36054125. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Mt. Joy Mennonite Church in East Donegal Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued May 26, 2005.

38054111. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for a home on Barrington Road in North Londonderry Township, **Lebanon County** with an expiration date of March 30, 2006. Permit issued May 26, 2005.

48054106. Schlouch, Inc. (P. O. Box 69, Blandon, PA 19510), construction blasting for Highlands Development in the City of Easton, **Northampton County** with an expiration date of June 30, 2006. Permit issued May 26, 2005.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E22-485: Island Grill LP, 424 River Road, Dauphin, PA 17018 in the City of Harrisburg, **Dauphin County**, ACOE Baltimore District.

To construct and maintain precast columns and associated caissons and retaining walls within the floodway and floodplain of the Susquehanna River (WWF) to construct the City Island Grill restaurant and associated parking located on the south side of Market Street on City Island (Harrisburg West, PA Quadrangle N: 0.80 inch; W: 1.58 inches) in the City of Harrisburg, Dauphin County.

E67-745: Stephen Adlon, 870 Lisburn Road, Wellsville, PA 17365 in York Haven Borough, **York County**, ACOE Baltimore District.

To construct and maintain: (1) four timber footbridges, two 35 feet by 5 feet, one 20 feet by 5 feet and one 25 feet by 5 feet; (2) a 20-foot by 20-foot shed in the floodway; (3) 85 square feet of fill in the floodway associated with Lot 2; (4) one 30-inch by 80-foot long corrugated pipe culvert with a 6-inch depression; (5) one 18-inch by 10-foot corrugated metal pipe culvert; (6) two 4-inch sanitary sewer crossings; (7) one 4-inch conduit for water and telephone attached to the footbridge for Lot 1; and (8) two aerial utility line crossings all associated with unnamed tributaries to the Susquehanna River (WWF) in York Haven Borough, York County (York Haven, PA Quadrangle N: 20 inches; W: 13.0 inches).

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

E18-390. Von P. Wise, 5 West Main Street, Lock Haven, 17745. Pavilion Construction in Woodward Township, **Clinton County**, ACOE Baltimore District (Lock Haven, PA Quadrangle N: 5 inches; W: 12.5 inches).

This permit authorizes construction, operation and maintenance of a 24-foot by 24-foot open sided pavilion. This permit also authorizes the operation and maintenance of a 12-foot by 24-foot wooden deck. This project is located .3 mile southeast on Monsey Drive from the intersection with Water Valley Drive. This permit was issued under Section 105.13(e) "Small Projects."

E59-463. Westfield Township, P. O. Box 61, Westfield, PA 16918. Culvert Maintenance in Westfield Township, **Tioga County**, ACOE Baltimore District (Knoxville, PA Quadrangle N: 6.57 inches; W: 14.22 inches).

To maintain an 8-foot 4-inch high by 12-foot 10-inch wide arch culvert and an adjacent 12-foot 0-inch high by 19-foot 6-inch wide arch culvert by 35-foot long with concrete block headwalls in Jemison Creek along Whittaker Road about 0.2 mile west of the intersection of SR 249 with Whittaker Road in Westfield Township, Tioga County.

The project will not impact wetlands while impacting about 45 feet of waterway with no earth disturbance. Jemison Creek is a Warm Water Fisheries stream. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E59-465. Brookfield Township, R. R. 4, Westfield, PA 16950. Bridge replacement in Westfield Township, **Tioga County**, AOE Baltimore District (Potter Brook, PA Quadrangle; N: 21.9 inches; W: 3.6 inches).

To remove the existing steel beam with metal grate decking on reinforced concrete abutments and to construct and maintain a 97 inch by 152 inch by 40 feet long corrugated metal arch pipe depressed in the streambed a minimum of 6 inches with 30 inch deep by 15 feet long R-6 inlet and outlet protection rip-rap in North Brook on Thomas Road approximately 300 feet south of the intersection of Thomas Road with SR 4007.

The project will not impact wetlands while impacting about 100 feet of waterway and less than 0.006 acre of earth disturbance. North Brook is a Cold-Water Fisheries stream.

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.

E02-1358. Township of Scott, Administrative Office, 2nd Floor, 301 Lindsay Road, Carnegie, PA 15106. To maintain a bridge and outfall structures in Scott Township, **Allegheny County**. (Pittsburgh West, PA Quadrangle N: 3.4 inches; W: 11.5 inches and Latitude: 40° 24' 21"—Longitude: 30° 04' 57"). To operate and maintain the Lindsay Road Bridge having a span of 31.0 feet with a minimum underclearance of 4.4 feet across Georges Run (WWF). The bridge is located on Lindsay Road, approximately 50.0 feet southwest from the intersection of Lindsay Road and Hope Hollow Road. This permit also acknowledges the operation and maintenance of the existing 36-inch diameter outfall structures on the left downstream bank of said stream.

E11-307. Fiberblade, LLC, 1 South Broad Street, Philadelphia, PA 19107. To place and maintain fill in Cambria Township, **Cambria County**. (Nanty Glo, PA Quadrangle N: 13.9 inches; W: 0.8 inch and Latitude: 40° 27' 01"—Longitude: 78° 45' 18"). To place and maintain fill in 0.10 acre of wetland for the purpose of constructing a wind turbine generator blade manufacturing facility. The project also includes the construction and maintenance of a 182.0-foot long, twin 24-inch culverts in an unnamed tributary to Stewart Run (HQ) eligible for authorization under waiver 105.12(a)(2). The project is located south of the intersection of Gateway Drive and Commerce Road. To compensate for wetland impacts, the permittee shall make a monetary contribution to the PA Wetland Replacement Fund.

E65-852. Southgate Plaza, LP, 420 Jamie Drive, Belle Vernon, PA 15012. To construct and maintain a culvert in Rostraver Township, **Westmoreland County**, (Donora, PA Quadrangle N: 11.1 inches; W: 9.5 inches and Latitude: 40° 11' 9"—Longitude: 79° 49' 5"). To construct and maintain 170-foot long, 5-foot diameter CMP culvert, along with riprap outlet protection, as an extension of an approximately 500-foot long existing, stream enclosure, in association with the relocation of a reach of an unnamed tributary to Pollock Run (WWF), for the purpose of constructing a Sheetz Food Mart and fuel dispensing facility. The relocated portion of the channel will consist of the 170-foot enclosure extension and approximately 394 feet of open channel. An outfall structure will also be constructed within the assumed floodway of the relocated channel. These activities will impact approximately 810 feet of existing watercourse and 0.44 acres of wetland (PEM). The permittee will construct approximately 1.1 acres of replacement wetland. The project is located at the intersection of S.R. 51 and Fellsburg Road.

ENVIRONMENTAL ASSESSMENTS

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

D14-111EA. Jake Eckenrode, 310 Wallace Run Road, Bellefonte, PA 16823. Boggs Township, **Centre County**, ACOE Baltimore District.

Project proposes to breach and remove an unnamed dam located across Wallace Run (EV) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The dam is located along Wallace Run Road approximately 2,000 feet west of the intersection of Gum Stump Road (T810) and SR 144, west of the town of Gum Stump. (Bellefonte, PA Quadrangle N: 18.95 inches; W: 14.8 inches).

SPECIAL NOTICES

Planning Grant Awards Under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) hereby announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 901 and section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for

the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101, and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southcentral	Lancaster	Lancaster County	Feasibility Study of RE-TRAC System to Track Municipal Recycling Programs	\$4,059

Drinking Water State Revolving Fund

Special Notice Under the Federal Safe Drinking Water Act

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

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Aqua Pennsylvania, Inc.	204 East Sunbury Street Shamokin, PA 17872	Lackawanna and Wyoming

Project Description: The Pennsylvania Infrastructure Investment Authority (PENNVEST), which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Aqua Pennsylvania, Inc. proposes to replace water lines in the given locations under a PENNVEST funded project entitled "Aqua Pa.—2003 Northeast Water Main Replacements." The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Stroudsburg Municipal Authority	410 Stokes Avenue East Stroudsburg, PA 18301	Monroe

Project Description: PENNVEST, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Stroudsburg Municipal Authority (ME#12618) proposes PWS service and fire protection expansion projects along SR 0611 in the Pocono Township Service Area (Monroe County). Proposed work consists of installing approximately 45,500 LF of distribution mains and appurtenances from the terminus of the preexisting Bartonsville service area, through Pocono Township along SR 0611 corridor (including Tannersville, Scotrun and Swiftwater), and ending at the 1.7 MG storage tank site in Swiftwater. Additional distribution system mains were installed along both sides of SR 0611 in Tannersville Village. The water service area and storage tank are supplied by a duplex booster pump station providing water out of the existing SMA distribution system. The pump station is equipped with telemetry controls, monitoring/alarm systems, and an emergency generator. The project also included 24 regulated stream crossings. Multiple crossings of SR 0611, S.R. 0314 and other State highways were performed via boring installation. Regional PRV vaults or individual PRVs on service connections were provided for all high pressure service areas. The Department's review of the project and the

information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Stroudsburg Municipal Authority	410 Stokes Avenue East Stroudsburg, PA 18301	Monroe

Project Description: PENNVEST, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Stroudsburg Municipal Authority (SMA) (ME#12610) proposes PWS projects to provide PWS service and fire protection in four separate services areas (S.R. 0611 Bartonsville, Butler Park, Smithfield Township Region 1—Phase I, and Smithfield Township Region 6—Phase I Service Areas) located in Monroe County. These projects are known as the 2004 Water Service Area Expansion Projects (formerly the 2002 PENNVEST Water System Improvement/Extension Projects). The work generally consisted of installing DI water mains and appurtenances in each service area. The project included numerous related stream crossing and borings of state highways. One regional PRV vault and multiple service connection PRVs were provided in the Butler Park Service Area due to high service pressures. This project also initially included the siting and construction of Well No. 3 as an additional source of supply for SMA. The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Sewage Facilities Act Special Notice

Special Notice Under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Chester Hill Borough	920 Walton Street Philipsburg, PA	Clearfield

Description: The PENNVEST, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Chester Hill Borough proposes to replace all of its vitrified clay pipe and brick manholes in its sewage collection system. This includes approximately 80 manholes, 25,000 linear feet of clay sanitary sewer pipe and 200 sewer laterals. The Depart-

ment's review of the project and the information received has not identified any significant, adverse environmental impacts resulting from this proposal. The Department has categorically excluded this project from the State Environmental Review Process.

[Pa.B. Doc. No. 05-1123. Filed for public inspection June 10, 2005, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Allegheny General Hospital—Suburban Campus for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Allegheny General Hospital—Suburban Campus has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 10.1.A3, 10.2.B, 10.4, 10.6.A, 10.9, 10.12.A.2, 10.12.A4, 10.15.A.1 and 10.15.C.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1124. Filed for public inspection June 10, 2005, 9:00 a.m.]

Application of The Children's Institute for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Children's Institute has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.6.A6 (relating to private toilets).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1125. Filed for public inspection June 10, 2005, 9:00 a.m.]

Application of Elk Regional Health Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Elk Regional Health Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.6.B and 7.6.B8 (relating to nurse manager's office; and quiet room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing

impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1126. Filed for public inspection June 10, 2005, 9:00 a.m.]

Application of Jameson Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Jameson Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 10.6, 10.15.A2, 10.15.A5, 10.15.A6 and 10.15.A7.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1127. Filed for public inspection June 10, 2005, 9:00 a.m.]

Application of Mercy Fitzgerald Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Mercy Fitzgerald Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the standards contained in this publication relating to the NFPA Life Safety Code.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1128. Filed for public inspection June 10, 2005, 9:00 a.m.]

Application of Select Specialty Hospital of McKeesport for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital of McKeesport has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.B10 (relating to examination/treatment rooms).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1129. Filed for public inspection June 10, 2005, 9:00 a.m.]

Application of UPMC/HVHS Cancer Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC/HVHS Cancer Center has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1130. Filed for public inspection June 10, 2005, 9:00 a.m.]

Application of Village SurgiCenter of Erie for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Village SurgiCenter of Erie has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing

impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1131. Filed for public inspection June 10, 2005, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Lancashire Hall
2829 Lititz Pike
Lancaster, PA 17601

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Monticello House
1048 West Baltimore Pike
Media, PA 19063-5163

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone number listed previously, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1132. Filed for public inspection June 10, 2005, 9:00 a.m.]

DEPARTMENT OF REVENUE

Lucky for Life Lotto

In accordance with 61 Pa. Code § 873.8(a) (relating to time of drawing), the Secretary of Revenue announces that beginning August 1, 2005, Lucky for Life Lotto drawings will be conducted on Mondays and Thursdays. The last Wednesday drawing will be conducted on July

27, 2005. There will be no drawing on Saturday, July 30, 2005.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1133. Filed for public inspection June 10, 2005, 9:00 a.m.]

Pennsylvania Bingo Mania IV 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 Bingo Mania IV.

2. *Price:* The price of a Pennsylvania Bingo Mania IV instant lottery game ticket is \$5.

3. *Play Symbols:*

(a) Each Pennsylvania Bingo Mania IV instant lottery game ticket will contain 10 play areas designated as "Card 1," "Card 2," "Card 3," "Card 4," "Card 5," "Card 6," "Card 7," "Card 8," "Card 9" and "Card 10." The 77 play symbols located in the ten play areas are: The numbers 1 through 75, "FREE" symbol and a "5X" symbol. The "FREE" symbol is a free space. The "5X" symbol is a free space, and when it appears in a winning pattern, the prize quintuples.

(b) Each ticket will also contain a "Caller's Card" area. The "Caller's Card" area will consist of 30 spaces on a 6 by 5 grid. The play symbols that may be located in each space on the grid are: The letter B with a number 1 through 15; the letter I with a number 16 through 30; the letter N with a number 31 through 45; the letter G with a number 46 through 60; and the letter O with a number 61 through 75.

4. *Prizes:* The prizes that can be won in this game are \$5, \$10, \$15, \$25, \$50, \$100, \$250, \$500, \$1,000, \$2,500 and \$50,000.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania Bingo Mania IV instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets matching the "Caller's Card" play symbols in an "M" pattern, matching in a five space vertical pattern the first and fifth columns and the second square from the top of the second and fourth columns, extending through the "FREE" space, on any "Card," shall be entitled to a prize of \$50,000.

(b) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 10," shall be entitled to a prize of \$2,500.

(c) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corners on "Card 6" or "Card 8" or "Card 9" or "Card 10," shall be entitled to a prize of \$1,000.

(d) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 10," shall be entitled to a prize of \$1,000.

(e) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corners on "Card 3" or "Card 7," shall be entitled to a prize of \$500.

(f) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 6" or "Card 8" or "Card 9," shall be entitled to a prize of \$500.

(g) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corners on "Card 4" or "Card 5," shall be entitled to a prize of \$250.

(h) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 3" or "Card 7," shall be entitled to a prize of \$250.

(i) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 6" or "Card 8," shall be entitled to a prize of \$250.

(j) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corners on "Card 2," shall be entitled to a prize of \$100.

(k) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 4" or "Card 5," shall be entitled to a prize of \$100.

(l) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 7," shall be entitled to a prize of \$100.

(m) Holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a "5X" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 6" or "Card 7" or "Card 8" or "Card 9" or "Card 10," shall be entitled to a prize of \$50.

(n) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corners on "Card 1," shall be entitled to a prize of \$50.

(o) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 3" or "Card 5" or "Card 9," shall be entitled to a prize of \$50.

(p) Holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a "5X" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3" or "Card 4" or "Card 5," shall be entitled to a prize of \$25.

(q) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 2," shall be entitled to a prize of \$25.

(r) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 1," shall be entitled to a prize of \$15.

(s) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 1" or "Card 2" or "Card 4," shall be entitled to a prize of \$10.

(t) Holders of tickets matching the "Caller's Card" play symbols in a five-space horizontal, vertical or diagonal line on "Card 6" or "Card 7" or "Card 8" or "Card 9" or "Card 10," shall be entitled to a prize of \$10.

(u) Holders of tickets matching the "Caller's Card" play symbols in a five-space horizontal, vertical or diagonal

line on "Card 1" or "Card 2" or "Card 3" or "Card 4" or "Card 5," shall be entitled to a prize of \$5.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Win With Prizes of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 4,800,000 Tickets</i>
LINE CARD 1	\$5	30	160,000
LINE CARD 2	\$5	30	160,000
LINE CARD 3	\$5	30	160,000
LINE CARD 4	\$5	60	80,000
LINE CARD 5	\$5	60	80,000
LINE CARD 6	\$10	120	40,000
LINE CARD 7	\$10	120	40,000
LINE CARD 8	\$10	120	40,000
LINE CARD 9	\$10	120	40,000
LINE CARD 10	\$10	150	32,000
LINE CARDS 1 & 2	\$10	150	32,000
LINE CARDS 4 & 5	\$10	150	32,000
4 CORNERS CARD 1	\$10	150	32,000
4 CORNERS CARD 2	\$10	150	32,000
STAMP CARD 1	\$15	60	80,000
LINE CARDS 1, 2, 3, 4	\$20	100	48,000
LINE CARDS 2 & 5 + 4 CORNERS CARD 1	\$20	300	16,000
4 CORNERS CARDS 1 & 2	\$20	300	16,000
LINE CARD 1 w/5X MULTIPLIER	\$25	600	8,000
LINE CARD 2 w/5X MULTIPLIER	\$25	600	8,000
LINE CARD 3 w/5X MULTIPLIER	\$25	600	8,000
LINE CARD 4 w/5X MULTIPLIER	\$25	600	8,000
LINE CARD 5 w/5X MULTIPLIER	\$25	300	16,000
LINE CARDS 1, 2, 3, 4, 5	\$25	600	8,000
4 CORNERS CARD 4 + STAMP CARD 1	\$25	600	8,000
LINE CARDS 4 & 5 + STAMP CARD 1	\$25	600	8,000
STAMP CARD 2	\$25	600	8,000
LINE CARD 6 w/5X MULTIPLIER	\$50	800	6,000
LINE CARD 7 w/5X MULTIPLIER	\$50	800	6,000
LINE CARD 8 w/5X MULTIPLIER	\$50	800	6,000
LINE CARD 9 w/5X MULTIPLIER	\$50	800	6,000
LINE CARD 10 w/5X MULTIPLIER	\$50	800	6,000
LINE CARDS 6, 7, 8, 9, 10	\$50	857.14	5,600
STAMP CARDS 1 & 2 + LINE CARDS 3 & 4	\$50	827.59	5,800
X CARD 1	\$50	800	6,000
4 CORNERS CARD 3	\$50	800	6,000
4 CORNERS CARD 5	\$50	800	6,000
LINE CARD 1 w/5X MULTIPLIER + LINE CARD 2 w/5X MULTIPLIER	\$50	800	6,000

<i>Win With Prizes of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 4,800,000 Tickets</i>
LINE CARD 3 w/5X MULTIPLIER + LINE CARD 4 w/5X MULTIPLIER	\$50	800	6,000
4 CORNERS CARD 7	\$100	2,400	2,000
STAMP CARD 4	\$100	2,400	2,000
STAMP CARD 5	\$100	2,400	2,000
X CARD 2	\$100	2,400	2,000
X CARD 1 + 4 CORNERS CARD 9	\$100	2,400	2,000
STAMP CARD 3	\$250	120,000	40
4 CORNERS CARD 8	\$250	120,000	40
X CARD 3	\$500	120,000	40
STAMP CARD 6	\$500	60,000	80
STAMP CARD 8	\$500	60,000	80
STAMP CARD 9	\$500	60,000	80
X CARD 7	\$500	60,000	80
X CARD 4 + STAMP CARD 7	\$500	60,000	80
X CARD 5 + 4 CORNERS CARD 6	\$500	60,000	80
X CARD 6	\$1,000	120,000	40
X CARD 8	\$1,000	120,000	40
X CARD 9	\$1,000	120,000	40
4 CORNERS CARD 10	\$1,000	120,000	40
X CARD 10	\$1,000	120,000	40
STAMP CARD 10	\$2,500	240,000	20
M PATTERN ON ANY CARD	\$50,000	480,000	10

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Bingo Mania IV instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Bingo Mania IV, prize money from winning Pennsylvania Bingo Mania IV 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 Bingo Mania IV instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Bingo Mania IV Bingo or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1134. Filed for public inspection June 10, 2005, 9:00 a.m.]

Pennsylvania Checkerboard Bingo 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 Checkerboard Bingo.

2. *Price:* The price of a Pennsylvania Checkerboard Bingo instant lottery game ticket is \$3.

3. *Play Symbols:*

(a) Each Pennsylvania Checkerboard Bingo instant lottery game ticket will contain six play areas designated as "Card 1," "Card 2," "Card 3," "Card 4," "Card 5" and "Card 6." The 77 play symbols located in the six play areas are: The numbers 01 through 75, "FREE" symbol and a "TRIPLER" symbol. The "FREE" symbol is a free space. The "TRIPLER" symbol is a free space, and when it appears in a winning pattern, the prize triples.

(b) Each ticket will also contain a "Caller's Card" area. The 76 play symbols that may be located in the "Caller's Card" are: The letter B with a number 01 through 15; the letter I with a number 16 through 30; the letter N with a number 31 through 45; the letter G with a number 46 through 60; and the letter O with a number 61 through 75 and a "CHECKER" symbol.

4. *Prizes:* The prizes that can be won in this game are \$3, \$5, \$10, \$15, \$30, \$60, \$120, \$150, \$300, \$1,000, and \$30,000.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 4,320,000 tickets will be printed for the Pennsylvania Checkerboard Bingo instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 6," shall be entitled to a prize of \$30,000.

(b) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 4" or "Card 5," shall be entitled to a prize of \$1,000.

(c) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 2" or "Card 3," shall be entitled to a prize of \$300.

(d) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 6," shall be entitled to a prize of \$300.

(e) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 1," shall be entitled to a prize of \$150.

(f) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 4" or "Card 5," shall be entitled to a prize of \$120.

(g) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 2" or "Card 3," shall be entitled to a prize of \$60.

(h) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 5" or "Card 6," shall be entitled to a prize of \$60.

(i) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 1," shall be entitled to a prize of \$30.

(j) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 2" or "Card 3" or "Card 4," shall be entitled to a prize of \$30.

(k) Holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a "TRIPLER" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 4" or "Card 5" or "Card 6," shall be entitled to a prize of \$15.

(l) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 1," shall be entitled to a prize of \$15.

(m) Holders of tickets with a "CHECKER" symbol in the "Caller's Card," on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a "TRIPLER" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3," shall be entitled to a prize of \$9.

(o) Holders of tickets matching the "Caller's Card" play symbols in a five-space horizontal, vertical or diagonal line on "Card 4" or "Card 5" or "Card 6," shall be entitled to a prize of \$5.

(p) Holders of tickets matching the "Caller's Card" play symbols in a five-space horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3," shall be entitled to a prize of \$3.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Get:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 4,320,000 Tickets</i>
LINE CARD 1	\$3	11.11	388,800
LINE CARD 2	\$3	33.33	129,600
LINE CARD 3	\$3	33.33	129,600
LINE CARD 4	\$5	76.92	56,160
LINE CARD 5	\$5	66.67	64,800
LINE CARD 6	\$5	100	43,200
LINE CARD 1 (TRIPLER)	\$9	100	43,200
LINE CARD 2 (TRIPLER)	\$9	100	43,200
LINE CARD 3 (TRIPLER)	\$9	100	43,200
LINE CARDS 4 & 5	\$10	200	21,600
LINE CARDS 4 & 6	\$10	200	21,600
LINE CARDS 5 & 6	\$10	200	21,600
CHECKER	\$10	200	21,600
4 CORNERS-CARD 1	\$15	1,000	4,320
LINE CARDS 4, 5 & 6	\$15	1,000	4,320
LINE CARD 4 (TRIPLER)	\$15	500	8,640
LINE CARD 5 (TRIPLER)	\$15	500	8,640
LINE CARD 6 (TRIPLER)	\$15	500	8,640
CHECKER + LINE CARD 4	\$15	500	8,640
CHECKER + LINE CARD 5	\$15	500	8,640
CHECKER + LINE CARD 6	\$15	500	8,640

<i>Get:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 4,320,000 Tickets</i>
DIAMOND CARD 1	\$30	1,000	4,320
4 CORNERS-CARD 2	\$30	1,000	4,320
4 CORNERS-CARD 3	\$30	1,000	4,320
4 CORNERS-CARD 4	\$30	1,000	4,320
LINE CARD 5 (TRIPLER) + LINE CARD 6 (TRIPLER)	\$30	1,000	4,320
CHECKER + LINE CARDS 4 (TRIPLER) & LINE CARD 5	\$30	1,000	4,320
CHECKER + LINE CARDS 5 (TRIPLER) & LINE CARD 6	\$30	1,000	4,320
CHECKER + LINE CARDS 6 (TRIPLER) & LINE CARD 4	\$30	333.33	12,960
CHECKER + DIAMOND CARD 1	\$40	1,200	3,600
CHECKER + 4 CORNERS CARD 2	\$40	1,200	3,600
CHECKER + 4 CORNERS CARD 3	\$40	1,200	3,600
CHECKER + 4 CORNERS CARD 4	\$40	1,200	3,600
DIAMOND CARD 2	\$60	6,000	720
DIAMOND CARD 3	\$60	6,000	720
4 CORNERS-CARD 5	\$60	6,000	720
4 CORNERS-CARD 6	\$60	6,000	720
DIAMOND CARD 1 + 4 CORNERS-CARD 2	\$60	6,000	720
DIAMOND CARD 1 + 4 CORNERS-CARD 3	\$60	6,000	720
DIAMOND CARD 1 + 4 CORNERS-CARD 4	\$60	6,000	720
4 CORNERS CARDS 4 & 5	\$90	12,000	360
DIAMOND CARD 2 + 4 CORNERS CARD 4	\$90	12,000	360
4 CORNERS CARDS 2, 3 & 4	\$90	12,000	360
LINE CARDS 4 & 5 (TRIPLER) + DIAMOND CARD 2	\$90	12,000	360
LINE CARDS 4 & 6 (TRIPLER) + DIAMOND CARD 3	\$90	12,000	360
LINE CARDS 5 & 6 (TRIPLER) + DIAMOND CARD 2	\$90	12,000	360
DIAMOND CARD 4	\$120	60,000	72
DIAMOND CARD 5	\$120	60,000	72
DIAMOND CARD 2 + 4 CORNERS CARD 6	\$120	60,000	72
4 CORNERS CARD 5 + 4 CORNERS CARD 6	\$120	40,000	108
X CARD 1	\$150	40,000	108
4 CORNERS CARD 3 + DIAMOND CARD 5	\$150	40,000	108
X CARD 2	\$300	120,000	36
X CARD 3	\$300	120,000	36
DIAMOND CARD 6	\$300	120,000	36
X CARD 1 + X CARD 2	\$450	120,000	36
X CARD 3 + DIAMOND CARD 5 + 4 CORNERS CARD 4	\$450	120,000	36

<i>Get:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 4,320,000 Tickets</i>
X CARD 4	\$1,000	120,000	36
X CARD 5	\$1,000	120,000	36
X CARD 4 + X CARD 5	\$2,000	360,000	12
X CARD 6	\$30,000	1,080,000	4

CHECKER = WIN \$10 AUTOMATICALLY

TRIPLER = TRIPLE THE PRIZE

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Checkerboard Bingo instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Checkerboard Bingo, prize money from winning Pennsylvania Checkerboard Bingo 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 Checkerboard Bingo instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Checkerboard Bingo or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1135. Filed for public inspection June 10, 2005, 9:00 a.m.]

Pennsylvania Magic Numbers '05 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Magic Numbers '05.

2. *Price:* The price of a Pennsylvania Magic Numbers '05 instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Magic Numbers '05 instant lottery game ticket will contain one play area featuring one "MAGIC NUMBERS" area, one "YOUR NUMBERS" area and a "BONUS BOX" area. The play symbols and their captions located in the "MAGIC NUMBERS" area and the "YOUR NUMBERS" area are: 1

(ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENTY). The play symbols and their captions located in the "BONUS BOX" area are: Clover Symbol (CLOVER), Leprechaun Symbol (LPCHN), Crystal Ball Symbol (BALL), Rabbit Symbol (RABBIT), Horse Shoe Symbol (SHOE), Rainbow Symbol (RNBOW), Wishbone Symbol (WSHBN) and Penny Symbol (PENNY).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$5.⁰⁰ (FIV DOL), \$10.⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$400 (FOR HUN), \$2,000 (TWO THO) and \$25,000 (TWYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$100, \$400, \$2,000 and \$25,000. The player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Magic Numbers '05 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$25,000 (TWYFIVTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$2,000 (TWO THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(d) Holders of tickets with a Rabbit Symbol (RABBIT) in the "BONUS BOX" area, and ten prize symbols of \$40\$ (FORTY) appear under the "YOUR NUMBERS" play symbols on a single ticket, shall be entitled to a prize of \$400.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets with a Rabbit Symbol (RABBIT) in the "BONUS BOX" area, and ten prize symbols of \$10.⁰⁰ (TEN DOL) appear under the "YOUR NUMBERS" play symbols on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(h) Holders of tickets with a Rabbit Symbol (RABBIT) in the "BONUS BOX" area, and ten prize symbols of \$4.⁰⁰ (FOR DOL) appear under the "YOUR NUMBERS" play symbols on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets with a Rabbit Symbol (RABBIT) in the "BONUS BOX" area, and ten prize symbols of \$2.⁰⁰ (TWO DOL) appear under the "YOUR NUMBERS" play symbols on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets with a Rabbit Symbol (RABBIT) in the "BONUS BOX" area, and ten prize symbols of \$1.⁰⁰ (ONE DOL) appear under the "YOUR NUMBERS" play symbols on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$5.⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$4.⁰⁰ (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "MAGIC NUMBERS" play symbols and a prize symbol of \$1.⁰⁰ (ONE DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Numbers Match Either Magic Number, Win with Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$1 × 2	\$2	18.75	320,000
\$2	\$2	21.43	280,000
\$1 × 4	\$4	37.50	160,000
\$4	\$4	30	200,000
\$1 × 5	\$5	75	80,000
\$5	\$5	75	80,000
\$1 × 10	\$10	750	8,000
\$2 × 5	\$10	750	8,000
\$5 × 2	\$10	750	8,000
\$10	\$10	375	16,000
Rabbit w/\$1	\$10	75	80,000
\$5 × 4	\$20	300	20,000
\$20	\$20	300	20,000
Rabbit w/\$2	\$20	300	20,000
\$4 × 10	\$40	1,200	5,000
\$5 × 8	\$40	1,200	5,000
\$10 × 4	\$40	1,263	4,750
\$20 × 2	\$40	1,263	4,750
\$40	\$40	1,200	5,000
Rabbit w/\$4	\$40	1,200	5,000
\$10 × 10	\$100	12,000	500
\$20 × 5	\$100	12,000	500
\$40 × 2 + \$5 × 4	\$100	12,000	500
\$100	\$100	12,000	500
Rabbit w/\$10	\$100	12,000	500
\$100 × 4	\$400	60,000	100
\$400	\$400	60,000	100
Rabbit w/\$40	\$400	60,000	100
\$2,000	\$2,000	600,000	10

<i>When Any of Your Numbers Match Either Magic Number, Win with Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$400 × 5	\$2,000	600,000	10
\$25,000	\$25,000	600,000	10

Rabbit—Win all 10 prizes automatically.
Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Magic Numbers '05 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Magic Numbers '05, prize money from winning Pennsylvania Magic Numbers '05 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Magic Numbers '05 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used

for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Magic Numbers '05 or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1136. Filed for public inspection June 10, 2005, 9:00 a.m.]

Realty Transfer Tax; 2004 Common Level Ratio Real Estate Valuation Factors

The following real estate valuation factors are based on sales data compiled by the State Tax Equalization Board in 2004. These factors are the mathematical reciprocals of the actual common level ratio. For Pennsylvania Realty Transfer Tax purposes, these factors are applicable for documents accepted from July 1, 2005, to June 30, 2006, except as indicated. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument (61 Pa. Code § 91.102 (relating to acceptance of documents)).

<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>
Adams	3.28	Elk	5.26	*Montour	8.82
Allegheny	1.10	Erie	1.13	Northampton	2.75
Armstrong	2.56	Fayette	1.10	*Northumberland	4.07
Beaver	3.23	Forest	4.37	Perry	1.16
Bedford	5.00	Franklin	7.69	Philadelphia	3.37
Berks	1.25	Fulton	2.20	Pike	4.76
Blair	11.91	Greene	1.21	Potter	2.53
Bradford	2.43	Huntingdon	6.80	Schuylkill	2.42
*Bucks	8.93	Indiana	7.69	Snyder	6.29
Butler	9.90	*Jefferson	1.74	Somerset	2.63
*Cambria	3.57	Juniata	6.41	Sullivan	1.19
Cameron	2.81	Lackawanna	5.38	Susquehanna	2.56
Carbon	2.52	**Lancaster	1.00	Tioga	1.18
Centre	3.04	Lawrence	1.10	Union	6.85
Chester	1.65	*Lebanon	6.25	**Venango	1.00
Clarion	5.10	Lehigh	2.73	Warren	2.81
Clearfield	5.13	Luzerne	15.39	Washington	6.94
Clinton	3.73	**Lycoming	1.00	**Wayne	1.00
Columbia	3.26	*McKean	1.06	Westmoreland	4.88
Crawford	2.87	Mercer	3.56	Wyoming	4.39
**Cumberland	1.00	Mifflin	2.09	York	1.33

<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>
Dauphin	1.24	Monroe	6.14		
Delaware	1.38	Montgomery	1.66		

*Adjusted by the Department of Revenue to reflect assessment ratio change effective January 1, 2005.

** Adjusted by the Department of Revenue to reflect assessment base change effective January 1, 2005.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1137. Filed for public inspection June 10, 2005, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Butler County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation (Department) plans to increase the number of lanes at the SR 19/SR 3022 intersection to improve safety, increase the intersection's efficiency and to reduce delay to the traveling public. The intersection improvements require the taking of approximately 0.099ha (0.244 acre) from the Frederick Meeder Farmstead/Drover's Inn and, therefore, the use of the Frederick Meeder Farmstead/Drover's Inn, which qualifies as a Section 2002/Section 4(f) resource.

Mitigation measures to minimize harm to the resource include the following:

1. Access to the Frederick Meeder Farmstead/Drover's Inn will be maintained at all times and will not be modified or impacted. The property will be fully functional during construction activities.
2. The proposed construction activities will be limited to the minimal area necessary to conduct the required roadway improvements.
3. Storage of construction equipment and materials will be restricted from the Frederick Meeder Farmstead.
4. Nonpaved areas of disturbance will be returned to current conditions when the work is completed, including revegetation.
5. One hundred percent of the proposed property acquisition will not occur in land within the Frederick Meeder Farmstead that functions as farmland. All takes occur near the edge of the property within zones previously impacted by a utility easement and any easement acquisition will occur adjacent to the right-of-way or edge of the property, or both.
6. Structures are being designed to reduce scour damage from flooding. Scour will be minimized by the structures being sized appropriately (through the joint permit application process) to pass the 100-year design storm and the installation of R-8 rock choked off with R-3 will protect the abutments.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other

effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize effects.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 05-1138. Filed for public inspection June 10, 2005, 9:00 a.m.]

Sale of Land No Longer Required for Transportation; Uneconomic Remnant

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department. The parcel is rectangular shaped, located at the corner of Southland Drive and Route 512, Section 004 in Hanover Township, Northampton County. The parcel is approximately 13,911.04 square feet. The sale of the property is in an "as is" condition. Interested public agencies are invited to express their interest in purchasing the parcel within 30 calendar days from this notice.

For further information, contact Ken Kutchinsky, District Property Manager, Department of Transportation, 1713 Lehig Street, Allentown, PA 18103, (610) 798-4271.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 05-1139. Filed for public inspection June 10, 2005, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

White Township v. DEP and Glendale Yearound Sewer Co.; EHB Doc. No. 2005-097-R

White Township has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Chest and White Townships, Cambria County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 05-1140. Filed for public inspection June 10, 2005, 9:00 a.m.]

**Williams Township v. DEP and Chrin Brothers, Inc.,
Permittee; EHB Doc. No. 2005-096-MG**

Williams Township has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Chrin Brothers, Inc. (R & M) for a facility in Williams Township, Northampton County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 05-1141. Filed for public inspection June 10, 2005, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Mandated Benefits

Section 9 of the act of July 17, 2003 (P. L. 31, No. 14) (Act 14) requires that the Health Care Cost Containment Council (Council) review proposed mandated health ben-

efits on request of the executive and legislative branches of government. The Council has been requested by Representative Nicholas A. Micozzie, Chairperson of the House Insurance Committee, to review House Bill 350, Printer's Number 371 (Grucela). House Bill 350 would require health insurance policies to provide coverage for hearing aids sold in accordance with section 403 of the Hearing Aid Sales Registration Law (35 P. S. § 6700-403).

Initial notification of request for information and documentation was published at 35 Pa.B. 1727 (March 12, 2005), with documentation due to the Council by May 12, 2005.

Following is a list of the documentation received. This information is available for public review and comment at the Council offices during regular business hours, 8:30 a.m. to 5 p.m., until July 11, 2005. Additional comments on this information must be received by that time. Council offices are located at 225 Market Street, Suite 400, Harrisburg, PA 17101. Send comments to Flossie Wolf at the previous address.

Submissions for House Bill 350

1. *Blue Cross of Northeastern Pennsylvania*
 - Statement addressing section 9 requirements and opposing House Bill 350.
 - Attachments addressing health insurance coverage, health insurance mandates and factors driving the rising cost of healthcare.
2. *Highmark*
 - Statement addressing section 9 requirements and opposing House Bill 350.
 - Attachments addressing hearing aid coverage, health insurance and health insurance mandates.
3. *The Insurance Federation of Pennsylvania*
 - Statement addressing section 9 requirements and opposing House Bill 350.
 - Attachments addressing the factors driving the rising cost of healthcare.
4. *Managed Care Association of Pennsylvania*
 - Statement addressing concerns regarding mandated benefits and information on factors driving the rising costs of healthcare premiums.
5. *Pennsylvania Academy of Audiology*
 - Letter addressing section 9 requirements and indicating support of mandated health benefits for hearing aids.
6. *Pennsylvania Chamber of Business and Industry*
 - Letter and comments in opposition to House Bill 350.
7. *Pennsylvania Self Help for Hard of Hearing People*
 - Letter and comments in support of House Bill 350.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 05-1142. Filed for public inspection June 10, 2005, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, May 26, 2005, and announced the following:

Regulation Approved

State Architects Licensure Board #16A-418: Definitions and Fees (amends 49 Pa. Code Chapter 9)

Approval Order

Public Meeting held
May 26, 2005

Commissioners Voting: John R. McGinley, Jr., Esq., Chairperson; Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli

*State Architects Licensure Board—Definitions and Fees;
Regulation No. 16A-418*

On March 30, 2004, the Independent Regulatory Review Commission (Commission) received this proposed

regulation from the State Architects Licensure Board. This rulemaking amends 49 Pa. Code Chapter 9. The proposed regulation was published in the April 10, 2004 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 22, 2005.

This regulation adds a definition of the term "sole proprietorship," and clarifies that sole proprietorships are not required to pay the Board's annual renewal fee. These amendments will conform the regulation to the Architects Licensure Law.

We have determined this regulation is consistent with the statutory authority of the State Architects Licensure Board (63 P. S. § 34.6(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-1143. Filed for public inspection June 10, 2005, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

Final-Omit

Reg. No.	Agency/Title	Received	Tolled	Resubmitted
54-62	Pennsylvania Liquor Control Board Point System for Certain Licenses	5/24/05	5/24/05	5/24/05

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-1144. Filed for public inspection June 10, 2005, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Redomesticate

Old Guard Insurance Company, a domestic stock property insurance company, has filed an application for approval of a plan of redomestication whereby the state of domicile would change from Pennsylvania to Ohio. The initial filing was made under the requirements set forth under 15 Pa.C.S. §§ 1101—1110 (relating to the Business Corporation Law of 1988). Persons wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department's (Department) order approving the redomestication are invited to submit a written statement to the Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance

Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1145. Filed for public inspection June 10, 2005, 9:00 a.m.]

Andrew Fanelli, D.O.; Hearing

Appeal of Andrew Fanelli, D.O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM03-09-031

A hearing shall occur on July 18, 2005, in Room 200, Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA.

On or before July 11, 2005, 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.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1146. Filed for public inspection June 10, 2005, 9:00 a.m.]

Harlan Giles; Prehearing

Appeal of Harlan Giles under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM05-04-004

On or before April 27, 2005, the appellant shall file a concise statement setting forth the factual and/or legal basis for his disagreement with MCARE's July 30, 2004, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for May 18, 2005. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before May 13, 2005. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 4, 2005, 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 11, 2005.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1147. Filed for public inspection June 10, 2005, 9:00 a.m.]

Keith A. Goffe, M.D.; Prehearing

Appeal of Keith A. Goffe, M.D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM05-05-014

On or before June 16, 2005, the appellant shall file a concise statement setting forth the factual and/or legal

basis for his disagreement with MCARE's April 8, 2005, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for July 7, 2005. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 30, 2005. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 23, 2005, 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 June 30, 2005.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1148. Filed for public inspection June 10, 2005, 9:00 a.m.]

Lisa Hanes, CNM; Prehearing

Appeal of Lisa Hanes, CNM under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM05-05-015

On or before June 9, 2005, the appellant shall file a concise statement setting forth the factual and/or legal basis for her disagreement with MCARE's May 3, 2005, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for June 30, 2005. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 23, 2005. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 16, 2005, 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 June 23, 2005.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1149. Filed for public inspection June 10, 2005, 9:00 a.m.]

Richard G. Kensinger; Hearing

Appeal of Richard G. Kensinger under 40 P. S. §§ 991.2101—991.2193; UPMC Health Plan; Doc. No. HC05-04-039

Under 40 P. S. §§ 991.2101—991.2193, notice is hereby given that the appellant in this action has requested a hearing in connection with the appellant's managed

health care plan. 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 any other relevant procedure provisions of law.

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on June 29, 2005. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before June 22, 2005. The hearing shall occur on July 13, 2005, at 1 p.m. in Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 23, 2005, 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 June 30, 2005.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1150. Filed for public inspection June 10, 2005, 9:00 a.m.]

Linda Kleidon; Hearing

Linda Kleidon; License Denial; Doc. No. AG05-05-003

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 July 11, 2005. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before July 6, 2005. A hearing shall occur on July 27, 2005, in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 28, 2005, 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 July 5, 2005.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodations to

participate in the hearing should contact Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1151. Filed for public inspection June 10, 2005, 9:00 a.m.]

Personal Surplus Lines, Inc.; Hearing

Personal Surplus Lines, Inc.; Order to Show Cause; Doc. No. SC05-05-016

A prehearing telephone conference initiated by this office is scheduled for July 6, 2005. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before June 30, 2005. A hearing shall occur on July 20, 2005, in the Administrative Hearings Office, Capitol Associates Buildings, Room 200, 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 June 22, 2005, 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 June 29, 2005.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1152. Filed for public inspection June 10, 2005, 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) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68, 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 hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Nicholas Barnick; file no. 05-188-03060; Viking Insurance Company; doc. no. P05-05-009; June 30, 2005, 1 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Michael and Lillian Dzirko; file no. 05-265-01226; Nationwide Insurance Company; doc. no. PH05-05-007; August 4, 2005, 9 a.m.

Appeal of Joyce Anne Malatesta; file no. 05-265-01062; Erie Insurance Exchange; doc. no. PH05-05-008; August 4, 2005, 10 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 Thomas Edward Ritorto; file no. 05-308-70564; Metropolitan Direct Property & Casualty Insurance Company; doc. no. PI05-05-006; July 13, 2005, 10 a.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 Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1153. Filed for public inspection June 10, 2005, 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 their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Joseph E. and Nancy Clinton; file no. 05-188-00661; Goodville Mutual Insurance Company; doc. no. P5-04-008; July 11, 2005, 10 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 Tara Ann Howard; file no. 05-303-70118; Insurance Placement Facility; doc. no. PI05-05-005; July 14, 2005, 9 a.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 Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1154. Filed for public inspection June 10, 2005, 9:00 a.m.]

Thrivent Financial for Lutherans; Long Term Care Rate Increase; Rate Filing

Thrivent Financial for Lutherans has submitted filings to increase the rates for several long term care policies previously issued by the Aid Association for Lutherans and Lutheran Brotherhood. The first request is for an aggregate 20% increase on forms 12105PA and 12106PA. The increase will affect 1,564 policyholders in this Commonwealth. The second request is for an aggregate 13% increase on forms H2-LN-LTC-1 and H2-LN-LTCH-1. The increase will affect 463 policyholders in this Commonwealth. The third request is for an aggregate 17% increase on form H2-LA-LTC-1PA. The increase will affect 1,716 policyholders in this Commonwealth. The fourth request is for an aggregate 37% increase on forms H3-NN-LTCN-1 PA (97) and H3-NC-LTCC-1 PA (97). The increase will affect 4,199 policyholders in this Commonwealth.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1155. Filed for public inspection June 10, 2005, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Allegheny County, Wine & Spirits Wholesale Shoppe #0215, 1601 Liberty Avenue, Pittsburgh, PA 15222-4301.

Lease Expiration Date: August 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 12,000 net useable square feet of new or existing warehouse space serving the downtown Pittsburgh area. The site must have access for tractor-trailer delivery, loading docks and at least 12 parking spaces.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0222, United Industrial Park, 98 Vanadium Road, Bridgeville, PA 15017-3034.

Lease Expiration Date: April 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,500 net useable square feet of new or existing warehouse space for use as a wholesale store in the Bridgeville/Heidelberg area. The location must have access for tractor-trailer delivery, loading dock, separate garage door and 10 to 15 parking spaces.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0238, Shady Hill Center, 6320 Shakespeare Street, Pittsburgh, PA 15206-4013.

Lease Expiration Date: March 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 to 7,000 net useable square feet of new or existing retail commercial space. The location must be in a shopping center environment near the intersection of Shady and Penn Avenues in the City of Pittsburgh.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Butler County, Wine & Spirits Shoppe #1005, Bon Aire Plaza, 1101 N. Main Street, Butler, PA 16001-1944.

Lease Expiration Date: April 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space. The location must be along Route 8, north of the intersection of Route 422.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Erie County, Wine & Spirits Shoppe #2502, 105 W. 18th Street, Erie, PA 16501-2103.

Lease Expiration Date: April 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space. The location must be in a shopping center environment. The location should be within 1/2 mile of the intersection of Peach Street and 18th Street, Erie.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Erie County, Wine & Spirits Shoppe #2511, 737 East 38th Street, Erie, PA 16504-2834.

Lease Expiration Date: April 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space. The location must be in a shopping center environment near the intersection of 38th Street and Pine Avenue in Erie.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Franklin County, Wine & Spirits Shoppe #2802, 2105 E. Main Street, Waynesboro, PA 17268-1884.

Lease Expiration Date: June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space located near SR 16 between Wayne Heights and Rouzerville.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Charles D. Mooney, (717) 657-4228

Lackawanna County, Wine & Spirits Shoppe #3518, Keyser Oak Plaza, 1762 Keyser Oak Avenue, Scranton, PA 18508-1232.

Lease Expiration Date: May 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space located within 1 mile of the North Scranton Expressway and the intersection of Interstate 81 and SR 307, City of Scranton.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Charles D. Mooney, (717) 657-4228

Lawrence County, Wine & Spirits Shoppe #3702, 729 Lawrence Avenue, Ellwood City, PA 16117-1931.

Lease Expiration Date: July 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space. The location must serve the Central Business District of Ellwood City. The location must have rear loading facilities.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Lehigh County, Wine & Spirits Shoppe #3904, 3300 Lehigh Street, Allentown, PA 18103-7037.

Lease Expiration Date: 90-day status since November 1, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,500 net useable square feet of new or existing retail commercial space located on Lehigh Street within 1 mile of the intersection of 33rd Street Southwest, Salisbury Township.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228

Schuylkill County, Wine & Spirits Shoppe #5412, 17 St. John Street, Schuylkill Haven, PA 17972-1652.

Lease Expiration Date: May 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,200 net useable square feet of new or existing retail commercial space located within Schuylkill Haven Borough.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Charles D. Mooney, (717) 657-4228

Tioga County, Wine & Spirits Shoppe #5903, 16 Crafton Street, Wellsboro, PA 16901-1508.

Lease Expiration Date: May 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,400 net useable square feet of new or existing retail commercial space located within the Borough of Wellsboro.

Proposals due: July 1, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Matthew L. Sweeney, (717) 657-4228
 JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 05-1156. Filed for public inspection June 10, 2005, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Insurance Coverage Requirements for Motor Carriers; Doc. No. M-00041816

Public Meeting held
May 19, 2005

Commissioners Present: Wendell F. Holland, Chairperson;
Robert K. Bloom, Vice Chairperson; Kim Pizzingrilli

Declaratory Order

By the Commission:

By Order entered August 6, 2004, we initiated a declaratory order proceeding to address the effect of exclusionary clauses possibly found in insurance policies issued to motor carriers, and the effect of those clauses on coverage mandated by statute and regulation. Specifically, we were concerned about valid claims for recovery being denied on the basis that a particular vehicle or driver involved in an accident was not listed on the motor carrier's insurance policy. We noted that we had previously addressed this issue in *Petition of Thomas Redfield*, Docket No. P-00950951 (Order entered October 4, 1995), wherein we found that coverage was available to claimants, regardless of whether a particular carrier vehicle involved in an accident was listed on the insurance policy. Notwithstanding our decision in *Redfield*, we became aware that insurers may be denying valid claims based on the unlisted vehicle theory. Therefore, we initiated the present proceeding to remove any uncertainty over mandated coverage requirements.

Our August 6, 2004 Order was served on all motor carrier insurers actively providing coverage in Pennsylvania. In addition, our Order was published on August 21, 2004, in the *Pennsylvania Bulletin*. 34 Pa.B. 4661. Comments were to be filed within twenty (20) days of the date

of publication. Comments were filed by Eric F. Ewing, the Insurance Federation of Pennsylvania, Inc. ("IFP"), the Property and Casualty Insurers Association of America ("PCIAA"), Philadelphia Parking Authority ("PPA"), and Prime Insurance Syndicate, Inc. ("Prime").

Summary of Comments

Mr. Ewing, the chief executive officer of Citizens Insurance Services, LLC, a Pennsylvania corporation registered in Pennsylvania to sell insurance products, commended the Commission for its initiative in addressing the problems arising in the marketplace for liability insurance and the resulting expenses of the public due to uninsured and underinsured commercial motor vehicle operators. Mr. Ewing encouraged the Commission to broaden its inquiry beyond the effect of exclusionary clauses to include the practice of regulated carriers to self-insure. We decline Mr. Ewing's suggestion, and will limit the scope of this Order to the particular issue for which we solicited comment.

IFP and PCIAA, insurance trade associations, commented that the resolution of the effect of exclusionary policy provisions requires resolution of possibly competing public policy goals; one ensuring that the public is adequately protected by the financial security in place, and the other protecting traditional underwriting and contractual interpretation principles underpinning the insurance market. IFP and PCIAA cited the Superior Court's decisions dealing with exclusionary clauses as frustrating the intent of federal and state transportation regulators to ensure adequate coverage for injured members of the public. IFP and PCIAA urge the Commission to limit its Order to taxicab coverage and not attempt to reach beyond the traditional privities of contract in insurance arrangements.

PPA commented that exclusionary clauses found in individual insurance policies issued to common carriers, are void to the extent that those clauses would provide less coverage than mandated by law. PPA has issued regulations that explicitly address exclusionary clauses in insurance contracts, and indicates that these clauses are subordinate to insurance coverage required by law.

Prime commented that if the Commission upholds its prior decision on this matter, it "will have a disastrously negative impact upon Prime and upon other companies writing commercial automobile coverage, particularly for taxicabs, in Pennsylvania." Prime commented that if it was forced to provide coverage for vehicles and operators that it did not willingly and specifically undertake to insure, it will be unable to participate in this market in Pennsylvania and will begin an orderly withdrawal. Prime argued that a more effective approach would be to make insurers provide proof of insurance specific to the vehicle and operator, not the carrier. Finally, Prime commented that "the Commission has no lawful authority to regulate the contents or terms of the insurance contracts which Prime or any other insurer issues." While the Commission has the power to regulate motor carriers and to require motor carriers to carry insurance, Prime argued that the Commission is not permitted to regulate the insurance industry or the insurers doing business in Pennsylvania.

Discussion

Section 331(f) of the Public Utility Code, 66 Pa.C.S. § 331(f), provides that: "The commission, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty." Given the conflicting comments,

we believe that sufficient uncertainty surrounds the extent of coverage mandated by statute and regulation. Therefore, we will exercise our discretion and issue a declaratory order to remove any uncertainty.

Section 512 of the Public Utility Code, 66 Pa.C.S. § 512, provides the Commission with extensive authority over motor carrier insurance requirements. That provision provides, in part, that:

The commission may, as to motor carriers, prescribe by regulation or order, such requirements as it may deem necessary for the protection of persons or property of their patrons and the public, including the filing of surety bonds, the carrying of insurance, or the qualifications and conditions under which such carriers may act as self-insurers with respect to such matters. All motor carriers of passengers, whose current liquid assets do not exceed their current liabilities by at least \$100,000.00, shall cover each and every vehicle, transporting such passengers, with a public liability insurance policy . . . in such amounts as the commission may prescribe. . . .

Pursuant to this broad statutory charge, the Commission promulgated regulations governing motor carrier insurance requirements. 52 Pa. Code Chapter 32. Those regulations require motor carrier insurers to file with the Commission a certificate of insurance to provide for the payment of claims resulting from the operation, maintenance, or use of a motor vehicle in the carrier's authorized service. 52 Pa. Code §§ 32.11, 32.12.¹ A motor carrier may not operate without the Commission's ap-

¹ These provisions provide:

§ 32.11. Passenger carrier insurance.

(a) A common carrier or contract carrier of passengers may not engage in intrastate commerce and a certificate or permit will not be issued, or remain in force, except as provided in § 32.15 (relating to applications to self-insure) until there has been filed with and approved by the Commission a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service.

(b) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than \$35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$35,000 minimum coverage is split coverage in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident. This coverage shall include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits shall conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

(c) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting 16 to 28 passengers shall be in an amount not less than \$1 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(d) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting more than 28 passengers shall be in an amount not less than \$5 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(e) The limits in subsections (b)—(d) do not include the insurance of cargo.

§ 32.12. Property carrier insurance.

(a) No common carrier or contract carrier of property may engage in intrastate commerce and no certificate will be issued, or remain in force, except as provided in § 32.15 (relating to applications to self-insure), until there has been filed with and approved by the Commission, a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of persons, or the loss or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service. The liability of the insurance company on each motor vehicle operated in common or contract carrier service shall be in amounts not less than \$300,000 per accident.

(b) The limitations in subsection (a) do not include insurance to cover damage to cargo.

(c) Insurance coverage of motor carriers of property shall meet the requirements of 75 Pa.C.S. §§ 1701—1798 (relating to Motor Vehicle Financial Responsibility Law).

proval of the certificate filed by its insurer. Id. The certificate of insurance, commonly known as a Form "E," is in a form prescribed and approved by the Commission. 52 Pa. Code § 32.2(a).² That Form "E" provides, in relevant part:

**UNIFORM MOTOR CARRIER BODILY INJURY
AND PROPERTY DAMAGE LIABILITY
CERTIFICATE OF INSURANCE**

(Executed in Triplicate)

Filed with (name of Commission)

This is to certify that the (Insurance Company), has issued to (Motor Carrier) a policy of policies of insurance effective from (Date and Time) at the address of the insured stated in said policy or policies and continuing until cancelled as provided herein, *which by attachment of the Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement, has or have been amended to provide automobile bodily injury and property damage liability insurance covering the obligations imposed upon such motor carrier by the provisions of the motor carrier law of the State in which the Commission has jurisdiction or regulations promulgated in accordance therewith.* (Emphasis added.)

By filing the Form "E," an insurer certifies that a policy of insurance has been issued to the motor carrier, which "by attachment of the uniform motor carrier bodily injury and property damage liability insurance endorsement, has been amended to provide automobile bodily injury and property damage liability insurance covering the obligations imposed upon such motor carrier by the provisions of the motor carrier law . . ." of Pennsylvania. The "uniform motor carrier bodily injury and property damage liability insurance endorsement," known as a Form "F," provides, in relevant part:

**UNIFORM MOTOR CARRIER BODILY INJURY
AND PROPERTY DAMAGE LIABILITY
INSURANCE ENDORSEMENT**

It is agreed that:

The certification of the policy, as proof of financial responsibility under the provisions of any State motor carrier law or regulations promulgated by any State commission having jurisdiction with respect thereto, *amends the policy to provide insurance for automobile bodily injury and property damage liability in accordance with the provisions of such law or regulations to the extent of the coverage and limits of liability required thereby;* provided only that the insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except by reason of the obligation assumed in making such certification. (Emphasis added.)

The Form "F" endorsement constitutes an amendment of the underlying insurance policy to provide that coverage shall be in accordance with the coverage required by "any State motor carrier law or regulations promulgated by any State commission with jurisdiction" over the motor carrier. Accordingly, by filing the Form "E" certification, coupled with the Form "F" endorsement, the insurer

certifies to the Commission that it is providing coverage in accordance with the law, notwithstanding any potentially contrary terms contained in an individual policy of insurance.

Our statute and regulations clearly require coverage on each and every vehicle used by a motor carrier in its authorized service. 66 Pa.C.S. § 512, 52 Pa. Code §§ 32.11, 32.12. As noted earlier, the Public Utility Code requires coverage for "each and every vehicle." 66 Pa.C.S. § 512. In addition, Commission regulations provide that an insurer must file with the Commission a Form "E" to cover bodily injury or property damage "resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service." 52 Pa. Code §§ 32.11, 32.12. Vehicle lists utilized by an insurer and insured as part of the private insurance contract cannot be used to defeat coverage for all vehicles used by a carrier in its service, as required by law.

An insurer's public Form "E" filing, coupled with the Form "F" endorsement, is a certification that it is providing coverage in accordance with applicable law. Similar to limits of coverage, an insurer may not escape responsibility for payment of valid accident claims on the theory that the governing statute and regulations are directives to the motor carrier, not the insurer. Adopting this rationale would make the insurer's Form "E" filing of little value.³ As the Court held in *Metro Transportation Company v. North Star Reinsurance Company*, 912 F.2d 672 (3rd Cir., 1990), an insurer who files a Form "E" with the Commission is responsible to provide coverage mandated by law. Moreover, the Form "F" endorsement referenced in the Form "E" constitutes a formal amendment to the motor carrier's insurance policy to make it consistent with the requirements of Pennsylvania law. Therefore, we hereby reaffirm our decision in *Redfield*, finding that exclusionary clauses contained in an insurance policy will not defeat coverage mandated by law.

Finally, in addition to vehicular exclusionary clauses, we must address the remaining issue of driver exclusionary clauses. It is our understanding that coverage is being denied by insurer(s) on the theory that a driver, involved in an accident, does not appear on an approved list maintained by the insurer. Again, we believe that the statute and regulations are clear in requiring coverage for accident claims "resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service." There is no qualification on this requirement that only "listed" drivers are covered in the event of an accident. Rather, all losses are covered as long as they occurred in "the insured authorized service." Based on the clear language of the statute and regulations, we find that the Form "E" certification, coupled with the Form "F" endorsement, defeats any driver exclusionary clause found in an individual insurance policy.

We note that our decision today is consistent with Federal practice involving interstate carriers. *Progressive Casualty Insurance Co. v. Hoover*, 809 A.2d 353 (Pa. Supreme, 2002) (Pennsylvania Supreme Court held that the interstate commerce endorsement mandates payment for liability regardless of whether the vehicles are scheduled in a policy.); *Adams v. Royal Indemnity Co.*, 99 F.3d 964 (10th Cir., 1996) (10th Circuit Court of Appeals held that the interstate commerce endorsement modified the underlying insurance policy to provide coverage regard-

² This provision provides:

§ 32.2. Insurance forms and procedures.

(a) *Forms for certificates of insurance and others.* Endorsements for policies of insurance and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation shall be in the form prescribed and approved by the Commission.

³ The PPA commented that the "Form E filed by the insurer on behalf of the motor carrier trumps the insurance policy between those parties when it comes to the responsibility to the public of the insurer to meet the obligations set forth in our standards. Otherwise, the Form Es are worthless and the public is unprotected."

less of whether each motor vehicle is specifically described in the policy.). In addition, our position is consistent with various States which have addressed this matter. *Hindel v. State Farm Mut. Ins. Co. of Bloomington, Ill.*, 97 F.2d 777 (7th Cir., 1938) (7th Circuit Court of Appeals held that the interstate commerce endorsement requires coverage for unlisted vehicles.); *Fidelity & Casualty of New York v. Jacks*, 165 So. 242 (Supreme Ct. Al., 1936) (Supreme Court of Alabama, in holding coverage is available for an unlisted vehicle, stated that "It is not for the passenger, boarding a vehicle of such carrier, to inquire whether the particular vehicle so publicly employed has been put into the service in conformity with lawful regulations; nor for a shipper via such carrier to inquire what vehicle of such owner receives and carries his freight; nor for the public to be deprived of the security provided in the bond against the carrier's negligence by reason of another wrongful act of such carrier in putting into service a vehicle in violation of the rules with which he shall comply."); *Ross v. Stephens*, 496 S. E.2d 705 (Supreme Ct. Ga., 1998) (Supreme Court of Georgia held that regulation mandated coverage for vehicles not specifically described in the policy.); *American National Fire Insurance Company v. Levy*, 594 N.Y. S.2d 118 (Supreme Ct., Queen County, N.Y., 1992) (New York Supreme Court, Queens County, held that Form F endorsement amends the insurance policy of the carrier to provide protection for all vehicles operated under the motor carrier's certificate, whether or not the vehicles are listed in the insurance policy.); *Thompson v. Amalgamated Cas. Ins. Co.*, 207 F.2d 214 (U.S. App. D.C. 1953) (D.C. Court of Appeals held endorsement to policy requires coverage in accordance with law, notwithstanding terms of policy, and coverage is extended to drivers not named in policy.).

It is significant to note that those states, from a policy viewpoint, refused to place the risk of loss for a potentially uninsured motor carrier vehicle on the public. See *Hindel*. Further, those cases noted that an insurer's exposure, by virtue of filing a Form "E" certification, is not infinite nor without redress. The certification requires insurance coverage be provided in accordance with the limits established by law.⁴ Also, an insurer is able to seek reimbursement from an insured for any payments made by the "company which it would not have been obligated to make under the terms of (the) policy except by reason of the obligation assumed in making such certification." Form "F."⁵ To the extent a carrier is not abiding by the terms of its insurance contract, the insurer should take aggressive action to ensure compliance and seek out whatever remedies are available under its agreement with the motor carrier.⁶ However, the remedy is not to deny claims that are to be covered under the minimum requirements of Pennsylvania law.

Further, for the reasons cited in *Redfield*, we do not find the holding in *Czarnecki v. Delco Cab, Inc.*, 419 A.2d 139 (Pa. Super., 1980), persuasive or dispositive on the issue of the effect of exclusionary clauses on coverage mandated by law. In *Redfield*, we stated:

In *Czarnecki*, the court stated that despite the statutory scheme and its public interest theme, there did not appear to be any intent on the part of the

legislature to supersede the express language of the contract of insurance. The court found that the burden of insurance was placed on the common carrier, not the insurer, and in the absence of a clear legislative directive, the court refused to find such a liability on the part of insurers.

It is significant that *Czarnecki*, while briefly discussing the existence of the Form E Certificate, the statute and the regulations, completely failed to discuss the content and import of the Form E Certificate. *Czarnecki* makes no mention whatsoever of the insurer's statement in a Form E Certificate that "a policy or policies of insurance . . . has or have been amended to provide automobile bodily injury and property damage liability insurance covering the obligations imposed upon such motor carrier by the provisions of the motor carrier law of the State."

In the case now before the Commission, as in *Metro I* and *Metro II*, the Form E Certificate filed by the insurance company indicates that the policy of insurance has been changed to provide for coverage of the carrier's obligations in accordance with the motor carrier law of Pennsylvania and regulations promulgated in accordance therewith. It is the insurance policy, as amended by the endorsement described in the Form E Certificate, which dictates the result here. We need not address the issue of whether our statute, contrary to *Czarnecki*, automatically serves to amend or read coverage into the policy. (Footnote omitted.) The policy itself, as certified by the insurer here, provided coverage as required by the motor carrier laws of Pennsylvania. That law includes 66 Pa.C.S. § 512 and 52 Pa. Code § 32.11. *Metro II*. (Emphasis in original.)

Also, the Superior Court's recent pronouncement in *Lebanon Coach Company v. Carolina Casualty Insurance Company*, 675 A.2d 279 (Pa. Super, 1996), is not controlling. In *Lebanon Coach*, the vehicle involved in the accident was not owned by the operator. The Superior Court held that the expanded coverage required by Commission regulation does not apply to vehicles not owned by the operator that are insured by the vehicle's owner. Further, to the extent that *Lebanon Coach* affirms *Czarnecki*, we decline to follow that holding. We note that the Commission was not involved in either the *Lebanon Coach* or *Czarnecki* proceeding. Further, it is the interpretation of the Commission's enabling statute and regulations that is critical to the disposition of this case, and the Commission is afforded great deference to its interpretation. *Dee Dee Cab Inc. v. Pa. P.U.C.*, 817 A.2d 393 (Pa. Cmwlth., 2003), Allocatur Denied, 836 A.2d 123 Pa. Supreme, 2003).

Finally, we wish to address several specific comments submitted. First, IFP and PCIAA comment that the Commission should limit its order to taxicab coverage, exempting other carrier groups. We reject this comment. The sound legal premise underlying the result today, and in *Redfield*, is equally applicable to all carrier types. There is no reason to differentiate between taxicabs and other carriers on this issue.⁷

Also, Prime comments that the current procedure be modified so that Form E's are vehicle specific, only covering a particular vehicle identified on the form sub-

⁴ For example, the Commission requires passenger carriers maintain \$35,000 split coverage for bodily injury, death, or property damage. Coverage would only be required to the extent of these limits.

⁵ This would appear to refute Prime's comment that an insurer would be saddled with claims arising from the insured's wrongful conduct.

⁶ In extreme situations, the only remedy may be cancellation of the insurance policy by filing a Form "K" with the Commission. The Form "K" constitutes formal notice to the Commission that the insurance policy is cancelled, effective 30 days from the date the notice is actually received by the Commission. 52 Pa. Code § 32.2(e).

⁷ We note that our decision is consistent with interstate insurance requirements for all carrier types.

mitted for filing to the Commission. We reject this comment. The current practice is to have an insurer file a Form E certification with the Commission certifying that the motor carrier's entire operation is insured in accordance with law. To adopt Prime's comment would defeat the very security that the Form E was designed to provide. If we were to adopt a vehicle specific Form E, the public would not know, on any particular trip, if the vehicle utilized was actually identified in the Form E and therefore insured, a result we reject.

Finally, Prime comments that the Commission does not have the authority to regulate the insurance industry or insurers, which it allegedly is doing by virtue of interpreting required coverage. We reject this comment. The Commission is authorized to prescribe insurance requirements for motor carriers. Requiring motor carriers to carry insurance on all vehicles and drivers providing public utility service is, without question, within the Commission's authority. Requiring Form E certifications from an insurer certifying that a carrier has procured insurance in accordance with statutory and regulatory requirements is also, without question, within the Commission's authority. As explained herein, the Form "E" certifies that the insurance company is providing coverage in accordance with the requirements of Pennsylvania law and the referenced Form "F" is a formal amendment to the insurance policy to make it conform to Pennsylvania law. We agree with PPA's observation that

... the Form E filed by the insurer on behalf of the motor carrier trumps the insurance policy between those parties when it comes to the responsibility to the public of the insurer to meet the obligations set forth in our standards. Otherwise, the Form Es are worthless and the public is unprotected.

PPA Comments at 2. Prime's argument to the contrary is without merit.

For the foregoing reasons, we hereby reaffirm our decision in *Redfield*. Exclusionary clauses based on vehicle and driver lists, found in individual insurance policies issued to motor carriers, do not relieve an insurer, which has filed a Form "E" certification with the Commission, from providing coverage in the event of an accident.

Therefore, It Is Ordered That:

1. A Declaratory Order is hereby issued.
2. Exclusionary clauses, including those based on vehicle and driver lists, found in individual insurance policies issued to motor carriers, do not relieve an insurer, which has filed a Form "E" certification with the Commission, from providing coverage in the event of an accident.
3. This order shall be served on all commentators and on all motor carrier insurers actively providing coverage in Pennsylvania.
4. This order shall be published in the *Pennsylvania Bulletin*.
5. This order is final upon entry.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1157. Filed for public inspection June 10, 2005, 9:00 a.m.]

Lifeline and Link-Up Programs; Doc. No. M-00051871

Public Meeting held
May 19, 2005

Commissioners Present: Wendell F. Holland, Chairperson;
Robert K. Bloom, Vice Chairperson; Kim Pizzigrilli

Final Order

By the Commission:

By this Final Order, we adopt participation in the National School Free Lunch Program and income-based criterion at or below 135% of the Federal Poverty Guidelines as additional eligibility criteria for Pennsylvania's Lifeline 150 and Link-Up programs in order to make our programs consistent with the Federal Communication Commission's (FCC) default Lifeline/Link-Up programs, as announced on April 29, 2004, *Report and Order and Further Notice of Proposed Rulemaking In the Matter of Lifeline and Link-Up*, at CC Docket No. 04-87, WC Docket No. 03-109. We also modify the Lifeline 150 program and rename it Lifeline 135, since the income eligibility level has changed.

Procedural History

In 1984, the FCC established a Lifeline program to promote universal telephone service by providing low-income consumers with discounts on the monthly cost of dial tone service. By 1987, the FCC implemented Link-Up America (Link-Up) to help low-income households pay phone connection charges. With the passage of the Telecommunications Act of 1996 (TA-96), the FCC expanded its rules¹ so that Federal Lifeline service could be provided to low-income consumers in every state regardless of whether a state provided related support; under the amended rules, telephone companies designated as eligible telecommunications carriers (ETCs) must provide Lifeline service to eligible consumers and receive federal universal service funding support for doing so.

Until November 30, 2004, the effective date of Act 183,² all local exchange carriers (LECs) operating in the Commonwealth were required to provide Lifeline service and to have a Lifeline plan and rates filed in their tariff. On June 28, 1994, the Commission first ordered Bell Atlantic—Pennsylvania, Inc. (BA-PA) (now Verizon PA), to submit for approval a revenue-neutral Lifeline program and a Universal Telephone Assistance Program (UTAP). On August 3, 1995, the Commission granted BA-PA's petition and ratified a Lifeline Settlement Agreement.³ BA-PA's Lifeline program was implemented in 1996 and was the first such program in the Commonwealth. In 1997, BA-PA revised its Lifeline program in Docket No. R-00974153, Order entered November 21, 1997, so Lifeline customers had a choice in local service options. The order also increased the customer discount. Additionally, BA-PA requested that the Commission designate BA-PA as an ETC so that it could receive federal Universal Service Fund (USF) support. Given the federal initiative, the Commission subsequently, at I-00940035, on July 31, 1997, directed each LEC to file a Lifeline plan to become effective January 1, 1998. On September 30, 1997 the Pennsylvania Telephone Association (PTA) filed a petition for the Approval of Lifeline Service Plan on behalf of its

¹ *Federal-State Board on Universal Service*, (FCC May 8, 1997) CC Docket No. 96-45, FCC 97-157.

² Act 183 of 2004 is the new Chapter 30 to Title 66 of *Pennsylvania Consolidated Statutes*. House Bill 30 (P. N. 4778) was signed into law by the Governor on November 30, 2004, and became effective immediately.

³ *Pennsylvania Public Utility Commission v. Bell Atlantic—Pennsylvania, Inc.*, P-00930715, P-00950958, entered August 4, 1995.

member companies. The PTA companies' Lifeline eligibility requirements mirrored the BA-PA plan except that the BA-PA Lifeline program provided Lifeline customers with a larger credit for monthly service. By Order entered November 21, 1997⁴ the Commission approved the PTA plans which led to the implementation of the statewide Lifeline program.

Lifeline programs were addressed in the *Global Order*.⁵ Three orders approving the later-filed Lifeline/Link-Up tariffs of BA-PA, GTE North, and the PTA, respectively, were addressed at the *Global Order* dockets and were entered August 17, 2000.⁶ These orders approved the tariff filings and defined the program eligibility requirements further by adding the State Blind Pension program and the Temporary Assistance for Needy Families Program (TANF) to the list of eligible social assistance programs.

Pennsylvania's telephone current Universal Service Programs are as follows:

*Lifeline—Verizon PA*⁷ and Verizon North are the only companies offering this. It provides qualified customers with a credit (currently between \$11.55 and \$12.00)⁸ towards their basic monthly phone charges with the option of choosing either the local area standard usage service or the local area unlimited usage service. Eligible customers may qualify if they have incomes at or below 100% Federal Poverty Income Level Guidelines (FPG) or receive General Assistance (GA), Supplemental Security Income (SSI), or Temporary Assistance for Needy Families (TANF). This program did not permit customers to subscribe to Call Waiting or other optional services. However, customers were permitted to subscribe to Call Trace Service at regular cost under special circumstances.

Lifeline 150—All LECs operating in Pennsylvania carry Lifeline 150 in their tariffs. It provides qualified customers with a credit (currently between \$7.80 and 8.25)⁹ towards their basic monthly phone charges with the option of choosing either the local area standard usage service or the local area unlimited usage service. Eligible customers may qualify if they have incomes at or below 150% of the FPG and participate in certain assistance programs.¹⁰ Further, a customer was restricted to one line with either local area standard usage package or local area unlimited usage package, and one optional service such as Call Waiting, Caller ID, home voice mail, etc., at regular charges.

On April 29, 2004, the FCC released a *Report and Order and Further Notice of Proposed Rulemaking In the*

⁴ Petition of the Pennsylvania Telephone Association Lifeline Service Plan at Docket Nos. I-00940035, P-00971274, Order entered November 21, 1997.

⁵ *Joint Petition of Nextlink Pennsylvania, Inc., et al. and Joint Petition of Bell Atlantic Pennsylvania, Inc., et al.*, P-00991648 and P-00991649, September 30, 1999 (*Global Order*).

⁶ *Pennsylvania PUC v. Bell Atlantic—Pennsylvania, Inc., Pennsylvania PUC v. Pennsylvania Telephone Association, Pennsylvania PUC v. GTE North Incorporated*, P-00991648, P-00991649, August 17, 2000.

⁷ Verizon PA also offers eligible Lifeline customers and qualified Lifeline applicants (with a pre-existing basic service arrearage) financial assistance to restore their basic telephone service through its Universal Telephone Assistance Program (UTAP). The Salvation Army manages UTAP and distributes funds to qualified customers and Lifeline applicants.

⁸ Verizon PA and Verizon North Lifeline credit is a monthly amount equal to their federal subscriber line charge of \$6.05 for Verizon PA and \$6.50 for Verizon North plus a \$2.50 contribution from Verizon and \$3.00 from the Federal USE.

⁹ Verizon PA and Verizon North Lifeline 150 credit is a monthly amount equal to their federal subscriber line charge of \$6.05 and \$6.50 respectively plus \$1.75 from the Federal USE. Lifeline 150 for all other ILECs is each company's federal subscriber line charge, currently capped at \$6.50 plus \$1.75. CLECs provide similar Lifeline credit amounts, regardless of whether or not they designate a federal subscriber line charge on customer bills.

¹⁰ These social assistance programs include: General Assistance (GA), Supplemental Security Income (SSI), and Temporary Assistance for Needy Families (TANF), Food Stamps, Low Income Home Energy Assistance Program (LIHEAP), Medicaid, and Federal Public Housing Assistance. Verizon also includes State Blind Pension as an eligible program.

Matter of Lifeline and Link-Up, at CC Docket No. 04-87, WC Docket No. 03-109. The FCC modified its rules (most of which became effective July 22, 2004), so as to increase the national telephone penetration rate above the current level of 94.7% and make phone service affordable to more low-income households. The order expanded the federal default eligibility criteria so as to include an income-based criterion of 135% of the Federal Poverty Guidelines (FPG)¹¹ and added the National School Lunch Program's free lunch program (NSL)¹² as a qualifying social assistance program. In prior years, consumers whose state followed the federal program had to participate in one of the qualifying programs to qualify for Lifeline. Now low-income consumers can qualify based on household income alone. Thus, more households nationwide arguably could qualify for the federal default program.

In order to combat fraud, the FCC added a proof of eligibility provision that places an additional administrative requirement on the LECs to get their customers to certify in writing, under oath, that they meet the eligibility requirements for household income or participation in qualifying social assistance programs.

On September 3, 2004, this Commission entered a Tentative Opinion and Order at Docket No. P-00951005¹³ that addressed the Settlement Agreement and Further Settlement Agreement regarding the *Petition of the Frontier Companies for approval under Chapter 30 of the Public Utility Code for Approval of an Alternative Regulation and Network Modernization Plan* (September 3, 2004 Order). The September 3, 2004 Order modified one aspect of the Further Settlement Agreement by rejecting the provision allowing customers who receive the Lifeline discount to purchase up to two vertical services on the basis that it was inconsistent with the Commission's conclusion in the *Global Order* on this issue. Ordering Paragraph No. 8 of the September 3, 2004 Order also directed Commission staff to submit a recommendation to the Commission within 60 days of the entry date of that Order regarding how the Pennsylvania Lifeline program should be structured as a result of the recent FCC Lifeline Order.

On November 19, 2004, Pennsylvania's legislature passed House Bill 30—an amended version of the original Chapter 30 provisions concerning alternative rate regulation for the telecommunications industry and network modernization plans. The Governor signed House Bill 30 into law as Act 183, with an effective date of December 1, 2004. Among other things, Act 183 expressly mandates significant changes to Pennsylvania's universal service programs. Specifically, the provisions outlined in Section 3019(f) state the following:

§ 3019(f) Lifeline Service.—

(1) All eligible telecommunications carriers certified to provide local exchange telecommunications service shall provide lifeline service to all eligible telecommunications customers who subscribe to such service.

¹¹ At or below 135% of the FPG is \$24,840 for a family of four.

¹² To be eligible for the NSL free lunch program, a consumer's household income must be at or below 130% of the FPG, which is currently \$23,920 for a family of four. 2003 FPG, 68 Fed. Reg. at 6456-58. In addition, children are automatically eligible to participate in the NSL free lunch program if their household receives Food Stamps, benefits under the Food Distribution Program on Indian Reservations or, in most cases, benefits under the TANF program. <http://www.fns.usda.gov/cnd/About/faqs.htm>.

¹³ The Tentative Opinion and Order became final in accordance with Ordering Paragraph No. 6 that stated: "That if none of the Parties object to the modifications to the Settlement Agreement and Further Settlement Agreement, within the time specified in Ordering Paragraph No. 3 of this Tentative Order, then it is further ordered that this Tentative Opinion and Order shall become final, and a Secretarial Letter shall be issued to that effect, without further action by the Commission." All of the Parties subsequently notified the Commission that they do not object to Settlement and Further Settlement Agreement as modified by the Tentative Opinion and Order.

(2) All eligible telecommunications customers who subscribe to lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services.

(3) Whenever a prospective customer seeks to subscribe to local exchange telecommunications service from an eligible telecommunications carrier, the carrier shall explicitly advise the customer of the availability of lifeline service and shall make reasonable efforts where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service.

(4) Eligible telecommunications carriers shall inform existing customers of the availability of lifeline service twice annually by bill insert or message. The notice shall be conspicuous and shall provide appropriate eligibility, benefits and contact information for customers who wish to learn of the lifeline service subscription requirements.

(5) When a person enrolls in a low-income program administered by the department of public welfare that qualifies the person for lifeline service, the department of public welfare shall automatically notify that person at the time of enrollment of his or her eligibility for lifeline service. This notification also shall provide information about lifeline service including a telephone number of and lifeline subscription form for the person's current eligible telecommunications carrier or, if the person does not have telephone service, telephone numbers of eligible telecommunications carriers serving the person's area, which the person can call to obtain lifeline service. Eligible telecommunications carriers shall provide the department of public welfare with lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas they serve, for use by the department of public welfare in providing the notifications required by this paragraph.

(6) No eligible telecommunications carrier shall be required to provide after the effective date of this section any new lifeline service discount that is not fully subsidized by the federal universal service fund.

On March 8, 2005, the Commission entered a Tentative Order proposing to expand Lifeline 150 and Link-Up program eligibility requirements consistent with the provisions of Act 183. Comments from the Pennsylvania Telephone Association (PTA),¹⁴ the Office of Consumer Advocate (OCA) and Verizon were filed with the Commission.

Discussion

PTA's Comments

The PTA comments that the Commission should delay implementation of the 135% income eligibility standard. PTA claims that the FCC reduced its standard from 150% to 135%. Thus, the PTA proposes maintaining the 150% income standard in light of the FCC's statement that it will explore further whether to adopt a 150% income standard. Requiring ETCs to adopt the more restrictive 135% standard now while the possibility remains that those companies will be required to return to the 150% standard in the near future will create an unnecessary administrative burden. Further, PTA argues that consumers will benefit as the current standard is less restrictive.

¹⁴ The Pennsylvania Telephone Association represents more than 30 incumbent local exchange carriers operating in Pennsylvania.

We disagree with PTA regarding this issue. The current standard of 150% Federal Poverty Guidelines and participation in one of a list of approved social assistance programs is more restrictive than just meeting a 135% of Federal Poverty Guidelines household income standard. Not all consumers with household incomes of 150% FPG or less are also enrolled in a social assistance program. Whereas, by changing the two-prong test to a single prong test, the consumer need only meet either the income standard or the participation in a social assistance program standard, and not both. To date, there has been no final decision from the FCC regarding expanding its default Lifeline/Link-Up program income qualifying criteria from 135% to 150%. In fact, this Commission does not believe PTA's statement that the FCC reduced its income qualifying criteria from 150% to 135% is inaccurate. There was previously no federal income requirement—only a requirement for participation in social assistance programs. Should the FCC decide in the future to expand the qualification from 135% to 150%, this Commission will reevaluate its own Lifeline/Link-Up programs.

PTA also comments that it does not oppose including the National School Lunch Program's free school lunch program as a qualifying program for Lifeline eligibility so long as the customer is responsible for providing the ETC with verification of enrollment as this program is not overseen by the Department of Public Welfare. The PTA believes the companies should be permitted to recover the additional costs incurred in implementing this addition. PTA asserts such recovery could be through the exogenous event factor recognized in the companies' price cap formula.

Although there are approximately 500,000 students in Pennsylvania who currently qualify for free school lunches, this Commission does not know exactly how that translates into number of households in Pennsylvania that qualify. Further, it is likely that if one or more children in a household are receiving their school lunches at no cost, that household's income is below 135% FPG and that household receives social assistance in the form of food stamps, LIHEAP, Medicaid, TANF, SSI, or some other approved program.¹⁵ Therefore, since there is likely an overlap of program participation, the administrative costs incurred by the companies as a result of the addition of NSL do not seem on the surface to be that overly burdensome as many households can already qualify with the DPW database check.

Any ILEC can of course petition for recovery through price stability mechanisms or a rate increase, but would have to be able to demonstrate how this additional cost qualifies as an exogenous event within the meaning of its Chapter 30 plan. Further, we recognize there is as of yet no national database with household information regarding the children qualifying and participating in the National School Lunch free lunch program. Thus, we are willing to accept as sufficient evidence of participation in the program, a copy of the letter from the program administrator to the household identifying the child's name and address and the year for which the child qualifies. The address would have to match the address of the household requesting the Lifeline/Link-Up credit. There need not be separate verification through the Pennsylvania Department of Education or a national database at this time.

¹⁵ In order to qualify for participation in the National School Lunch Program's free lunch program, a household's income cannot exceed 130% multiplied by the Federal Income Poverty Guidelines for the year 2005. *United States Department of Agriculture's Notice of Child Nutrition Programs—Income Guidelines*, 70 Fed. Reg. 52, p. 13161, March 18, 2005.

Finally, PTA comments that it does not oppose changing the language of the *Global Order* from “and” to “or” provided that those customers applying for Lifeline service pursuant to the income criteria bear responsibility for documentation of their income. PTA claims that income-based eligibility cannot be verified through any state-maintained database. The applicants’ eligibility, therefore, must be confirmed by the customers themselves through verified forms detailing their income. According to the PTA, ETCs do not have the resources or inclination to continuously follow-up with customers enrolled in Lifeline, and requiring ETCs to do so would cause unreasonable administrative burden. PTA avers that any obligation for providing or updating the relevant information in a timely manner should be borne by the customers themselves. In order to deter fraud, PTA argues that customers seeking to enroll on the basis of income alone should be required to submit their income information using an independently verified format, such as a state or federal income tax return.

Currently, Verizon uses the Pennsylvania Department of Revenue (DOR) to separately check if the customer’s income meets the 150% FPG standard if the customer first is not found to be on one of the qualifying social assistance programs according to the Department of Public Welfare’s (DPW) database. The DOR charges \$5.00 per inquiry as it is a manual task and is not automated. DOR reports that in 2003 there were approximately 2900 inquiries, dropping to roughly 2000 in 2004, and in 2005, so far there have been 260 inquiries. Of these statistics, more than half of the inquiries are from Verizon. So, the expense may likely be no more than \$10,000—\$15,000 per year for Verizon, and for the other ETCs, probably substantially less. This Commission finds that the companies ought to use the DPW’s database first to establish if there is acceptable social assistance program participation. If the household qualifies, then no further investigation or verification need be done. The household qualifies based on program participation or income verification. If the household does not appear to be enrolled in one of the approved social assistance programs, then 135% FPG income or less may be verified through either copies of written state or federal income tax returns for the prior year, or the carrier may contact DOR and pay the nominal fee to have the customer’s household’s income verified. We agree with PTA that self-certification without some form of reasonable independent verification is suspect for fraudulent abuse and will not be acceptable in Pennsylvania as a means for qualifying for our Lifeline/Link-Up programs.

Finally, PTA asserts that it does not oppose the Commission’s proposed annual recertification requirement as long as no additional recertification obligations exceed those put in place by the FCC. We agree with the PTA regarding this issue, and are satisfied that the statistically valid sampling method imposed by the FCC is sufficient and will be adopted here in Pennsylvania, with the exception that the FCC has a deadline of June 22, 2005 for the sampling to be complete, and we will offer jurisdictional LECs an additional six months until December 31, 2005 to submit their samples to the Universal Service Administration Company (USAC). The sample may be verified through DPW, DOR or LIHEAP’s separate program.

Verizon’s Comments

Verizon Pennsylvania Inc. and Verizon North Inc. (collectively “Verizon”) commented first that the Commission should permit at least the incremental costs of adminis-

tering the expanded Lifeline 135 program to be recovered by Verizon and other ETCs. Verizon predicts that the proposed changes in the Tentative Order will likely result in tens of thousands of Verizon customers in the 135% and under group applying for Lifeline service, which will likely exponentially increase Verizon’s costs for the Department of Revenue’s certification of applicants’ income eligibility based on tax returns as well as Verizon’s internal administrative costs for the manual handling of applications. Accordingly, Verizon requests we allow Verizon and other ETCs to track and recover at least the additional administrative costs incurred in connection with the Lifeline programs. Verizon requests that monies set aside for Lifeline purposes from the 2004/2005 Price Change Opportunity should be available to offset the additional administrative costs.

It is premature to estimate how much more administrative costs Verizon and the other ETCs will incur as a result of the impact of Act 183, which eliminated the restriction on vertical services from the prior Lifeline 150 program, and other proposed changes outlined in our Tentative Order. Currently, Verizon does not do a cross-check on income even though the current *Global Order* says “150% FPG income and participation in an approved social assistance program.” Verizon infers that the customers’ income must be at or less than 150% FPG for him or her to be receiving such social assistance. This is logical and it saves Verizon the unnecessary cost of a separate \$5 fee per inquiry from DOR. If the customer is listed as an approved social assistance program participant, the customer is accepted into the Lifeline/Link-Up programs. If the customer is not listed as a social assistance program participant, Verizon searches for LIHEAP qualification, and if that doesn’t confirm eligibility, Verizon inquires at the DPW. The DPW inquiry does not cost Verizon anything, and DPW has automated its database. The search is quick, efficient and not costly. DOR costs \$5 per inquiry because it involves a manual search on the part of DOR employees and DOR has no plans to automate its system especially since the number of inquiries has been decreasing over the years. The ETCs are permitted to track costs associated with administering the Lifeline programs, but we are not prepared at this point to allocate any 2004/2005 PCO monies towards covering any additional administrative costs for Verizon. Verizon may make this type of request in a future PCO filing if it has evidence of substantial additional administrative costs in implementing the new program.

Second, Verizon argues that Lifeline eligibility should not be expanded to include the National School Lunch Program as a criterion until compliance with the criterion is verifiable. We will work with the Pennsylvania Department of Education to determine if a state-wide data base can be made available to the phone carriers for independent verification. However, we are satisfied that at this time, a written document showing the name of the child, his or her address, and the year for which he/she qualifies for free school lunches is sufficient to qualify for the Lifeline/Link Up credit as long as the address matches the household address of the customer seeking the credit.

Finally, Verizon argues that the implementation period for the Lifeline 135 eligibility changes should be longer than 30 days. Verizon argues the FCC provided default states a full year after the date its Lifeline Order was published in the Federal Register to implement the same eligibility changes as the Commission proposes to make final here. Verizon requests a 6-month delay to allow Verizon and other ETCs needed time to gear up to handle the expected heavy volume of additional Lifeline appli-

cants and time to get a separate National School Free Lunch program verification system set up. Six months delay in implementation is a little long given that LECs have been on notice of possible changes since the FCC entered its April 29, 2004 Lifeline Order, and the Commission subsequently entered its Tentative Order in March, 2005, adopting the federal default program requirements. We will grant the ETCs four months from the date of entry of this Order to begin implementation of the new eligibility standards for Lifeline/Link-Up programs in Pennsylvania. Four months is sufficient to draft tariff supplements, form applications for the Lifeline/Link-Up programs, and brochures. Further, the LECs have until December 31, 2005, to do the verification of existing customers through sampling. We will not delay implementation pending the establishment of an independent National School Lunch free lunch program verification system since we do not know definitely when that will occur, and are not immediately requiring independent verification of customer documentation of participation in the National School Lunch free lunch program.

OCA's Comments

OCA filed comments in support of the Tentative Order. OCA supports adding the National School Lunch free lunch program for the same reasons as the FCC gave in its *Lifeline Order*.

The Impact of Act 183

Section 3019(f)(1) requires all ETCs¹⁶ to provide Lifeline service to all eligible customers. The Commission's *Global Order* required all LECs (including non-ETCs) to file Lifeline tariffs and provide this service to eligible customers. The current pool of ETCs consists of all 37 ILECs and three CLECs (MCI Metro Access Transmission Services, Service Electric Telephone, Inc., and RCN Telecom Services of Pa., Inc.) and two wireless companies (Nextel Partners, Inc. and Sprint PCS). In accordance with Section 3019(f)(1), CLECs that are not ETCs are no longer required to provide Lifeline service. The FCC does not permit pure CLEC resellers to seek ETC status. However, these companies are permitted to offer Lifeline by purchasing a discounted Lifeline service from an ILEC such as Verizon. CLECs that are facilities-based may seek ETC status from this Commission. Non-ETC CLECs¹⁷ reported that 587 of their customers received Lifeline 150 service in 2003. As of December 31, 2003 the non-ETC CLECs had 489 Lifeline customers still enrolled in the Lifeline 150 program. The majority of these Lifeline customers were divided between two large CLECs, Comcast (329) and CTSI (140). The remaining 20 Lifeline customers were split among four smaller CLECs

The Commission encourages all CLECs to continue offering Lifeline and Link-Up services and to revise their Lifeline offering to comply with the expanded program set forth in this Order. As per the *Global Order*, Verizon will continue to provide CLEC resellers discounted rates for Lifeline services. This means that CLEC resellers may continue to provide Lifeline and Link-Up services. The Commission also encourages facilities-based CLECs to seek ETC status so they may provide Lifeline and Link-Up services and be reimbursed from the federal

universal service fund. CLECs that choose to remove Lifeline and/or Link-Up provisions from their tariffs must provide their customers with notice. This notice will advise customers that the CLEC will no longer offer Lifeline or Link-Up service. In addition, the notice must provide customers with details on how to migrate their local service to an ETC LEC operating in the same area.

Companies' outreach efforts have generally been limited to sending out an annual bill insert, providing information in their directories, and in some cases, developing their own Lifeline brochures. Generally, Act 183 directs ETCs to expand their outreach efforts. Section 3019(f)(4) states that ETCs shall inform existing customers of the availability of Lifeline service twice annually by bill insert or message. Under Section 3019(f)(3) whenever a prospective customer seeks to subscribe to local exchange telecommunications service from an ETC, the carrier shall explicitly advise the customer of the availability of Lifeline service and shall make reasonable efforts where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service. Automatic notification is also discussed in Act 183. Section 3019(f)(5), states that the DPW shall automatically notify people about Lifeline service when they enroll for qualifying low-income programs administered by DPW.

Pennsylvania's current Lifeline 150 program restricts the purchase of vertical services to one service. Under Section 3019(f)(2) of Act 183, "[a]ll eligible telecommunications customers who subscribe to Lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services." Therefore, the prior restriction to one vertical service is now lifted, and there are no restrictions on the number of vertical services a Lifeline customer can choose.

Default vs. Non-Default State

At the time the *Global Order* was entered in September 1999, the Commission determined Pennsylvania was a "default" state based on the language then present in 47 CFR § 54.409 of the FCC's regulations. A non-default State mandates its own Lifeline/Link-Up programs and there are contributions other than federal universal service fund contributions being made toward the Lifeline/Link-Up credit. The significance of being a non-default state is that the Commission or the state legislature can establish rules specific to Pennsylvania to address any issues that may be unique to the Commonwealth. Whereas, a default state does not mandate Lifeline/Link-Up programs; thus, carriers operating in default states are required to follow the FCC's regulations and the Lifeline/Link-Up eligibility requirements are directed by the FCC. In 1999, Section 54.409(b) stated:

To qualify to receive Lifeline in states that do not provide state Lifeline support, a consumer must participate in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy Assistance Program.

Now, the same Section 54.409(b) states:

To qualify to receive Lifeline service in a state that does not mandate state Lifeline support, a consumer must participate in one of the following federal assistance programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; and Low-Income Home Energy Assistance program.

¹⁶ Act 183 appears to apply only to ETCs. We interpret Chapter 30, specifically Section 3019 to preclude the Commission from continuing to require non-ETC LECs to provide Lifeline/Link-Up programs because the legislature used the specific term, "ETCs" instead of "LECs." Therefore, the Commission may reasonably infer using statutory interpretation principles that the use of this explicit term means to the exclusion of all non-ETC LECs.

¹⁷ These numbers are based on the 2003 Annual Lifeline Tracking Reports submitted by the following companies: Comcast Phone of Pennsylvania, LLC, CEI Networks, CTSI LLC, IDT Corporation, Penn Telecom, VartecTelecom, Inc., and Z-Tel Communications Inc.

In 1999, we viewed our state as a default state for the Lifeline 150 program because Pennsylvania did not provide any funding for the program and we did not require LECs to provide additional support for this program. The Commission viewed the Lifeline 150 as a separate program that would be totally funded by federal support. At that time, we did not believe that contributions from BA-PA for its Lifeline 100 program would be viewed by the FCC as state contribution for the Lifeline 150 program. Therefore, Lifeline 150 customers could not qualify based on income alone and would have to participate in qualifying assistance programs.

The companies also viewed Pennsylvania as a default state in 1999 as evidenced in the Replies of PTA, BA-PA, and GTE North (now known as Verizon North) to the exceptions of OCA regarding these three Lifeline Compliance Tariffs filed on or about November 30, 1999. At that time BA-PA stated,

The Commission's requirement that Lifeline recipients participate in one of the enumerated programs is completely consistent with the FCC's requirements for receiving federal universal service support for eligible Lifeline customers The OCA's interpretation—that Lifeline eligibility can be met through income alone—is flatly inconsistent with the FCC's regulations, and could jeopardize BA-PA's ability to obtain federal universal service fund reimbursement for the Lifeline 150 program.¹⁸

Further evidence that BA-PA once viewed Pennsylvania as a default state was their petition to the FCC for a waiver of one of FCC's rule Section 54.409(b) to permit BA-PA to use Pennsylvania Department of Public Welfare (DPW) database to verify the eligibility of Lifeline subscribers.¹⁹ This petition was granted by the FCC on December 27, 2000. In its order approving the petition, the FCC stated:

Option 2 [Lifeline 150] expands eligibility for support to all subscribers with incomes at or below 150% of the federal poverty level and permits those customers to add vertical services. Because the program is funded entirely from federal support, Commission rules require Bell Atlantic to obtain written certifications of eligibility from subscribers to Lifeline Option 2.

Bell Atlantic seeks a waiver of the written certification requirement for subscribers of the Lifeline Option 2 who are listed in the Pennsylvania DPW database. It asks that, given its four years of successful experience with the DPW database, it be allowed to continue to rely on that database when the database indicates that a customer is eligible for Lifeline Option 2 [Lifeline 150]. Bell Atlantic agrees that if its waiver request is granted, it will continue to require the written certification specified in Section 54.409(b) of the rules where consumers qualify for the program based on their enrollment in the federal public housing assistance or Low-Income Home Energy Assistance programs, because data about participation in those programs is not contained in the DPW database.

¹⁸ Reply of Bell Atlantic-Pennsylvania To Exceptions of the Office of Consumer Advocate to Lifeline Compliance Tariff, June 12, 2000, pp. 3-4.

¹⁹ See Bell Atlantic-Pennsylvania, Inc., Petition for Waiver of Section 54.409(b) of the Commission's Rules and Regulations, filed December 22, 1999.

We find that Bell Atlantic has demonstrated that good cause exists to waive section 54.409(b) of the Commission's rules.²⁰

However, despite the prior FCC order, Pennsylvania was not listed as a default state in the FCC's Appendix G of the *FCC Lifeline Order*. Appendix G listed 16 states that are considered to be default states because these states did not mandate their own Lifeline/Link-Up programs. Arguably then, we are a non-default state. Commission staff was told by the FCC that Appendix G is not necessarily up to date or accurate, but at the same time, there was no dollar contribution amount threshold requirement before a state could be classified as non-default. In Pennsylvania, only Verizon North and Verizon PA are required to provide support to the Lifeline program (Lifeline 100 only). Because Verizon is mandated to contribute to its Lifeline programs Pennsylvania qualifies as a "non-default" state according to the FCC rules. None of the other LECs who offer Lifeline are required to provide support for this program. Still, this seems to be enough to now satisfy the FCC's definition of a non-default state. Pennsylvania mandates support for a Lifeline program and contributions other than Federal monies are being made. Further, a representative from the Universal Service Administration Company (USAC) represented that we were a non-default state and OCA as well as the LECs participating in staff's Lifeline survey all agreed that Pennsylvania is a non-default state.

Pennsylvania is a "state that mandates state Lifeline support" based on the support provided by BA-PA for the Verizon Lifeline 100 program. Universal service goals are furthered even though the state Lifeline support does not apply to all Pennsylvania Lifeline programs. Thus, the Commission has some flexibility pursuant to Section 54.409(a) of the FCC's Lifeline regulations to establish eligibility criteria so long as they are "narrowly targeted qualification criteria that are based solely on income or factors directly related to income." 47 CFR § 54.409(a). As the FCC explained, this flexibility allows states such as Pennsylvania "to consider federal and state-specific public assistance programs with high rates of participation among low-income consumers in the state." *FCC Lifeline Order* par. 5.

Lifeline Program Take Rates

Consumer advocates, staff, and members of the General Assembly²¹ have all expressed concern about the low levels of participation in Pennsylvania's Lifeline programs. As shown on the following chart, Pennsylvania's customer participation has grown since 2000. Even so, the penetration rates for these programs have been disappointing given the number of eligible consumers and the amount of money Pennsylvania ratepayers²² contribute to the federal USF. According to the Office of Consumer Advocate and the DPW, there are over a million people who participate in Medicaid living in Pennsylvania. For August 2004, the DPW reports the unduplicated number of persons eligible for Medical Assistance totaled 1,713,023. *Medical Assistance Eligibility Statistics, August 2004*.²³

²⁰ In the Matter of Federal-State Joint Board On Universal Service, Bell Atlantic Pennsylvania, Inc., Petition for Waiver of Section 54.409(b) of the Commission's Rules and Regulations, CC Docket No. 96-45, December 27, 2000, pp. 2-3.

²¹ House Bill 2571, Introduced by State Representative Veon.

²² Some LECs and IXCs collect federal universal service funding as a line item on their monthly bills.

²³ While the Commission is not completely certain how 1.7 million Medicaid participants translates into number of households which participate in Medicaid, we believe it is likely there are significantly more than 137,000 households that would be considered Medicaid-participating households.

**End-of-Year Lifeline Enrollment 2000-2003
Major Telephone Companies²⁴**

<i>Company</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>
ALLTEL	1,356	3,388	3,902	4,106
Comcast	NA	NA	NA	329
Commonwealth	694	997	1,195	1,485
MCI Local	45	163	434	555
United	1,083	1,334	1,563	1,913
Verizon North*	3,070	3,794	6,890	6,763
Verizon PA*	46,459	68,630	95,969	118,987
Total*	52,707	78,306	109,953	134,138

*Includes Lifeline and Lifeline 150

N/A not available

Adding the non-major LECs' end-of-year enrollment figures to the major LECs' subtotal of 134,138 yields a total Lifeline enrollment total of about 137,000. Assuming a maximum of 1.7 million households eligible, this calculates the take rate to be possibly as low as 8%.

According to the FCC, Pennsylvania's take rate is 16.2% compared to the nationwide take rate of 33.7%.²⁵ We have seen an enrollment increase since the Global Order from approximately 35,000 Lifeline customers in September 1999 to 137,000 as of December 31, 2003, but we are still very short of enrolling all consumers who could benefit from the Lifeline credit. If other states act to add the new income-based eligibility criteria of 135% of FPG, to remain unchanged in our policy may result in Pennsylvania incurring increased federal USF responsibility (as the size of the Fund increases) with no improvement in the percentage returned to the Commonwealth in terms of federal USF low-income support.

Pennsylvania is a Net-Contributor to the Universal Service Fund

We are concerned that in 2003, Pennsylvania received \$13.6 million in low-income support yet our ratepayers contributed over \$126.4 million to all four federal USF programs²⁶ of which approximately \$24 million went towards the low-income federal USF.²⁷ Thus, Pennsylvania is a net-contributor regarding the low-income portion of the federal USF. Last year approximately \$10 million dollars collected here through federal USF charges were not used by our Lifeline customers, but rather were used by other states' low-income programs. This disparity will only widen as a result of the recent FCC rules changes unless the Commission follows the FCC's lead and broadens its Lifeline 150 eligibility criteria in addition to removing the vertical services restriction barrier to enrollment. The Commission recognizes that in a pooled fund, such as the federal USF, not all states can be net recipients. However, increasing Pennsylvania's participation levels will allow more dollars to remain within the state.

Examination of Other States

An examination of other states similar to Pennsylvania shows that Florida's Public Service Commission recently

recognized that even though it is not a default state, "it is in Florida's best interest to also adopt this criterion." *In re: Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link-Up programs*, Notice of Proposed Agency Action Order Expanding Lifeline Eligibility at 4, Docket No. 040604-TL (Fl.PSC Aug. 10, 2004) (Florida PSC Order). As the Florida PSC stated, "[w]e are concerned that if we do not adopt the 135% criterion for all ETCs, it could result in compounding Florida's status as a net contributor into the USF Low Income Support Mechanism and keep some consumers that would otherwise be eligible out of the program." Florida PSC Order at 4-5. Like Pennsylvania, Florida's LECs already used TANF as an eligibility criterion. *Florida PAA Order* at 1.

In 2003, Kansas (another non-default state) decided to enroll low-income consumers with incomes at or below 150% of FPG. Kansas also enrolls consumers in Lifeline based on eligibility for the Free School Lunch Program. See *In Re: Investigation into the Lifeline Service Program and Methods to Ensure Awareness of the Program*, Docket No. 00-GIMT-910-GIT, Order (KS, SCC, Jan. 21, 2003).

As stated previously, we are still a long way from enrolling all consumers who could benefit from the Lifeline credit, and failing to modify our policy may result in Pennsylvania incurring more of the federal USF funding liability as other states act to add the new income-based eligibility criteria of 135% of FPG. The FCC has already stated that it has weighed the impact on the federal USF if all states added the new income-based eligibility criteria of 135% of FPG and found that the benefits of "adding new low-income subscribers and retaining existing subscribers outweigh the potential increased costs." *FCC Lifeline Order*, par. 12.

Even though many LECs said that they were unclear whether enrollment in Lifeline service would increase should Pennsylvania make these changes to its Lifeline program, we may logically deduce from the factual information that is currently available to the Commission that the proposed changes would not result in lowered enrollment, and could, in fact, result in significant increases in enrollment.

Many consumers in Pennsylvania could be benefiting from the Lifeline/Link-Up credit but are not because they do not qualify under the current 2-prong test, or possibly because of lack of awareness of the availability of the program. The Commission believes it is likely that the

²⁴ These are LECs with 50,000 or more residential customers. Comcast does not have ETC status.

²⁵ FCC Report, April 29, 2004, FCC 04-87, Table 1.A, Baseline Lifeline Subscription Information (Year 2002).

²⁶ The four federal USF programs include: (1) low-income; (2) schools and libraries; (3) rural health care; and (4) high-cost support.

²⁷ FCC Federal-State Joint Board *Universal Service Monitoring Report*, CC Docket No. 98-202, Table No. 2.4 (rel. Oct. 2004). This table states Pennsylvania received \$13.6 million in low income support. The Commission estimates Pennsylvania ratepayers contributed \$24 million based on the most recent data staff could obtain, from the Universal Service Administrative Company Annual Report of 2002 based upon 2001 data. The Commission also notes that Pennsylvania received a total of \$126,408,000 from the USF in 2001 for the four programs including: 1) low-income, 2) high cost support; 3) Schools and libraries; and 4) rural health care. However, our ratepayers consistently year after year contribute more than what is returned through the USF.

addition of household participation in NSL as a Lifeline eligibility criterion may increase Lifeline enrollment in Pennsylvania even though the FCC noted that statistics are not available that translate into the number of NSL recipients into a household count. Therefore, the Commission believes it should expand the Lifeline 150 program to include NSL and change the 150% "and" requirement to 135% "or." We would lose no current enrolled customers and this change could boost enrollment figures. Moreover, we would be on more even footing with other states and imposing standards consistent with those in the federal regime. While some additional administrative costs may be incurred by LECs in order to implement revisions allowing NSL and income as eligibility factors, the benefits to Pennsylvanians outweigh this burden.

Increasing Subscriber Line Charges

The federal USF low-income program is designed to help low-income consumers' bills remain affordable as the FCC continues to raise the subscriber line charge (SLC), which currently is capped at \$6.50 per line on all monthly phone bills. If our program eligibility is more restrictive than the federal rules, and the SLC continues to increase, we may be doing a disservice to Pennsylvanian low-income ratepayers.

Notification Requirements

Section 3019(f)(4) requires ETCs to inform existing customers of the availability of Lifeline service twice annually by bill insert or message. The notice must be conspicuous and must provide appropriate eligibility, benefits and contact information for customers who wish to learn of the Lifeline service subscription requirements. 66 Pa.C.S. § 3019(f)(4). In keeping with tradition, we will direct our Bureau of Consumer Services to work with the Pennsylvania Telephone Association to develop biannual Lifeline bill inserts or bill messages that are written consistent with the Commission's plain language policy guidelines at 52 Pa. Code § 69.251.

Conclusion

In the *Global Order*, the Commission recognized that eligibility criteria identified by the FCC in 47 CFR

Section 54.409(b) established, *prima facie*, income-based eligibility. Thus, in the *Global Order* and subsequent orders approving compliance filings, the Commission did not limit eligibility criteria strictly to those set forth in Section 54.409(b) of the FCC's Lifeline regulations. Instead, the Commission required LECs "to broaden eligibility requirements" by adding Temporary Assistance for Needy Families (TANF), General Assistance (GA), and State Blind Pension (Verizon only) to the FCC's list of eligible social assistance programs. *In re Nextlink, Inc.*, 93 Pa. P.U.C. 172, 244 (Sept. 30, 1999). See also, *Pa. PUC v. Pa. Telephone Ass'n*, Docket No. P-00991648, P-00991649, Order at 2, 5 (Aug. 17, 2000) (*PTA Lifeline Order*). *Pa. P.U.C v. Bell Atlantic-Pennsylvania, Inc.* Docket No. P-00991648, P-00991649) (BA-PA Lifeline Order).

The Commission shall again broaden, on a prospective basis, the Lifeline eligibility criteria to benefit low-income Pennsylvania telephone consumers. As the FCC stated in its April 2004 Order, "we believe there is more we can do to make telephone service affordable for more low-income households." *FCC Lifeline Order*. In Pennsylvania 1,842,724 children were enrolled in the National School Lunch Program as of October, 2004. Of that number, 498,604 were eligible to participate in the NSL free lunch program.²⁸ Upon adoption of the NSL program, we will coordinate with the Pennsylvania Department of Education, and Department of Public Welfare, and other organizations to incorporate the program into Pennsylvania's current Lifeline and Link-Up outreach initiatives. Adding the NSL program will benefit Pennsylvania by increasing the number of eligible consumers for the Lifeline and Link-Up programs. We hereby adopt the NSL program for purposes of determining eligibility in the Lifeline and Link-Up programs in Pennsylvania.

For ease in comparison, the following is a table comparison between the old and new FCC Lifeline eligible requirements, and the Commission's current Lifeline 150 program requirements and the new eligibility requirements established under this Final Order.

²⁸ *National School Lunch Program Approved Free and Reduced Applications, Building Data Report for October 2004 Children Eligible*, October, 2004, Sandy Souder, Administrator, National School Lunch Program.

Telephone Universal Service Program Eligibility Requirements

<i>Old FCC Lifeline Program</i>	<i>PA PUC Lifeline 150 Program</i>	<i>New FCC</i>	<i>New PaPUC Order and Act 183</i>
Medicaid	Medicaid	Medicaid	Medicaid
Federal Public Housing Assistance (Section 8)	Federal Public Housing Assistance (Section 8)	Federal Public Housing Assistance (Section 8)	Federal Public Housing Assistance (Section 8)
Low-Income Home Energy Assistance Program (LIHEAP)	Low-Income Home Energy Assistance Program (LIHEAP)	Low-Income Home Energy Assistance Program (LIHEAP)	Low-Income Home Energy Assistance Program (LIHEAP)
Supplemental Security Income (SSI)	Supplemental Security Income (SSI)	Supplemental Security Income (SSI)	Supplemental Security Income (SSI)
Food Stamps	Food Stamps	Food Stamps	Food Stamps
	Temporary Assistance to Needy Families (TANF)	Temporary Assistance to Needy Families (TANF)	Temporary Assistance to Needy Families (TANF)
	State Blind Pension*		State Blind Pension*
	General Assistance		General Assistance
		National School Lunch Program	National School Lunch Program

Telephone Universal Service Program Eligibility Requirements

No separate income requirement	AND Income at or below 150% of the Federal Poverty Guidelines	OR income at or below 135% of the Federal Poverty Guidelines	OR income at or below 135% of the Federal Poverty Guidelines
No restriction on vertical services	Only allowed one vertical service	No restriction on vertical services	No restriction on vertical services

* Only Verizon North and Verizon PA.

Lifeline enrollment in Pennsylvania will tend to increase if the Commission requires all Pennsylvania LECs to modify their existing Lifeline 150 programs in two ways:

(1) Change the current eligibility limitation from the conjunctive "and income at or below 150% of FPG" to a new disjunctive eligibility criterion so Lifeline eligibility may be determined based on participation in a public benefit program "or income at or below 135% FPG."

(2) Add participation in the National School Lunch free lunch program (NSL) as an additional program-based eligibility criterion.

While these changes may increase administrative costs to the ETCs administering the programs, any such increase is outweighed by the potential benefits in terms of increased enrollment and in securing a greater portion of the federal USF benefits that Pennsylvania consumers are already paying for. Moreover, the proposal is consistent with FCC standards. Accordingly, the Commission will expand the eligibility criteria to include the National School Lunch Free Lunch program (NSL), and a separate income-based eligibility criterion of 135% of FPG.

Therefore,

It Is Ordered That:

1. The current income limitation in the Lifeline 150 programs of "and income at or below 150% of Federal Poverty Guidelines" is hereby amended to a new separate eligibility criterion so Lifeline eligibility may be determined based on participation in a public benefit program "or income at or below 135% of Federal Poverty Guidelines."

2. We hereby add the National School Lunch free lunch program (NSL) to the list of qualifying social assistance programs for purposes of determining eligibility in the Lifeline and Link-Up programs in Pennsylvania.

3. Commission Staff continue to explore a means of independent state or federal verification of household participation in the National School Lunch free lunch program.

4. ETCs accept written documentation of eligibility and participation in the National School Lunch free lunch program in Pennsylvania for the current year within which the customer is applying for the Lifeline/Link-Up program.

5. In accordance with 66 Pa.C.S. § 3019(f)(1), ETCs are directed to file tariff revisions on or before four months from the date of entry of this order to: (1) change the current income limitation in the Lifeline 150 programs of "and income at or below 150% of Federal Poverty Guidelines" to a new separate eligibility criterion so Lifeline eligibility may be determined based on participation in a public benefit program "or income at or below 135% of Federal Poverty Guidelines"; and (2) add the National School Lunch free lunch program (NSL) for purposes of determining eligibility in the Lifeline and Link-Up programs in Pennsylvania.

6. In accordance with 66 Pa.C.S. § 3019(f)(2), all ETCs shall permit customers who subscribe to Lifeline service to subscribe to any number of other telecommunications services including vertical services at the tariffed rates for such services.

7. In accordance with 66 Pa.C.S. § 3019(f)(3), each ETC in the Commonwealth shall explicitly advise new service applicants of the availability of Lifeline service and shall make reasonable efforts where appropriate to determine whether the applicant qualifies for such service and, if so, whether the applicant wishes to subscribe to the service.

8. The Bureau of Consumer Services work with the Pennsylvania Telephone Association to develop biannual Lifeline bill inserts or bill messages that are written consistent with the Commission's plain language policy guidelines at 52 Pa. Code § 69.251.

9. LECs offering Lifeline and Link Up services are directed to recertify their Lifeline and Link-Up customers at least annually in accordance with FCC procedures established at 47 CFR § 54.410 (relating to certification and verification of consumer qualifications for Lifeline) and § 54.416 (relating to verification of qualifications for Link-Up).

10. We hereby adopt the statistically valid random sampling method established by the Federal Communications Commission at 47 CFR § 54.410(c)(ii) as a proper means of continued verification of eligibility for Lifeline and Link-Up and that LECs have until December 31, 2005, to submit the results of their samples to the Universal Service Administration Company, and this verification shall occur annually by December 31 of each year going forward.

11. Any non-ETC CLECs that choose to remove Lifeline and/or Link-Up provisions from their tariffs shall be required to provide their customers with 60 days notice of the type described herein, which has been reviewed and pre-approved by the Commission's Bureau of Consumer Services.

12. All LECs operating in Pennsylvania, the Pennsylvania Telephone Association, Nextel Partners, Inc., Sprint PCS, Office of Consumer Advocate, Department of Public Welfare, Pennsylvania Utility Law Project, Department of Revenue, Department of Education and AARP shall be served with a copy of this Final Order.

13. A copy of this Final Order shall be published in the *Pennsylvania Bulletin*.

14. The deadline for implementation of the new eligibility standards is 120 days from the date of entry of this Final Order.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1158. Filed for public inspection June 10, 2005, 9:00 a.m.]

Natural Gas Service

A-121800F2000 and A-125140. Myers Gas Company (Charles E. Myers). Application of Myers Gas Company (Charles E. Myers) for approval of the abandonment or discontinuance of distribution of natural gas service to the public in a portion of Rockland Township, Venango County, and for the approval of S.A.R. Gas, Inc. (Steve Phipps and Richard Brandon) to begin to offer, render, furnish or supply natural gas to the public in a portion of Rockland Township, Venango 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 June 27, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Myers Gas Company and S.A.R. Inc.

Through: Charles E. Myers, 220 Main Street, P. O. Box 65, Kennerdell, PA 16374

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1159. Filed for public inspection June 10, 2005, 9:00 a.m.]

Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge; M-00900239 F0009

Public Meeting held
May 19, 2005

Commissioners Present: Wendell F. Holland, Chairperson; Robert K. Bloom, Vice Chairperson; Kim Pizzingrilli

Order

By the Commission:

In accordance with our May 29, 1990 Order at Docket No. M-00900239, which established Telephone Relay Service (TRS) in Pennsylvania, and Act 34 of 1995, 35 P. S. §§ 6701.1, et seq.,¹ which codified the provision of TRS and established the Telephone Device Distribution Program (TDDP), we have completed the recalculation of the Pennsylvania TRS surcharge as it applies to residence and business access lines for July 1, 2005, through June 30, 2006.

As part of their continuing obligations under the surcharge recalculation process, the local exchange carriers² have submitted their wireline access line counts. The total number of access lines, adjusted for Centrex lines, is 7,881,264, which includes 5,274,584 residence access lines and 2,606,680 business access lines. The TRS Provider, AT&T Communications of Pennsylvania, LLC, has submitted the estimated minutes of use and charges for July

¹ The statutory provisions were subsequently amended by Act 181 of 2002 and Act 174 of 2004 to expand TRS coverage and to create the Print Media Access System (PMAS), a reading service for persons with certain vision and physical disabilities. The law is now called the Universal Telecommunications and Print Media Access Act.

² Including both incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs). This total is further adjusted under a Centrex equivalency formula.

1, 2005, through June 30, 2006. Wachovia Bank, N.A.,³ the Fund Administrator, has provided a statement of the financial status of the Fund,⁴ as well as its expected fees for next year. The executive director of the Office of Vocational Rehabilitation (OVR) in the Department of Labor and Industry has submitted its 2005-2006 TDDP budget. Additionally, the surcharge will fund the final three months of the 2003-2005 TRS consumer education outreach program.⁵

Based upon the number of access lines, the cost of the consumer education outreach campaign, the estimated 2005-2006 expenses of the TRS and the TDDP,⁶ and the financial status of the TRS Fund, we shall set the residential and business monthly access line surcharge at \$0.07 (unchanged from 2004-2005) and \$0.10 (decreased from 2004-2005), respectively. Effective July 1, 2005, the monthly surcharge shall be allocated as follows⁷:

	<i>2005-2006 Monthly Surcharge</i>	
	<i>Residence</i>	<i>Business</i>
TRS	\$0.06	\$0.09
TDDP	\$0.01	\$0.01
Total Surcharge	\$0.07	\$0.10

All surcharge revenues shall continue to be remitted to the Fund Administrator.⁸

We shall continue our active oversight of the operations of the Pennsylvania TRS and continue to collaborate with OVR and its TDDP administrator to ensure distribution of TDDP equipment to low-income households in accordance with 35 P. S. §§ 6791.1, et seq.

Additionally, it should be noted that, consistent with our May 29, 2003 Order at M-00900239F0003, the Commission has completed an audit of the TDDP for the fiscal year ended June 30, 2004. The scope of the audit concentrated on examining the underlying costs associated with TDDP during the audit period. Also reviewed was the certification of the eligibility of individuals applying for TDDP participation and the distribution of TDDP equipment and devices to TDDP participants. Based on this audit, the Commission is generally satisfied that ratepayer funds were appropriately used for the TDDP during the audit period.

While the Bureau of Audits has been charged with auditing AT&T's budgeted costs and actual expenditures of providing TRS, AT&T has undergone significant corporate changes since the Commission directed the audit. For example, AT&T has closed various call centers, exited the consumer telephone market, and petitioned to merge with SBC Communications Inc., See Application of SBC Communications, Inc. and AT&T Corporation and its Certified Pennsylvania Subsidiaries, AT&T Communications of Pennsylvania, LLC, TCG Pittsburgh, Inc. and

³ Hamilton Bank changed its name to CoreStates Bank N. A. in 1995, as the result of a merger; to First Union National Bank in 1999; and to Wachovia Bank, N. A. in 2002.

⁴ Separate accounts are maintained for the portion of the surcharge allocated to TRS and the portion allocated to TDDP.

⁵ On June 3, 2003, AT&T was directed to submit an Implementation Plan of its proposal for consumer education outreach. On September 29, 2003, the Commission accepted the Implementation Plan. W. J. Green & Associates, Inc. started the outreach campaign in October, 2003. The two-year campaign, at a cost of \$500,000 per year, runs through September 30, 2005. At that time, the results of the campaign will be evaluated, and a determination will be made whether to continue with an outreach campaign.

⁶ The estimated annual expense is based on the estimated minutes of TRS use, estimated charges submitted by AT&T, estimated Relay Advisory Board expenses, estimated compensation to the Fund Administrator, and the estimated budget for the TDDP submitted by OVR. No surcharged-funded expenses are anticipated for PMAS for 2005-2006.

⁷ The TRS surcharge appears as a single line item on customers' bills but actually has two components.

⁸ LECS shall remit surcharge revenues to Wachovia Bank, N. A., Attn: Sue Massey, 123 S. Broad St., PA4942 Institutional Trust Services, Philadelphia, PA 19109, payable to the "PA Relay Service Fund."

TCG Delaware Valley, Inc. at Docket nos. A-311163F0006, A-310213F0008, A-310258F0005. While these changes have had an impact, auditing the TRS's underlying program budgets and expenditures is important and necessary to ensure fiscal responsibility regarding the funds ratepayers are required to pay for these programs; *Therefore,*

It Is Ordered That:

1. For the period of July 1, 2005, through June 30, 2006, the residence surcharge per access line per month shall be \$0.07 and the business surcharge per access line per month shall be \$0.10, unless we take further action to revise the surcharge prior to June 30, 2006.
2. All incumbent local exchange carriers and competitive local exchange carriers are directed to use the following form to remit the monthly TRS surcharge collections to Wachovia Bank, N. A.
3. All incumbent local exchange carriers and competitive local exchange carriers are directed to file revised tariff supplements to become effective July 1, 2005, on at least

one day's notice, which reflect the residence and business surcharges in accordance with Ordering Paragraph No. 1.

4. The TRS Provider, AT&T Communications LLC, is directed to work with the Bureau of Audits in conjunction with on-going audit activities.

5. A copy of this Order be served upon all incumbent local exchange carriers and competitive local exchange carriers, AT&T Communications Company of Pennsylvania, LLC, the Wachovia Bank, N. A., the Office of Vocational Rehabilitation in the Department of Labor and Industry, the Office of Consumer Advocate, the Office of Small Business Advocate and the Pennsylvania Telephone Association.

6. A copy of this order be published in the *Pennsylvania Bulletin*.

7. A copy of this Order be posted to the Commission's web site.

JAMES J. MCNULTY,
Secretary

REMITTANCE FORM FOR MONTHLY TRS SURCHARGE COLLECTIONS 2005-2006
Effective July 1, 2005 through June 30, 2006

All local service providers are required to collect and remit the TRS surcharge revenue monthly, by the 20th of each month, to the Wachovia Bank, N. A., ATTN: Sue Massey, 123 S. Broad St.-PA 4942, Philadelphia, PA 19109. Please make your remittance checks payable to the Pennsylvania Relay Service Fund., using the following format for the monthly remittance. Please direct any questions regarding the TRS Surcharge remittance to Eric Jeschke at (717) 783-3850.

<i>Pennsylvania Relay Service</i>	
For the Month Ending:	
Number of Residential access lines:	
(TRS) × \$0.06 per line	
Number of Residential access lines	
(TDDP) × \$0.01 per line	
Number of Business access lines	
(TRS) × \$0.09 per line	
Number of Business access lines	
(TDDP) × \$0.01 per line	
Total Remittance:	
Make check payable to:	Pennsylvania Relay Service Fund
Send Report and payment to:	Wachovia Bank, N. A. Sue Massey PA-4942 Institutional Trust Services 123 So. Broad Street Philadelphia, PA 19109

<i>Pennsylvania Relay Service</i>	
Remittance for: Company name(s)	
Address	
Company Contact: Name	
Phone number	
Authorized Signature:	
Date:	

[Pa.B. Doc. No. 05-1160. Filed for public inspection June 10, 2005, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 5, 2005. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. to 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-00120897, Folder 2. Mohammed Ali (705 McAlister Street, Hanover, York County, PA 17331)—persons, in paratransit service, between points in the Borough of Hanover, York County, and points within an airline distance of 20 statute miles of the limits of the Borough of Hanover. *Attorney:* D. J. Hart, 40 York Street, Hanover, PA 17331.

Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of household goods in use as described under the application.*

A-00117540, Folder 3. Davcon Packing Services, Ltd. t/d/b/a Davcon Relocation Services (115 Chapel Lane, Ephrata, Lancaster County, PA 17522), a corporation of the Commonwealth—household goods, in use, between points in the County of Lancaster, and from points in said 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-00120667, Folder 1, Am-A. Kevin D. Morse t/d/b/a Touch of Class Limousine (R. R. 1, Box 287, Rome, Bradford County, PA 18837)—discontinuance of service—persons, in limousine service, between points in the County of Bradford, and from points in said county, to points in Pennsylvania, and vice versa.

A-00099663, Folder 1, Am-B. R. J. Renn Son's, Inc. (755 S. 5th Street, Coal Township, Northumberland County, PA 170444-0361), a corporation of the Commonwealth—discontinuance of service—household goods in use: (1) between points in the Borough of Shamokin, Northumberland County, and within 12 miles by the usually traveled highways of the limits of said borough; (2) from points in the Borough of Shamokin, Northumberland County, and within 12 miles by the usually traveled highways of the limits of said borough, to other points in Pennsylvania, and vice versa; and (3) between points in the Borough of Mt. Carmel, Northumberland County, and within 5 mile by the usually traveled highways of the limits of said borough, and from points in said area, to points within 175 miles by the usually traveled highways of the limits thereof, and vice versa.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1161. Filed for public inspection June 10, 2005, 9:00 a.m.]

Water Service

A-210104F0062. 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 East Brandywine 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 June 27, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.


Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

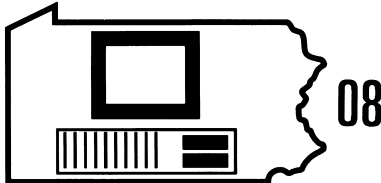
PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except for the cost of photocopying contracts (15 cents per page); postage; redaction, and certified copies. The bureau may assess reasonable fees for labor and other expenses necessary to comply with the request. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room 201 Finance Building
 Harrisburg, PA 17120
 717-787-4586
 1-800-252-4700
 BizOutlet@patreasury.org

ROBERT P. CASEY, Jr.,
State Treasurer

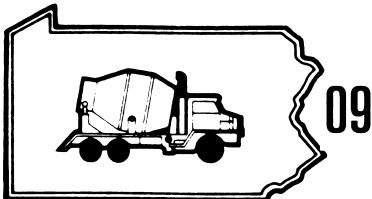
SERVICES



Computer Related Services

ADV#249 Indiana University of Pennsylvania, a member of the Pennsylvania State System of Higher Education, is seeking qualified vendors to respond to a Request for Proposal for consultant services for the redesign of the current IUP web site. Requests for copies of the bid package should be made in writing referencing ADV#249 and directed to the attention of Barbara Cerovich, Contracts Administrator, IUP, Robertshaw Building, 650 S. 13th Street, Indiana, PA 15705; Fax No. (724)357-2670; e-mail Cerovich@iup.edu. Interested vendors must submit their requests to be placed on the bidders list no later than June 17, 2005. The University encourages responses from small and disadvantaged, minority and women-owned firms.

Department: State System of Higher Education
Location: Indiana University of PA, Indiana, PA 15705
Duration: 18 months
Contact: Barbara Cerovich, (724) 357-2301



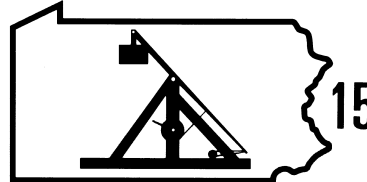
Construction & Construction Maintenance

SSHE 401-BL-719 Work under this project consists of construction of a new parking lot on the lower campus of Bloomsburg University. Primary items of work include site grading, storm drainage, cement concrete curb and sidewalk, bituminous paving, line painting, landscaping, miscellaneous signing, and the installation of new area lighting. This project will be a two prime contract (General and Electrical). To obtain a copy of the bid documents submit a \$58.30 non-refundable deposit to Larson Design Group, 1000 Commerce Parking Drive, Williamsport, PA 17703-0487, phone #570-323-6603. The pre-bid conference will be held on June 14, 2005 at 10:15 am, Waller Admin. Bldg., Room 38A, Bloomsburg, PA 17815. Bids are due June 28, 2005 at 1:00 p.m., Bloomsburg University, Waller Admin. Bldg., Room 38, Bloomsburg, PA 17815.

Department: State System of Higher Education
Location: Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815
Duration: 60 calendar days
Contact: Diann Shamburg (570) 389-4312

63-0279 Provide and install complete photovoltaic panel system. The University intends to offset the cost of this project by obtaining a grant from the Sustainable Development Fund Solar Photovoltaics Grant Program. To be eligible for the SDF Solar PV Grant, the system must be installed by a Participating Contractor. To be considered, Bidders must be a listed qualified Participating Contractor by the Sustainable Development Fund and provide evidence of a minimum of (3) previously certified installations that have met all provisions of the SDF grant's requirements. Information can be obtained at www.trfund.com/sdf/solarpv.

Department: State System of Higher Education
Location: 823 S. High St., West Chester, PA 19383, West Goshen Township
Duration: Work to be performed within 90 calendar days from Notice to Proceed
Contact: Barb Cooper, (610) 436-2706



Environmental Maintenance Service

OSM 04(1259)101.1 Abandoned Mine Reclamation Project, Fallston. The principal items of work include the Demolition, Removal and Disposal of seven (7) Mine Facilities and Mine Seal Construction of three (3) Mine Openings. This project issues on June 10, 2005 and bids will be opened on July 7, 2005 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P. L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

Department: Environmental Protection
Location: Fallston Borough, Beaver County
Duration: 120 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 787-7820

1000-502 Qualified Drilling Contractor needed to provide PENNDOT Engineering District 10 with subsurface drilling services in accordance with Pub. 22 (Revised), and Maintenance and Protection of Traffic associated with drilling operations. To request a bid package, please send Company Name, Order Address, Billing Address, Phone Number, Fax Number and Name of Contact Person to Diane Spence by email to DSpen@state.pa.us or by fax to 724-357-2872.

Department: Transportation
Location: PA Department of Transportation, Engineering District 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701, Armstrong, Butler, Clarion, Indiana and Jefferson Counties
Duration: 1 year with four 1-year options to renew by letter of mutual consent
Contact: Diane Spence, (724) 357-7987

OSM 10(4506)101.1 Abandoned Mine Reclamation Project, West Liberty Southwest. The principal items of work and approximate quantities include 205,304 cubic yards of Grading, 900 linear feet of Subsurface Drain, Seeding 18 acres and planting 2,640 Trees. This project issues on June 10, 2005 and bids will be opened on July 7, 2005 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

Department: Environmental Protection
Location: West Liberty Borough, Butler County
Duration: 270 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 787-7820



Janitorial Services

8880 Furnish all labor, materials and equipment to perform janitorial services THREE (3) days per week at the PA State Police, Greensburg Consolidated Dispatch Center. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

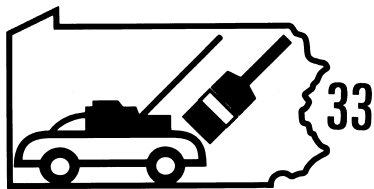
Department: State Police
Location: Greensburg CDC, 425 Willow Crossing Road, Greensburg, PA 15601, Contact Lt. Bradley Allen, phone #724-689-6452 or Sgt. William Allen, phone #570-898-3200
Duration: 07/01/05 to 06/30/08
Contact: Sandy Wolfe, (717) 705-5951

8877 Furnish all labor, materials and equipment to perform janitorial services TWO (2) days per week at the PA State Police, Harrisburg Aviation Patrol Unit (Aircraft Storage Space to be included). Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

Department: State Police
Location: Harrisburg Aviation Patrol Unit, Capital City Airport, New Cumberland, PA 17070, Contact Sgt. David Guido, phone #717-712-5003
Duration: 07/01/05 to 06/30/08
Contact: Sandy Wolfe, (717) 705-5951

8917 Furnish all labor, materials and equipment to perform janitorial services THREE (3) days per week at the PA State Police, Shickshinny Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

Department: State Police
Location: Troop P, Shickshinny Station, 872 Salem Boulevard, Berwick, PA 18603, Contact Sgt. Whittaker, Phone #570-542-4117
Duration: 08/01/05 to 06/30/08
Contact: Sandy Wolfe, (717) 705-5951



Property Maintenance

8916 Furnish all labor, materials and equipment to cut, trim and maintain grass area at the PA State Police, Beaver Station, THREE (3) cuttings per month, or as required by the Station Commander. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

Department: State Police
Location: Troop D, Beaver Station, 1400 Brighton Road, Beaver, PA 15009, Contact Sgt. Humble, Phone #724-773-7480
Duration: 07/01/05 to 06/30/08
Contact: Sandy Wolfe, (717) 705-5951



Sanitation

#2004-08 Thaddeus Stevens College of Technology is soliciting proposals for trash and garbage removal from premises.

Department: State
Location: 750 East King Street, Lancaster, PA
Duration: July 1, 2005 - June 30, 2006. Bid Opening June 30, 2005
Contact: Nancy Froeschle, (717) 299-7787

8918 Trash and rubbish removal services for the PA State Police, Bethlehem Headquarters, Crime Lab and DNA Lab for the period July 1, 2005 to June 30, 2008. Service to be rendered THREE (3) times per week for trash removal and ONCE (1) a week for recycling materials. Detailed Work Schedule & Bid must be obtained from Facility Management Division, 717-705-5951.

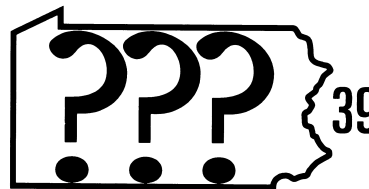
Department: State Police
Location: Troop M, Bethlehem Headquarters, Crime Lab and DNA Lab, 2930 Airport Road, Bethlehem, PA 18017. Contact - Tpr. Teodoro Huertas, phone #610-861-2026
Duration: 07/01/05 to 06/30/08
Contact: Sandy Wolfe, (717) 705-5951



Security Services

#2004-10 Thaddeus Stevens College of Technology is soliciting proposals for security service. Shifts as determined by the College.

Department: State
Location: 750 East King Street, Lancaster, PA 17602
Duration: 7/1/05 - 6/30/06. Bid opening 7/6/05.
Contact: Nancy Froeschle, (717) 299-7787



Miscellaneous

#2004-09 Thaddeus Stevens College of Technology is soliciting proposals for chartered bus service for athletic events and educational field trips.

Department: State
Location: 750 East King Street, Lancaster, PA 17602
Duration: July 1, 2005 - June 30, 2006. Bid Opening July 5, 2005
Contact: Nancy Froeschle, (717) 299-7787

#2004-07 Thaddeus Stevens College of Technology is soliciting proposals to lease 15 passenger vans for transportation needs of the College. Approximately 75 trips per school year.

Department: State
Location: 750 East King Street, Lancaster, PA 17602
Duration: July 1, 2005 - June 30, 2006. Bid Opening June 26, 2005 9:00am
Contact: Nancy Froeschle, (717) 299-7787

[Pa.B. Doc. No. 05-1166. Filed for public inspection June 10, 2005, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.
Secretary

