

# PENNSYLVANIA BULLETIN

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Department of Education  
Department of Environmental Protection  
Department of General Services  
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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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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 2006.

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# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 3]

#### Proposed Amendment to Rule 311(a)(4); Proposed Recommendation No. 61

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rule of Appellate Procedure 311(a)(4). The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

Proposed new material is bold while deleted material is bracketed and bold.

All communications in reference to the proposed amendment should be sent no later than October 2, 2006 to:

Dean R. Phillips, Chief Counsel  
D. Alicia Hickok, Deputy Counsel  
Appellate Court Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

or Fax to  
717-795-2116

or E-Mail to  
appellaterules@pacourts.us

The Explanatory Comment which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court Procedural  
Rules Committee*

HONORABLE JANE CUTLER GREENSPAN,  
*Acting Chair*

#### Annex A

#### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE I. PRELIMINARY PROVISIONS

#### CHAPTER 3. ORDERS FROM WHICH APPEALS MAY BE TAKEN

#### INTERLOCUTORY APPEALS

#### Rule 311. Interlocutory Appeals as of Right.

(a) *General Rule.* An appeal may be taken as of right and without reference to Pa.R.A.P. 341(c) from:

\* \* \* \* \*

(4) *Injunctions.* An order of a court granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except for [injunctions] an order entered pursuant to [Sections ]:

(i) Section 3323(f) [and] or 3505(a) of the Divorce Code, 23 Pa.C.S. §§ 3323(f) [and ], 3505(a) [ . ]; or

(ii) Pa.R.C.P. No. 1038 (Trial Without Jury) that is not immediately effective upon its entry. When a bond is required to be posted, the appeal shall be from the date of the order appealed and not from the date of the posting of the bond.

[ A decree nisi granting or denying an injunction is not appealable as of right under this rule, unless the decree nisi (i) grants an injunction effective upon the entry of a decree nisi or (ii) dissolves a previously granted preliminary injunction effective upon the entry of a decree nisi. ]

\* \* \* \* \*

#### Official Note:

\* \* \* \* \*

The 1996 amendment to paragraph (a)(4) reconciled two conflicting lines of cases by adopting the position that generally an appeal may not be taken from a decree nisi granting or denying a permanent injunction. [ *Humphreys v. Cain*, 84 Pa. Cmwlth. 222, 474 A.2d 353 (1984). To the extent that *Agra Enterprises, Inc. v. Brunozi*, 302 Pa. Super. 166, 170, 448 A.2d 579, 581 (1982); *Martin Industrial Supply Corp. v. Riffert*, 366 Pa. Super. 89, 91, 530 A.2d 906, 907 (1987); *Bolus v. Ryder Truck Rental, Inc.*, 258 Pa. Super. 387, 388, 517 A.2d 995, 996 (1986); *Commonwealth ex. rel. Lewis v. Allouwill Realty Corp.*, 330 Pa. Super. 32, 35, 478 A.2d 1334, 1336 (1984); and *Neshaminy Constructors, Inc. v. Philadelphia, Pennsylvania Building and Construction Trades Council, AFL-CIO*, 303 Pa. Super. 420, 422 n.1, 449 A.2d 1389, 1390 n.1 (1982) permit an immediate appeal from a decree nisi granting or denying prospective injunctive relief, they are overruled.

The 1996 amendment to paragraph (a)(4) simultaneously recognized two exceptions to the non-appealability of a decree nisi; these exceptions, identified as phrases (a)(4)(i) and (ii), permit an appeal from a decree nisi if the order has the immediate effect of changing the status quo. Thus, if the decree nisi grants or denies permanent injunctive relief to become effective when the decree nisi is made final, no appeal is possible. If, however, the decree nisi provides for permanent injunctive relief upon entry of the decree nisi, or strikes a previously granted preliminary injunction upon entry of the decree nisi, the decree nisi is appealable pursuant to phrase (a)(4)(1) or (ii). ]

The 2006 amendment to this paragraph conformed the rule to the 2003 amendments to the Pennsylvania Rules of Civil Procedure abolishing actions in equity and thus eliminating the decree nisi. Because decrees nisi were in general not appealable to the extent they were not effective immediately upon entry, this principle has been expressly incorporated into the body of the Rule as applicable to any injunction.

The word "court" has been inserted to clarify that orders or decisions that grant, modify, or deny injunctive relief but are issued by administrative tribunals are not immediately appealable. See *Pittsburgh Bd. of Pub. Educ. v. Pa. Human Rels. Comm'n*, 820 A.2d 838 (Pa. Commw. 2003); *Green Mt. Energy Co. v. Pennsylvania Public Utilities Comm'n*, 812

**A.2d 740 (Pa. Commw. 2002); *Columbia Gas of Pennsylvania, Inc. v. Pennsylvania Public Utilities Comm'n*, 104 Pa. Commw. 142, 521 A.2d 105 (1987), petition for allowance of appeal denied, 517 Pa. 628, 538 A.2d 880 (1988). The time period for filing an appeal begins when the order is entered so that appellants will have a firm date to use to begin calculating the period of appeal. The provision does not in any way vitiate the requirement that the bond be posted promptly.**

\* \* \* \* \*

#### Explanatory Comment

On December 16, 2003, effective July 1, 2004, the Supreme Court of Pennsylvania amended the Rules of Civil Procedure to abolish actions in equity and provide that equitable relief may be obtained in a civil action. Under the 2004 amendments to the Rules of Civil Procedure, equitable claims are now governed by Pa.R.C.P. No. 1038, concerning consolidated civil actions by a judge without a jury. Rule 1517 of the Pennsylvania Rules of Civil Procedure, which had governed the form of decision in an equity action, was rescinded. Under prior practice, an adjudication in an equity action was completed by a decree nisi, from which an aggrieved party could then file post-trial motions under Pa.R.C.P. No. 227.1.

Rule 311 of the Pennsylvania Rules of Appellate Procedure addresses interlocutory appeals as of right. Pursuant to Pa.R.A.P. 311(a)(4), decrees nisi are not immediately appealable, unless the order is effective immediately upon the decree's entry. This is an exception to the general rule that following a trial, a party must file post-trial motions in order to preserve issues for appeal. The Committee wishes to preserve the right to file an interlocutory appeal from an order that is effective immediately upon entry of a decision under Pa.R.C.P. No. 1038, while recognizing that otherwise post-trial motions are necessary. However, since a decree nisi will no longer be entered in actions in which injunctive relief is sought, a conforming amendment to Rule 311(a)(4) to substitute "order" for "decree nisi" is appropriate.

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rule of Appellate Procedure Rule 311(a)(4) to conform the rule to the 2003 amendments to the Pennsylvania Rules of Civil Procedure abolishing equity actions. The proposed amendment preserves the above fundamental principle but removes references to the now-rescinded decree nisi. The Committee does not believe that this change in Rule 311(a)(4) will substantively affect appellate practice in this Commonwealth and, in fact, this proposed conforming amendment is recommended to preserve the intent of the existing rule.

To reflect the change from decrees nisi, the phrase "immediately effective upon entry" was used because it accurately reflects the law, but the phrase needed amplification. That is because the failure to comply with the requirement that a party post a bond promptly renders the preliminary injunction void. In order to avoid confusion, it was determined that the time period for appeal would be calculated from the date of the order, not the date of the posting of the bond. Nonetheless, the requirement of prompt posting of the bond is in no way reduced by the changes to the Rule and Note.

The Committee is also recommending that the Rule and Note reflect that an order from an administrative tribunal, even one that appears to affect what is in the nature of an injunction, is not immediately appealable. This clarification should prevent confusion that may arise from the fact that courts have on occasion looked through orders to treat injunctive relief as a preliminary injunction—but not when that relief was granted by administrative tribunals. Compare *Pennsylvania Orthopaedic Society v. Independence Blue Cross*, 885 A.2d 542 (Pa. Super. 2005), appeal denied, 2006 Pa. LEXIS 385 (April 4, 2006) with *Pittsburgh Bd. of Pub. Educ. v. Pa. Human Rels. Comm'n*, 820 A.2d 838 (Pa. Commw. 2003); *Green Mt. Energy Co. v. Pennsylvania Public Utilities Comm'n*, 812 A.2d 740 (Pa. Commw. 2002); *Columbia Gas of Pennsylvania, Inc. v. Pennsylvania Public Utilities Comm'n*, 104 Pa. Commw. 142, 521 A.2d 105 (1987), petition for allowance of appeal denied, 517 Pa. 628, 538 A.2d 880 (1988). Accordingly, the Committee recommends the addition of "of a court" to the Rule to clarify that an agency order is not encompassed within the Rule.

[Pa.B. Doc. No. 06-1532. Filed for public inspection August 11, 2006, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CHS. 1000 AND 3000]

#### Foreclosure of a Mortgage Upon Both Personal Property and Real Property Pursuant to Section 9604(a) of the Uniform Commercial Code; Proposed Recommendation No. 216

The Civil Procedural Rules Committee is proposing the amendment of Rules of Civil Procedure governing mortgage foreclosure to provide for a secured creditor to enforce a security agreement which covers both personal and real property. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than October 20, 2006 to:

Harold K. Don, Jr.,  
Counsel

Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Subchapter I. ACTION OF MORTGAGE FORECLOSURE

Rule 1141. Definition. Conformity to Civil Action.

(a) As used in this chapter,

“action” means an action to foreclose a mortgage upon any estate, leasehold or interest in land, or upon both personal property and an estate, leasehold or interest in land pursuant to Section 9604(a) of the Uniform Commercial Code, but shall not include an action to enforce a personal liability.

Official Note: Section 9604(a) of the Uniform Commercial Code, 13 Pa.C.S. § 9604(a), provides that if a security agreement covers both personal and real property, the secured party may elect to proceed as to both the real property and the personal property in accordance with its rights with respect to the real property, in which case the other provisions of Article 9 of the Uniform Commercial Code do not apply.

\* \* \* \* \*

Rule 1147. The Complaint.

(a) The plaintiff shall set forth in the complaint:

\* \* \* \* \*

Official Note: \* \* \*

If the mortgage is residential mortgage under Act No. 6 of 1974, 41 P. S. § 101, the complaint should set forth an averment of compliance with the provisions of [ § ] Section 403 of Act No. 6, 41 P. S. § 403.

(b) If the plaintiff is proceeding against both personal and real property covered by a mortgage as provided by Section 9604(a) of the Uniform Commercial Code, the plaintiff shall set forth in the complaint

(1) the matters required by subdivision (a), and

(2) a description of the personal property subject to the mortgage.

Official Note: Section 9604(a) of the Uniform Commercial Code, 13 Pa.C.S. § 9604(a), relates to the rights of a secured party when the agreement covers real and personal property. Compliance with subdivision (b) of this rule is a prerequisite to executing in one proceeding pursuant to Rule 3180(b) against both the real and personal property secured by the mortgage.

Rule 1149. Judgment. Execution.

\* \* \* \* \*

Official Note: Rule 3180 et seq. govern the enforcement of a judgment whether against an estate, leasehold or interest in land or against both personal property and an estate, leasehold or interest in land if the plaintiff has elected to proceed as to both pursuant to Section 9604(a) of the Uniform Commercial Code.

CHAPTER 3000. JUDGMENTS

Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3101.2. Obligation Secured by Real and Personal Property. Plaintiff's Election to Proceed against Both in Accordance with Its Rights against the Real Property

(a)(1) A money judgment on an obligation secured by a mortgage which grants a mortgage lien on an estate, leasehold or interest in land and also a security interest in personal property, at the election of the plaintiff, may be enforced against both in one proceeding pursuant to the rules of this chapter governing execution against real property.

(2) A claim that any tangible personal property levied upon pursuant to a writ of execution is the property of a person other than the defendant in the execution shall proceed in accordance with Rule 3201 et seq. governing sheriff's interpleader.

Official Note: The rules of this chapter governing execution on personal property do not apply to an execution on personal property if an election has been made to proceed under this rule. However, Rule 3201 et seq. governing sheriff's interpleader does apply when tangible personal property levied upon is claimed to be the property of a person other than the defendant in the execution.

For a similar provision applicable to the enforcement of a judgment of mortgage foreclosure, see Rule 3180(b).

(b) The plaintiff shall make the election to proceed under subdivision (a) by filing an affidavit setting forth the place of record of the mortgage and stating that

(1) the mortgage covers both the real property and the personal property against which the plaintiff seeks execution, and

(2) the plaintiff intends to proceed against both in accordance with its rights against the real property pursuant to Section 9604 of the Uniform Commercial Code and this rule.

(c) If plaintiff elects to proceed as provided by this rule, the term “real property” as used in this chapter shall be deemed to include the personal property.

Official Note: Subdivision (c) is not applicable to a proceeding in sheriff's interpleader under Rule 3201 et seq. in which tangible personal property levied upon is claimed to be the property of a person other than the defendant in the execution.

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

ACTION OF MORTGAGE FORECLOSURE

Rule 3180. Judgment; execution.

(a) Judgement shall be enforced by a writ of execution substantially in the form provided by Rule 3257.

\* \* \* \* \*

(b) If the plaintiff is proceeding against both personal and real property covered by a mortgage as provided by Section 9604(a) of the Uniform Commercial Code and has complied with the pleading requirements of Rule 1147(b), the judgment may be enforced in one execution proceeding against both the personal and real property pursuant to the rules of this chapter governing execution on real property.

**Official Note:** Compliance with Rule 1147(b) governing the complaint in mortgage foreclosure is a prerequisite to executing in one proceeding pursuant to Rule 3180(b) against both the real and personal property secured by the mortgage.

The rules governing execution on personal property do not apply to an execution on personal property under subdivision (b).

For a similar provision applicable to the enforcement of a judgment entered on the obligation secured by the mortgage, see Rule 3101.2.

**Rule 3181. Conformity to rules governing enforcement of judgments for payment of money.**

(a) The procedure for the enforcement of a judgment against real property shall be in accordance with the rules governing the enforcement of judgments for the payment of money with respect to the following:

- [ (a) ] (1) \* \* \*
- [ (b) ] (2) \* \* \*
- [ (c) ] (3) \* \* \*
- [ (d) ] (4) \* \* \*
- [ (e) ] (5) \* \* \*
- [ (f) ] (6) \* \* \*
- [ (g) ] (7) \* \* \*
- [ (h) ] (8) \* \* \*
- [ (i) ] (9) \* \* \*
- [ (j) ] (10) \* \* \*
- [ (k) ] (11) \* \* \*

(b) The procedure for the enforcement of a judgment against both personal and real property as provided by Rule 3180(b) shall be in accordance with

(1) the rules governing the enforcement of judgments for the payment of money as provided by subdivision (a) and

(2) Rule 3201 et seq. governing sheriff's interpleader.

**Official Note:** Rule 3201 et seq. govern the procedure when tangible personal property levied upon is claimed to be the property of a person other than the defendant in the execution.

**FORMS**

**Rule 3257. Writ of execution; mortgage foreclosure.**

The writ of execution in an action of mortgage foreclosure shall be substantially in the following form:

(Caption)

**WRIT OF EXECUTION**

Commonwealth of Pennsylvania  
County of \_\_\_\_\_

To the Sheriff of \_\_\_\_\_ County:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property:

(1)  
\_\_\_\_\_  
\_\_\_\_\_  
(Specifically describe real property)

(2)  
\_\_\_\_\_  
\_\_\_\_\_  
(Specifically describe personal property when judgment results from a mortgage covering both personal and real property pursuant to Section 9604(a) of the Uniform Commercial Code)

**NOTE:** Description of property may be included in, or attached to, the writ.

Amount due \$ \_\_\_\_\_  
Interest from \$ \_\_\_\_\_  
[ Costs to be added ] \$ \_\_\_\_\_

\_\_\_\_\_  
(Name of Prothonotary (Clerk))

Seal of the Court \_\_\_\_\_  
Date \_\_\_\_\_ (Deputy)

**Explanatory Comment**

Section 9604(a) of the Uniform Commercial Code (U.C.C.) provides a party with a security interest in personal property and a mortgage on real property with the right to proceed against both in accordance with its rights against the real property:

**§ 9604. Procedure if security agreement covers real property or fixtures**

(a) *Enforcement: personal and real property.*—If a security agreement covers both personal and real property, a secured party may proceed:

(1) under this chapter as to the personal property without prejudicing any rights with respect to the real property; or

(2) as to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this chapter do not apply.

\* \* \*

The provision has already been implemented with respect to confession of judgment by Rule 2958.2(a). It is now proposed that the following chapters of rules also be amended to implement this provision: the action of mortgage foreclosure, execution upon a judgment of mortgage foreclosure and execution upon a judgment for the payment of money.

**Action of mortgage foreclosure and enforcement of judgment**

The definition of "action" in Rule 1141 is revised to include both the traditional "action to foreclose a mortgage upon any estate, leasehold or interest in land" and an action to foreclose a mortgage "upon both personal property and an estate, leasehold or interest in land pursuant to Section 9604(a) of the Uniform Commercial Code." The amended rule retains the restriction that the action "shall not include an action to enforce a personal liability."

If a plaintiff brings an action to foreclose a mortgage upon both personal and real property, new Rule 1147(b) governing the complaint requires that, in addition to the

usual allegations prescribed by subdivision (a) of the rule, the complaint must set forth "a description of the personal property subject to the mortgage."

As a plaintiff may proceed against both the personal and real property in one action of mortgage foreclosure, so also the plaintiff may enforce the judgment obtained in the action in one proceeding. Execution Rule 3180 is amended by adding new subdivision (b) providing that a plaintiff who complies with the pleading requirements of Rule 1147(b) may enforce the judgment "in one proceeding against both the personal and real property pursuant to the rules of this chapter governing execution on real property."

The note following Rule 3180(b) reinforces the rule by emphasizing that the plaintiff must comply with the pleading requirements of Rule 1147(b) to be able to enforce the judgment against both the personal property and the real property under the rule. The note points out that the procedure to enforce a mortgage foreclosure judgment against real property applies to enforcement of the judgment against the personal property as well. The rules governing enforcement of judgments against personal property do not apply unless otherwise provided by this chapter.

Rule 3181, to be designated subdivision (a), provides that certain rules governing the enforcement of a money judgment are applicable to enforcement of a judgment of mortgage foreclosure against real property. New subdivision (b) provides that those rules also apply when the plaintiff is proceeding against both personal and real property. In addition, subdivision (b) incorporates the procedure of Rule 3201 et seq. governing sheriff's interpleader when there is a claim that the personal property which is the subject of the execution proceeding is the property of one other than the defendant.

The form of writ of execution prescribed by Rule 3252 is revised to accommodate an execution against both personal and real property by providing for a description of the personal property to be levied upon as well as a description of the real property.

#### **Enforcement of judgment for payment of money**

A plaintiff may bring an action on the underlying obligation secured by a mortgage rather than an action to foreclose the mortgage. When a mortgage grants a mortgage lien on real property and a security interest in personal property, a plaintiff who obtains a money judgment on the underlying obligation may still take advantage of the provisions of Section 9604(a) of the U.C.C. Proposed new Rule 3101.2(a)(1) provides that the plaintiff may elect to execute against both the personal and real property "in one proceeding pursuant to the rules of this chapter governing execution against real property." Subdivision (b) requires that the election be made by filing an affidavit and prescribes the content of the affidavit.

Rule 3101.2(a)(1) provides for the execution against personal property secured by a mortgage to proceed "pursuant to the rules of this chapter governing execution against real property." Subdivision (c) reinforces this provision by providing that if "plaintiff elects to proceed as provided by this rule, the term 'real property' as used in this chapter shall be deemed to include the personal property."

Although a party may elect to proceed under Rule 3101.2, subdivisions (a)(1) and (c) of that rule have no application when there is a claim that tangible personal property levied upon is the property of a person other than the defendant in the execution. Subdivision (a)(2) provides that such a claim is to be determined pursuant to Rule 3201 et seq. governing sheriff's interpleader.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 06-1533. Filed for public inspection August 11, 2006, 9:00 a.m.]

## **PART I. GENERAL**

### **[231 PA. CODE CH. 4000]**

#### **Proposed Amendment of Rule 4017.1 Governing Videotape Depositions; Proposed Recommendation No. 217**

The Civil Procedural Rules Committee is proposing that Rule of Civil Procedure 4017.1 governing videotape depositions be amended as set forth in the attached recommendation. The recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than October 20, 2006 to:

Harold K. Don, Jr.,  
Counsel  
Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

#### **Annex A**

### **TITLE 231. RULES OF CIVIL PROCEDURE**

#### **PART I. GENERAL**

#### **CHAPTER 4000. DEPOSITIONS AND DISCOVERY ENTRY UPON PROPERTY FOR INSPECTION AND OTHER ACTIVITIES**

##### **Rule 4017.1. [ Videotape ] Video Depositions.**

(a) Any deposition [ **taken** ] upon oral examination may be [ **recorded by videotape** ] **taken as a matter of course as a video deposition by means of simultaneous audio and visual electronic recording.** Except as provided by this rule, the rules of this chapter governing the practice and procedure in depositions and discovery shall apply.

(1) Any party may have a [ **videotape** ] **video** deposition recorded simultaneously by stenographic means as provided by this chapter.

(2) A [videotape] video deposition may be used in court only if accompanied by a transcript of the deposition.

(b) Every notice or subpoena for the taking of a [videotape] video deposition shall state

(1) that [it] the deposition is to be [videotaped] taken as a video deposition,

\* \* \* \* \*

(5) the name and address of the [videotape] video operator and of his or her employer. The operator may be an employee of the attorney taking the deposition.

(c) The deposition shall begin by the operator stating on camera (1) his or her name and address, (2) the name and address of his or her employer, (3) the date, time and place of the deposition, (4) the caption of the case, (5) the name of the witness, and (6) the party on whose behalf the deposition is being taken. The officer before whom the deposition is taken shall then identify himself or herself and swear the witness on camera. At the conclusion of the deposition the operator shall state on camera that the deposition is concluded. When the length of the deposition requires the use of more than one [tape] videotape, the end of [each tape] the videotape and the beginning of each succeeding [tape] videotape shall be announced on camera by the operator.

**Official Note:** The term "videotape" includes DVD and other media on which a video deposition may be recorded. See Subdivision (i) of this rule.

(d) The deposition shall be timed by a digital clock on camera which shall show continually each hour, minute and second of each [tape] videotape of the deposition.

\* \* \* \* \*

(g) In addition to the uses permitted by Rule 4020 a [videotape] video deposition of a medical witness or any witness called as an expert, other than a party, may be used at trial for any purpose whether or not the witness is available to testify.

(h) At a trial or hearing that part of the audio portion of a [videotape] video deposition which is offered in evidence and admitted, or which is excluded on objection, shall be transcribed in the same manner as the testimony of other witnesses. The videotape shall be marked as an exhibit and may remain in the custody of the court.

**Official Note:** Local rules and practice shall regulate the procedure for handling objections to questions and answers on the [tape] videotape. Suggested devices include, inter alia, previewing by the judge and counsel and withholding from the evidence material to which objections are sustained; or having the operator turn off objectionable material or the use of "fast forward" by the operator at the trial or hearing to eliminate both the image and the sound of the objectionable material.

(i) As used in this rule, "videotape" includes all media on which a video deposition may be recorded.

#### Explanatory Comment

The Civil Procedural Rules Committee is proposing that Rule 4017.1 governing video depositions be amended in two respects. First, the amendment allows a party to take video depositions as a matter of course. Although the present rule contains no limitation upon or prerequisite to the taking of a video deposition, some courts have

imposed limitations citing the cost of the deposition and the burden to the party being deposed. See for example, *Tillett v. Shento*, 131 P.L.J. 297 (C.P. Allegheny 1982). However, technological advances have lowered the cost of a video deposition and either reduced or eliminated the burden to the parties.

There has been a noted lack of civility of parties, deponents and attorneys in connection with depositions upon oral examination. There also occurs the abusive practice of attorneys who raise objections which suggest an answer to the deponent or who instruct the deponent not to answer a question without reasonable basis. The ability of a party to use video depositions as a matter of course may have the salutary effect of discouraging egregious conduct during depositions.

Second, advancements in technology have provided new methods of video recording an oral deposition in addition to videotaping. The terminology of the rule has been changed to reflect those advancements.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,  
Chair

[Pa.B. Doc. No. 06-1534. Filed for public inspection August 11, 2006, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### BRADFORD COUNTY

#### Local Criminal Rules 117 and 150

#### Order

And Now, this 25th day of July, 2006, the Court hereby adopts the following Bradford County Rules of Criminal Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall send seven (7) certified copies of this Rule to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Criminal Procedural Rules Committee, and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

It is further ordered that this local rule shall be kept continuously available in the Clerk of Court's Office for public inspection and copying.

By the Court

JEFFREY A. SMITH,  
President Judge

**Local Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and setting and Accepting Bail.**

(A)(1) All Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays from 8:00 a.m. to 4:00 p.m.

(2) Continuous coverage for the issuance of search warrants and arrest warrants, for warrants issued pursuant to Pa.RCrim.P.430 in a summary case, for the issuance of emergency orders under the Protection From



Abuse Act, and for those services set forth in Pa.R.Crim.P.117(A)(2)(a),(b),(c) and (d) shall be as follows:

Each magisterial district judge, properly elected and sworn, is hereby specially assigned to preside in each and every other magisterial district within the County of Bradford. The purpose of these assignments is to provide an available district judge in each of the magisterial districts on a continuing and continuous basis.

(B) The President Judge shall establish the schedule of on-call duty assignments on an annual basis. In the event an "on-call" district judge is needed, contact shall be made through Bradford County Emergency Services.

(C) Magisterial district judges shall be authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure on any case which is presently pending in their courts. The Clerk of Courts shall be authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure in any case which is presently pending in the Bradford County Common Pleas Court. The Clerk of Courts shall assure that coverage is provided for this purpose.

#### Local Rule 150. Bench Warrants

(A) In all cases where a bench warrant is executed, the case shall proceed in accordance with the following procedures.

(3) In all cases where the Defendant is lodged in the Bradford County Prison pursuant to a bench warrant, the Warden or his designee shall promptly notify the District Court Administrator.

[Pa.B. Doc. No. 06-1535. Filed for public inspection August 11, 2006, 9:00 a.m.]

### CHESTER COUNTY

#### Adoption of New Chester County Rule of Criminal Procedure 117

##### Administrative Order No. 3-2006

*And Now*, this 28th day of July, 2006, pursuant to the requirements of Pa.R.Crim.P. 117, *it is ordered* that effective August 1, 2006, new Chester County Rule of Criminal Procedure, C.C.R.Crim.P. 117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail, be and the same is hereby adopted in the form as follows.

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

*By the Court*

PAULA FRANCISCO OTT,  
President Judge

#### Local Rule 117 Coverage: Issuing Warrants: Preliminary Arraignments and Summary Trials: and Setting and Accepting Bail.

1. In order to comply with the specific coverage requirements of Pa.R.Crim.P. 117(A)(1), (2) and (3), the following schedule for coverage is adopted:

(a) All Magisterial District Courts shall be open to the public Mondays through Fridays, 8:30 AM to 4:30 PM, excluding official County Holidays.

(b) Magisterial District Judges shall provide after-hours coverage by utilizing the established on-call system that is published by the Minor Judiciary Administrator as follows:

Monday through Friday	8:00 PM to 11:30 PM
Saturday	9:00 AM to 11:00 AM 8:00 PM to 11:30 PM
Sunday and Holidays	*7:00 AM to 11:00 AM 8:00 PM to 11:30 PM

\*Magisterial District Judges have the option on Sunday mornings of two consecutive hours between these times to allow flexibility for religious services.

(c) During times other than those listed in Subsections (a.) and (b.) above, the designated on-call Magisterial District Judge shall be in contact with the police radio room by pager or by leaving a telephone number where he/she may be reached at all hours. The President Judge shall establish the schedule of assignment of Magisterial District Judges to on-call duty.

#### 2. Bail Before Verdict

(a) In compliance with Pa.R.Crim.P. 520(B), which permits a defendant to be admitted to bail on any day and at any time:

(i) During regular business hours, listed in Paragraph 1(a) above, bail shall be posted at the issuing Magisterial District Judge's office or at the Clerk of Courts.

(ii) During on-call hours, listed in Paragraph 1(b) above, bail shall be posted at the on-call Magisterial District Judge's office.

(iii) During times other than those listed in Paragraphs 1(a) and (b) above, the Bail Administrator and/or his designated Investigator from the Chester County Bail Agency shall be authorized to accept monetary bail at the Chester County Prison in accordance with the provisions, and subject to the limitations, of Pa.R.Crim.P 117(C) and Pa.R.Crim.P. 520. The Bail Administrator or his designee shall be permitted to perform the following: accept the bail deposit, have the defendant sign the bail bond, release the defendant and deliver the bail deposit and bail bond to the issuing authority or the Clerk of Courts on the next business day.

COMMENT: This Rule incorporates and replaces District Court Regulation No. 175-2005.

Rule Effective August 1, 2006

[Pa.B. Doc. No. 06-1536. Filed for public inspection August 11, 2006, 9:00 a.m.]

**COLUMBIA AND MONTOUR COUNTIES****Rule 117, Coverage: Issuing Warrants; Preliminary Arraignments; Setting and Accepting Bail****Order**

*And Now*, this 27th day of July 2006, it is hereby *Ordered* that the following rule of the Court of Common Pleas of the 26th Judicial District, Criminal Division, Rule 117 Coverage Magisterial District Judges shall become effective thirty (30) days after publication of the rule in the *Pennsylvania Bulletin*.

The District Court Administrator shall file seven (7) certified copies with the Administrative Office of Pennsylvania Courts; two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) certified copy shall be filed with the Criminal Procedural Rules Committee; and the original shall be filed with the Prothonotary and Clerk of Courts of Columbia and Montour Counties.

*By the Court*

SCOTT W. NAUS,  
*President Judge*

**Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments; Setting and Accepting Bail**

(1) All Magisterial District Judge Offices in the 26th Judicial District shall be open for regular business as approved by the Court on Mondays through Fridays, except when a Court holiday has been declared on such day.

(a) All court proceedings conducted before a Magisterial District Judge, which occur during normal business hours of the Court, shall be conducted at the established office of the appropriate Magisterial District Judge as determined by the rules relating to venue.

(2) All Magisterial District Judges shall be on-call during non-regular business hours on a rotating basis pursuant to a schedule prepared by the District Court Administrator and amended and filed annually with the Clerk of Courts.

(a) All Magisterial District Judges shall be available twenty-four hours per day, every day of the calendar year, to provide continuous coverage for the issuance of search warrants, pursuant to Pa.R.Crim.P. No 203, arrest warrants pursuant to Pa.R.Crim.P. No. 513, preliminary arraignments pursuant to Rule 516, set and accept bail pursuant to Rule 517 and emergency orders under the Protection From Abuse Act.

[Pa.B. Doc. No. 06-1537. Filed for public inspection August 11, 2006, 9:00 a.m.]

**FAYETTE COUNTY****Administrative Order; No. 1 of 2006****Administrative Order**

*And Now*, this 27th day of July, 2006, it is hereby *Ordered* that Local Court Rule Number 1301 of Civil Procedure for Fayette County, is amended to increase the

Compulsory Arbitration Limits, from \$35,000 to \$50,000, exclusive of interest and costs, in conformity with the provisions of Section 7361(b) of Title 42 of the *Pennsylvania Consolidated Statutes, Compulsory Arbitration*.

This Amendment shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

CONRAD B. CAPUZZI,  
*President Judge*

[Pa.B. Doc. No. 06-1538. Filed for public inspection August 11, 2006, 9:00 a.m.]

**LANCASTER COUNTY****Adoption of Rule of Criminal Procedure No. 117 and Amendment of Local Rule for Magisterial District Judges 5B; No. 3 AD 2006, CPJ. No. 7, Page 1357****Administrative Order**

*And Now*, this 31st day of July, 2006, Lancaster County Rule of Criminal Procedure No. 117 and Amended Rule No. 5B of the Lancaster County Rules for Magisterial District Judges are adopted as follows:

**Rule 117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail**

(A) Coverage of Northeast and Northwest Sectors

(1) Continuous Coverage (24/7)

Magisterial district judges serving within the Northeast and Northwest Sectors shall be available twenty-four hours per day to provide continuous coverage for the issuance of search warrants pursuant to Pa.R.Crim.P. 203, the issuance of arrest warrants pursuant to Pa.R.Crim.P. 513, conducting preliminary arraignments pursuant to Rule 516, setting bail pursuant to Rule 517(A), accepting complaints and conducting preliminary arraignments pursuant to Rule 519(A)(1), requests to accept bail pursuant to Pa.R.Crim.P. 520(B), and requests for emergency relief under the Protection From Abuse Act.

(2) Limited Coverage (Without Unnecessary Delay)

Magisterial district judges serving within the Northeast and Northwest Sectors shall be available without unnecessary delay, each day of the week between 6:00 A.M. and 10:00 P.M. for the purpose of providing the services set forth in Pa.R.Crim.P. 117(A)(2)(a) requiring conducting summary trials or setting collateral in summary cases under Rule 431(B)(3) and Rule 441(C). Between the hours of 10:00 P.M. and 6:00 A.M., duty court judges may defer the performance of Rule 117(A)(2)(a) services without unnecessary delay to after 6:00 A.M.

(B) Coverage of Central and Southern Sectors

(1) Continuous Coverage (24/7)

Magisterial district judges serving within the Central and Southern Sectors shall be available twenty-four hours per day to provide continuous coverage for the issuance of search warrants pursuant to Pa.R.Crim.P. 203, arrest warrants pursuant to Pa.R.Crim.P. 513, requests to accept bail pursuant to Pa.R.Crim.P. 520(B), and requests for emergency relief under the Protection From Abuse Act.

(2) Limited Coverage (Without Unnecessary Delay)

Magisterial district judges serving within the Central and Southern Sectors shall be available each day of the week without unnecessary delay to conduct preliminary arraignments pursuant to Rule 516, setting bail pursuant to Rule 517(A), and accepting complaints and conducting preliminary arraignments pursuant to Rule 519(A)(1). In addition, they shall be available without unnecessary delay each day of the week between 6:00 A.M. and 10:00 P.M. for the purpose of providing the services set forth in Pa.R.Crim.P. 117(A)(2)(a) requiring conducting summary trials or setting collateral in summary cases under Rule 431(B)(3) and Rule 441(C). Between the hours of 10:00 P.M. and 6:00 A.M., duty court judges may defer the performance of Rule 117(A)(2)(a) services without unnecessary delay to after 6:00 A.M.

(C) Magisterial District Judges, the Clerk of Court or his designees, and the Warden of the Lancaster County Prison or his designees, shall be authorized to accept bail in accordance with the provisions of the Pennsylvania Rules of Criminal Procedure.

**Rule No. 5B of the Lancaster County Rules For Magisterial District Judges is hereby deleted and the following is substituted:**

B. Duty Court coverage in each Sector shall be provided in accordance with the provisions of Lancaster County R.Crim.P. 117.

*By the Court*

LOUIS J. FARINA,  
*President Judge*

[Pa.B. Doc. No. 06-1539. Filed for public inspection August 11, 2006, 9:00 a.m.]

**NORTHAMPTON COUNTY**

**Administrative Order 2006-8—In Re: Coverage Magisterial District Courts; No. AD-234-2006**

**Administrative Order**

*And Now*, this 24th day of July, 2006, the court adopts the following Rule N117(b), Coverage-Magisterial District Courts, effective August 1, 2006.

*By the Court*

ROBERT A. FREEDBERG,  
*President Judge*

**RULE N117(B) COVERAGE—MAGISTERIAL DISTRICT COURTS**

A. Normal business hours for magisterial district courts shall be from 8:30 a.m. to 4:30 p.m., Monday through Friday. The holiday schedule of the Northampton County Government shall apply to the magisterial district courts.

B. Coverage at other than normal business hours shall be as follows:

(1) The county shall consist of two regions;—region one consists of magisterial districts 03-2-03, 03-2-07, 03-2-08, 03-2-09, 03-3-01, 03-3-02, 03-3-03.

—region two consists of magisterial districts 03-1-04, 03-2-01, 03-2-04, 03-2-05, 03-2-06, 03-2-10, 03-2-11, 03-2-12.

(2) In each region, a magisterial district judge shall be assigned on a one week rotation to provide continuous on call after hour coverage. The schedule of after hour coverage duties shall be posted in the office of the Court Administrator, and in each magisterial district court, published in the Northampton County Reporter, and provided to the following: District Attorney, Public Defender, Sheriff, each police department including the Pennsylvania State Police, Turning Point and the Northampton County 911 emergency operator.

[Pa.B. Doc. No. 06-1540. Filed for public inspection August 11, 2006, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 18]

### Respiratory Care Continuing Education

The State Board of Medicine (Board) amends §§ 18.302 and 18.309 (relating to definitions; and renewal of certification) and adds §§ 18.309a and 18.309b (relating to requirement of continuing education; and approved educational courses) to read as set forth in Annex A.

#### A. *Effective Date*

This final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

#### B. *Statutory Authority*

The act of July 2, 2004 (No. 55, P. L. 484) (Act 55) amended the Medical Practice Act of 1985 (act) (63 P. S. §§ 422.1—422.51a) to provide for the continuing education of respiratory care practitioners. Section 36(f)(1) of the act (63 P. S. § 422.36(f)(1)) directs the Board to promulgate regulations as necessary to establish the requirements for continuing education for respiratory care practitioners.

#### C. *Background and Purpose*

This final-form rulemaking implements Act 55 by establishing requirements for continuing education to be met by individuals holding certifications as respiratory care practitioners as a condition of certificate renewal.

#### D. *Summary of comments and Responses to Proposed Rulemaking*

A proposed rulemaking was published at 35 Pa.B. 5520 (October 8, 2005). The Board entertained public comment for 30 days during which time the Board received comments from the Pennsylvania Society for Respiratory Care (PSRC), Soldiers + Sailors Memorial Hospital and two individual respiratory care practitioners. Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The Board also had input from one of its members who is a respiratory care practitioner. The following is a summary of the comments and the Board's response.

The PSRC was supportive of the proposed rulemaking. The PSRC suggested that the regulations allow for a combination of traditional and nontraditional continuing education methods. Traditional education is considered "live" interaction with a presenter either in a classroom setting, a real-time web-cast or a teleconference. Nontraditional education includes prerecorded presentations, Internet-based presentations or journal review programs. The PSRC suggested that 50% of the continuing education hours be acquired through traditional education and 50% be acquired by nontraditional education. A further suggestion was that of the 20 continuing education hours

required, 1 hour be required in the category of ethics and 1 hour be required in patient safety.

Soldiers + Sailors Memorial Hospital suggested that certificateholders be permitted no more than 8 to 10 hours in a nontraditional setting during the biennial renewal period. It was further suggested that the amount of hours obtained by taking advanced life support courses be limited to 12 credits. One of the respiratory care practitioners suggested the 50/50 split in traditional and nontraditional coursework. The other respiratory care practitioner offered no recommendations.

The HPLC and IRRC questioned the ability of certificateholders to meet the 20-hour requirement prior to the biennial renewal of December 31, 2006, in view of the time remaining. The HPLC requested information as to the Board's efforts to inform its certificateholders about the continuing education requirement and also suggested a prorating of the required hours for the current biennium. IRRC suggested that the requirements be effective with the biennial renewal period beginning January 1, 2007. The Board acknowledges the concerns of the HPLC and IRRC. However, all certificateholders have had a significant period of time to obtain the continuing education hours. In anticipation of these concerns and in recognition of the length of the regulatory review process, the Board sent a direct mailing to all respiratory care practitioners certified by the Board in the beginning of June 2005. In addition, the new requirements have been posted on the Board's website since September 2004. Therefore, all respiratory care practitioners certified by the Board have had personal notification in excess of 18 months to obtain the required hours. The Board believes 18 months is more than sufficient time to obtain 20 continuing education hours. IRRC further suggested that the Board permit a portion of the credit hours to be obtained by nontraditional methods.

The Board has no objection to the 50/50 split in the manner of obtaining the continuing education credits. Recognizing the benefits of modern technology as a tool in the learning process and acknowledging that individuals will learn and gain information in the manner which is most useful and relevant to them, the Board has determined to accept continuing education obtained through web-casting, teleconferencing and other nontraditional methods, so long as the provider has mechanisms in place to verify participation. The Board concurs with the PSRC, which appeared before the Board twice following the public comment period, that no more than 50% of the continuing education hours be obtained in a nontraditional manner. In reaching this conclusion, the Board has also taken into consideration that the nontraditional method of education is less expensive, which is a concern for certificateholders. Further, in consideration of the comment of the PSRC, and consistent with the continuing education requirements for other Board licensees, the Board has determined that 1 continuing education hour should be required in patient safety and 1 continuing education hour should be required in medical ethics. The Board has been assured by the PSRC that these types of continuing education credit hours are available.

The HPLC and IRRC suggested that the word "next" be replaced with the word "current" in § 18.309(c). The HPLC and IRRC further suggested that the phrase "all or a portion of" be added to § 18.309a(3). The HPLC and IRRC also suggested that the language in section

36.1(f)(4) of the act pertaining to waiver be added to § 18.309a(3). The HPLC recommended that the language in § 18.309(a)(2) be replaced with the language in section 36.1(f)(3) of the act. The HPLC and IRRC suggested that the term “licensee” in § 18.309a(4) be replaced with the word “certificateholder” to track the language of the act. The Board has no objection to these language modifications since they do not alter the intent of the provisions. These revisions have been incorporated in this final-form rulemaking.

The HPLC sought clarification from the Board on what the phrase “advanced coursework in respiratory care” means in § 18.309b(b). The Board has added language to that section to address the HPLC’s concerns. The HPLC also requested a punctuation change, which had previously been made by the Legislative Reference Bureau prior to publication of this rulemaking in the *Pennsylvania Bulletin*.

The HPLC requested assurances that the final-form rulemaking will be in place by December 31, 2006. The Board is committed to the expeditious completion of this final-form rulemaking, and has acted accordingly. The Board does not anticipate any untoward delay by reviewing agencies or reviewing bodies under the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

*E. Description of Amendments*

Section 18.309(c) is amended to delete “next” and substitute “current.” Section 18.309a is expanded by addition of § 18.309a(a)(2). Section 18.309a(a)(2) requires that at least 50% of the required credit hours be taken in lecture or clinical presentations and that no more than 50% of the required credit hours may be taken through individual study. Section 18.309a(a)(4) requires that 1 continuing education hour be completed in patient safety and 1 continuing education hour be completed in medical ethics beginning with the biennial period ending December 31, 2008. The language in § 18.309a(b), which was formerly § 18.309a(a)(2), is deleted and replaced by the language in section 36.1(f)(3) of the act. The phrase “all or a portion of” is inserted to amend § 18.309a(c), which was formerly § 18.309a(3). In addition, this subsection is further amended to add the language in section 36.1(f)(4) of the act pertaining to waiver.

As noted by the HPLC and IRRC, § 18.309a(4) of the proposed rulemaking erroneously referred to respiratory care practitioners as “licensee” instead of “certificateholder.” This error is corrected in this final-form rulemaking in renumbered § 18.309a(d). As suggested by the HPLC, the Board clarifies what is intended to constitute advanced course work in § 18.309b(b).

*F. Fiscal Impact and Paperwork Requirements*

The final-form rulemaking has no adverse fiscal impact or additional paperwork requirements imposed on the Commonwealth, its political subdivisions or the private sector.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 5520, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 13, 2006 this final-form rulemaking was approved by the HPLC. On July 5, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 6, 2006, and approved the final-form rulemaking.

*I. Contact Person*

Further information may be obtained by contacting Sabina I. Howell, Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, showell@state.pa.us.

*J. Findings*

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 35 Pa.B. 5520.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 18, are amended by amending §§ 18.302 and 18.309 and by adding §§ 18.309a and 18.309b to read as set forth in Annex A.

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

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

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

CHARLES D. HUMMER, Jr., M. D.,  
*Chairperson*

*(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)*

**Fiscal Note:** Fiscal Note 16A-4921 remains valid for the final adoption of the subject regulations.

## Annex A

TITLE 49. PROFESSIONAL AND  
VOCATIONAL STANDARDS

## PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND  
OCCUPATIONAL AFFAIRSCHAPTER 18. STATE BOARD OF  
MEDICINE—PRACTITIONERS OTHER THAN  
MEDICAL DOCTORSSubchapter F. RESPIRATORY CARE  
PRACTITIONERS**§ 18.302. Definitions.**

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

*AARC*—American Association for Respiratory Care, an organization which provides and approves continuing professional development programs.

*AMA*—American Medical Association, an organization which provides and approves continuing professional development programs.

*AOA*—American Osteopathic Association, an organization which provides and approves continuing professional development programs.

*Act*—The Medical Practice Act of 1985 (63 P. S. §§ 422.1—422.45.)

*CRTT*—The Certification Examination For Entry Level Respiratory Therapy Practitioners, a National uniform examination developed and administered by the NBRC for certified respiratory care therapy practitioners.

*CSRT*—Canadian Society of Respiratory Therapists, an organization which provides and approves continuing professional development programs.

*Continuing education hour*—Fifty minutes of continuing education.

*JRCRTE*—The Joint Review Committee on Respiratory Therapy Education, which accredits respiratory care programs.

*NBRC*—The National Board for Respiratory Care, the agency recognized by the Board to credential respiratory care practitioners.

*Respiratory care practitioner*—A person who has been certified in accordance with the act and this subchapter.

**§ 18.309. Renewal of certification.**

(a) A certification issued under this subchapter expires on December 31 of every even-numbered year unless renewed for the next biennium.

(b) Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board.

(c) To retain the right to engage in practice, the certificateholder shall renew certification in the manner prescribed by the Board, complete the continuing education requirement set forth in § 18.309a (relating to requirement of continuing education) and pay the required fee prior to the expiration of the current biennium.

(d) When a certification is renewed after December 31 of an even-numbered year, a penalty fee of \$5 for each month or part of a month of practice beyond the renewal date will be charged in addition to the renewal fee.

**§ 18.309a. Requirement of continuing education.**

(a) The following continuing education requirements shall be completed each biennial cycle, commencing with the biennial period ending December 31, 2006:

(1) An applicant for biennial renewal or reactivation of certification is required to complete, during the 2 years preceding the application for renewal or reactivation, a minimum of 20 hours of continuing education as set forth in section 36.1(f)(2) of the act (63 P. S. § 422.36.1(f)).

(2) At least 10 continuing education hours shall be obtained through classroom lecture, clinical presentation, real-time web-cast or other live sessions where a presenter is involved.

(3) No more than 10 continuing education hours may be obtained through Internet presentations, journal review programs, prerecorded video presentations or similar means of nontraditional education. To qualify, the provider shall make available documented verification of completion of the course or program.

(4) Commencing with the biennial period ending December 31, 2008, 1 continuing education hour shall be completed in medical ethics, and 1 continuing education hour shall be completed in patient safety.

(b) An individual applying for the first time for certification is exempt from the continuing education requirement for the biennial renewal period following initial certification.

(c) The Board may waive all or a portion of the requirements of continuing education in cases of serious illness, or other demonstrated hardship or military service. It shall be the duty of each certificateholder who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The request must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why the certificateholder is unable to comply with the continuing education requirement. The Board will grant, deny or grant in part the request for waiver and will send the certificateholder written notification of its approval or denial in whole or in part of the request. A certificateholder who requests a waiver may not practice as a respiratory care practitioner after the expiration of the certificateholder's current certificate until the Board grants the waiver request.

(d) A certificateholder shall maintain the information and documentation supporting completion of the hours of continuing education required, or the waiver granted, for at least 2 years from the commencement of the biennial renewal period to which the continuing education or waiver applies and provide the information and documentation to representatives of the Board upon request.

**§ 18.309b. Approved educational courses.**

(a) The Board approves respiratory care continuing education programs designated for professional development credits by the AARC, the AMA, the AOA and the CSRT. The courses, locations and instructors provided by these organizations for continuing education in respiratory care are deemed approved by the Board. Qualifying AMA continuing education programs shall be in AMA PRA Category I as defined in § 16.1 (relating to definitions) and qualifying AOA continuing education programs shall be in Category 1A and 1B.

(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of

Education which offers academic credits is also approved for continuing education credit by the Board. Advanced course work is any course work beyond the academic requirements necessary for certification as a respiratory care practitioner. Proof of completion of the academic credits shall be submitted to the Board for determination of number of continuing education hours completed.

(c) The Board will not accept courses of study which do not relate to the clinical aspects of respiratory care, such as studies in office management and financial procedures.

[Pa.B. Doc. No. 06-1541. Filed for public inspection August 11, 2006, 9:00 a.m.]

**STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS**  
**[49 PA. CODE CHS. 47—49]**  
**Sexual Misconduct**

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends §§ 47.61—47.66, 48.21—48.26 and 49.21—49.26 to read as set forth in Annex A. This final-form rulemaking pertains to sexual misconduct committed by licensed social workers, marriage and family therapists and professional counselors.

*A. Effective Date*

This final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

*B. Statutory Authority*

The final-form rulemaking is authorized under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P.S. § 1906(2)).

*C. Background and Purpose*

This final-form rulemaking was developed to address increasing complaints of sexual misconduct against health care professionals who are licensed by the Department of State, Bureau of Professional and Occupational Affairs. This final-form rulemaking addresses issues concerning sexual misconduct in the context of the provision of social work, clinical social work, marriage and family therapy and professional counseling services.

*D. Summary of Comments and Responses on Proposed Rulemaking*

Notice of proposed rulemaking was published at 34 Pa.B. 4908 (September 4, 2004). Publication was followed by a 30-day public comment period during which the Board received comments from the Pennsylvania Chapter of the National Association of Social Workers (NASW-PA) and the Pennsylvania Catholic Conference.

Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The following is a response to the comments and a description of changes to this final-form rulemaking.

*General public comments*

The Pennsylvania Catholic Conference noted that the act defines the terms “licensed clinical social worker,” “licensed marriage and family therapist,” “licensed professional counselor” and “licensed social worker.” However, the proposed rulemaking did not use the term “licensed” and recommended that the Board insert the term “licensed” before all references to these professionals throughout the final-form rulemaking to be consistent with the terminology used in the act. The Board agrees with this recommendation and makes these amendments throughout this final-form rulemaking.

NASW-PA wrote in support of the rulemaking. NASW-PA asked whether a professional who has a sexual addiction problem could be able to disclose that problem to the impaired professional program and receive assistance if the professional was not otherwise subject to disciplinary or corrective action. The Board notes that the impaired professional program is unable to effectively monitor professionals who have a sexual addiction problem. Accordingly, the program is not currently utilized for sexual addiction problems.

*Proposed §§ 47.61, 48.21 and 49.21*

The definitions in proposed §§ 47.61, 48.21 and 49.21 have been moved to §§ 47.1, 48.1 and 49.1 (relating to definitions). The Board intends to propose, in the near future, regulations pertaining to codes of ethics and professional standards of conduct that will use the same definitions. Accordingly, it is advantageous for the Board to move its definitions so that the definitions will apply to other future provisions that also use the defined terms. As a result of this change, the remaining sections have been renumbered.

In the definition of “client/patient,” the HPLC and IRRC recommended that the word “individual” replace “person.” In addition, IRRC suggested that “person” also be changed to “individual” in §§ 47.62, 48.22 and 49.22 (relating to former sexual partners as clients/patients). The Board agreed with these recommendations and amended the sections accordingly. The HPLC and IRRC also asked for clarification regarding the type of decisions a legal guardian can make for a minor or an incapacitated adult. The Board will defer consideration of this comment. This language has been removed in this final-form rulemaking because the Board intends to deal with this issue in proposed regulations pertaining to codes of ethics and standards of professional practice. The HPLC and IRRC also asked for clarification of the term “other exploitive dual relationships” in the proposed definition of “client/patient.” Because this term will apply to the future regulations, the Board has deleted this reference in this final-form rulemaking.

With respect to the definition of “immediate family member,” the HPLC recommended that the Board review and perhaps borrow language from the definition of “family or household members” in 23 Pa.C.S. § 6102 (relating to definitions). However, the Board notes that the proposed definition is consistent with other licensing boards’ definitions. See regulations of the State Board of Psychology in § 41.1 (relating to definitions). The Board believes that this definition is appropriate for setting a professional standard of conduct for licensees and should remain as proposed for internal consistency.

With respect to the proposed definition of “sexual intimacies,” the HPLC recommended that the Board add language similar to that of the State Board of Nursing that states that licensees have a duty to safeguard the

client/patient's dignity and privacy with respect to sexual matters. The Board is in the process of drafting regulations regarding codes of ethics and professional standards that will include the suggested language. Accordingly, the Board has decided not to include that language in this final-form rulemaking. The HPLC also recommended that the Board add language so that the definition of "sexual intimacies" includes some of the prohibitions in State Board of Nursing regulations with respect to inappropriate touching and inappropriate sexual comments. The Board notes that the proposed definition includes "nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature" and "touching, physical contact or self-disclosure of a sexual or erotic nature." The Board believes that inappropriate touching and inappropriate sexual comments are already included in the language of this definition.

IRRC and the NASW-PA suggested that the Board amend the definition of "sexual intimacies" to clarify that nonsexual physical conduct or self-disclosure does not fall under the definition of "sexual intimacies" and, therefore, is not prohibited behavior. The Board considered this suggestion, but believes that the definition refers to physical conduct or self-disclosure that is of a sexual or erotic nature and, therefore, prohibited. For this reason, the Board does not believe that a provision describing permitted conduct is necessary.

The HPLC asked the Board to consider whether other acts should be described as specifically prohibited, such as involuntary deviate sexual intercourse, aggravated indecent assault and indecent assault. The Board believes that this conduct is encompassed in the revised definition of "sexual intimacies" in subparagraph (vi).

The HPLC and IRRC commented that the definition of "sexual intimacies" prohibits a licensee from soliciting a date from a client/patient, but does not prohibit a licensee from accepting a date from a client/patient. The HPLC suggested expanding the language to prohibit a licensee from accepting a date. The Board has agreed with this suggestion and amended the language in the final-form rulemaking by expanding the definition to include soliciting or accepting a date from a client/patient.

The HPLC noted that the term "exposure" was used in the proposed definition and asked whether the Board intended to refer to "indecent exposure." The Board has amended this language to include "indecent exposure" rather than "exposure" in the definition of "sexual intimacies." The HPLC also noted that part of the definition was in parentheses and recommended that the parentheses be removed. The Board agreed with this suggestion and has removed the parenthesis in the definition.

*Renumbered §§ 47.61, 48.21 and 49.21 (relating to prohibited conduct)*

The HPLC recommended that the final-form rulemaking specifically provide that engaging in conduct that is prohibited by the regulations is unprofessional conduct and will subject the licensee to disciplinary proceedings. The Board agrees and has added a provision to §§ 47.64, 48.24 and 49.24 (relating to disciplinary proceedings).

*Renumbered §§ 47.63, 48.23 and 49.23 (relating to sexual intimacies with a former client/patient or an immediate family member of a former client/patient)*

The HPLC questioned whether the language regarding sexual intimacies between a licensee and a former client/patient or immediate family member violates the Due Process Clause of the United States Constitution. As an example, the HPLC noted that the language prohibits

sexual intimacies for at least 7 years following the termination of the professional relationship and "then only under limited circumstances." The HPLC questioned whether this language puts licensees on sufficient notice as to what conduct is prohibited, as required by the Due Process Clause. The HPLC recommended that the Board consider using language which states the general rule that sexual conduct is prohibited for 7 years and that after 7 years sexual conduct violates the regulations if certain conditions are present. The Board has agreed with this suggestion and has amended the language accordingly.

The HPLC also noted that language regarding sexual intimacies with a former client/patient or an immediate family member of a former client/patient contained no legal standard for the Board to apply with respect to initiating disciplinary action. The HPLC suggested that the Board provide for language that would state that after 7 years a licensee may engage in sexual conduct which is not exploitive. The Board agreed with this suggestion and has amended the language in subsection (b) accordingly.

IRRC requested that the Board explain the relevant factors that support a 7-year time period after termination of the professional relationship during which sexual intimacies between a licensee and a client/patient are prohibited. The Board researched different mental health professional associations regarding licensees and found that there were many positions on the subject. For example, the National Association of Social Workers believes that sexual conduct between a social worker and former client/patient is never appropriate. The position of the American Association for Marriage and Family Therapy is that sexual conduct between a marriage and family therapist and former client/patient would be appropriate in some circumstances after a period of 2 years after the termination of the professional relationship. The National Federation of Societies for Clinical Social Work, Inc. believes there should never be sexual contact between a clinical social worker and a former client/patient. Based upon this research, the Board believes that a 7-year prohibition is an appropriate compromise.

*Renumbered §§ 47.64, 48.24 and 49.24 (relating to disciplinary proceedings)*

The HPLC and IRRC expressed their understanding that the Board believes the language in subsection (c) is a legal standard to impose disciplinary action and that the HPLC and IRRC understands the language to be rather a burden of proof. The HPLC asked whether this shifting of the burden of proof to the licensee is constitutional. The Board agrees with the concerns raised and has decided to amend the language so that it requires that in disciplinary proceedings, the Board will consider whether there has been exploitation of the client/patient.

The HPLC also recommended that the language "may not be a defense" regarding disciplinary proceedings in subsections (a) be changed to "shall not be a defense." The Board considered this suggestion and changed the language to "is not a defense."

The HPLC and IRRC also noted that the blanket prohibition against engaging in sexual intimacies is inconsistent with subsection (c), which provides that in disciplinary proceedings, licensees have the burden of demonstrating there has been no exploitation of the client/patient in light of all of the relevant factors enumerated under §§ 47.64(b)(1)–(7), 48.24(b)(1)–(7) and 49.24(b)(1)–(7), respectively. The Board agreed with



IRRC in that the only situation in which evidence that the relationship was not exploitative is relevant is when the sexual conduct occurs more than 7 years after termination of the professional relationship. The Board, therefore, agreed with IRRC's recommendation that references to §§ 47.62, 47.63, 48.22, 48.23, 49.22 and 49.24 be deleted from subsection (c). The Board has revised these references in final rulemaking.

*E. Fiscal Impact and Paperwork Requirements*

This final-form rulemaking will have no fiscal impact and will not impose additional paperwork requirements on the private sector, the general public or the Commonwealth and its political subdivisions.

*F. Sunset Date*

The Board continually monitors the effectiveness of its regulations through communication with the regulated population. Accordingly, no sunset date has been assigned.

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 23, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4908, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 13, 2006 this final-form rulemaking was approved by the HPLC. On July 5, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 6, 2006, and approved the final-form rulemaking.

*H. Contact Person*

Further information may be obtained by contacting Sandra Matter, Administrative Assistant, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1389.

*I. Findings*

The Board finds that:

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

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

(3) The amendments to this final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 4908.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

*J. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapters 47, 48 and 49, are amended by amending §§ 47.1, 48.1 and 49.1 and by adding §§ 47.61—47.65, 48.21—48.25 and 49.21—49.25 to read as set forth in Annex A.

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

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

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

RONALD E. HAYS,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)*

**Fiscal Note:** Fiscal Note 16A-691 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS**

**GENERAL PROVISIONS**

**§ 47.1. Definitions.**

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

*Accredited program*—A graduate school social work or social welfare program offered by a school accredited by the Council on Social Work Education.

*Accredited school*—A graduate school accredited by the Council on Social Work Education.

*Act*—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922).

*Board*—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

*Client/patient*—An individual, group or family for whom a licensed social worker or licensed clinical social worker provides social work services or clinical social work services. In the case of an individual with a legal guardian, such as a minor or legally incapacitated adult, the individual is the client/patient.

*Immediate family member*—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

*Licensed clinical social worker*—A person who is currently licensed as a licensed clinical social worker under section 7 of the act (63 P. S. § 1907).

*Licensed social worker*—A person who is currently licensed as a licensed social worker under section 7 of the act.

*Professional relationship*—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed social worker or licensed clinical social worker and a client/patient and continuing thereafter until the last date of a professional service. If a licensed social worker or licensed clinical social worker sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed social worker or licensed clinical social worker provides a professional service to the client/patient.

*Provisional licensed social worker*—A person who is currently licensed as a provisional licensed social worker under section 7 of the act.

*Related field*—Includes the fields of psychiatry, psychology, marriage and family therapy, counseling, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

*Sexual intimacies*—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

(i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.

(iii) Sexual invitations.

(iv) Soliciting or accepting a date from a client/patient.

(v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed social worker or licensed clinical social worker.

(vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

*Supervisee*—An individual who is fulfilling the supervised experience requirement for licensure as a clinical social worker.

*Supervision*—The act of overseeing, directing or instructing the activity or course of action of another.

*Supervisor*—An individual providing supervision to a supervisee who meets the criteria in § 47.1a (relating to qualifications for supervisors).

### SEXUAL MISCONDUCT

#### § 47.61. Prohibited conduct.

Sexual intimacies between a licensed social worker or licensed clinical social worker and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

#### § 47.62. Former sexual partners as clients/patients.

Licensed social workers and licensed clinical social workers may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

#### § 47.63. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.

(a) Sexual intimacies between a licensed social worker or licensed clinical social worker and a former client/

patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed social workers and licensed clinical social workers may engage in sexual conduct with a former client/patient, or an immediate family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed social worker or licensed clinical social worker shall consider all of the following:

(1) The amount of time that has passed since the professional relationship terminated.

(2) The nature and duration of the therapy.

(3) The circumstances of termination.

(4) The client/patient's personal history—for example, unique vulnerabilities.

(5) The client/patient's current mental status.

(6) Statements or actions made by the licensed social worker or licensed clinical social worker during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient.

(7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

#### § 47.64. Disciplinary proceedings.

(a) A violation of §§ 47.61—47.63 (relating to prohibited conduct; former sexual partners as clients/patients; sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed social worker or licensed clinical social worker to discipline under section 11(a)(2) of the act (63 P. S. § 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed social worker or licensed clinical social worker is not a defense in any disciplinary action brought under §§ 47.61—47.63.

(c) With the exception of information contained in a professional record, neither opinion evidence, reputation evidence nor specific instances of the past sexual conduct of a former client/patient, or immediate family member of a former client/patient may be admissible in a disciplinary action brought under §§ 47.61—47.63.

(d) In a disciplinary proceeding brought under § 47.63(b), the Board will consider whether there has been exploitation of the client/patient in light of all of the relevant factors enumerated under § 47.63(b)(1)—(7).

#### § 47.65. Impaired professional program.

When the Board takes disciplinary or corrective action against a licensed social worker or licensed clinical social worker under section 11(a) of the act (63 P. S. § 1911(a)), for conduct prohibited by §§ 47.61—47.63 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient, or an immediate family member of a former client/patient), the licensed social worker or licensed clinical social worker will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

**CHAPTER 48. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF MARRIAGE AND FAMILY THERAPISTS**

**GENERAL PROVISIONS**

**§ 48.1. Definitions.**

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

*AAMFT*—The American Association for Marriage and Family Therapy.

*AMFTRB*—The Association of Marital and Family Therapy Regulatory Boards.

*Accredited educational institution*—A graduate school which is recognized as an institution of higher education or which is accredited by a regional accrediting association recognized by the Council for Higher Education Accreditation.

*Act*—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901–1922).

*Board*—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

*COAMFTE*—The Commission on Accreditation for Marriage and Family Therapy Education.

*Client/patient*—An individual, group or family for whom a licensed marriage and family therapist provides marriage and family therapy services. In the case of an individual with a legal guardian, such as a minor or legally incapacitated adult, the individual is the client/patient.

*Doctoral degree in marriage and family therapy*—A doctoral degree which is awarded upon successful completion of a program in marriage and family therapy which is either accredited by COAMFTE, or, which includes coursework that meets the criteria in § 48.2 (relating to educational requirements).

*Field closely related to the practice of marriage and family therapy*—Includes the fields of social work, psychology, counseling, child development and family studies, medicine, nursing, pastoral counseling, ministry, theology, education and sociology.

*Graduate level coursework in marriage and family therapy acceptable to the Board*—Coursework that meets the criteria in § 48.2.

*Immediate family member*—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

*Institution of higher education*—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System. (See 22 Pa. Code § 33.102 (relating to definitions)).

*Master's degree in marriage and family therapy*—A master's degree which is awarded upon successful completion of a program in marriage and family therapy which is either accredited by COAMFTE, or, which includes coursework that meets the criteria in § 48.2.

*MFT*—Marriage and family therapist.

*Planned program of 60 semester hours or 90 quarter hours which is closely related to marriage and family therapy*—A program which includes coursework that meets the criteria in § 48.2.

*Professional relationship*—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed marriage and family therapist and a client/patient and continuing thereafter until the last date of a professional service. If a licensed marriage and family therapist sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed marriage and family therapist provides a professional service to the client/patient.

*Program recognized by a National accrediting agency*—A master, doctor or postgraduate degree training program accredited by COAMFTE.

*Related field*—Includes the fields of psychiatry, psychology, social work, counseling, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

*Sexual intimacies*—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

(i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.

(iii) Sexual invitations.

(iv) Soliciting or accepting a date from a client/patient.

(v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed marriage and family therapist.

(vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

*Supervisee*—An individual who is fulfilling the supervised experience requirement for licensure.

*Supervision*—The act of overseeing, directing or instructing the activity or course of action of another.

*Supervisor*—An individual providing supervision to a supervisee who meets the criteria in § 48.3 (relating to qualifications for supervisors).

**SEXUAL MISCONDUCT**

**§ 48.21. Prohibited conduct.**

Sexual intimacies between a licensed marriage and family therapist and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

**§ 48.22. Former sexual partners as clients/patients.**

Licensed marriage and family therapists may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

**§ 48.23. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.**

(a) Sexual intimacies between a licensed marriage and family therapist and a former client/patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed marriage and family therapists may engage in sexual conduct with a former client/patient, or an immediate

family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed marriage and family therapist shall consider all of the following:

- (1) The amount of time that has passed since the professional relationship terminated.
- (2) The nature and duration of the therapy.
- (3) The circumstances of termination.
- (4) The client/patient's personal history, for example, unique vulnerabilities.
- (5) The client/patient's current mental status.
- (6) Statements or actions made by the licensed marriage and family therapist during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient.
- (7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

#### § 48.24. Disciplinary proceedings.

(a) A violation of §§ 48.21—48.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed marriage and family therapist to discipline under section 11(a)(2) of the act (63 P. S. § 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed marriage and family therapist is not a defense in any disciplinary action brought under §§ 48.21—48.23.

(c) With the exception of information contained in a professional record, neither opinion evidence, reputation evidence nor specific instances of the past sexual conduct of a former client/patient or immediate family member of a former client/patient may be admissible in a disciplinary action brought under §§ 48.21—48.23.

(d) In a disciplinary proceeding brought under § 48.23(b), the Board will consider whether there has been exploitation of the client/patient in light of all of the relevant factors enumerated under § 48.23(b)(1)—(7).

#### § 48.25. Impaired professional program.

When the Board takes disciplinary or corrective action against a licensed marriage and family therapist under section 11(a) of the act (63 P. S. § 1911(a)), for conduct prohibited by §§ 48.21—48.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient, or an immediate family member of a former client/patient), the licensed marriage and family therapist will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

### CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS

#### GENERAL PROVISIONS

##### § 49.1. Definitions.

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

*Accredited educational institution*—A graduate school which is recognized as an institution of higher education or which is accredited by a regional accrediting association recognized by the Council for Higher Education Accreditation.

*Act*—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922).

*Board*—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

*CACREP*—Council for Accreditation of Counseling and Related Programs.

*Client/patient*—An individual, group or family for whom a licensed professional counselor provides professional counseling services. In the case of an individual with a legal guardian such as a minor or legally incapacitated adult, the individual is the client/patient.

*Doctoral degree in a field closely related to the practice of professional counseling*. Includes one of the following:

(i) Doctoral degrees in social work, psychiatry, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.

(ii) Another doctoral degree in any applied behavioral science which is awarded after successful completion of a master's degree in a field closely related to the practice of professional counseling and that includes advanced (beyond the master's level) clinical instruction and advanced (beyond the master's level) coursework in any five of the educational requirements in § 49.2(1)—(8) (relating to educational requirements).

*Doctoral degree in professional counseling*—A doctoral degree which is awarded upon successful completion of a program which includes coursework that meets and builds upon the educational requirements in § 49.2.

*Immediate family member*—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

*Institution of higher education*—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System. See 22 Pa. Code § 33.102 (relating to definitions).

*Master's degree in a field closely related to the practice of professional counseling includes*—One of the following:

(i) Degrees in social work, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.

(ii) A degree in any applied behavioral science that includes a practicum or internship and meets any five of the educational requirements in § 49.2(1)—(8).

*Planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling*—A program which includes coursework that meets the criteria in § 49.2.

*Professional relationship*—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed professional counselor and a client/patient and continuing thereafter until the last date of a professional service. If a licensed professional counselor sees a client/patient on an intermittent basis, the professional rela-

tionship is deemed to start anew on each date that the licensed professional counselor provides a professional service to the client/patient.

*Related field*—Includes the fields of psychiatry, psychology, social work, marriage and family therapy, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

*Sexual intimacies*—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

- (i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.
- (ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.
- (iii) Sexual invitations.
- (iv) Soliciting or accepting a date from a client/patient.
- (v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed professional counselor.
- (vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

*Supervisee*—An individual who is fulfilling the supervised experience requirement for licensure.

*Supervision*—The act of overseeing, directing or instructing the activity or course of action of another.

*Supervisor*—An individual providing supervision to a supervisee who meets the criteria in § 49.3 (relating to qualifications for supervisors).

**SEXUAL MISCONDUCT**

**§ 49.21. Prohibited conduct.**

Sexual intimacies between a licensed professional counselor and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

**§ 49.22. Former sexual partners as clients/patients.**

Licensed professional counselors may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

**§ 49.23. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.**

(a) Sexual intimacies between a licensed professional counselor and a former client/patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed professional counselors may engage in sexual conduct with a former client/patient, or an immediate family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed professional counselor shall consider all of the following:

- (1) The amount of time that has passed since the professional relationship terminated.
- (2) The nature and duration of the therapy.
- (3) The circumstances of termination.

(4) The client/patient's personal history, for example, unique vulnerabilities.

(5) The client/patient's current mental status.

(6) Statements or actions made by the licensed professional counselor during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient.

(7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

**§ 49.24. Disciplinary proceedings.**

(a) A violation of §§ 49.21—49.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed professional counselor to discipline under section 1911(a)(2) of the act (63 P. S. §§ 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed professional counselor is not a defense in any disciplinary action brought under §§ 49.21—49.23.

(c) With the exception of information contained in a professional record, neither opinion evidence, reputation evidence nor specific instances of the past sexual conduct of a former client/patient or immediate family member of a former client/patient may be admissible in a disciplinary action brought under §§ 49.21—49.23.

(d) In a disciplinary proceeding brought under § 49.23(b), the Board will consider whether there has been exploitation of the client/patient in light of all of the relevant factors enumerated under § 49.23(b)(1)—(7).

**§ 49.25. Impaired professional program.**

When the Board takes disciplinary or corrective action against a licensed professional counselor under section 11(a) of the act (63 P. S. § 1911(a)), for conduct prohibited by §§ 49.21—49.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient, or an immediate family member of a former client/patient), the licensed professional counselor will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

[Pa.B. Doc. No. 06-1542. Filed for public inspection August 11, 2006. 9:00 a.m.]

**Title 61—REVENUE**

**DEPARTMENT OF REVENUE**

**[61 PA. CODE CH. 901]**

**Local Option Small Games of Chance**

The Department of Revenue (Department), under section 9 of the Local Option Small Games of Chance Act (act) (10 P. S. § 319), amends Chapter 901 (relating to small games of chance) to read as set forth in Annex A.

*Purpose of this Final-Form Rulemaking*

This final-form rulemaking contains comprehensive amendments to Chapter 901 to incorporate legislative changes made to the act by the act of December 19, 1990

(P. L. 812, No. 195) (Act 195) and the act of October 18, 2000 (P. L. 602, No. 79) (Act 79). This final-form rule-making also codifies policy and administrative changes regarding games of chance.

#### *Explanation of Regulatory Requirements*

The Department made numerous global changes to Chapter 901 to amend terminology, including deletion of the term "small" in conjunction with the phrase "games of chance." This change amends the regulations to be more consistent with the enabling statute. Examples of other changes include the replacement of "club" with "eligible organization" to be consistent with the change made in Act 195, the replacement of "county" with "licensing authority," the replacement of "registration" with "certificate" and the replacement of "special permit" with "special raffle permit." Numerous minor additions, revisions and deletions (including changes from passive to active voice) are made for clarity and readability throughout Chapter 901.

#### *Subchapter A. General Provisions*

##### *Definitions*

Several amendments to § 901.1 (relating to definitions) bring the definitions into conformity with statutory changes and codify policy and administrative changes. An explanation of each addition or amendment is provided and definitions of the following terms are added for clarity: "applicant," "application," "chance," "license," "licensee," "manufacturer registration certificate or certificate," "nonoperating day," "Office of Attorney General," "pull-tab game," "punch," "registrant," "registration," "special raffle permit" and "State Lottery Law."

The following provisions are referenced in Act 195 and definitions are added to explain the terms: "auxiliary group," "normal business or operating site" and "operating day."

"Bona fide member" is amended to delete references to "club" and adds reference to the term "eligible organization." "Civic and service association" is defined in section 3 of Act 195 (10 P. S. § 313) and is added for use in this chapter. Within this definition, the term "bona fide" is used. For purposes of this chapter, "bona fide" is interpreted according to its common usage that is defined as follows: "in or with good faith, honestly, openly, and sincerely—without deceit or fraud."

"Club" was amended in section 3 of Act 195.

The following terms are defined in section 3 of Act 195 and added for use in this chapter: "daily drawing," "dispensing machine," "eligible organization," "fraternal organization" and "passive selection device."

The following definitions are amended for clarity: "deal," "flare," "manufacturer," "petition," "petitioner" and "punchboard."

"Distributor" is amended to delete references to "small" and "club" and adds reference to "eligible organization."

The following definitions are amended to delete references to "small": "distributor's representative," "manufacturer" and "manufacturer's representative."

"Game of chance or game" is amended for clarity and because of revisions to section 3 of Act 195 and section 3 of Act 79 (10 P. S. § 313).

The following definitions are added for use in this chapter: "hold ticket," "home association" and "seal card."

"Legitimate club purposes" is deleted in accordance with amendments to section 3 of Act 195. The term is replaced with "public interest purposes."

Although "licensed premises" was used in the original enabling statute, it was not defined in the original regulations. The term is again used in Act 195 and a definition is added for clarity.

"Limited occasion license" is added to explain a new type of license authorized in section 10(b.3) of Act 195 (10 P. S. § 320(b.3)).

"Lottery" is deleted in accordance with amendments in section 3 of Act 195.

"Operating week" is added for clarity and use in this chapter. The term replaces the phrase "7-day period."

"Public interest purposes" is defined within the amendments in section 3 of Act 195. The term replaces "legitimate club purpose" and the definition is added for use in this chapter.

"Pull-tab" and "raffle" are amended because of amendments to section 3 of Act 195.

The definition of "responsible person" is amended for clarity, to update references of the term "club" to "eligible organization" and delete references to the term "small."

"Veterans organization" is added because of amendments to section 3 of Act 195.

"Weekly drawing" is added because of amendments to section 3 of Act 79.

##### *General applicability*

Section 901.22 is rescinded because the subject matter is adequately addressed in § 901.701 (relating to games of chance permitted). The existing text of § 901.23 (relating to restriction of sales) is deleted and replaced with more explanatory language regarding the restrictions on sales by a registered manufacturer, a licensed distributor and the purchase of games of chance by an eligible organization. Section 901.23(a) is added to explain that a certificate, license or game of chance that has been denied, suspended, revoked or expired is not valid.

Section 901.28(a)(2) (relating to inspection of premises) is amended to allow inspection when a reasonable belief exists that a violation of the act or Chapter 901 has occurred, is occurring or will occur. Paragraph (3) is amended to specifically provide that an inspection must be limited to the inspection of matters, areas and records associated with games of chance to insure compliance with the act and this part. Subsection (b) is amended to allow the Department or its authorized representatives to make annual inspections for compliance purposes.

Section 901.31 (relating to examination of records) is amended to clarify that an examination of records can be made apart from the examination made during an inspection of the premises. Subsections regarding actions by the district attorney and other law enforcement officials are deleted because they are beyond the scope of these regulations.

Section 901.34 (relating to disputes) is amended to clarify that the retention period for records regarding a dispute about whether the chance is a winning chance, starts at the date of the dispute rather than at the date of resolution.

Proposed § 901.40 is not added in this final-form rulemaking because the language was duplicative of § 901.513 (relating to gambling facilities prohibited).

Proposed § 901.41 is renumbered as § 901.40 (relating to operating days, nonoperating days and operating weeks) as a result of the previous change. This section is added to provide guidance regarding the concept for purposes of game operations.

#### *Administration*

The introductory language in § 901.51 (relating to power and duties) is amended to clarify that the lists of powers and duties are not all inclusive. In addition, paragraph (10) is added to specifically state that the Department has the power and authority to initiate legal proceedings, in law or equity, before any court or tribunal, for purposes of administering or enforcing the provisions of the act or Chapter 901. Other provisions are amended or added for clarity. Subsections (b) and (c) are deleted because they are beyond the scope of these regulations.

#### *Subchapter B. Licensing and Registration*

##### *Manufacturer registration*

Sections 901.101, 901.102 and 901.103(5) (relating to manufacturer registration and game approval required; registration and game approval forms; and manufacturer registration application form contents) are amended by adding language outlining the game approval process.

Section 901.103(2) is deleted and replaced with more explanatory language regarding the application requirements for games of chance manufacturers.

Section 901.103a (relating to change of application information) is added to provide that a manufacturer shall report changes to the information supplied in its application to the Department within 15 days of the change.

Section 901.106 (relating to registration term) is amended to specifically detail the manufacturer's registration term.

Section 901.107 (relating to annual applications) is amended to give the Department 60 days to process registration applications prior to the end of the registration term as permitted under § 901.118 (relating to registration decision time limit). With this amendment, a manufacturer that complies should not have a break in registration coverage.

Section 901.109 (relating to certificate) is amended to explain that a manufacturer's certificate must be maintained on the manufacturer's premises and available for inspection upon request of certificate.

Section 901.112 is rescinded because the topic is addressed in § 901.23(a)(2).

Section 901.113(a) (relating to representatives of manufacturer) is deleted because the topic is addressed in § 901.23(a)(2).

To bring § 901.114 (relating to dissolutions, terminations, mergers and bankruptcies) into conformity with § 901.148 (relating to dissolutions, terminations, mergers and bankruptcies), the section is amended by adding subsection (b), which provides that a notice of the decision to dissolve is required even if filing is not required.

Consistent with amendments to §§ 901.101 and 901.102 regarding game approval, § 901.117(a) (relating to denial, notice of violation and revocation) is amended by adding to the enumerated acts for which the Department has the authority to deny an application for a

certificate, provide a notice of violation or revoke a certificate. Subsection (b) is added to provide that the Department may deny an application for a game of chance approval and may provide a notice of violation or revoke an approved game of chance if the game fails to meet the requirements of the act or Chapter 901. The addition of subsection (c) sets forth that a manufacturer in violation with the act or this part will be notified of the violation and has an opportunity to remedy the violation.

Section 901.117a (relating to registration following revocation) is added to provide guidance on the length of time a manufacturer whose certificate is revoked is ineligible to apply for and receive another certificate for a first, second, third and subsequent revocation.

Section 901.119 (relating to raffle, daily drawing and weekly drawing ticket manufacturers) is amended to clarify that §§ 901.101—901.118 do not apply to manufacturers who only produce and sell raffle, daily drawing and weekly drawing tickets.

##### *Distributor licensing*

Section 901.132 (relating to license application form) is amended to clarify that to obtain a license, a distributor must submit a license application to the Department.

Section 901.133(a) (relating to distributor license application form contents) is added to provide that a distributor shall report any changes to the information supplied in its application to the Department within 15 days of the change.

Section 901.136 (relating to license term) is amended to provide a more accurate description of a distributor license term.

Section 901.137 (relating to annual application) is also completely amended to give the Department 60 days to process license applications prior to the end of the licensing term as permitted under § 901.152 (relating to licensing decision time limits). Thus, a distributor that complies with the licensing terms should not have a break in licensing coverage.

Section 901.142(a) (relating to distributor's representative) is deleted because the topic is addressed in § 901.23(b)(2). The remaining text is reformatted accordingly.

Section 901.150 (relating to changes in ownership or personnel) is amended by requiring changes in responsible persons to be reported to the Department within 15 days of the deletion or addition. The time period in which to make the report is amended to provide the Department with more current information.

Section 901.151 (relating to denial, notice of violation and revocation of licenses) is amended by adding clarifying language to new subsection (a) and by adding subsections (b) and (c), regarding notice of violation and notice. The notice of violation and notice provisions are consistent with those added to § 901.117 for manufacturers.

Section 901.151a (relating to licensing following revocation) is added to provide guidance on the length of time a distributor whose license is revoked is ineligible to apply for and receive another license for a first, second, third and subsequent revocation.

Section 901.153 (relating to raffle, daily drawing and weekly drawing ticket distributors) is amended to clarify that §§ 901.131—901.152 do not apply to distributors who only sell raffle, daily drawing and weekly drawing tickets.

*Board procedures*

Sections 901.161, 901.165 and 901.168 (relating to jurisdiction and purpose; board practice and procedure; and stay of appeal) are amended to revise the wording to make it consistent with amendments being made throughout Chapter 901.

*Eligible organization licensing*

Sections 901.181—901.190 are rescinded.

Section 901.191 (relating to license application form) is amended to reflect the changes to section 10 of Act 195, including the addition of paragraph (20) requiring a list of the eligible organization's auxiliary groups which may operate games of chance under the eligible organization's license.

Sections 901.192—901.194 are rescinded.

With the addition of the limited occasion license under section 10(b.3) of Act 195, the Department added § 901.195 (relating to types of licenses) to distinguish between a game of chance and limited occasion license and to clarify that an eligible organization may only hold one type of license at a time.

Section 901.196 (relating to limited occasion license requirements, limits and restrictions) is also added to provide information on the use of a limited occasion license and related restrictions.

Section 901.197 (relating to change of application information) is added to provide that an eligible organization shall report any changes to the information supplied on its license application to the licensing authority within 15 days of the change.

Sections 901.211—901.219 are rescinded.

*Subchapter C. Local Option**Local option requirement and local option reporting*

Consistent with section 10(g) of Act 195, § 901.309 (relating to public information) is amended to acknowledge that information regarding the approval or disapproval of games of chance by local referendum can be obtained from the licensing authority and the county board of elections.

*Subchapter D. Recordkeeping**County records and reports*

Sections 901.401—901.404 and 901.406 are rescinded.

The Department is deviating from standard drafting rules in §§ 901.405 and 901.407 (relating to list of licensed eligible organizations; and list of municipalities) in that when "shall" would normally be used, it is instead using "will," since the provisions are those of the licensing authority and the use of "will" is appropriate when the licensing authority is pledging to act. To bring § 901.405 into conformity with the enabling statute, the section is amended to state that the licensing authority will submit, on a biannual basis, a copy of all information regarding licensees to the Department. The section is further amended to require the information to include the type of license and any special raffle permit serial number.

Although some of these rules are noted elsewhere, new § 901.407 provides the licensing authority with a central place to reference the rules regarding the maintenance of a list of municipalities that have approved the referendum question on games of chance.

*Manufacturing records and reports*

Section 901.423 (relating to annual records) adds clarification language for maintaining annual records for no less than 5 years.

The existing text of § 901.425(1)(iv) (relating to records) is amended to include that each game listed on the invoice which the Department has approved for sale must be clearly noted.

*Distributor records and reports*

Section 901.443 (relating to annual records) adds clarification language for maintaining annual records for no less than 5 years.

*Licensed eligible organization records*

Section 901.461 (relating to annual records) adds language to conform to the statutory requirement of a 2-year record retention requirement for annual records of licensed eligible organizations.

For consistency with the rules regarding record requirements for raffles and daily drawings, paragraph (9) is added to § 901.464 (relating to punchboard and pull-tab records) to require a list of winners' names and addresses for prizes in excess of \$100.

The definition of "games of chance" was broadened by section 3 of Act 195 to include daily drawings and by section 3 of Act 79 to include weekly drawings. Section 901.464a (relating to daily and weekly drawing records) is added to provide guidance regarding recordkeeping requirements for each of these games.

*Subchapter E. Prohibited Activities/Penalties**Prohibited activities*

In accordance with section 15 of Act 195 (10 P. S. § 325), § 901.501 (relating to advertising) is amended to provide that an eligible organization may advertise prizes and values thereof in periodic publications that are limited in circulation to members of the eligible organization.

Section 901.502(c) (relating to persons) is amended to reflect changes to section 10(d)(2) of Act 195 regarding conviction of a felony or a violation of the Bingo Law (10 P. S. §§ 301—308.1).

Act 195 amended section 10(d)(3) by deleting the requirement that the persons conducting the games of chance be bona fide members of the club for at least 1 year. Therefore, § 901.504 (relating to persons who may conduct games) is amended to delete the 1-year requirement.

To be consistent with the prize limitation exceptions for both a daily drawing and weekly drawing in section 5(f) and (g) of Act 195 (10 P. S. § 315(f) and (g)) and section 5(g) and (h) of Act 79 (10 P. S. § 315(g) and (h)), §§ 901.507 and 901.508 (relating to prizes in excess of \$500; and prizes in excess of \$5,000) are amended.

Act 195 amended section 10(d)(7) regarding the use of a licensed eligible organization's premises by another licensed eligible organization. Section 901.510 (relating to use of licensed premises by more than one organization) is amended to incorporate the new statutory guidelines in this area.

Section 901.512 (relating to oral and written leases) is added to address the provisions of section 10(b.1) and (d)(5) of Act 195.

Section 901.513 is added to address the provisions of section 10(b.4) of Act 195.



*Penalties*

To be consistent with the amendments to section 17 of Act 195 (10 P. S. § 327) regarding penalties for violations of the provisions of the act by eligible organizations and individuals, §§ 901.531 and 901.532 (relating to eligible organizations; and individuals) are amended.

*Subchapter F. Manufacturing Standards**Pull-tab manufacturing standards*

Section 901.601(a) (relating to uniform minimum quality standards) is amended to correct the reference to the North American Gaming Regulations Association publication regarding manufacturing standards for pull-tab games and to provide clarity with regard to the application of the standards.

Section 901.601(c) is added to provide guidance for the randomization of pull-tabs in a deal so as to eliminate any pattern in the location of winning pull-tabs.

Sections 901.602 and 901.621 (relating to flares) are amended to clarify who can make a flare and who can alter a flare.

Sections 901.608 and 901.627 (relating to standards for flares) are amended to clarify the regulations regarding flares.

*Punchboard manufacturing standards*

Section 901.622 (relating to standards for construction) is amended by adding paragraph (1) to describe four general construction guidelines regarding the punchboard face sheet, flare, serial numbers and punches. The existing paragraphs are renumbered accordingly.

Section 901.631 (relating to subcontracting and manufacturer responsibility) is added to provide guidance to subcontractors of games of chance and registered manufacturers who elect to subcontract the manufacturing or production of games of chance.

Section 901.632 (relating to predetermination of rules, winning chances and prizes) is added to provide that a manufacturer of pull-tab games or punchboards must predetermine the rules and prizes.

Section 901.633 (relating to the prohibitions against participant control of winning chances or prizes) is added to explain that a participant who purchases a chance in the game is prohibited from controlling, effecting or choosing the winning chances or the corresponding prizes.

*Subchapter G. Operation of Games**Eligible organization operation of games*

Section 901.701(c) is added to explain that a participant who purchases a chance in a game is prohibited from controlling, effecting or choosing the winning chances or corresponding prizes.

Section 901.701a (relating to license required) reflects various licensing revisions. Subsection (a) is added to explain that an eligible organization may not conduct or operate games of chance without a valid license. Subsection (b) is added to explain the licensing requirements pertinent to auxiliary groups.

Section 901.701b (relating to display) is added to explain that a licensed eligible organization is required to display its license at the site where it conducts games of chance.

Section 901.701c (relating to location of games) is added to provide guidance to eligible organizations regarding the location of games.

Section 901.702 (relating to prize limits) is amended to reflect various statutory revisions. The total cash value of prizes that can be awarded under special raffle permits in § 901.702(d) is amended to reflect the statutory change in section 5(d)(4) of Act 79. Subsection (e) is added to explain the prize limit exceptions for daily drawings in section 5(e)—(g) of Act 79. Subsection (f) is added to explain the prize limit exceptions for weekly drawings in section 5(g) and (h) of Act 79.

Section 901.703 (relating to place of conduct) is amended to reflect the statutory changes in section 10(b.1) and (b.2) of Act 195 regarding where games of chance can be conducted.

Section 901.704 (relating to licensed premises) is amended to reflect the new statutory provisions regarding the location of games of chance in section 10(b.1) and (d)(5) of Act 195.

Section 901.705 (relating to purchase of games) is amended to incorporate the statutory change in section 10(d)(6) of Act 79 (10 P. S. § 320(d)(6)) regarding the purchase of weekly drawings.

Section 901.706 (relating to persons who may not operate or play games of chance) is amended to reflect the changes in section 10(d)(1) and (2) of Act 195 regarding persons permitted to operate or play games of chance and the conviction of a felony or a violation of the Bingo Law.

The 1-year membership requirement in § 901.708 (relating to persons who may conduct games of chance) is deleted in accordance with the amendment to section 10(d)(3) of Act 195.

Section 901.709 (relating to one eligible organization per premises) is amended to reflect section 10(b.1) of Act 195 regarding the use of a premises by more than one eligible organization.

With the deletion of section 11(c) in Act 195 (10 P. S. § 321(c)), regarding the prohibition of use of a licensed premises by more than one licensed club for a special raffle permit in a calendar year, § 901.711 is rescinded.

Section 901.712 (relating to raffle, daily drawing and weekly drawing game rules and prizes) is added to describe the guidelines an eligible organization must establish prior to conducting a raffle, daily drawing or weekly drawing.

*Punchboards and pull-tab operation procedures*

Section 901.731(b) (relating to punchboard and pull-tab operation) is amended by placing the current text in paragraph (1) and adding paragraph (2) to describe under what conditions a licensed eligible organization may alter a flare. Subsection (e)(3) is deleted and replaced with more explanatory language regarding the procedure that will be used to preserve the randomization of a pull-tab deal. Subsection (e)(5) is added to explain that deals may not be commingled.

*Raffles*

With the removal of the restriction on sales of raffle tickets in section 10(d)(4) in Act 195, § 901.742 (relating to drawing dates) is amended to provide guidance on the new rules regarding raffle drawing dates consistent with the definition of "raffle" as amended in section 3 of Act 195.

Section 901.743(b) (relating to raffle tickets) provides that, generally, each part of a raffle ticket must be imprinted with sequential numbers beginning with the number "1" through the maximum number of tickets to be sold. Subsection (b) is amended to clarify that when a

raffle winner is determined by a drawing of the Pennsylvania State Lottery, the universe of eligible ticket numbers shall correspond to the universe of eligible numbers in the Pennsylvania State Lottery drawing.

Consistent with the change to the definition of "raffle" in section 3 of Act 195, § 901.745 (relating to printing requirements) is amended to provide that dates, times and locations of the drawings shall be printed on each raffle ticket sold.

Section 901.751 (relating to ticket sales) is amended to incorporate the new rules regarding the sale of raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed in section 10(d)(8) of Act 195.

In accordance with the provisions in the definitions of "passive selection device" and "raffle" in section 3 of Act 195, § 901.753 (relating to means of determining winning numbers) is added to provide guidance in this area.

#### *Lotteries*

Because lotteries are no longer considered a separate game of chance, but rather a type of raffle under the amendments to the definitions of "games of chance," "lottery" and "raffle" in section 3 of Act 195, §§ 901.761—901.778 are rescinded.

#### *Daily drawings*

Sections 901.781—901.786 (relating to daily drawings) are added to provide guidance regarding the rules for daily drawings, which were authorized by Act 195.

#### *Weekly drawings*

Sections 901.791—901.796 (relating to weekly drawings) are added to provide guidance regarding the rules for weekly drawings, which were authorized by Act 79.

#### *Subchapter H. Special Raffle Permits*

##### *Special raffle permits*

The heading of § 901.801 (relating to prize limits) is corrected to reference "prize limit" and the section is amended to reflect the amendment to section 5(d)(4) of Act 79 regarding the total cash value permitted of all special raffle permit prizes for the calendar year.

In accordance with the repeal of section 12(a)(13) of Act 195 (10 P. S. § 322(a)(13)), § 901.802 (relating to raffle number limit) is amended to delete the second sentence, which provided that an eligible organization may hold only one raffle per month, including a special permit raffle.

Section 5(d)(2) was amended by Act 195 to provide an exception to the general rule that an eligible organization shall be eligible to receive no more than two special permits in any licensed year for volunteer fire, ambulance and rescue organizations. Section 901.803 (relating to special raffle permit limit) is amended to reflect this change in eligibility.

Section 901.806 (relating to required permit) is amended to clarify the special raffle permit requirements.

Sections 901.807 and 901.811 are rescinded.

#### *Affected Parties*

Manufacturers and distributors of games of chance doing business in this Commonwealth, licensing authorities and eligible organizations may be affected by the final-form rulemaking.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 34 Pa. B. 5563 (October 9, 2004).

The Department has prepared a comment and response document that is available to interested parties by contacting Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

In response to the proposed rulemaking, the Department received numerous comments. In their evaluation of the proposed rulemaking, the Independent Regulatory Review Commission (IRRC) provided a majority of the comments. In addition, the Department received various comments from both the public and the Senate Finance Committee. The Department did not receive any comments from the House Finance Committee. Following is a summary of the Department's reaction to the key issues referenced in the comments:

Provisions for "licensing authorities" have been deleted from this final-form rulemaking. To provide guidance to licensing authorities, the Department has developed "SGOC Licensing Authority Model Rules" for county treasurers.

Proposed Subchapter I was deleted from this final-form rulemaking. The Department agreed with IRRC and recognized that the purpose of a regulation is to place specific duties or obligations on an agency and the regulated community. The intent of Subchapter I was merely informational and will be published through Department informational systems and publications.

In accordance with §§ 901.117 and 901.151, rather than suspending a manufacturer or distributor's license, the Department will send a notice of violation, describing the infraction and providing a time limit for its correction.

For purposes of clarity, numerous definitions have been added to § 901.1 in this final-form rulemaking.

#### *Fiscal Impact*

The Department has determined that the final-form rulemaking, which provides clarification of existing policy, will have no significant fiscal impact on the Commonwealth.

#### *Paperwork*

The final-form rulemaking will not generate additional paperwork for the public or the Commonwealth.

#### *Effectiveness/Sunset Date*

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

#### *Contact Person*

The contact person for an explanation of this final-form rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 29, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 5563, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 5, 2006, 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 July 6, 2006, and approved the final-form rulemaking.

*Findings*

The Department finds that:

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

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

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

(a) The regulations of the Department, 61 Pa. Code, are amended by:

1) Amending §§ 901.1, 901.21, 901.23, 901.25, 901.26, 901.28, 901.30—901.32, 901.34—901.38, 901.51, 901.52, 901.101—901.103, 901.104, 901.106, 901.107—901.111, 901.113, 901.114, 901.117, 901.119, 901.131—901.133, 901.136—901.144, 901.146—901.151, 901.153, 901.161, 901.165, 901.168, 901.191, 901.307—901.309, 901.405, 901.421, 901.423, 901.425, 901.441, 901.443, 901.445, 901.461, 901.462, 901.464, 901.465, 901.466, 901.501—901.511, 901.531—901.533, 901.535, 901.601, 901.602, 901.608, 901.621, 901.622, 901.627, 901.701, 901.702—901.710, 901.731, 901.733, 901.734, 901.741—901.746, 901.748, 901.749, 901.751, 901.752, 901.801—901.806, 901.808 and 901.810; by

2) Deleting §§ 901.22, 901.24, 901.112, 901.181—901.190, 901.192—901.194, 901.211—901.219, 901.401—901.404, 901.406, 901.711, 901.761—901.778, 901.807 and 901.811; and by

3) Adding §§ 901.23a, 901.40, 901.103a, 901.117a, 901.133a, 901.151a, 901.195—901.197, 901.407, 901.464a, 901.512, 901.513, 901.631—901.633, 901.701a—901.701c, 901.712, 901.753, 901.781—901.786 and 901.791—901.796 to read as set forth in Annex A.

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

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

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

GREGORY C. FAJT,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)*

**Fiscal Note:** Fiscal Note 15-425 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 61. REVENUE**

**PART VII. LOCAL OPTION SMALL GAMES OF CHANCE**

**CHAPTER 901. LOCAL OPTION SMALL GAMES OF CHANCE**

**Subchapter A. GENERAL PROVISIONS**

**DEFINITIONS**

**§ 901.1. Definitions.**

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

*Act*—The Local Option Small Games of Chance Act (10 P. S. §§ 311—327).

*Applicant*—A person who prepares and files an application.

*Application*—A form prescribed by the Department that a manufacturer, distributor or eligible organization shall complete and file to obtain a license or certificate.

*Auxiliary group*—

(i) A division, subsidiary or affiliated organization or association, incorporated or unincorporated, of an eligible organization whose business and operation is subject to and restricted by the bylaws, rules, regulations and procedures of the eligible organization and that is established solely for the purpose of aiding or assisting the eligible organization and its members in the fulfillment of the eligible organization's purposes.

(ii) The term does not include home associations.

*Bingo Law*—The Bingo Law (10 P. S. §§ 301—308.1).

*Board*—The Small Games of Chance Board of the Department.

*Bona fide member*—An individual who holds a membership in the eligible organization as defined by that organization's constitution, charter, articles of incorporation or bylaws.

*Chance*—A right purchased for consideration to participate in a game for a prize offered in the game, which right is represented by a tangible item such as a ticket, document, paper or other item.

*Charitable organization*—A not-for-profit group or body of persons which is created and exists for the purpose of performing a humane service; promoting the welfare of the aged, poor, infirm or distressed; combating juvenile delinquency or advancing the spiritual, mental, social and physical improvement of young men and women. The term includes the YMCA and YWCA.

*Civic and service association*—

(i) Any Statewide or a branch, lodge or chapter of a nonprofit National or State organization which is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a civic or service purpose within this Commonwealth, which has existed in this Commonwealth for 1 year.

(ii) The term also includes a similar local nonprofit organization, not affiliated with a National or State organization, which is recognized by a resolution adopted by the governing body of the municipality in which the organization conducts its principal activities.

(iii) The term includes:

(A) Bona fide sportsmen's and wildlife associations, federations or clubs, Statewide or local in nature.

(B) Volunteer fire companies.

(C) Volunteer rescue squads.

(D) Volunteer ambulance associations.

(E) Bona fide senior citizens organizations.

(F) Nonprofit organizations that are recognized by a resolution adopted by the appropriate governing body and which are established to promote and encourage participation and support for extracurricular activities within the established primary and secondary public, private and parochial school systems.

*Club*—As defined in section 102 of the Liquor Code (47 P. S. § 1-102), that qualifies as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of 1954 (26 U.S.C.A. § 501(c) or § 527) and is licensed to sell liquor at retail and has a charitable, religious or civic purpose or is organized to benefit a political party.

*Daily drawing*—

(i) A game in which a bona fide member selects or is assigned a number in exchange for consideration for a chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises during the same operating day that the chances for the drawing are sold.

(ii) The term includes games commonly known as "member sign-in lotteries" and "half-and-half lotteries."

*Deal*—A set of pull-tabs or punches bearing the same serial number.

*Department*—The Department of Revenue of the Commonwealth.

*Deputy Secretary*—A deputy secretary of the Department.

*Dispensing machine*—

(i) A device designed exclusively for the dispensing of games of chance authorized by the act, including ticket jars, fish bowls and stamp machines.

(ii) The term does not include any device commonly known as a "slot machine" or "video poker" or any device that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols or characters in winning or losing combinations.

*Distributor*—A person who purchases or otherwise obtains games of chance, including punchboards or pull-tabs, from a manufacturer and sells or otherwise furnishes the games of chance, with or without merchandise to be awarded as prizes in connection therewith, to another person for the resale, display or operation of the games of chance by a licensed eligible organization.

*Distributor's representative*—

(i) A natural person who represents a distributor in connection with the sale or furnishing of games of chance for use in authorized activities.

(ii) The term includes the distributor's sales personnel.

(iii) The term does not include warehouse personnel, delivery personnel and other employees who only have incidental contact with customers.

*Eligible organization*—An organization that meets all of the following:

(i) Nonprofit.

(ii) Charitable organization, religious organization, fraternal organization, veterans organization, club or civic and service association.

(iii) In existence and fulfilling its purposes for 1 year prior to the date of application for a license.

*Flare*—A card, graphic, illustration or other document that is part of a pull-tab game or punchboard and satisfies the requirements of § 901.608 or § 901.627 (relating to standards for flares), respectively.

*Fraternal organization*—An organization within this Commonwealth created and carried on for the mutual benefit of its members, has a limited membership and a representative form of government and is a branch, lodge or chapter of a National or State organization.

*Game of chance or game*—

(i) The following games: punchboards, daily drawings, weekly drawings, raffles and pull-tab games.

(ii) The term includes all of the parts, accessories and items necessary to play such games. The term also includes dispensing machines and passive selection devices.

(iii) The term does not include a game played by or with the assistance of mechanical, electronic or electrical devices or media or a game in which the particular chance taken by a person in the game is made contingent upon another occurrence or the winning of another contest.

(iv) This definition does not authorize another form of gambling currently prohibited under 18 Pa.C.S. (relating to the Crimes Code).

(v) The term does not include games commonly known, as "slot machines" or "video poker."

*Hold ticket*—A pull-tab or punch in a subset of pull-tabs or punches in a deal one or more of which are designated in advance as a winning pull-tab or punch for a specific prize. The winning pull-tab or punch is revealed after all hold tickets are purchased. Hold tickets are typically used in conjunction with seal cards.

*Home association*—A corporation, association or other organization organized under the laws of the Commonwealth by a veterans organization in conformity with its local, State or National bylaws and meets all of the following:

(i) Affiliated with the veterans organization.

(ii) Has a separate legal existence from the veterans organization.

(iii) Accepts into its membership persons who are not eligible for membership in the veterans organization.

(iv) The board of directors, officers and members with voting rights or other controlling interests consist solely of bona fide veterans organization members.

*Ideal prizes*—The maximum amount to be awarded in prizes if the game of chance is played to its fullest, all plays are sold and all potential prizes are awarded.

*Law enforcement official*—A municipal police officer, a member of the State Police, the sheriff of a county or a deputy sheriff.

*License*—A document issued by:

(i) The Department, upon application, to a distributor authorizing the distributor to purchase games of chance from a registered manufacturer and sell games of chance in this Commonwealth to licensed eligible organizations, also known as a distributor's license.

(ii) A licensing authority, upon application, to an eligible organization authorizing the eligible organization to purchase games of chance from licensed distributors and conduct games of chance in this Commonwealth, on a yearly basis, known as a game of chance license, or on a limited basis, known as a limited occasion license.

*Licensed premises*—The specific location upon which a licensed eligible organization is authorized to conduct games of chance.

*Licensee*—A distributor or eligible organization that has been issued a license.

*Licensing authority*—The county treasurer, or in a home rule county or city of the first class, where there is no elected treasurer, the designee of the governing authority.

*Limited occasion license*—A license issued by a licensing authority to an eligible organization authorizing the organization to conduct games of chance on a limited basis.

*Manufacturer*—

(i) A person who assembles from raw materials or subparts a completed game of chance for use in authorized activities, and who sells or otherwise furnishes the same to a licensed distributor.

(ii) The term does not include printers of only raffle, daily drawing or weekly drawing tickets.

*Manufacturer registration certificate or certificate*—A document issued by the Department, upon application, to a manufacturer authorizing the manufacturer to sell games of chance that the Department has approved to distributors licensed to sell games of chance in this Commonwealth.

*Manufacturer's representative*—

(i) A natural person who represents a manufacturer in connection with the sale or furnishing of games of chance for use in authorized activities.

(ii) The term includes the manufacturer's sales personnel.

(iii) The term does not include warehouse personnel, delivery personnel and other employees who only have incidental contact with the customers.

*NAGRA*—The North American Gaming Regulators Association or its successors.

*Nonoperating day*—A period of time equivalent to an eligible organization's operating day except that the eligible organization is closed to normal activities or to its members during that period of time.

*Normal business or operating site*—The location at which an eligible organization conducts its activities as permitted and enumerated in its constitution, charter, articles of incorporation, bylaws or other document of formation.

*Office of Attorney General*—The Attorney General of the Commonwealth of Pennsylvania.

*Operating day*—The period of time during any 24 hour period during which an eligible organization conducts its normal activities or holds itself open to its members.

*Operating week*—Seven consecutive operating days or nonoperating days.

*Passive selection device*—A device that is used to hold or denote all of the possible winning numbers or entrants in a daily drawing, weekly drawing or raffle. The device may not have the capability of being utilized to conduct or aid in unauthorized or illegal forms of gambling.

*Person*—A natural person, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership, conservator, the Commonwealth or a political subdivision or instrumentality of the Commonwealth or of another state or the Federal government or officers thereof.

*Petition*—A written statement of facts, under oath, submitted by one of the following:

(i) A manufacturer or distributor who disagrees with the Department's decision to deny or refuse to renew its application.

(ii) A registered manufacturer or licensed distributor who disagrees with the Department's decision to revoke his certificate or license.

*Petitioner*—A manufacturer or distributor who files a petition.

*Public interest purposes*—

(i) Any of the following:

(A) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical, emotional or social well-being, by assisting them in establishing themselves in life as worthy and useful citizens or by increasing their comprehension of and devotion to the principles upon which this nation was founded.

(B) Initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures.

(C) Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which the government would normally render to the people.

(D) Improving, expanding, maintaining or repairing real property owned or leased by an eligible organization and used for purposes specified in clauses (A)—(C).

(ii) The term does not include the erection or acquisition of any real property, unless the property will be used exclusively for one or more of the purposes specified in this definition.

*Pull-tab*—A game piece in a pull-tab game made completely of paper or paper products with concealed numbers or symbols that must be exposed by the player to determine wins or losses.

*Pull-tab game*—A deal of pull-tabs and its corresponding flare.

*Punch*—A crimped strip of paper or similar material that is enclosed in a punchboard receptacle and contains either a winning or losing number or symbol printed on one side and a serial number printed on the other.

*Punchboard*—A board, placard or other device comprised of receptacles, usually laid out in a grid or column pattern, containing a deal of hidden punches and its corresponding flare. Upon the payment of consideration, a player may select and remove the punches contained in a receptacle. A prize is awarded to a player who selects a receptacle containing a punch with a predetermined winning number or symbol.

*Raffle*—

(i) A game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing of corresponding ticket stubs to take place at a location and date or dates printed upon each ticket.

(ii) The term includes lotteries but not daily or weekly drawings.

(iii) The term does not include the paying of money or merchandise at roulette wheels, at cards, dice, other tables or another form of gambling not specifically authorized by law.

*Registrant*—A manufacturer who is issued a manufacturer registration certificate.

*Registration*—The process of applying to the Department for a manufacturer registration certificate.

*Religious organization*—A not-for-profit group or body of persons which is created and exists for the predominant purpose of regularly holding or conducting religious activities or religious education, without pecuniary benefit to an officer, member or shareholder, except as reasonable compensation for actual services rendered to the organization.

*Responsible person*—A person who is connected or associated with an eligible organization, distributor or manufacturer in a manner that meets at least one of the following criteria:

(i) Has the control, receipt, custody or disposal of or pays the compensation of an employee.

(ii) Has the control, receipt, custody or disposal of the games of chance proceeds.

(iii) Has the control, receipt, custody and disposal of available cash on hand or other quick or liquid assets or pays the liabilities of the eligible organization, manufacturer or distributor.

(iv) Has the duty, power or authority to do one of the following:

(A) Direct the deduction and withholding of tax.

(B) Direct the collection and payment of sales and use tax.

(C) Control the financial affairs of the entity.

(D) Direct the payment of the entity's liabilities.

(E) Direct the payment of the tax deducted and withheld from the compensation of an employee.

(F) Direct the disposition and use of games of chance proceeds.

(G) Account for and report tax deducted and withheld from the compensation of an employee.

(H) Direct the filing of State tax reports and returns.

(I) Direct the payment of State taxes.

(J) Direct the transaction involved with the sale, manufacture or use of games of chance.

(v) Is an eligible organization's manager, officer, director or bar personnel involved with the conduct of games of chance.

*Seal card*—A board or placard that contains a seal or seals that, when removed or opened, reveal predesignated winning numbers, letters or symbols.

*Secretary*—The Secretary of the Department.

*Seven-day period*—The period of days Monday through Sunday.

*Special raffle permit*—A document issued by a licensing authority to a licensed eligible organization that authorizes the eligible organization to conduct a raffle with prize limits exceeding the standard prize limits for raffles.

*Stamp machine*—A device designed exclusively to dispense preprinted pull-tab tickets which does not make a change to, mark on or alter in any way the ticket placed in the device. The device may not print or produce tickets in any manner. The term is also known as a vending machine for pull-tab tickets.

*State Lottery Law*—The State Lottery Law (72 P. S. §§ 3761-101—3761-2102).

*Veterans organization*—

(i) A Congressionally chartered organization within this Commonwealth, or any branch or lodge or chapter of a nonprofit National or State organization within this Commonwealth, the membership of which consists of individuals who were members of the armed services or armed forces of the United States.

(ii) The term includes home associations.

*Weekly drawing*—A game in which a bona fide member selects or receives a number or numbers in exchange for consideration during an operating week for a chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises on the last operating day of the eligible organization's operating week.

## GENERAL APPLICABILITY

### § 901.21. Applicability.

This part applies to manufacturers and distributors who sell or intend to sell games of chance in this Commonwealth and to eligible organizations located in municipalities within this Commonwealth which have adopted the act by an affirmative vote in a municipal referendum under the act.

### § 901.22. (Reserved).

### § 901.23. Restriction of sales.

(a) *Manufacturers.*

(1) *Registration.* A manufacturer shall register with the Department and obtain a manufacturer registration certificate to sell, offer for sale or furnish games of chance for use in this Commonwealth. This paragraph does not apply to manufacturers that only sell, offer for sale or furnish raffle, daily drawing or weekly drawing tickets for use in this Commonwealth.

(2) *Sales.* A registered manufacturer may only sell, offer for sale or furnish games of chance that have been approved by the Department for sale in this Commonwealth. A registered manufacturer may only sell, offer for sale or furnish approved games of chance for sale in this

Commonwealth to a licensed distributor. This paragraph does not apply to the sale of raffle, daily drawing or weekly drawing tickets.

(b) *Distributors.*

(1) *Licensure.* A distributor shall apply for and obtain from the Department a distributor license to sell, offer for sale or furnish games of chance in this Commonwealth. This paragraph does not apply to distributors that only sell, offer for sale or furnish raffle, daily drawing or weekly drawing tickets.

(2) *Sales.* A licensed distributor may only sell, offer for sale or furnish approved games of chance for use within this Commonwealth to another licensed distributor or a licensed eligible organization. This paragraph does not apply to the sale of raffle, daily drawing or weekly drawing tickets.

(3) *Purchase.* A licensed distributor may only purchase approved games of chance for resale in this Commonwealth from a registered manufacturer or licensed distributor. This paragraph does not apply to the purchase of raffle, daily drawing or weekly drawing tickets.

(c) *Eligible organizations.*

(1) *Licensure.* An eligible organization shall apply for and obtain a games of chance license from the licensing authority in the county where it shall maintain its licensed premises before purchasing games of chance for use in this Commonwealth.

(2) *Purchase.* A licensed eligible organization may not purchase or lease games of chance for use in this Commonwealth except from a licensed distributor. This paragraph does not apply to the purchase of raffle, daily drawing or weekly drawing tickets.

**§ 901.23a. Effect of denial, suspension, revocation, expiration of a certificate, license or game of chance.**

A certificate, license or game of chance that has been denied, suspended or revoked or that has expired is not a valid certificate, license or game of chance. A person, applicant for or holder of a certificate or license or owner of a game of chance cannot avail himself of the privileges that the act and this part confers upon a holder of a valid certificate or license or an approved game of chance following a denial, suspension or revocation.

**§ 901.24. (Reserved).**

**§ 901.25. Vested rights.**

A certificate or license confers only a privilege on the holder. A certificate or license confers no vested right in the privilege so conferred.

**§ 901.26. Background checks.**

(a) As a condition precedent to the issuance of a license or certificate, the Department may require background checks on a person seeking a license or for whom a certificate is sought, or employees thereof, or of a person participating as an employee who will be involved in the operation of games of chance or a person with equity ownership of 10% or more.

(b) The applicant or the person for whom a license or certificate is requested shall cooperate with the Department and assist in its investigation.

**§ 901.28. Inspection of premises.**

(a) Licensed premises, or premises relating to or being used for activities conducted under the act and this part by a licensed eligible organization, registered manufact-

urer or licensed distributor shall be open to inspection by the Department or its authorized representatives with or without prior notice, but the inspection shall:

(1) Take place during the registrant's or licensee's normal business hours or normal operating hours.

(2) Take place only when a reasonable belief exists that a violation of the act or this part has occurred, is occurring or will occur.

(3) Be limited to the inspection of matters, areas and records associated with games of chance to insure compliance with the act and this part.

(b) The Department or its authorized representatives reserve the right to enter and make annual inspections.

**§ 901.30. Prohibited practices, contracts, gifts and the like.**

(a) A manufacturer or distributor or employee thereof may not directly or indirectly solicit, give or offer to give or receive from another licensee or registrant or an employee thereof gifts, loans of money, premiums, rebates, free merchandise or services of a substantial value. A licensee or registrant or employee thereof, may not directly or indirectly solicit, receive from, or give or offer to give a manufacturer or distributor or his employee gifts, loans of money, premiums, rebates, free merchandise or services of a substantial value.

(b) A manufacturer, distributor or representative thereof may not sell to or solicit from a person an order for a game of chance contingent upon that person or another purchasing or ordering some other game of chance.

(c) A manufacturer, distributor or licensed eligible organization may not fix by express or implied agreement with another manufacturer, distributor, eligible organization or any other person, the prices to be charged to other manufacturers, distributors or eligible organizations in the competitive market place for games of chance or goods, prizes or services sold or rendered in connection with games of chance. Nothing in this subsection is intended to prohibit individual manufacturers, distributors and eligible organizations from negotiating for the price to be paid for goods, prizes or services sold or rendered in connection with games of chance.

**§ 901.31. Examination of records.**

In addition to the examination of records authorized during an inspection of the premises, the Department is authorized to examine the reports, books, accounts and records, and the inventory related to games of chance of a licensed distributor, registered manufacturer, licensed eligible organization or their representatives. Every manufacturer, distributor or eligible organization is directed and required to give to the Department or its authorized representatives the means, facilities and opportunity for the examinations.

**§ 901.32. Ownership of games of chance.**

The physical possessor of a chance in a game is the owner of the chance until a name is imprinted or placed upon it. When a name is placed upon the chance, the person whose name appears on the chance is the owner and is entitled to a prize attributable to it.

**§ 901.34. Disputes.**

If a dispute occurs about whether a chance is a winning chance and the dispute cannot be resolved through normal verification procedures or other appropriate means the licensed eligible organization may retain the

chance and replace it with an equivalent chance in a like game. This is the exclusive remedy of the owner of the chance. Detailed records regarding the dispute, the reasons for the dispute and the chance shall be maintained by the eligible organization for a minimum of 2 years from the date the dispute arose.

**§ 901.35. Termination of games of chance.**

A licensed eligible organization may announce a termination date at which point no further chances may be sold, and a date by which all claims or prizes shall be made. This date may not be less than 30 days after the last date for play of the game being terminated.

**§ 901.36. Federal withholding and reporting requirements.**

A licensed eligible organization is responsible for complying with Internal Revenue Service rules for reporting and withholding on gambling and lottery winnings.

**§ 901.37. State withholding and reporting requirements.**

A licensed eligible organization is responsible for complying with Commonwealth rules for reporting and withholding on gambling and lottery winnings.

**§ 901.38. Commonwealth resident designee.**

A person applying for a certificate or distributor's license under the act or this part is required to designate a person and location within this Commonwealth for purposes of service of process and the person shall agree to submit to the jurisdiction of the courts of the Commonwealth and law enforcement officials of the Commonwealth and its subdivisions.

**§ 901.40. Operating days, nonoperating days and operating weeks.**

(a) An operating day or a nonoperating day may not exceed 24 consecutive hours. An operating day or a nonoperating day may not overlap with any other operating day or nonoperating day.

(b) An operating day may extend from 1 calendar day to another so long as the eligible organization's normal activities or business hours extend from 1 calendar day to another. For example, an eligible organization's operating day may begin at 9 a.m. and end at 3 a.m. the following calendar day (that is, 18 consecutive hours over 2 calendar days).

(c) If an eligible organization operates on a 24 hour-a-day basis, the eligible organization's operating day shall be any consecutive 24-hour period as chosen by the organization. For example, an eligible organization could choose its operating day to be from 9:01 a.m. to 9 a.m. the following calendar day or from 12:01 a.m. to midnight on the same calendar day.

(d) An operating week shall consist of 7 consecutive, reoccurring operating or nonoperating days.

(e) An eligible organization shall choose its operating day and week and report them on its license application.

(f) A licensed eligible organization may change its operating day and week. The eligible organization shall amend its license before the new operating day or week becomes effective.

**ADMINISTRATION**

**§ 901.51. Power and duties.**

The Department has the power and authority granted to it by the Legislature under the act, including the power and authority to do the following:

(1) Review the tax status of an applicant for a certificate or distributor license.

(2) Prescribe the records and books which distributors and manufacturers are required to keep. See §§ 901.421—901.426 and 901.441—901.445 (relating to manufacturer records and reports; and distributor records and reports).

(3) Impose minimum standards and restrictions applicable to games of chance manufactured for sale in this Commonwealth. The standards and restrictions may include specifications for the maximum number of chances available to be sold for a single game or prize and other standards and restrictions the Department deems necessary for the purpose of the act.

(4) Establish procedures by which manufacturers may apply for a certificate and distributors may apply for licensure.

(5) Provide forms for registration of manufacturers and licensure of distributors.

(6) Prescribe procedures for the suspension or revocation of distributor licenses and certificates for violations of the act or this title.

(7) Prescribe the form to be used by the licensing authority to license eligible organizations.

(8) Conduct investigations prior to licensure and registration to ensure compliance with the requirements and prohibitions of the act and this part.

(9) Collect a fee for the issuance of a manufacturer registration certificate or distributor license.

(10) Initiate legal proceedings, in law or equity, before any court or tribunal, for purposes of administering or enforcing the provisions of the act or this part.

(11) Notify the Office of Attorney General of violations of the act and this part and request the Attorney General to initiate legal proceedings, criminal or civil, legal or equitable, to enforce the provisions of the act and this part.

(12) Do other matters necessary or desirable for the efficient operation and administration of games of chance and to carry out the act and this part.

**§ 901.52. Administrative entity.**

The Department will carry out its powers provided in the act or this part through the Bureau of Business Trust Fund Taxes—Miscellaneous Tax Division. The administrative entity may be changed by notice published in the *Pennsylvania Bulletin*.

**Subchapter B. LICENSING AND REGISTRATION  
MANUFACTURER REGISTRATION**

**§ 901.101. Manufacturer registration and game approval required.**

(a) A person shall be registered with the Department and possess a manufacturer's registration certificate to sell or otherwise furnish games of chance to licensed distributors within this Commonwealth.

(b) A registered manufacturer may not sell a game of chance in this Commonwealth to a licensed distributor until the Department has approved it.

(c) If a registered manufacturer modifies an approved game of chance in any substantial way so that the nature or identity of the game is changed, the rules of the game



change or the prizes or payouts change, the game of chance must be considered a new game of chance and submitted for approval.

**§ 901.102. Registration and game approval forms.**

(a) A person seeking a manufacturer registration certificate shall submit to the Department an application form as prescribed by the Department.

(b) A person seeking an approval of a game of chance shall submit the application for approval to the Department with its manufacturer's registration application or during the registration term on a form prescribed by the Department. The information to be provided on the form must include:

- (1) The name of the game.
- (2) The game form number.
- (3) A description of the game and rules for play.
- (4) A picture or illustration of the game and its component pieces.
- (5) The game prize structure, prizes and their value.
- (6) The number of chances and cost per chance.
- (7) The percentage of prizes to be paid in relation to the gross sale proceeds for all chances.

(c) The application forms referenced in subsections (a) and (b) shall be completed in full and will not be considered to be received until completed in full.

**§ 901.103. Manufacturer registration application form contents.**

An application for registration as a manufacturer of games of chance shall contain at a minimum the following information:

- (1) The name of the manufacturer, including a copy of the Fictitious Name Registration Form, Department of State Registry Statement or similar registration form.
- (2) The manufacturer's business, mailing and legal address as well as the address of all locations where the applicant manufactures its games. It does not include the address of each person from whom the manufacturer purchases raw materials, components or subparts used to manufacture its games.
- (3) The names, addresses, telephone numbers and Social Security numbers of officers, directors, owners and partners or other responsible persons. If incorporated, the application must contain the names, addresses, telephone numbers and Social Security numbers of officers and shareholders controlling 10% or more of outstanding stock. If organized as a partnership, the application must contain the names, addresses and telephone numbers of all partners.
- (4) A copy of the constitution and bylaws or the corporate charter for new applications. This information must also accompany renewal application if requested or if amended.
- (5) A complete list of all games of chance to be manufactured for sale in this Commonwealth during the registration term. The list must contain information as prescribed on the manufacturer registration application form.
- (6) The signatures of responsible persons.
- (7) A complete list of manufacturer representatives operating in this Commonwealth, their addresses and telephone numbers.

- (8) Pennsylvania tax information, including:
  - (i) The Pennsylvania Sales Tax number.
  - (ii) The Pennsylvania corporate box number.
  - (iii) The Pennsylvania employer identification number.
  - (iv) The Pennsylvania Unemployment Compensation account number.

- (9) A certified statement that:
  - (i) State tax reports and returns have been filed.
  - (ii) State taxes due and payable have been paid.
  - (iii) State taxes owing are subject to timely administrative or judicial appeal and the required bond or security has been filed.

(iv) Delinquent State taxes are subject to an approved deferred payment plan. A copy of the approved deferred payment plan shall be attached to the certified statement.

(10) A certified statement that no officer, director or other responsible person or employee eligible to make sales on behalf of the manufacturer has been convicted of one or more of the following:

- (i) A felony in a state or Federal court within the past 5 years.
- (ii) A violation of the act, the Bingo Law or a gambling related offense under 18 Pa.C.S. (relating to the Crimes Code) or other comparable state or Federal law within 10 years of the date of the application in a state or Federal court.

(11) The logos and trade names used by the manufacturer.

(12) Other documents as identified in the application materials.

**§ 901.103a. Change of application information.**

A manufacturer shall report any changes to the information supplied in its application to the Department within 15 days of the change.

**§ 901.104. Waiver of confidentiality.**

By filing an application for the grant of a manufacturer registration certificate, the applicant waives confidentiality with respect to Commonwealth tax information in the possession of the Department, the Office of Attorney General or the Department of Labor and Industry regarding the applicant, regardless of the source of that information, and consents to the provision of that information to the Department by the Office of Attorney General or the Department of Labor and Industry.

**§ 901.106. Registration term.**

A registration term begins on April 1 and ends on March 31 of the succeeding year. A certificate issued during a registration term is only valid from the date of issuance to the end of the registration term.

**§ 901.107. Annual applications.**

A registered manufacturer shall file an application for a certificate at least 60 days prior to the expiration date of its existing certificate to ensure that the Department will act on its application prior to the expiration of its current certificate.

**§ 901.108. Registration number.**

The Department will assign a registration number and issue a certificate to each manufacturer that it approves for registration. The registered manufacturer shall place

the registration number on all documents used in any transactions under the act or this part.

**§ 901.109. Certificate.**

The certificate issued must be maintained on the manufacturer's premises and available for inspection upon request.

**§ 901.110. Duplicate certificate.**

If a certificate is defaced, destroyed or lost, the Department may issue a duplicate to the holder of the certificate upon submission of a duplicate application form. A \$100 fee will be charged for the duplicate certificate.

**§ 901.111. Transfer.**

A manufacturer is prohibited from transferring or assigning its certificate.

**§ 901.112. (Reserved).**

**§ 901.113. Representatives of manufacturer.**

A representative of a manufacturer acts as an agent of the manufacturer in activities conducted under the manufacturer's registration certificate.

**§ 901.114. Dissolutions, terminations, mergers and bankruptcies.**

(a) A manufacturer shall notify the Department in writing within 10 days of one or more of the following actions on the part of the manufacturer:

(1) The filing with the Department of State of a certificate of election to dissolve, or the filing of a similar document in another jurisdiction.

(2) The filing of a petition in bankruptcy or receivership by the manufacturer.

(3) The merging or consolidating with another entity.

(4) The termination of its business activities by a process, legal or equitable, voluntary or involuntary, formal or informal, within or outside this Commonwealth.

(b) A notice of the decision to dissolve is required even if filing is not required.

**§ 901.117. Denial notice of violation and revocation.**

(a) *Manufacturer registration certificate.* The Department may deny an application for a certificate, issue a notice of violation or revoke a certificate if the manufacturer or a person required to be identified in the application form commits one or more of the following acts:

(1) Has included false information on the application.

(2) Has failed to comply with or engaged in an activity prohibited by the act or this part.

(3) Has changed its address without notification as required in this part.

(4) Has been convicted of, forfeited bond upon a charge of or pleaded guilty or nolo contendere to one of the following:

(i) Forgery.

(ii) Larceny.

(iii) Extortion.

(iv) Conspiracy to defraud.

(v) Willful failure to make required payment or reports to a governmental agency.

(vi) A crime, whether a felony or a misdemeanor, involving a gambling activity or a felony involving moral turpitude.

(vii) Other similar offenses.

(5) Has refused to permit an inspection of its records or premises under one of the following:

(i) Section 901.28 or § 901.31 (relating to inspection of premises; and examination of records).

(ii) A search warrant.

(iii) A court order.

(6) Has been convicted of a felony in a State, or Federal court within the past 5 years.

(7) Has been convicted in a municipal, state or Federal court of a violation of the act, the Bingo Law or of a gambling-related offense under 18 Pa.C.S. (relating to the Crimes Code) or another comparable state or Federal law within 10 years of the date of application.

(8) Has made a misrepresentation or fails to disclose a material fact.

(9) Sells or offers for sale in this Commonwealth a game of chance that has not been approved by the Department as provided for in this part.

(b) *Game of chance approval.* The Department may deny an application for a game of chance approval. The Department may issue a notice of violation for or revoke an approved game of chance if the game of chance fails to meet the requirements of the act or this part. The Department may revoke its approval of a game if the Department determines that the approval was issued in error.

(c) *Notice of violation.*

(1) A notice of violation is issued to notify a manufacturer of a violation of the act or this part and to provide the manufacturer with an opportunity to remedy the violation. A manufacturer retains the privileges conferred on it by its certificate or game approval during the notice period and may continue to sell games of chance in this Commonwealth.

(2) The time period that the Department may grant to a manufacturer to remedy a violation may not exceed 30 days, unless the manufacturer requests an extension, in writing, and the Department approves the extension. An extension may not exceed 30 additional days.

(3) The Department will provide the manufacturer a notice of compliance within 5 days after the manufacturer demonstrates to the satisfaction of the Department that the violation has been remedied.

(4) If the Department determines that the manufacturer has not remedied the violation identified in the notice by the end of the notice or extension period, the Department will revoke the certificate or game approval as applicable.

(5) There is no right to appeal a notice of violation or a denial of an extension.

(d) *Notice.*

(1) The Department will notify a manufacturer in writing of a denial, violation or revocation. The notice will provide:

(i) The issue date of the notice.

(ii) The action taken by the Department.

(iii) The reason for the action.

(iv) The manufacturer's appeal rights.

(2) The Department will serve the notice by certified or first-class mail.

(3) The Department will mail the notice to the manufacturer's Commonwealth resident designee and the manufacturer's primary business address listed on the manufacturer's application.

**§ 901.117a. Registration following revocation.**

Unless otherwise provided by the act or this part:

(1) A manufacturer whose certificate is revoked is ineligible to apply for and receive another certificate for the remaining registration term or 6 months, whichever is longer.

(2) For a second revocation, the manufacturer is ineligible to apply for and receive another certificate for the remaining registration term as well as the following registration term.

(3) For a third and subsequent revocation, the manufacturer is ineligible to apply for and receive another certificate for 30 months.

**§ 901.119. Raffle, daily drawing and weekly drawing ticket manufacturers.**

This section and §§ 901.101—901.118 do not apply to the manufacturers who only produce and sell raffle, daily drawing and weekly drawing tickets.

**DISTRIBUTOR LICENSING**

**§ 901.131. Distributor license requirement.**

A person shall be licensed by the Department and possess a license to sell, offer for sale or otherwise furnish games of chance to licensed eligible organizations in this Commonwealth.

**§ 901.132. License application form.**

For a distributor to obtain a license to sell games of chance in this Commonwealth, the distributor shall submit a license application to the Department in the form prescribed by the Department. The application form shall be completed in full and will not be considered to be received until it has been completed in full.

**§ 901.133. Distributor license application form contents.**

The application form must include the following:

(1) The name of the distributor, including a copy of the Fictitious Name Registration, Department of State Registry Statement or similar registry statement.

(2) The address of the distributor, including the business, mailing and legal address.

(3) The names, addresses, telephone numbers and Social Security numbers of officers, directors, owners and partners or other responsible persons. If incorporated, the application shall contain the names, addresses and telephone numbers of officers and shareholders controlling 10% or more of outstanding stock. If organized as a partnership, the application must contain the names, addresses and telephone numbers of all partners.

(4) A copy of the constitution and bylaws or corporate charter only for new applications. This information must also accompany renewals if requested or if changed or amended.

(5) A list of all types of games of chance to be distributed.

(6) A list of manufacturers with whom distributors anticipate doing business.

(7) The signature of responsible persons.

(8) A complete list of distributor representatives and their addresses and telephone numbers.

(9) Pennsylvania tax information, including:

(i) Pennsylvania Sales Tax number.

(ii) Pennsylvania Corporate box number.

(iii) Pennsylvania Employer identification number.

(iv) Pennsylvania Unemployment Compensation account number.

(v) Pennsylvania Liquor License Number, if applicable.

(10) A certified statement that:

(i) State tax reports and returns have been filed.

(ii) State taxes due and payable have been paid.

(iii) State taxes owing are subject to timely administrative or judicial appeal.

(iv) Delinquent State taxes are subject to an approved deferred payment plan. A copy of the approved deferred payment plan shall be attached to the certified statement.

(11) A certified statement that no officer, director or other responsible person or employee eligible to make sales on behalf of the distributor has been convicted of one or more of the following:

(i) A felony in a state or Federal court within the past 5 years.

(ii) A violation of the Bingo Law or of the act or a gambling related offense under 18 Pa.C.S. (relating to the Crimes Code) or other comparable state or Federal law within 10 years of the date of application in a state or Federal court.

(12) The logo used by the distributor.

(13) Other documents as identified in the application materials.

**§ 901.133a. Change of application information.**

A distributor shall report any changes to the information supplied in its application to the Department within 15 days of the change.

**§ 901.136. License term.**

A license term begins on June 1 and ends on May 31 of the succeeding year. A license issued during a license term is only valid from the date of issuance to the end of the license term.

**§ 901.137. Annual application.**

A licensed distributor shall file an application for a license at least 60 days prior to the expiration date of its existing license to ensure that the Department will act on its application prior to the expiration of its existing license.

**§ 901.138. License number.**

The Department will assign a license number and issue a license to each distributor it approves for licensure. A licensed distributor shall place its business name and license number on all documents used in any transaction under this part.

**§ 901.139. License.**

The license shall be conspicuously displayed at all times at the place of business of the person licensed.

**§ 901.140. Duplicate license.**

Whenever a license is defaced, destroyed or lost, the Department may issue a duplicate to the holder of the

license upon submission of a duplicate License Application Form. A \$100 fee will be charged for the duplicate license.

**§ 901.141. Transfer.**

A licensed distributor is prohibited from transferring or assigning its license.

**§ 901.142. Distributor's representative.**

A distributor's representative acts as an agent of the licensee in activities conducted under the distributor's license.

**§ 901.143. Restrictions on distributorship interest.**

(a) A licensed eligible organization may not be a distributor.

(b) A person who is an officer, director, proprietor, consultant, employee or owner of a distributorship may not have a pecuniary interest in the operation of games of chance.

(c) A distributor or person who has a financial interest in a distributorship may not be a lessor of premises, directly or indirectly, to a licensed eligible organization.

**§ 901.144. Restrictions of distributor employees.**

(a) An employee of a distributorship may not be an employee, consultant or volunteer of a licensed eligible organization unless the employee has first made a full written disclosure of the employee's distributorship employment to the eligible organization.

(b) An employee of a distributorship may not be a law enforcement official.

(c) An employee of a distributorship may not play games of chance at the site of a licensed eligible organization if that eligible organization is a customer of the distributorship.

(d) A Department employee assigned to the bureau responsible for administering the act or this part may not have an interest in a distributor licensed under the act or this part.

**§ 901.146. Sales promotion.**

A distributor may not use as a sales promotion a statement, demonstration or implication that a certain portion of a deal contains more winners than other portions of the deal or that a game of chance may be played by a licensed eligible organization in a particular manner that would give the organization an advantage in selling more chances before having to pay out winners.

**§ 901.147. Fixed prices.**

A distributor may not enter into an express or implied agreement with another distributor to fix the price at which games of chance may be sold, or for which services in connection therewith may be rendered. The price of these items in the competitive marketplace must be established by each distributor for the games of chance and services offered by each and may not be directly or indirectly established in concert with one another.

**§ 901.148. Dissolutions, terminations, mergers and bankruptcies.**

(a) A distributor shall notify the Department, in writing, within 10 days of one or more of the following actions on the part of the distributor:

(1) The filing with the Department of State of a certificate of election to dissolve, or the filing of a similar document in another jurisdiction.

(2) The filing of a petition in bankruptcy or receivership by the distributor.

(3) The merging or consolidating with another entity.

(4) The termination of its business activities by a process, legal or equitable, voluntary or involuntary, formal or informal, in or out of this Commonwealth.

(b) A notice of the decision to dissolve is required if filing is not required.

**§ 901.149. Change of address.**

A distributor shall notify the Department, in writing, 10 days prior to a change of address.

**§ 901.150. Changes in ownership or personnel.**

The distributor shall make a written report to the Department of changes of responsible persons engaged in the business of the distributor. This report must also include a change in the management, ownership, directorship or equity ownership of 10% or more, or a change in the manufacturer's representatives. The report must be filed within 15 days of the addition or deletion.

**§ 901.151. Denial, notice of violation and revocation of licenses.**

(a) *Distributor license.* The Department may deny a license application, issue a notice of violation or revoke a license if the distributor or a person required to be identified in the application form commits one of the following acts:

(1) Has included false information on the application.

(2) Has failed to comply with or engaged in an activity prohibited by the act or this part.

(3) Has changed its address without notification as required in this part.

(4) Has been convicted of, forfeited bond upon a charge of or plead guilty or nolo contendere to one of the following:

(i) Forgery.

(ii) Larceny.

(iii) Extortion.

(iv) Conspiracy to defraud.

(v) Willful failure to make required payments or reports to a governmental agency.

(vi) A crime, whether a felony or a misdemeanor, involving gambling activity or a felony involving moral turpitude.

(vii) Other similar offenses.

(5) Has refused to permit an inspection of its records or premises under one of the following:

(i) Section 901.28 or 901.31 (relating to inspection of premises; and examination of records).

(ii) A search warrant.

(iii) A court order.

(6) Has been convicted of a felony in a state or Federal court within the past 5 years.

(7) Has been convicted in a municipal, State or Federal court of a violation of the act, the Bingo Law, a gambling-related offense under 18 Pa.C.S. (relating to the Crimes Code) or another comparable state or Federal law within 10 years of the date of application.

(8) Has made a misrepresentation or failed to disclose a material fact.

(b) *Notice of violation.*

(1) A notice of violation is issued to notify a distributor of a violation of the act or this part and to provide the distributor with an opportunity to remedy the violation. A distributor retains the privileges conferred on it by its license during the notice period and may continue to sell games of chance in this Commonwealth.

(2) The time period that the Department may grant to a distributor to remedy a violation may not exceed 30 days, unless the distributor requests an extension, in writing, and the Department approves the extension. An extension may not exceed 30 additional days.

(3) The Department will provide the distributor a notice of compliance within 5 days after the distributor demonstrates to the satisfaction of the Department that the violation has been remedied.

(4) If the Department determines that the distributor has not remedied the violation identified in the notice by the end of the notice or extension period, the Department will revoke the license.

(5) There is no right to appeal a notice of violation or a denial of an extension.

(c) *Notice.*

(1) The Department will notify a manufacturer in writing of a denial, violation or revocation. The notice will provide:

- (i) The issue date of the notice.
- (ii) The action taken by the Department.
- (iii) The reason for the action.
- (iv) The distributor's appeal rights.

(2) The Department will serve the notice by certified or first-class mail.

(3) The Department will mail the notice to the distributor's Commonwealth resident designee and the distributor's primary business address listed on the distributor's application.

**§ 901.151a. Licensing following revocation.**

Unless otherwise provided by the act or this part:

(1) A distributor whose license is revoked is ineligible to apply for and receive another license for the remaining license term or 6 months, whichever is longer.

(2) For a second revocation, the distributor is ineligible to apply for and receive another license for the remaining license term as well as the following license term.

(3) For a third and subsequent revocation, the distributor is ineligible to apply for and receive another license for 30 months.

**§ 901.153. Raffle, daily drawing and weekly drawing ticket distributors.**

This section and §§ 901.131—901.152 do not apply to distributors who only sell raffle, daily drawing and weekly drawing tickets.

**BOARD PROCEDURES**

**§ 901.161. Jurisdiction and purpose.**

The Board will receive and review petitions challenging the Department's decisions to deny an application for a manufacturer registration certificate or game of chance approval or a distributor license. The Board will also receive and review petitions from manufacturers or distributors challenging the Department's revocation of a

manufacturer registration certificate, game of chance approval or a distributor license. The Board will provide petitioners with the opportunity for a hearing and will make recommendations to the Secretary regarding petitions.

**§ 901.165. Board practice and procedure.**

(a) *General.* The provisions of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the administrative agency law) do not apply to practice and procedure before the Board to the extent that those provisions are inconsistent with §§ 901.161—901.164, this section and §§ 901.166—901.168 (relating to Board recommendation; decision and order; and stay of appeal).

(b) *Representation.*

(1) A petitioner is not required to be represented before the Board by an attorney. An individual or a partner in a partnership, corporation or association may be represented by a bona fide officer thereof or another person upon a showing of adequate authorization. A petitioner's representative shall be authorized in writing to represent the petitioner. A letter signed by the petitioner or a listing as a representative on the face of the petition signed by the petitioner will be accepted as authorization for representation. An authorization continues until the Board is notified in writing by the petitioner that the authorization is rescinded. A party may be represented by a member in good standing of the bar of this Commonwealth.

(2) Only an attorney-at-law representing a petitioner, or the petitioner acting without representation before the Board, is permitted to raise or argue a legal question at a hearing before the Board.

(3) Notices and other written communications to the petitioner will be given to the petitioner's authorized representative, and will have the same force and effect as if given to the petitioner directly. Action before the Board taken by the petitioner's authorized representative will have the same force and effect as if taken by the petitioner.

(c) *Hearings.*

(1) *Waiver.* The petitioner has the right to a hearing or to have the case decided upon the petition and record. A hearing shall be requested in writing. If a hearing is not requested, it is considered waived.

(2) *Notices of hearing.* When the petitioner requests a hearing in writing, reasonable notice will be given to the petitioner in writing specifying the date, time and place of the hearing.

(3) *Continuances.* The Board may grant a reasonable request for continuance of a scheduled hearing. The request shall be made or confirmed in writing, state the reasons for the continuance and be received at least 5 days prior to the scheduled hearing. The Board may grant a request that is not in conformity with this paragraph under extraordinary circumstances. The Board will notify the petitioner of its decision on the requested continuance.

(4) *Presiding officer.* The Deputy Secretary or a designee shall conduct the hearings.

(5) *Transcripts.* Written transcripts of hearings will not be prepared by the Board unless specifically requested in writing. The cost of the transcript is \$1.50 per page. A recording of the hearing will be made.

(6) *Contemptuous conduct.* Contemptuous conduct is grounds for exclusion from the hearing.

(d) *Authority of presiding officer.* The presiding officer has authority to:

(1) Regulate the conduct of hearings, including scheduling, recessing, reconvening and adjourning, and to do acts and take measures necessary or proper for the efficient conduct of hearings.

(2) Administer oaths and affirmation.

(3) Receive evidence.

(4) Take or cause depositions to be taken.

(5) Hold appropriate conferences before or during hearings.

(6) Take other action necessary or appropriate to the discharge of the duties vested in the officer, consistent with statutory authority, regulations and Board policy.

(7) Participate in making decisions.

(8) Rule upon offers of proof and receive relevant evidence.

(9) Dispose of procedural requests or similar matters.

(e) *Service.* Notices and decisions issued under §§ 901.161—901.164, this section and §§ 901.166—901.168 will be sent by first class mail, postage prepaid.

(f) *Consolidation.* Two or more proceedings may be consolidated or severed by the Board at its discretion.

(g) *Bond.* A registrant or licensee whose license or registration has been revoked due to Commonwealth tax liabilities, and who has been notified of the revocation, shall file a bond in an amount of 120% of the tax and interest with the Department for an appeal of the revocation to stay the revocation.

(h) *Evidence and subpoenas.* The presentation of evidence and the issuance of subpoenas relating to hearings before the Board are governed by 1 Pa. Code Chapter 35 Subchapter C (relating to evidence and witnesses).

(i) *Burden of proof.* The petitioner has the burden of proof.

#### § 901.168. Stay of appeal.

(a) Actions to revoke a registration, license or game approval will be stayed pending the decision of the Secretary when a petition has been filed with the Board.

(b) During the pendency of the appeal, the certificate, game approval or license will be suspended. (See § 901.23a (relating to effect of denial, suspension, revocation, expiration of a certificate, license or game of chance).)

### ELIGIBLE ORGANIZATION LICENSING

§ 901.181. (Reserved).

§ 901.182. (Reserved).

§ 901.183. (Reserved).

§ 901.184. (Reserved).

§ 901.185. (Reserved).

§ 901.186. (Reserved).

§ 901.187. (Reserved).

§ 901.188. (Reserved).

§ 901.189. (Reserved).

§ 901.190. (Reserved).

#### § 901.191. License application form.

(a) The Department will proscribe the license application form for eligible organizations. Licensing authorities may obtain the form from the Department.

(b) The form is available to eligible organizations through the licensing authorities.

(c) The license application form must contain, at a minimum, the following information:

(1) The name of the organization.

(2) The type of organization.

(3) The address of the organization.

(4) Incorporation information.

(5) The name of the municipality where the applicant will maintain its licensed premises.

(6) The eligible organization's licensed premises.

(7) The eligible organization's operating day and week.

(8) The names, addresses and telephone numbers of the officers of the organization.

(9) Partnership information.

(10) A list of shareholders owning 10% or more of outstanding stock.

(11) The names and addresses of persons who will be responsible for the operation of games of chance, including eligible organization employees, bar personnel, auxiliary group members and other persons who will obtain the games of chance and coordinate their use.

(12) A statement under oath in the form of an affidavit, affirmed by the executive officer or secretary of the eligible organization, stating the following:

(i) A person 17 years of age or younger will not be permitted by the eligible organization to operate or play games of chance.

(ii) The facility in which games of chance are to be played has adequate means of ingress and egress and adequate sanitary facilities available in the area and meets Department of Health and other local or Federal sanitary requirements.

(iii) The eligible organization is the owner of the premises upon which the games of chance are played or, if it is not, the eligible organization is not leasing the premises from the owner thereof under an oral agreement, nor is it leasing the premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, except that an eligible organization may lease a location or premises for a banquet where a per head charge is applied in connection with the serving of a meal.

(13) A copy of a corporate applicant articles of incorporation and bylaws; or, if not a corporation, a copy of bylaws and other documents which set out the organizational structure and purpose.

(14) A copy of a nonprofit charitable applicant's Internal Revenue Service tax exemption letter if one has been obtained and a copy of other documents indicating the eligible organization is a nonprofit charitable organization.

(15) The details and copies of the lease, rental or other arrangements between the applicant and the owner of premises upon which the games of chance will be conducted, if the premises are not owned by the eligible organization.

(16) The names, addresses, dates of birth and the Social Security numbers of each paid employee, auxiliary

group member or agent who will be involved with the activities for which the license is sought.

(17) Other documents as identified in the application materials.

(18) The type of license applied for and a list of all types of games of chance to be operated by the eligible organization.

(19) A list of distributors of games of chance with whom the eligible organization does business.

(20) A list of the eligible organization's auxiliary groups that will operate games of chance under the eligible organization's license.

**§ 901.192. (Reserved).**

**§ 901.193. (Reserved).**

**§ 901.194. (Reserved).**

**§ 901.195. Types of licenses.**

Two types of licenses are available. An eligible organization may only hold one type of license at a time. The types of licenses are as follows:

(1) *Games of chance license.* A games of chance license authorizes the licensee to conduct games of chance as prescribed by the act and this part during the eligible organization's licensing term. A licensee is eligible to apply for special raffle permits.

(2) *Limited occasion license.* A limited occasion license authorizes the licensee to conduct games of chance on a limited basis as provided in § 901.196 (relating to limited occasion license requirements, limits and restrictions).

**§ 901.196. Limited occasion license requirements, limits and restrictions.**

(a) Only organizations that do not own or lease a premises or do not have a specific location at which they conduct their normal business are eligible for a limited occasion license.

(b) Limited occasion licensees are not eligible for the following:

- (1) Special raffle permits.
- (2) A games of chance license.

(c) Limited occasion licensees may conduct games of chance on no more than three occasions over a period of no more than 7 days during the license term.

(d) No more than two raffles may be conducted under a limited occasion license.

(e) The fee for a limited occasion license is \$10.

(f) The licensee shall provide 10 days prior written notice of its intent to conduct games of chance under its license to the licensing authority that issued its license.

**§ 901.197. Change of application information.**

An eligible organization shall report any changes to the information supplied in its license application to the licensing authority within 15 days of the change.

**§ 901.211. (Reserved).**

**§ 901.212. (Reserved).**

**§ 901.213. (Reserved).**

**§ 901.214. (Reserved).**

**§ 901.215. (Reserved).**

**§ 901.216. (Reserved).**

**§ 901.217. (Reserved).**

**§ 901.218. (Reserved).**

**§ 901.219. (Reserved).**

**Subchapter C. LOCAL OPTION**

**LOCAL OPTION REQUIREMENT AND LOCAL OPTION REPORTING**

**§ 901.307. Withdrawal of approval.**

The referendum procedures contained in §§ 901.301—901.306, this section, §§ 901.308 and 901.309 shall also be available to withdraw the approval of the issuance of eligible organization licenses within the municipality which was granted through a prior referendum.

**§ 901.308. Reporting.**

A county board of elections shall certify to the Department the question and the results no later than 40 days following the primary election on which a referendum question relating to games of chance appears on the ballot.

**§ 901.309. Public information.**

Information supplied with regard to the approval or disapproval of games of chance by local referendum shall be available from the county board of elections and the licensing authority.

**Subchapter D. RECORDKEEPING**

**COUNTY RECORDS AND REPORTS**

**§ 901.401. (Reserved).**

**§ 901.402. (Reserved).**

**§ 901.403. (Reserved).**

**§ 901.404. (Reserved).**

**§ 901.405. List of licensed eligible organizations.**

The licensing authority will keep a list of licensees and send the list to the Department biannually on or before January 15 and July 15 of each year. Upon request, the licensing authority will provide the Department with a copy of an eligible organization's license. The list shall identify the eligible organization, its full address, its license number, type of license and any special raffle permit serial number.

**§ 901.406. (Reserved).**

**§ 901.407. List of municipalities.**

(a) The licensing authority will keep and maintain an up-to-date list of those municipalities within the licensing authority's county that permit games of chance.

(b) The licensing authority will give a copy of the list to every eligible organization at the time of licensure.

(c) The licensing authority will make the list available to licensed eligible organizations who provide notice to the licensing authority of raffle sales within the licensing authority's county.

(d) Any time the list is updated, the licensing authority will submit a copy of the list to the Department within 30 days of the update.

#### MANUFACTURING RECORDS AND REPORTS

##### § 901.421. Distributor license copy.

A manufacturer shall maintain a record of the games of chance license number of each distributor to which it sells or otherwise furnishes games of chance.

##### § 901.423. Annual records.

A registered manufacturer shall keep and maintain annual records of the activities related to games of chance for at least 5 years.

##### § 901.425. Records.

A record must include the following:

(1) *Sales invoices.* A manufacturer shall record every sale, return or other type of transfer of games of chance by completing a sales invoice or credit memo. An invoice must be prenumbered at the time of purchase. The numbering must be consecutive, using at least four digits. Manufacturers may use a computer generated numbering system if the same system is used for all sales and specific numbers cannot be input by use of a manual terminal or other device. The invoice must contain the following information:

- (i) The date of the sale.
- (ii) The date of the delivery.
- (iii) The customer's business address.

(iv) The description of each item sold, including serial numbers for pull-tabs and form number. Each game listed on the invoice that the Department has approved for sale in this Commonwealth must be clearly noted. The games may be listed in separate attachment identifying the form numbers and serial numbers.

(v) The quantity and sale price of each individual item, including individual items of merchandise to be used as prizes on punchboards and pull-tabs.

(vi) The gross amount of each sale to each customer, including discount terms and the total dollar amount of a discount.

- (vii) The total amount of the invoice.
- (viii) The distributor license number.

(2) *Other records.* Other records and reports as required by this part.

(3) *Serial numbers not required.* A manufacturer is not required to record the serial numbers of punchboards on the sales invoice.

#### DISTRIBUTOR RECORDS AND REPORTS

##### § 901.441. License of purchaser.

A distributor shall keep a copy of the valid games of chance license of each eligible organization to which it sells or otherwise furnishes games of chance.

##### § 901.443. Annual records.

A licensed distributor shall keep and maintain annual records of its activities related to games of chance for at least 5 years.

##### § 901.445. Records.

A record must include the following:

(1) *Sales invoices.* A distributor shall record every sale, return or other type of transfer of games of chance by

completing a standard sales invoice or credit memo. An invoice must be prenumbered at the time of purchase. The numbering must be consecutive using at least four digits. The invoice must contain the following information:

- (i) The date of the sale.
- (ii) The date of the delivery.
- (iii) The name, address and license number of the licensed eligible organization.

(iv) A full description of each item sold, including serial numbers for punchboards and pull-tabs and form numbers. The games may be listed as a separate attachment identifying the form numbers and serial numbers.

(v) The quantity and sales price of each individual item, including individual items of merchandise to be used as prizes on punchboards and pull-tabs.

(vi) The gross amount of each sale to each licensed eligible organization, including all discount terms and the total dollar amount of any discount.

- (vii) The total amount of the invoice.
- (viii) The ideal prizes per game.

(2) *Bank reconciliation.* A bank reconciliation shall be performed on a monthly basis.

(3) *List of games sold.* A list of games sold by form number and serial number and the license number of the purchaser. These records must include enough detail to allow an audit of sold, unsold and damaged games.

(4) *Other records.* Other records and reports shall be maintained as required by this part.

#### LICENSED ELIGIBLE ORGANIZATION RECORDS

##### § 901.461. Annual records.

An eligible organization licensed to conduct games of chance shall keep and maintain annual records of the activities related to games of chance with separate totals of activity under the license for each operating week. Annual records shall be maintained for 2 years.

##### § 901.462. General records required.

A record must include the following:

(1) The gross receipts from the conduct of games of chance.

(2) The full details of the expenses related to the conduct of games of chance.

(3) The total cost of the prizes paid out for games of chance.

(4) The details as to how the proceeds from games of chance were used or disbursed by the eligible organization.

##### § 901.464. Punchboard and pull-tab records.

Detailed annual records for the operation of punchboards and pull-tabs, must include the following:

(1) The name of the punchboard or pull-tab deal.

(2) The manufacturer's serial number on the punchboard or pull-tab deal.

(3) The date it was placed in play.

(4) The date it was removed from play.

(5) The total number of plays in each deal or punchboard.

(6) The cost per play.



(7) The cost to the eligible organization of the prizes paid, including cash and merchandise.

(8) The cash value of all prizes.

(9) A list of winners' names and addresses for prizes in excess of \$100.

**§ 901.464a. Daily and weekly drawing records.**

A licensed eligible organization shall maintain the following records and information with regard to each daily or weekly drawing:

(1) The type of drawing (daily or weekly).

(2) The operating day or operating week as applicable during which chances were sold and the date of the drawing.

(3) The list of entrants in the drawing.

(4) Each entrant's assigned or chosen number.

(5) The cost per chance.

(6) The proceeds from the sale of chances and the prize payout percentage.

(7) The winner's name.

(8) The prize paid to the winner.

(9) The winner's name and address for a prize over \$100.

(10) The winner's signed acknowledgment for receipt of the prize.

(11) A notation if the drawing is a carryover, and the amount of the jackpot being carried over to the next drawing.

**§ 901.465. Cash over and short.**

Cash over and short must be determined by:

(1) Subtracting actual cash from net receipts for games of chance paying cash prizes.

(2) Subtracting actual cash from gross receipts for games of chance which award merchandise prizes.

**§ 901.466. Prize records.**

A separate annual record shall be kept which may be easily cross-referenced to the other required records and which identifies the following:

(1) The number and amount of individual prizes awarded in excess of \$100.

(2) The total amount of prizes awarded per operating week.

(3) The total amount of raffle prizes awarded each month.

**Subchapter E. PROHIBITED ACTIVITIES/PENALTIES**

**PROHIBITED ACTIVITIES**

**§ 901.501. Advertising.**

(a) *General.* An eligible organization or other person may not advertise the prizes or their dollar value to be awarded in games of chance.

(b) *Exceptions.*

(1) Raffle tickets may identify the raffle prizes.

(2) An eligible organization may advertise prizes and values thereof in periodic publications that are limited in their circulation to members of the eligible organization.

**§ 901.502. Persons.**

(a) A person having a pecuniary interest in a distributor or manufacturer or operator of games of chance may not have been:

(1) Convicted within 10 years of a violation of the Bingo Law, or of the act or of a gambling-related offense under 18 Pa.C.S. (relating to the Crimes Code) or other comparable state or Federal law.

(2) Convicted of a felony in a state or Federal court within the last 5 years.

(b) A person 17 years of age or younger may not be permitted to operate or play games of chance.

(c) A licensed eligible organization may not permit a person who has been convicted of a felony in a Federal or state court within the past 5 years or has been convicted in a Federal or State court of a violation of the Bingo Law or the act within the past 10 years to manage, set up, supervise or participate in the operation of games of chance.

**§ 901.503. Compensation.**

A licensed eligible organization may not pay compensation to a person for conducting games of chance.

**§ 901.504. Persons who may conduct games.**

Only licensed eligible organizations or auxiliary group managers, officers, directors, bar personnel or bona fide members of the licensed eligible organization may conduct games of chance.

**§ 901.505. Promotional use of games of chance.**

Games of chance may not be used as a part of promotional or advertising methods.

**§ 901.506. Credit play.**

(a) Playing of games of chance shall be on a cash basis.

(b) Cash includes checks and money orders but does not include the use of a type of credit or debit card.

(c) The consideration to play a game of chance shall be collected in full, by cash, check or money order, in advance of a play.

(d) Credit play may not be extended to a player.

(e) A licensed eligible organization may not permit the purchase of tickets by means of a deferred payment plan.

(f) Licensed eligible organizations may establish their own policies concerning acceptance of checks. A licensed eligible organization is not required to accept a check.

(g) A licensed eligible organization, manufacturer or distributor may not grant a non de minimis loan or gift to a player, a licensed eligible organization, distributor or manufacturer.

(h) Postdated or altered checks may not be accepted.

(i) On the specific date on which the check was written, a licensed eligible organization may allow a player to buy back a check with cash or return a player's check to the player as part of a prize payout. Licensed eligible organizations may not unnecessarily delay the bank deposit of a check to accommodate either of these activities.

(j) A licensed eligible organization may not lend or provide the use of gambling funds to a person as a loan.

**§ 901.507. Prizes in excess of \$500.**

A licensed eligible organization may not award an individual prize that exceeds \$500 except under a special

raffle permit, a daily drawing as provided in § 901.702(e)(1) (relating to prize limits) or a weekly drawing.

**§ 901.508. Prizes in excess of \$5,000.**

A licensed eligible organization may not award a prize that causes the total prizes awarded for an operating week to exceed \$5,000 except under a special raffle permit, a daily drawing as provided in § 901.702(e)(1) or (2) (relating to prize limits) or a weekly drawing as provided in § 901.702(f)(2).

**§ 901.509. Monthly raffle limit.**

A licensed eligible organization may not award a raffle prize that causes the total prizes awarded in raffles to exceed \$5,000 for the month except under a special raffle permit.

**§ 901.510. Use of licensed premises by more than one organization.**

A licensed eligible organization may not permit its premises to be used for games of chance by another licensed eligible organization at the same time that it is conducting games of chance on the premises. When a licensed eligible organization permits another licensed eligible organization to use its premises for purposes of games of chance, it shall cease the operation of its own games of chance during the period that the other licensed eligible organization is conducting its games on the premises.

**§ 901.511. Other activities.**

Other activities that are grounds for revocation, notice of violation, denial or termination of a certificate or license are also prohibited.

**§ 901.512. Oral and written leases.**

(a) An eligible organization may only lease a location or premises for the operation of games of chance under a written agreement.

(b) An eligible organization may not lease a location or premises for the operation of games of chance under a written agreement that provides for a rental price determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, except that an eligible organization may lease a location or premises for a banquet where a per head charge is applied in connection with the serving of a meal.

**§ 901.513. Gambling facilities prohibited.**

(a) A person, corporation, association, partnership or other business entity may not offer for rent or offer for use a building or facility to be used exclusively for conducting of games of chance.

(b) A licensed eligible organization may not lease under any terms a facility or building that is used exclusively for conducting of games of chance.

**PENALTIES**

**§ 901.531. Eligible organizations.**

An eligible organization violating the act is guilty of a summary offense, and upon conviction will be sentenced to pay a fine not exceeding \$1,000 and shall, for a first offense forfeit its license to conduct games of chance for the remainder of the license term or 6 months, whichever is longer; for a second offense, forfeit its license for the remainder of the license term and be ineligible to be licensed for the following license term; for a third or subsequent offense, forfeit its license and be ineligible for a license renewal for 30 months thereafter.

**§ 901.532. Individuals.**

A person who conducts, or who assists in the conduct of games of chance in violation of the act is guilty of a summary offense for the first violation, a misdemeanor of the third degree for a second violation and a misdemeanor of the first degree for a third or subsequent violation.

**§ 901.533. Distributors and manufacturers.**

A person who distributes games of chance without a license or in violation of the act or this part and a manufacturer of games of chance who delivers games of chance for sale or distribution in this Commonwealth who fails to obtain a certificate thereof, is guilty of a misdemeanor of the first degree. A license or certificate is not required for the manufacture or distribution of raffle, daily drawing or weekly drawing tickets.

**§ 901.535. Contingent fees.**

A person who distributes, manufactures or operates a game of chance and who requires a payment equal to a percentage of the total winnings of a game for equipment furnished or to play a game commits a misdemeanor of the first degree.

**Subchapter F. MANUFACTURING STANDARDS**

**PULL-TAB MANUFACTURING STANDARDS**

**§ 901.601. Uniform minimum quality standards.**

(a) *Standards.* Pull-tab games manufactured for sale or other distribution in this Commonwealth shall conform to the act, this part and NAGRA's manufacturing standards for pull-tab games, as amended, to the extent consistent with this part. Copies of NAGRA standards are available from the Department.

(b) *Packaging.* Packaging shall also be in conformity with NAGRA criteria. Copies of these criteria are available from the Department.

(c) *Randomization.*

(1) Pull-tabs in a deal must be distributed and mixed among all other pull-tabs in a deal so as to eliminate any pattern in the location of winning and losing pull-tabs in a deal or between deals.

(2) A deal may not be segregated into sub-deals or portions so that a part of a deal may be distinguished or played separately from the rest of the deal.

**§ 901.602. Flares.**

A flare provided by the manufacturer must accompany every deal. However, a licensed eligible organization may alter a flare as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation).

**§ 901.603. Standards for flares.**

(a) A pull-tab game flare must be made only by the manufacturer. Except as provided by § 901.731(b)(2) (relating to punchboard and pull-tab operation), a flare may not be altered after it leaves the manufacturer's possession and control.

(b) Except as otherwise provided in this part, a flare for a pull-tab game must comply with NAGRA manufacturing standards for pull-tab game flares.

(c) A pull-tab game flare must:

(1) Be placed only upon the face, or on the top, of a dispenser used to dispense the pull-tabs.

(2) Clearly set out each of the prizes available and the number or symbol that wins each prize.

(3) Set out the winning numbers or symbols for prizes of \$5 or more in cash or merchandise with a cash value of \$5 or more.

(d) The flare for any pull-tab game containing hold tickets must provide for a section on the flare, either on the front or back, that contains the hold ticket numbers or symbols and a corresponding space beside each number or symbol upon which the holder of each hold ticket shall sign his name.

(e) A seal card may serve as a pull-tab game flare if it meets all the requirements of a flare.

**PUNCHBOARD MANUFACTURING STANDARDS**

**§ 901.621. Flares.**

A flare provided by the manufacturer must accompany every punchboard. However, a licensed eligible organization may alter a flare as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation).

**§ 901.622. Standards for construction.**

Punchboards sold for use in this Commonwealth must be in compliance with the following standards:

(1) *General.*

(i) A punchboard must have a face sheet that covers the punchboard receptacles.

(ii) The flare for the punchboard may be manufactured to serve as the face sheet for the punchboard.

(iii) A punchboard, its punches and its flare must be assigned an identical serial number.

(iv) Each punchboard receptacle must contain an identical number of punches.

(2) *Patterns.* The punchboard must be manufactured with special care to eliminate patterns between punchboards, or portions of punchboards, from which the location or approximate location of winning punches may be determined. A manufacturer shall employ at least the following steps to ensure that no pattern exists:

(i) The form or permanent number sheets from which the individual punches shall be cut must be mixed prior to cutting.

(ii) After the punches have been crimped, the punches must be thoroughly mixed prior to insertion in punchboards.

(iii) When filing punchboards, workers may not alter the procedures for filling sets of punchboards.

(iv) No more than eight punchboards from one set of boards may be included in a case of punchboards for shipment to this Commonwealth.

(3) *Serial numbers.* Serial numbers set forth on the form or permanent number sheets shall be nonsequential to ensure that no pattern is created which would permit the tracking of boards through the serial number.

(4) *Guaranteed numbers.* Numbers or symbols designated as winners on the flare shall be guaranteed by the manufacturer as being present in the board. The manufacturer may place a sticker or equivalent on the back of each punchboard setting forth additional numbers or symbols that are guaranteed to be in the board. The additional numbers or symbols on the back of the board may not exceed 5% of the total punches in the board.

(5) *Security.* Punchboards must be sealed so it is impossible to determine the number or symbol of a punch prior to being punched out of the board by a method or device including the use of markings or light.

(6) *Step-up boards.*

(i) Cards, straws or punches that contain the winners in the step-up portion of a punchboard must be completely sealed to prevent premature winner identification. The items must be thoroughly mixed to ensure that no pattern of winners exists.

(ii) Step-up boards that contain winners covered by seals must have at least 25 different face sheets for use on that specific step-up board. Face sheets shall be utilized in a manner to ensure random distribution during the manufacturing process.

**§ 901.627. Standards for flares.**

(a) A punchboard flare must be made only by the manufacturer. Except as provided by § 901.731(b)(2) (relating to punchboard and pull-tab operation), a flare may not be altered after it leaves the manufacturer's possession and control.

(b) A punchboard flare must:

(1) Be placed only upon the face or on the top of a punchboard.

(2) Clearly set out each of the prizes available and the number or symbol that wins each prize.

(3) Set out the winning numbers or symbols for prizes of \$5 or more in cash or merchandise worth \$5 or more at retail so that each prize is won and awarded.

(c) The flare for any punchboard containing hold tickets must provide for a section on the flare, either on the front or back, that contains the hold ticket numbers or symbols and a corresponding space beside each number or symbol upon which the holder of each hold ticket shall sign his name.

(d) A seal card may serve as a punchboard flare if it meets all the requirements of a flare.

**GENERAL MANUFACTURING STANDARDS**

**§ 901.631. Subcontracting and manufacturer responsibility.**

(a) A registered manufacturer may subcontract for the manufacturer or production of the parts, pieces, accessories and other items that make up a completed game of chance.

(b) A subcontractor who only manufactures or produces parts, pieces, accessories and other items used to manufacture a completed game of chance is not required to be registered with the Department.

(c) A registered manufacturer that assembles and markets a completed game of chance is responsible for complying with the provisions and requirements of this part to sell the game of chance for use in this Commonwealth.

**§ 901.632. Predetermination of rules, winning chances and prizes.**

Except as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation), a manufacturer of a pull-tab game or punchboard shall predetermine the rules, prize structure, prizes, prize values, winning pull-tabs or punches and the corresponding prize for each pull-tab or punch during the manufacturing of the pull-tab game or punchboard. A person may not alter a pull-tab game or punchboard manufactured by a registered manufacturer and offered for sale and use within this Commonwealth.

**§ 901.633. Prohibition against participant control of winning chances or prizes.**

A game of chance may not be manufactured for sale and use in this Commonwealth in which a participant who purchases a chance in the game can control, effect or choose the winning chance or chances or the corresponding prize or prizes.

**Subchapter G. OPERATION OF GAMES**

**ELIGIBLE ORGANIZATION OPERATION OF GAMES**

**§ 901.701. Games of chance permitted.**

(a) A licensed eligible organization may conduct games of chance only for the purpose of raising funds for public interest purposes as defined in the act or this part.

(b) A licensed eligible organization shall use games of chance proceeds exclusively for public interest purposes or for the purchase of games of chance permitted by the act or this part. For purposes of this subsection, the term "games of chance" includes merchandise prizes awarded in a game of chance.

(c) A game of chance may not be conducted in this Commonwealth in which a participant who purchases a chance in the game can control, effect or choose the winning chance or chances or the corresponding prize or prizes.

**§ 901.701a. License required.**

(a) *Eligible organizations.* An eligible organization may not conduct or operate games of chance unless the eligible organization obtains and maintains a valid license. An eligible organization shall be in existence and fulfilling its purposes for 1 year prior to the date of application for a license.

(b) *Auxiliary groups.*

(1) An auxiliary group may conduct or operate games of chance under its parent organization's license. An auxiliary group may not be licensed separately. Any auxiliary group that conducts games of chance must be listed on the parent organization's license application.

(2) An auxiliary group that conducts games of chance under its parent organization's license acts in lieu of the eligible organization and is bound by the restrictions and limitations of the eligible organization and its license under the act and this part. Prizes from games of chance conducted by an auxiliary group must be included in the total prizes paid out by the licensed eligible organization for purposes of determining the licensed eligible organization's adherence to the prize limits under the act and this part.

(3) A licensing authority may not charge an additional licensing fee for an auxiliary group's right to conduct games of chance under its parent eligible organization's license.

**§ 901.701b. Display.**

The licensed eligible organization shall at all times publicly display its license at the site where it conducts games of chance.

**§ 901.701c. Location of games.**

(a) A license will be valid at and authorize the holder to conduct games of chance on the eligible organization's licensed premises as provided in § 901.704 (relating to licensed premises).

(b) A licensed eligible organization may conduct games of chance at a location off its premises when the games of chance are part of a reoccurring, annual carnival, fair, picnic or banquet held or participated in by that eligible organization. The organization shall notify, in writing, the district attorney and licensing authority of the location, date and times of the events.

(c) A license issued by a licensing authority in one county will be valid for purposes of selling raffle tickets in municipalities of another county which have specifically approved games of chance by an affirmative vote in a municipal referendum. A licensed eligible organization that plans to sell raffle tickets in a municipality located in a county other than the county in which it is licensed shall notify that county's district attorney and licensing authority as to the location and the dates that the organization plans to sell raffle tickets.

**§ 901.702. Prize limits.**

(a) *Maximum individual prize limit.* The maximum cash value of a prize that may be awarded for a single chance in a game of chance is \$500.

(b) *Weekly limit.* No more than \$5,000 in cash or merchandise may be awarded as prizes in games of chance conducted by a licensed eligible organization during an operating week.

(c) *Raffle limit.* No more than \$5,000 in cash or merchandise may be awarded as prizes in raffles in a calendar month except under a special raffle permit.

(d) *Special raffle permit.* A licensed eligible organization may conduct a raffle and award a prize valued in excess of \$500 only if it has obtained a special raffle permit. The total cash value of prizes awarded under all special raffle permits during a calendar year may be no more than \$100,000.

(e) *Prize limit exceptions for daily drawings.*

(1) A licensed eligible organization may award a prize in excess of the prize limitations in subsections (a) and (b) if the prize is the result of a carryover of a drawing when the following conditions apply:

(i) The winning number was not held by one of the eligible entrants in the drawing.

(ii) The carryover is not the result of the licensed eligible organization's failure to hold a drawing on an operating day during which chances for a daily drawing were sold.

(iii) The chances for the daily drawing were not sold for an amount in excess of \$1.

(iv) An eligible participant may not be sold more than one chance.

(2) A prize awarded in a daily drawing that is set up to pay out 100% of the gross revenues from the drawing is not included as a prize for purposes of the limitation in subsection (b).

(f) *Prize limit exceptions for weekly drawings.*

(1) The prize limitation in subsection (a) does not apply to weekly drawings. Weekly drawings are subject to the prize limitations in subsection (b).

(2) A prize awarded in a weekly drawing will not be considered a prize for purposes of the limitation in subsection (b) if either:

(i) The prize is the result of a carryover of a drawing when the winning number was not held by one of the eligible entrants in the drawing, and the following conditions apply:

(A) The carryover is not the result of the licensed eligible organization's failure to hold a weekly drawing at the end of the operating week during which chances were sold.

(B) The chances for the weekly drawing were not sold for an amount in excess of \$1.

(ii) The drawing is set up to pay out 100% of the gross revenues from such drawing.

**§ 901.703. Place of conduct.**

A licensed eligible organization shall conduct games of chance only on the licensed eligible organization's licensed premises or at places as otherwise provided by the act and this part. A licensed eligible organization may sell raffle tickets off the licensed premises but only in municipalities that have approved games of chance through a valid referendum.

**§ 901.704. Licensed premises.**

(a) An eligible organization's licensed premises must be the location or premises owned or leased by the organization for use as its normal business or operating site. When the premises consists of more than one building, the organization shall designate which building will be used as the licensed premises for the operation of games of chance. If the organization wishes to conduct games of chance in a different building on its licensed premises, it shall notify, in writing, the district attorney and the licensing authority of the change in building site and the date and times that will be affected at least 10 days prior to conducting games at the different site.

(b) If an eligible organization does not own or lease a location or premises for use as its normal business or operating site, the organization may:

(1) With the written consent of another eligible organization, use another eligible organization's licensed premises for purposes of conducting games of chance so long as such use complies with §§ 901.510 and 901.709 (relating to use of licensed premises by more than one organization; and eligible organizations per premises).

(2) Lease a location or premises on which to conduct games of chance as long as the lease does not violate § 901.513 (relating to gambling facilities).

(3) Make other arrangements to acquire a location or premises, consistent with the act and this part, on which to conduct games of chance.

(c) An eligible organization may not lease a location or premises as a licensed premises under an oral agreement. An eligible organization may lease a location or premises under a written agreement. The rental price may not be based on either the amount of receipts realized from the playing of games of chance or the number of people attending. An eligible organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal.

(d) An eligible organization may not lease a location or premises as a licensed premises from any person who has been convicted of a violation of the act or this part within 10 years of the date of the lessor's conviction.

**§ 901.705. Purchase of games.**

A licensed eligible organization shall purchase games of chance only from a licensed distributor. Raffles, daily drawings and weekly drawings are excluded from this requirement.

**§ 901.706. Persons who may not operate or play games of chance.**

(a) A person 17 years of age or younger may not be permitted to operate or play games of chance.

(b) A licensed eligible organization may not permit a person who has been convicted of a felony in a state or Federal court within the past 5 years or a violation of the Bingo Law or the act in a State or Federal court within the past 10 years to manage, set up, supervise or participate in the operation of games of chance.

**§ 901.707. Compensation.**

A licensed eligible organization may not pay compensation to a person for conducting games of chance.

**§ 901.708. Persons who may conduct games of chance.**

Only licensed eligible organizations or auxiliary group managers, officers, directors, bar personnel or bona fide members of the licensed eligible organization may conduct games of chance.

**§ 901.709. One eligible organization per premises.**

Only one licensed eligible organization may use a licensed premise to conduct games of chance. A licensed eligible organization may allow another licensed eligible organization that does not own or lease a normal business premises to conduct games of chance on its premises. When an eligible organization uses the premises of another eligible organization, each eligible organization shall notify its respective licensing authority and district attorney in writing at least 10 days prior to using the premises.

**§ 901.710. Other standards and requirements.**

A licensed eligible organization may not provide for play or purchase a game of chance that violates the act or this part.

**§ 901.711. (Reserved).**

**§ 901.712. Raffle, daily drawing and weekly drawing game rules and prizes.**

An eligible organization shall establish the rules, prize structure, prizes, and prize values in a raffle, daily drawing or weekly drawing prior to conducting the raffle, daily drawing or weekly drawing.

**PUNCHBOARD AND PULL-TAB OPERATION PROCEDURES**

**§ 901.731. Punchboard and pull-tab operation.**

(a) A person 17 years of age and younger or a person visibly intoxicated or visibly under the influence of a controlled substance may not be allowed to play or sell a punchboard or pull-tab. It is the responsibility of the licensee and the responsibility of the person physically selling the punchboard or pull-tab deal to determine that an unauthorized person is not allowed to play or sell.

(b) Limitations on punchboards, pull-tabs and flares are as follows:

(1) A licensed eligible organization may not permit the display or operation of a punchboard or pull-tab which may have been marked, defaced, tampered with or otherwise placed in a condition or operated in a manner which may deceive the public or which affects the chances of winning or losing upon the taking of a chance thereon.

(2) A licensed eligible organization may alter a flare to indicate that merchandise of equivalent value will substitute for a cash prize in a punchboard or pull-tab game.

(c) Records, reports and receipts relating to a punchboard or pull-tab deal in play shall be retained on the licensed premises as long as the deal or punchboard is in play and shall be made available on demand to law enforcement officers, county officials or the Department.

(d) When licensed eligible organizations purchase merchandise to be used as prizes on punchboards or pull-tab deals, the following information must be on the invoice provided by the seller:

- (1) The date of the purchase.
- (2) The company's name and adequate business address.
- (3) A full description of each item purchased.
- (4) The quantity of items purchased.
- (5) The cost per individual items purchased.

(e) Limitations on pull-tab dispensing machines are as follows:

(1) Pull-tabs may not be placed out for public play unless the total number of pull-tabs originally in the deal is clearly disclosed on the face of the flare advertising the prizes available from that deal. The total number of pull-tabs originally in the deal will be placed upon the flare by the manufacturer prior to the series being sold to a distributor.

(2) A pull-tab may not be added to a deal after that deal has been shipped from its place of manufacture.

(3) If an entire deal is not placed in a dispensing machine at one time, the pull-tabs in the deal shall be placed in the dispensing machine randomly and in a manner that does not compromise the randomization of the tickets as packaged by the manufacturer.

(4) A pull-tab deal once placed in or upon a pull-tab container out for play may not be removed from the container until the deal is permanently removed from public play, except as follows:

- (i) Pull-tabs actually played by consumers.
  - (ii) Pull-tabs removed by representatives of the county, or other law enforcement agency inspecting the games of chance.
- (5) Once a pull-tab has been removed from public play it may not again be put out for public play.
- (6) Deals may not be commingled.

(f) A person may not sell or transfer to another person in this Commonwealth, for use within this Commonwealth, or place out for public play a container for pull-tabs not so constructed to allow a consumer to clearly see the pull tabs within or upon the container prior to playing the game. Stamp machines are excluded from this requirement.

(g) A person may not sell or transfer to another person in this Commonwealth, for use within this Commonwealth, or put out for public play, a pull-tab deal which contains more than 4,000 individual pull-tabs or 4,000 stapled packets of jar tickets.

#### § 901.733. Control of prizes.

(a) Prizes shall be displayed in the immediate vicinity of the punchboard or pull-tab container and the prizes shall be in full view of a person prior to that person purchasing the opportunity to play.

(b) When the prize is cash, it shall be displayed as follows:

(1) If the punchboard or pull-tab deal contains the opportunity to win cash and merchandise prizes, the money itself may not be displayed but a coupon designating the cash available to be won shall be substituted.

(2) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the flare attached to the face or displayed in the immediate vicinity of the pull-tab container.

(c) The licensed eligible organization shall display prizes so arranged that a customer can easily determine which prizes are available from a particular punchboard or pull-tab deal located upon the premises.

(d) The prize shall be paid or delivered to the winner as soon as possible.

(e) A licensed eligible organization may not offer to pay or actually pay cash in lieu of merchandise prizes which may be won.

(f) When a person wins a cash prize of over \$100 or wins a merchandise prize with a cash value of over \$100 from the play of a punchboard or pull-tab deal, the licensed eligible organization shall make a record of the win. The record must disclose, at a minimum, the following information:

- (1) The serial number of the pull-tab deal or punchboard from which the prize was won.
- (2) The name of the punchboard or pull-tab deal.
- (3) The month, day and year of the win.
- (4) The amount of the prize won if the prize is cash.
- (5) A description of the prize won and its cash value if the prize is merchandise.
- (6) The printed full name of the winner.
- (7) The address of the winner which will include the street address, the city, the state and zip code.
- (8) The form number of the punchboard or deal.

(g) A licensed eligible organization shall keep the record of prizes awarded containing the information required in subsection (f), and of winning plays for a minimum of 2 years and shall display the record to a representative of the Department, county licensing authority, district attorney or law enforcement official upon demand. The licensed eligible organization shall immediately mark or perforate the winning pull-tab or punch so that the play cannot be presented again for payment.

#### § 901.734. Punchboard and pull-tab inventory and retention.

A licensed eligible organization shall control and account for punchboard and pull-tab games as follows:

(1) A licensed eligible organization shall closely monitor punchboards and pull-tab games purchased to assure that serial numbers are correctly entered in records and that each punchboard and pull-tab game purchased is recorded. The following control procedures apply:

(i) By the close of business on the last day of a licensed eligible organization's license term and before operating punchboards and pull-tab games after that date, the licensed eligible organization shall take a physical inventory of punchboards and pull-tab games in play and awaiting play and record the following information separately for punchboards and pull-tab games:

- (A) The name of the game.
- (B) The serial or series number.
- (C) The form number.

(ii) At the time punchboards and pull-tab games are delivered, a licensed eligible organization shall assure that purchase invoice data is correct by comparing the actual serial numbers on each punchboard or pull-tab game to the numbers entered on the purchase invoices.

(iii) The purchases of punchboards or pull-tab games shall be recorded on a standard distributor's invoice, which includes space for the licensed eligible organization to either attach a records entry label or enter the serial number and the date the punchboard or the pull-tab game was placed out for play. For punchboards or pull-tab games purchased, the licensed eligible organization shall enter the data and the serial number in the space on the invoice, adjacent to the distributors entry, by either attaching a records entry label or by written entry.

(2) A punchboard or pull-tab game which is removed from play, unplayed punches or pull-tabs and winning punches or pull-tabs for prizes in excess of \$100 shall be retained by the licensed eligible organization for at least 2 years following the last day of the month in which it was removed from play. The board, unplayed punches or pull-tabs, flare and winning punches or pull-tabs must remain available for inspection on the licensed premises.

(3) A punchboard or pull-tab game which is not placed out for public play or is not returned to the distributor from whom it was originally purchased must be retained on the licensed premises and made available for inspection for at least 2 years.

**RAFFLES**

**§ 901.741. Prize limits.**

A prize awarded may not have a value in excess of \$500 unless the raffle is conducted under a special raffle permit. A licensed eligible organization may not award more than \$5,000 in cash or merchandise in raffles in a calendar month.

**§ 901.742. Drawing dates.**

Raffles may have one or more drawing dates except a raffle where the winner is determined by a drawing conducted by the Department under the State Lottery Law, in which case the drawing date will be the date of the applicable Department drawing. The drawing dates and times must be printed on the raffle tickets.

**§ 901.743. Raffle tickets.**

(a) Tickets for entry into a raffle shall be sold or issued separately and each ticket shall constitute a separate and equal chance to win with other tickets sold or issued. A person may not be required to obtain more than one ticket, or to pay for anything other than the ticket, to enter a raffle.

(b) Tickets for use in a raffle must have a stub or other detachable section, be consecutively numbered and be accounted for separately through the use of a log book showing to whom the tickets were given to be sold. The ticket stub or other detachable section of the ticket must bear a duplicate number corresponding to the numbers on the ticket and contain the purchaser's name, complete address and telephone number. Both parts must be imprinted with sequential numbers commencing with the number "1" through the maximum number of tickets to be sold; or in the case of a raffle where the winner is determined by a drawing conducted by the Department

under the State Lottery Law, the universe of eligible ticket numbers must correspond to the universe of eligible numbers in the State Lottery drawing.

(c) A raffle ticket shall be sold for the price stated on the ticket.

(d) A person may not be required to be present at a raffle drawing to be eligible for the prize drawing or to claim the prize awarded.

(e) A ticket seller shall return the stubs or other detachable section of tickets sold to the eligible organization. The eligible organization shall then place each stub or other detachable section of ticket sold into a receptacle out of which the winning tickets are to be drawn. The receptacle must be designed so that each ticket placed therein has an equal opportunity with every other ticket to be the one withdrawn.

(f) If a ticket stub or other detachable portion was not placed in the receptacle from which the winners were drawn, prior to the drawing, the purchase price of the ticket must be refunded to the purchaser.

(g) The purchaser's name, address and telephone number must appear on the stubs or other detachable section.

**§ 901.744. Control of raffle prizes.**

A licensed eligible organization conducting a raffle in which real or personal property prizes are to be awarded shall have paid for in full or otherwise become the owner, without lien or interest of others, of the real or personal property prior to the drawing at which the winners of the prizes are to be determined.

**§ 901.745. Printing requirements.**

The following information must be printed upon each raffle ticket sold:

- (1) The dates and times of the drawings.
- (2) The location of the drawings.
- (3) The name of the licensed eligible organization conducting the raffle.
- (4) The games of chance license number of the licensed eligible organization.
- (5) The special raffle permit number, if applicable.
- (6) The price of the ticket.
- (7) The prize or prizes to be awarded.

**§ 901.746. Prize awarding.**

(a) A licensed eligible organization shall award raffle prizes on the dates indicated on the raffle ticket unless the licensed eligible organization approves a different date and purchasers of tickets are notified in writing. The dates of the drawing may be extended only if one of the following occurs:

- (1) Weather or a state of emergency declared by the Governor has caused a postponement of the event at which the drawing was to occur.
- (2) Not enough tickets are sold to cover the cost of the prizes and an extension will make a material difference.

(b) The fact that a desired level of profit will not be obtained is not a basis for an extension of the date of the drawing.

(c) If a raffle prize remains unclaimed by the winner for 90 days following the date of the raffle drawing and the licensed eligible organization has made a good faith effort to contact the winner by means of telephone and registered mail, for redemption of the prize, the licensed

eligible organization may retain the prize or award it in another game of chance. A record of the attempted contact shall be maintained for a minimum of 2 years.

**§ 901.748. Prohibition of joint raffles held by licensees.**

A licensed eligible organization may not join together with another licensed eligible organization to conduct a raffle.

**§ 901.749. Open drawing.**

(a) A drawing and allotment by chance shall be conducted openly and in plain view of players present.

(b) A licensed eligible organization shall immediately exhibit and hold open for inspection drawn raffle ticket stubs or detachable sections until the end of the raffle. A licensed eligible organization shall retain the stubs or detachable sections as provided under the act or this part.

**§ 901.751. Ticket sales.**

A licensed eligible organization may only sell raffle tickets in municipalities that have approved the use of games of chance by means of a valid local referendum in accordance with the act. A licensed eligible organization may sell raffle tickets at locations other than the licensed eligible organization premises. A licensed eligible organization that plans to sell raffle tickets in a municipality located in a county other than the county in which it is licensed shall notify that county's district attorney and licensing authority in writing of the location and date that the eligible organization plans to sell raffle tickets at least 10 days prior to selling raffle tickets in that county.

**§ 901.752. Printer requirements.**

An entity providing raffle tickets to a licensed eligible organization shall attach a copy of the organization's games of chance license to the raffle ticket purchase invoice or other document evidencing the sale. If the raffle pays a prize or prizes in excess of \$500 each, a copy of the licensed eligible organization's special raffle permit shall also be attached.

**§ 901.753. Means of determining winning numbers.**

A licensed eligible organization may use the following means to determine the winners in a raffle:

- (1) A random drawing of ticket stubs.
- (2) A passive selection device.

(3) By reference to a drawing of the Department under the State Lottery Law. Both the date and the name of the drawing that will be used must be identified on the raffle ticket. This method may only be used if the licensed eligible organization sells enough tickets equal to the universe of possible winning numbers in the Department drawing. If insufficient tickets are sold, an alternate means of determining the winning number must be used.

**§ 901.761. (Reserved).**

**§ 901.762. (Reserved).**

**§ 901.763. (Reserved).**

**§ 901.764. (Reserved).**

**§ 901.765. (Reserved).**

**§ 901.766. (Reserved).**

**§ 901.767. (Reserved).**

**§ 901.768. (Reserved).**

**§ 901.769. (Reserved).**

**§ 901.770. (Reserved).**

**§ 901.771. (Reserved).**

**§ 901.772. (Reserved).**

**§ 901.773. (Reserved).**

**§ 901.774. (Reserved).**

**§ 901.775. (Reserved).**

**§ 901.776. (Reserved).**

**§ 901.777. (Reserved).**

**§ 901.778. (Reserved).**

**DAILY DRAWINGS**

**§ 901.781. Daily drawing procedures.**

(a) A licensed eligible organization may sell chances for and hold only one daily drawing during each operating day. A bona fide member may purchase a chance in a daily drawing only during the operating day on which the drawing will be held.

(b) Daily drawing winners must be determined by random drawing. Daily drawing winners may be determined with the aid of a passive selection device or by reference to drawings conducted by the Department under the State Lottery Law.

(c) A daily drawing must take place on the eligible organization's licensed premises and be conducted in plain view.

(d) A daily drawing must begin and end on the same operating day. An eligible organization may conduct no more than 7 daily drawings during an operating week.

(e) A licensed eligible organization may not sell chances for or conduct a daily drawing during a period when weekly drawing chances are being sold or a weekly drawing is taking place.

(f) Immediately prior to each daily drawing, the eligible organization shall announce the prize amount for the drawing.

(g) The name of a daily drawing prize winner or the fact that a winner was not selected must be prominently displayed on the licensed premises for at least 7 days after the drawing date. If a winner does not claim a prize within 7 days of the drawing, the eligible organization shall notify the winner of the prize and the requirements for claiming the prize. See § 901.784 (relating to claiming prizes).

**§ 901.782. Daily drawing chances.**

(a) Only a bona fide member of an eligible organization may purchase a chance in a daily drawing.

(b) A licensed eligible organization shall sell a chance in a daily drawing only to a bona fide member.

(c) A chance in a daily drawing may not be sold to or purchased by one bona fide member for the benefit of another bona fide member.

(d) A licensed eligible organization may not sell a chance in a daily drawing for more than \$1.

(e) A licensed eligible organization may sell no more than one chance per daily drawing to each of its bona fide members.

(f) A chance in a daily drawing may be sold and purchased only on the eligible organization's licensed premises.



**§ 901.783. Posting rules.**

(a) An eligible organization shall prominently display the rules for each daily drawing in the area where the chances for the drawing are sold.

(b) At a minimum, the posted rules must include:

- (1) The cost of the chance.
- (2) The manner of selecting the winner.
- (3) The time during which chances may be purchased.
- (4) The time of the drawing.
- (5) The payout percentage.

(6) Whether the drawing is a carryover drawing and the amount of the carryover jackpot.

(7) The requirements and time limits for claiming prizes as provided for in § 901.784 (relating to claiming prizes).

**§ 901.784. Claiming prizes.**

(a) The winner of a daily drawing need not be present at the time of the drawing to claim the prize.

(b) An eligible organization may not impose a penalty or limit the amount of a prize based upon a winning member's nonattendance at the time of the drawing.

(c) Only the daily drawing winner may claim the daily drawing prize.

(d) A daily drawing winner shall claim the prize in person and sign for receipt of the prize.

(e) A prize winner shall claim the prize within 30 days from the date of the drawing.

**§ 901.785. Invalid State Lottery drawing.**

A drawing of the State Lottery that is invalidated must also result in an invalid drawing in a licensed eligible organization's daily drawing which is tied to the State Lottery drawing.

**§ 901.786. Unclaimed prize money.**

A daily drawing prize that remains unclaimed more than 30 days after the drawing shall be retained by the eligible organization for public interest purposes.

**WEEKLY DRAWINGS**

**§ 901.791. Weekly drawing procedures.**

(a) A licensed eligible organization may sell chances for and hold only one weekly drawing during an operating week. Bona fide members may purchase chances in a weekly drawing only during the operating week in which the drawing will be held. The drawing shall be held at the end of the operating week.

(b) Weekly drawing winners must be determined by random drawing. Weekly drawing winners may be determined with the aid of a passive selection device or with reference to drawings conducted by the Department under the State Lottery Law.

(c) A weekly drawing must take place on the eligible organization's licensed premises and be conducted in plain view.

(d) A licensed eligible organization may not sell chances for or conduct a weekly drawing during a period when daily drawing chances are being sold or a daily drawing is taking place.

(e) Immediately prior to each weekly drawing the eligible organization shall announce the prize amount for the drawing.

(f) The name of a weekly drawing prize winner or the fact that a winner was not selected must be prominently displayed on the licensed premises for at least 7 days after the drawing date. If a winner does not claim a prize within 7 days of the drawing, the eligible organization shall notify the winner of the prize and the requirements for claiming the prize. See § 901.784 (relating to claiming prizes).

**§ 901.792. Weekly drawing chances.**

(a) Only a bona fide member of an eligible organization may purchase chances in a weekly drawing.

(b) A licensed eligible organization shall sell chances in a weekly drawing only to a bona fide member.

(c) Chances in a weekly drawing may not be sold to or purchased by one bona fide member for the benefit of another bona fide member.

(d) A licensed eligible organization may not sell chances in a weekly drawing for more than \$1 each.

(e) Chances in a weekly drawing may be sold and purchased only on the eligible organization's licensed premises.

**§ 901.793. Posting rules.**

(a) An eligible organization shall prominently display the rules for each weekly drawing in the area where the chances for the drawing are sold.

(b) At a minimum, the posted rules must include:

- (1) The cost of the chance.
- (2) The manner of selecting the winner.
- (3) The time during which chances may be purchased.
- (4) The time of the drawing.
- (5) The payout percentage.

(6) Whether the drawing is a carryover drawing and the amount of the carryover jackpot.

(7) The requirements and time limits for claiming prizes as provided for in § 901.794 (relating to claiming prizes).

**§ 901.794. Claiming prizes.**

(a) The winner of a weekly drawing need not be present at the time of the drawing to claim the prize.

(b) An eligible organization may not impose a penalty or limit the amount of a prize based upon a winning member's nonattendance at the time of the drawing.

(c) Only the weekly drawing winner may claim the weekly drawing prize.

(d) A weekly drawing winner shall claim the prize in person and sign for receipt of the prize.

(e) A prize shall be claimed within 30 days from the date of the drawing.

**§ 901.795. Invalid State Lottery drawing.**

A drawing of the State Lottery that is invalidated must also result in an invalid drawing in a licensed eligible organization's weekly drawing which is tied to the State Lottery drawing.

**§ 901.796. Unclaimed prize money.**

A licensed eligible organization shall retain for public interest purposes a weekly drawing prize that remains unclaimed more than 30 days after the drawing.

**Subchapter H. SPECIAL RAFFLE PERMITS****SPECIAL RAFFLE PERMITS****§ 901.801. Prize limit.**

The total value of all special raffle permit prizes during a calendar year may be no more than \$100,000.

**§ 901.802. Raffle number limit.**

Only one raffle may be conducted under each special raffle permit.

**§ 901.803. Special raffle permit limit.**

A licensed eligible organization is eligible to receive two special raffle permits in a calendar year, except volunteer fire, ambulance and rescue organizations are eligible to receive three special raffle permits in a calendar year.

**§ 901.804. Issuance of permits.**

Special raffle permits shall be obtained from the licensing authority at least 30 days before the date on which ticket sales are to begin.

**§ 901.805. Rule applicability.**

The rules contained in this part apply to special raffle permits. To the extent they are inconsistent with §§ 901.801—901.804, this section and §§ 901.806—901.811, these provisions supersede those elsewhere in this part.

**§ 901.806. Required permit.**

A special raffle permit is required for each raffle in which a licensed eligible organization proposes to award an individual prize having a cash value in excess of \$500 or total prizes having a cash value in excess of \$5,000.

**§ 901.807. (Reserved).****§ 901.808. Special raffle permit application.**

The application for a special raffle permit must be made to the licensing authority. The application must include the following information:

- (1) The licensed eligible organization's name.
- (2) The licensed eligible organization's games of chance license number.
- (3) The location of the drawing.
- (4) The number of chances to be sold.
- (5) The price per chance.
- (6) The cash value of the prizes to be awarded.
- (7) The date of the drawing.
- (8) The date sales will begin.
- (9) The certified statement that this part, including the advertising prohibition, will be obeyed.

**§ 901.810. Effective period.**

A special raffle permit will remain effective from the date on which ticket sales begin until the earlier of the date of the drawing, the expiration date of their games of chance license held when the special raffle permit was issued or 6 months.

**§ 901.811. (Reserved).**

[Pa.B. Doc. No. 06-1543. Filed for public inspection August 11, 2006, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 130e]

### Commercial Manure Hauler and Broker Certification; Advance Notice of Final Rulemaking

The Department of Agriculture (Department) is publishing an advance notice of final rulemaking (ANFR) regarding Commercial Manure Hauler and Broker Certification. Proposed rulemaking was published at 35 Pa.B. 6751 (December 17, 2005).

#### *Statutory Authority*

The Commercial Manure Hauler and Broker Certification Act (act) (3 P. S. §§ 2010.1—2010.12), sets forth the proposed Commercial Manure Hauler and Broker Certification Program (Program). Under section 3 of the act (3 P. S. § 2010.3), regarding the Program, the Department proposes to add Chapter 130e (relating to commercial manure hauler and broker certification) to its regulations.

#### *Background*

The Department entertained public comment for 60 days during which time the Department received comments from the State Conservation Commission (Commission), Nutrient Management Advisory Board (Board), various farm groups such as the Farm Bureau and Penn Ag Industries, members of the regulated community, agricultural operators and an environmental group. In addition, the Department received extensive comments from the Independent Regulatory Review Commission and members of the House and Senate Agriculture and Rural Affairs Committees. The Department has continued to consult with the Commission and Board. The revisions represent the Department's response to the numerous comments received and to the input received from the consultations with the Commission and the Board. In addition, the Department has had conversations with at least one executive level official of the House Agriculture and Rural Affairs Committee. The Commission and the Board have reviewed the suggested revisions and approved those revisions the Department felt it could make within the scope of the act.

#### *Summary of Changes from the Proposed Rulemaking*

The following provides a general synopsis of the changes made after receiving and reviewing comments made during the respective comment periods and after various meetings with the Commission and the Board. These changes have been incorporated into the proposed final form rulemaking.

#### *Definitions*

A number of the existing and proposed definitions were amended, new definitions were added and definitions were deleted in the final-form regulation.

1) *Existing definitions amended.* The following existing definitions are amended in this final-form rulemaking: "Act 38," "BMP—Best Management Practice," "concentrated animal feeding operation," "concentrated animal operation," "nutrient balance sheet" and "nutrient management specialist" to insure consistency with other regulations promulgated by the State Conservation Commission and the Department of Environmental Protection.

2) *New definitions.* The definitions—"commerce," "commercial" and "manure" were added in the proposed final-form rulemaking to clarify provisions of the regulations in regards to prohibitions and certification requirements

#### *Fees*

The final-form rulemaking has eliminated the necessity for examination fees and has maintained the use of distinct fees for each certification level in § 130e.3, considering the reduction of those fees to be commensurate with the authority and duties of the proposed levels of certification and reflective of the necessary revenue to appropriately cover the cost of administration of the program.

#### *Clarity of the regulated community*

The act does not address farmers applying manure to their own land with their own equipment or a neighbor's equipment. This was a concern that was strongly expressed from the agricultural community. Proposed § 130e.4(a) of the proposed regulation set forth the requirements a person commercially transporting or land applying manure in the Commonwealth must satisfy in order to operate in a commercial capacity. Section 130e.4(b) of the final-form regulations was modified to address and clarify the exclusion of an agricultural operator from certification requirements of the act by citing specific examples of "noncommercial" activities that would not require an agricultural operator to obtain certification.

#### *Supervision*

Language throughout the final-form regulations was modified to address concerns regarding the term "onsite supervision" as it was used in the delineation of authority, duties and prohibitions for certification levels in the originally proposed regulation. Considering that certain circumstances require some degree of training, oversight and supervision for certain levels of certification and recognizing that "onsite supervision" is not a practical management tool for the industry, the term "onsite supervision" has been modified to facilitate the supervision of land-application activities of manure by a certified hauler, where applicable under the provisions of these regulations through electronic or other means of direct communication.

#### *Display of certification*

The proposal required that all persons display the issued certification number on any equipment the certified operator utilizes in the transport or land-application of manure (§ 130e.6(a)). Recognizing that the display of a certification number on all equipment operated by an individual is not practical, the final-form regulation was modified to remove this provision and maintain the requirement that certified individuals shall carry on their person or in the vehicle of operation a copy of their current certificate.

#### *Nutrient Management Specialist eligibility*

The act of July 6, 2005 (P. L. 112, No. 38) (Act 38) provides for the certification of individuals involved in the commercial development of nutrient management plans and nutrient balance sheets for agricultural operations through the Nutrient Management Certification Program (7 Pa. Code Chapter 130b). Current courses required to become a certified commercial nutrient management plan writer cover all of the elements required to become

certified as a Level 1 or Level 2 Commercial Manure Broker or a Level 3 Commercial Manure Hauler and therefore, currently certified commercial nutrient management plan writers would meet the qualifications required for certification at those levels under the act. The final form regulations include specific provisions which allow those persons who have met the certification requirements as a commercial or public dual nutrient management specialist to be eligible for certain levels of certification under the Program.

#### *Application for certification*

Considering various comments and concerns regarding the complexity of the certification and application process, the final form regulations reflect a simplified application process for all certification levels. When an examination is required as part of the certification process, the examination will constitute the application for certification. The Department will issue a temporary certificate to the applicant when the Department has determined that the applicant has successfully satisfied all coursework and examination requirements. The temporary certificate will remain valid for 30 days by which time an applicant must submit the appropriate certification fees to receive final certification from the Department.

#### *Certification requirements and course work*

Recognizing the transient nature of the industry and the need to facilitate expedient certification of individuals in certain sectors of the industry, primarily those businesses or individual that only "transport" manure or "new", "part-time" or "seasonal" hires, the final-form regulations have modified the certification requirements for Manure Hauler Level 1 and Level 2. Competency requirements for the type of activities authorized for these certification levels and subsequently the course work format have been modified to allow certification of individuals at the site of business. Certification course work for the Manure Hauler Level 1 consists of a worksheet and a Level 2 certification requires review of a workbook and a proctored, but open book test which may be taken at numerous sites around this Commonwealth. The worksheets, workbooks and tests were developed by the Department and delineate and test key issues and provide the knowledge base necessary to support appropriate activities performed and authorized for the respective certification level. Certification requirements for classroom coursework and examination have been maintained as originally proposed for Manure Hauler Level 3 and Manure Broker Level 1 and Level 2.

Additionally, the final form regulations have been modified to include the provision for 'conditional' certification of a Level 2 Commercial Manure Hauler. This occurs in a case where an individual needs to be hired by the commercial manure hauler or broker to cover an unforeseeable circumstance that leaves that owner of the hauling or broker business without personnel during a critical time of the year and in order to prevent an environmental harm. The individual may be certified in an expedient manner through cooperative efforts between the Department and the employer. Provisions have been added to the final form regulation which will allow an employer seeking to obtain "conditional" certification for a newly hired employee do so through notification to the Department. The conditional certification is good for 5 business days, after which the conditionally certified employee shall meet the full certification requirements for a Level 2 Commercial Manure Hauler.

#### *Certification time frames and recertification requirements*

Language in the final-form regulations have been consolidated and modified to clarify the certification time frames and the continuing education requirements for each category and certification level. Certification time frames for all levels (manure hauler and broker) have been standardized to 3 years, requiring an individual to obtain the necessary continuing education credits in competency areas prescribed for the particular levels of certification. Retesting requirements for recertification have been deleted from the final form regulations. Individuals holding a Manure Hauler Level 1 certification will be required to complete an updated worksheet, developed by the Department, in lieu of accumulating continuing education credits.

#### *Recordkeeping*

The act specifically requires all certified commercial manure haulers and brokers maintain records of all manure transport and brokering activities. The recordkeeping requirements of the proposed regulations were developed to satisfy the requirements of the act while maintaining consistency with the recordkeeping requirements of the Act 38 and its regulations, in particular recordkeeping requirements of concentrated animal operations, concentrated animal feeding operations and other agricultural operations volunteering to meet requirements of Act 38. The final-form regulations have been modified to delete the requirement for annual submission of records by the certified manure hauler or broker to the Department. Recordkeeping provisions require all certified haulers and brokers to maintain specified records for inspection by the Department.

Under this notice, the Department will accept additional comments to the proposed final-form rulemaking for 15 days. The extended comment period will commence on August 12, 2006, through and including August 28, 2006.

#### *Contact Person, Availability of Draft Final Regulations and Submission of Comments*

The Department will accept written comments as well as comments transmitted by means of e-mail on the draft final-form rulemaking regarding the Program. Comments will not be accepted by facsimile, telephone or voice mail. Commentators shall set forth the specific section of the proposed final-form rulemaking they are addressing. Comments sent by means of e-mail must include the following in the subject heading of the transmission: "Comments on Commercial Manure Hauler & Broker Certification ANFR." E-mail transmissions as well as written comments must include the commentator's name and address. Written comments must be received by the Department on or before August 28, 2006.

The draft final-form amendments are available electronically through the Department's website [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us). To request a copy of the draft final-form rulemaking, contact Johan Berger, Department of Agriculture, Commercial Manure Broker and Hauler Program, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-4189, [joberger@state.pa.us](mailto:joberger@state.pa.us).

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 06-1544. Filed for public inspection August 11, 2006, 9:00 a.m.]

# DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 127]

## Medical Treatment Review; Notice of Correction; Comment Period Extension

Notice of the Department of Labor and Industry's (Department's) proposal to amend 34 Pa. Code Chapter 127, including Subchapter C (relating to medical treatment review) was published at 36 Pa.B. 2913 (June 10, 2006).

Two errors appeared in the document proposing new regulations at 36 Pa.B. 2913 (June 10, 2006). The errors were in Subchapter C, 34 Pa. Code §§ 127.401—127.670 (relating to Medical Treatment Review), and in the preamble at 36 Pa.B. 2913, 2915.

Due to a typographical error, the proposal did not accurately reflect the Department's intent to rescind Subchapter C and replace it with Subchapter E. The correct preamble should read as follows:

*Subchapter E. Medical Treatment Review*

The Department proposes rescinding §§ 127.401—127.670 and adding Subchapter E (relating to Medical Treatment Review).

The correct version of the proposal appears in Annex A, with ellipses referring to the existing text of the proposal.

In light of the potential for confusion relating to this error, the Department will now accept comments relating to the rescission of the existing Subchapter C until September 18, 2006.

*Contact Person*

Interested persons may submit written comments relating to this correction to Eileen Wunsch, Chief, Health Care Services Review Division, Bureau of Workers' Compensation, Department of Labor and Industry, Chapter 127 Regulations—Comments, P. O. Box 15121, Harrisburg, PA 17105, ra-li-bwc-administra@state.pa.us. Written comments must be received within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. Written comments received by the Department may be made available to the public.

**Annex A**

**TITLE 34. LABOR AND INDUSTRY**

**PART VIII. BUREAU OF WORKERS' COMPENSATION**

**CHAPTER 127. WORKERS' COMPENSATION MEDICAL COST CONTAINMENT**

\* \* \* \* \*

Subchapter C. [ **MEDICAL TREATMENT REVIEW** ]  
**(Reserved)**

§§ 127.401—127.407. [ **Reserved** ].

§§ 127.451—127.479. [ **Reserved** ].

§§ 127.551—127.556. [ **Reserved** ].

§§ 127.601—127.627. [ **Reserved** ].

§§ 127.651—127.670. [ **Reserved** ].

[Pa.B. Doc. No. 06-1545. Filed for public inspection August 11, 2006, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF EDUCATION

### Eligible Partnerships Postsecondary Grant Application Guidelines for Assistance for Teachers Teaching with Type 01 Emergency Permits to Become "Highly Qualified" as Defined by No Child Left Behind

The Department of Education (Department) has established Eligible Partnerships Postsecondary Grant Application Guidelines (Guidelines) to provide direction to eligible partnerships for submitting applications targeting assistance for teachers to become highly qualified under the No Child Left Behind Act. An eligible partnership that receives a grant under these Guidelines shall limit its programs to those that provide an innovative approach for classroom teachers currently teaching with a Type 01 emergency permit in a high-need local educational agency to earn a teacher intern certificate after having fulfilled all of the entrance requirements and thereafter completing the certificate program within 2 to 3 years—although a 2-year model is preferred. The areas of certification will be limited to the core academic subjects of English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography. The Guidelines define a partnership that is eligible to apply; each partnership must designate

either an institution of higher education or an intermediate unit as the lead organization to execute a contract or memorandum of understanding with the Commonwealth. Approximately \$2.5 million is available on a competitive basis under these Guidelines. Three to five contracts or memoranda of understanding will be awarded in amounts not to exceed \$750,000.

Copies of the Guidelines are available on the Department's web page at [www.pde.state.pa.us](http://www.pde.state.pa.us) or from the issuing office, which is the sole point of contact for the Guidelines: Division of Program Services, Bureau of Postsecondary Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 772-3623, TDD (717) 783-8445.

A preproposal conference is scheduled for August 23, 2006, from 10 a.m. to 1 p.m. in the Honors Suite, 333 Market Street, Harrisburg, PA 17126-0333. Attendance at the preproposal conference is a prerequisite for submitting an application.

Applications submitted in response to the Guidelines for assisting teachers with Type 01 emergency permits to become highly qualified are due in the Division of Program Services no later than 5 p.m., Friday, September 15, 2006.

GERALD L. ZAHORCHAK, D. Ed.  
*Secretary*

[Pa.B. Doc. No. 06-1546. Filed for public inspection August 11, 2006, 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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0064106 (Minor Sewage)	Benton-Nicholson Joint Sewer Authority P. O. Box 355 Factoryville, PA 18419	Wyoming County Nicholson Township	UNT to South Branch Tunkhannock Creek 4F	Y

Chesapeake Bay Strategy nutrient monitoring requirement was added to this permit.

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0041912	Deer Haven, LLC 41 Elm Street Morristown, NJ 07960	Palmyra Township Pike County	Lake Wallenpaupack 1C	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0084816 (Industrial Waste)	Sunoco Pipeline, LP 525 Fritztown Road Sinking Spring, PA 19608	Berks County Sinking Spring Borough	Swale Tributary to Cacoosing Creek 3C	Y
PA0081884 (Sewage)	Cuttin Co., LLC P. O. Box 3038 Gettysburg, PA 17325	Adams County Straban Township	UNT Beaver Dam Creek 7F	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0113093 (Sewage)	Christ Wesleyan Church 363 Stamm Road Milton, PA 17847	Turbot Township Northumberland County	UNT to Limestone Run WWF	Y
PA0007498 IW	Wise Foods, Inc. 228 Raseley Street Berwick, PA 18603	Berwick Borough Columbia County	Susquehanna River 5D	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0008541	York International Corp. P. O. Box 1592-082K York, PA 17405	Spring Garden Township York County	Codorus Creek 7-H	Y

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

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

**PA0244163**, Industrial Waste, SIC 2744, **Quebecor World Atglen, Inc.**, 4581 Lower Valley Road, Atglen, PA 19310. This proposed facility is located in West Sadsbury Township, **Chester County**.

Description of Proposed Activity: This proposed action is for the renewal and an amendment of an NPDES permit for the discharge of stormwater from an industrial facility.

The receiving stream, Valley Creek (Pa Stream Code 07131), is in the State Water Plan Watershed 7K and is classified for TSF, MF. The nearest downstream public water supply intake for Chester Water Authority is located on Octoraro Lake and is approximately 15 miles below the point of discharge.

The proposed effluent limits for Outfalls 001, 002 and 003 are based on a stormwater event.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>					Monitor and Report
COD					Monitor and Report
Oil and Grease					Monitor and Report
pH					Monitor and Report
Total Suspended Solids					Monitor and Report
Total Phosphorus					Monitor and Report
Total Kjeldahl Nitrogen					Monitor and Report
Iron, Total					Monitor and Report
Zinc, Total					Monitor and Report
Copper, Total					Monitor and Report
Silver, Total					Monitor and Report
Chromium, Total					Monitor and Report
Chloroform, Total					Monitor and Report
Toluene					Monitor and Report
Xylene					Monitor and Report
Ethylbenzene					Monitor and Report

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

**NPDES Permit No. PA0057819, Amendment No. 1**, Sewage, SIC 4952, **New Hanover Township Authority**, 2990 Fagleyville Road, Gilbertsville, PA 19525.

Description of Activity: Amendment of Sewage Treatment Plant's NPDES Permit to increase annual average flow from 0.825 mgd to 1.925 mgd.

The receiving water, Swamp Creek, is in the State Water Plan Watershed 3E-Perkiomen and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua-PA is located on Perkiomen Creek and is approximately 12 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.925 mgd and would take effect after completion of plant expansion:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	10.0	15.0		20.0
(11-1 to 4-30)	15.0	22.5		30.0
Total Suspended Solids	10.0	15.0		20.0
NH <sub>3</sub> -N				
(5-1 to 10-31)	1.50	2.25		3.0
(11-1 to 4-30)	3.0	4.5		6.0
Phosphorus as P	0.9	1.35		1.8
Fecal Coliform*	200 #/100 ml	Monitor and Report		
pH (Standard Units)	6.0 (Min)			9.0
Nitrite and Nitrate as N	Monitor and Report			
Dissolved Oxygen	5.0 (Min)			

\*Ultra-Violet Disinfection.



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

1. Discharge must not cause nuisance.
2. Whole Effluent Toxicity testing to be conducted after plant expansion.
3. Proper sludge disposal.

**PA0021857**, Sewage, SIC 4952, **Souderton Borough**, 31 West Summit Street, Souderton, PA 18964. This Souderton facility is located in Franconia Township, **Montgomery County**. The following notice reflects addendum to the notice published in the 36 Pa.B. 3122 (June 24, 2006).

The water quality-based effluent limit for copper in this proposed NPDES permit is based on conditions specific to the discharge site. The water quality criteria for copper found in 25 Pa. Code Chapter 16 has been revised based upon a recalculation of the criteria and the application of a Water Effect Ratio (WER) as allowed in 25 Pa. Code § 93.8.

The revised copper criterion hardness equations for the wastewater discharge from the Souderton sewage treatment plant to Skippack Creek are as follows:

$$\text{CCCr: } e^{(0.8545 \log_e(H) - 0.99)}$$

$$\text{CMCr: } e^{(0.9422 \log_e(H) - 0.9837)}$$

The pooled slopes for the chronic and acute equations are not revised for this recalculation and neither is the final acute-chronic ratio (FACR). Therefore, using these new equations and the site hardness of 143 mg/l as CaCO<sub>3</sub> for the Skippack Creek, the site-specific recalculated copper criterion values are:

$$\text{CCCr} = 25.9 \text{ ug/L}$$

$$\text{CMCr} = 40.1 \text{ ug/L}$$

The WER for this discharge was established as listed:

$$\text{WER (Dissolved)} = 2.27$$

$$\text{WER (Total Recoverable)} = 2.55$$

Based on the previous data and using available dilution, the effluent limits for Copper (Total Recoverable) is 0.067 mg/l as an average monthly.

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

**Application No. PA 0021075**, Sewage, **Borough of Myerstown**, 101 East Washington Avenue, Myerstown, PA 17067-1142. This facility is located in Jackson Township, **Lebanon County**.

Description of activity: The application is for an NPDES permit to expand an existing discharge of treated sewage from 1.6 mgd to 2.0 mgd.

The receiving stream, Tulpehocken Creek, is in Watershed 3-C and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Western Berks Water Authority is located on the Tulpehocken Creek, approximately 32 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 2.0 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	17	37	34
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	5.5		11
(11-1 to 4-30)	16.5		33
Total Phosphorus	1.0		2.0
Total Residual Chlorine	0.5		1.6
Dissolved Oxygen		minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		3,500/100 ml as a geometric average	

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

The EPA waiver is not in effect.

**Application No. PA 0007765**, Industrial Waste, SIC Code 3751, **Harley Davidson Motor Company**, 1425 Eden Road, York, PA 17402. This facility is located in Springettsbury Township, **York County**.

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

The receiving stream, UNT of Codorus Creek, is in Watershed 7-H and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Wrightsville Water Supply Company located on the Susquehanna River, approximately 17 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 002 based on a design flow of 0.099 mgd are:

<i>Parameter</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		from 6.0 to 9.0 inclusive		
Oil and Grease		10		20
Temperature		See Below*		

\* Temperature limits are as follows: January—64°F, February—59°F, March—83°F, April—75°F, May—88°F, June—110°F, July—108°F, August—109°F, September—97°F, October—88°F, November—70° and December—75°F.

The proposed effluent limits for Outfall 004 based on a design flow of 0.00039 mgd are:

<i>Parameter</i>	<i>Instantaneous Minimum</i>	<i>Concentration (mg/l) Parameter</i>		<i>Instantaneous Maximum</i>
		<i>Average Monthly</i>	<i>Maximum Daily</i>	
pH	Monitor and Report			Monitor and Report
Oil and Grease			Monitor and Report	

The proposed effluent limits for Outfall 005 are:

<i>Parameter</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH			Monitor and Report	
Oil and Grease			Monitor and Report	
COD			Monitor and Report	
CBOD <sub>5</sub>			Monitor and Report	
Total Nickel			Monitor and Report	
Total Suspended Solids			Monitor and Report	
Total Phosphorus			Monitor and Report	
Total Kjeldahl Nitrogen			Monitor and Report	
Total Iron			Monitor and Report	

The proposed effluent limits for Outfall 006 based on a design flow of 0.00088 mgd are:

<i>Parameter</i>	<i>Instantaneous Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
		<i>Average Monthly</i>	<i>Maximum Daily</i>	
pH	Monitor and Report			Monitor and Report
Oil and Grease			Monitor and Report	
COD			Monitor and Report	
CBOD <sub>5</sub>			Monitor and Report	
Total Nickel			Monitor and Report	
Total Suspended Solids			Monitor and Report	
Total Phosphorus			Monitor and Report	
Total Kjeldahl Nitrogen			Monitor and Report	
Total Iron			Monitor and Report	

The proposed effluent limits for Outfall 007 are:

<i>Parameter</i>	<i>Instantaneous Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
		<i>Average Monthly</i>	<i>Maximum Daily</i>	
pH			Monitor and Report	
Oil and Grease			Monitor and Report	
COD			Monitor and Report	
CBOD <sub>5</sub>			Monitor and Report	
Total Nickel			Monitor and Report	
Total Suspended Solids			Monitor and Report	
Total Phosphorus			Monitor and Report	
Total Kjeldahl Nitrogen			Monitor and Report	
Total Iron			Monitor and Report	

The proposed effluent limits for Outfall 008 are:

Parameter	Concentration (mg/l)			Instantaneous Maximum
	Instantaneous Minimum	Average Monthly	Maximum Daily	
pH				Monitor and Report
Oil and Grease				Monitor and Report
COD				Monitor and Report
CBOD <sub>5</sub>				Monitor and Report
Total Nickel				Monitor and Report
Total Suspended Solids				Monitor and Report
Total Phosphorus				Monitor and Report
Total Kjeldahl Nitrogen				Monitor and Report
Total Iron				Monitor and Report

Persons 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 0248461**, Concentrated Animal Feeding Operation (CAFO), **Robert and Karen Gochenaur**, 3449 Delta Road, Airville, PA 17302.

Robert and Karen Gochenaur have submitted an NPDES permit application for Stone Chimney Hollow Farm located in Lower Chanceford Township, **York County**. The CAFO is situated near a UNT of Orson Run (Watershed 7-I), which is classified as a TSF. The CAFO has a target animal population of approximately 560 animal equivalent units consisting of 2,200 finishing pigs, 61,000 starter and finishing turkeys, 30 calves and 35 deer. Dry manure is cleaned out of three turkey barns periodically, and liquid swine manure is contained within a below ground concrete structure with a capacity of approximately 550,000 gallons. 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 Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to 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 Watershed 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.

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

**PA0110540**, Sewerage SIC, 2033, **Furman Foods, Inc.**, P. O. Box 500, Northumberland, PA, 17857-0500. This existing facility is located in Point Township, **Northumberland County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge treated process wastewater, sewage and cooling water to the West Branch of the Susquehanna River and to a UNT to the Susquehanna River in Point Township, Northumberland County. These are existing discharges.

Both receiving streams are classified for the following uses: WWWW, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply considered during the evaluation is Sunbury Water Authority located at Sunbury, Northumberland County on the Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.238 mgd.

Parameter	Concentration mg/l				Mass lbs	
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
pH	within the range of 6.0 to 9.0					
Dissolved Iron	1.5		3.0	3.0		
Oil and Grease	15		30	30		
Temperature	Report			Report		
Total Halogens	0.2			0.6		
Ammonia-N	Report					

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Parameter	Concentration mg/l				Mass lbs	
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
Kjeldahl-N	Report				Report	
Nitrate/Nitrite-N	Report				Report	
Total Nitrogen	Report				Report	Report
Total Phosphorus	Report				Report	Report

The proposed effluent limits for Outfall 003 based on a design flow of 0.5 mgd. This is an Emergency Outfall.

Parameter	Concentration mg/l				Mass lbs	
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
pH	within the range of 6.0 to 9.0					
CBOD <sub>5</sub>	75			100		
TSS	75			100		
Ammonia-N						
(5-1 to 10-31)	1.5		3	3.5		
(11-1 to 4-30)	4.5		9	11		
Oil and Grease	15		30	30		
Fecal Coliforms	200 #/100 ml geometric mean and not greater than 1,000 #/100ml in more than 10% of the samples tested					
Ammonia-N	Report					
Kjeldahl-N	Report				Report	
Nitrate/Nitrite-N	Report				Report	
Total Nitrogen	Report				Report	Report
Total Phosphorus	Report				Report	Report

The proposed effluent limits for Outfall 004 based on a design flow of 0.5 mgd.

Parameter	Concentration mg/l				Mass lbs	
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
pH	within the range of 6.0 to 9.0					
CBOD <sub>5</sub>	75			100		
TSS	75			100		
Ammonia-N						
(5-1 to 10-31)	1.5		3	3.5		
(11-1 to 4-30)		4.5	9	11		
Oil and Grease	15		30	30		
Fecal Coliforms:	200 #/100 ml geometric mean and not greater than 1,000 #/100 ml in more than 10% of the samples tested					
(5-1 to 9-30)	200 #/100 ml geometric mean and not greater than 1,000 #/100 ml in more than 10% of the samples tested					
(10-1 to 4-30)	2,000 #/100 ml geometric mean					
Total Chlorine Residual	1.0			2.3		
Ammonia-N	Report					
Kjeldahl-N	Report				Report	
Nitrate/Nitrite-N	Report				Report	
Total Nitrogen	Report				Report	Report
Total Phosphorus	Report				Report	Report

The EPA waiver is in effect.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701 (570) 327 3664.

**PA0046159**, Sewerage 4952, **Municipal Sewer Authority of Houtzdale Borough**, 116 Sterling Street, P. O. Box 277, Houtzdale, PA 16651-0277. This existing facility is located in Woodward Township, **Clearfield County**.

Description of Proposed Activity: This proposed action is for the renewal of a NPDES permit for the discharge of Treated Sewage Effluent.

The receiving stream, Beaver Run is in the Moshannon Creek Watershed 8-D and classified for CWF.

The proposed effluent limits for Outfall 001 based on a design flow of 0.300 mgd:

Parameter	Concentration mg/l			Mass lbs		
	Monthly Average	Weekly Average	Daily Maximum	Instantaneous Maximum	Monthly Load	Annual Load
pH	within the range of 6.0 to 9.0					
CBOD <sub>5</sub>						
(5-1 to 10-31)	20	30		40		
(11-1 to 4 to 30)	25	40		50		
TSS	30	45		60		
Ammonia-N						
(5-1 to 10-31)	10	15		20		
(11-1 to 4-30)	Monitor	Monitor		Monitor		
Total Chlorine Residual	0.5			1.6		
Fecal Coliforms:						
(5-1 to 9-30)	200 #/100 ml geometric mean and not greater than 1,000 #/100ml in more than 10% of the samples tested					
(10-1 to 4-30)	2,000 #/100 ml geometric mean					
Ammonia-N	Report					
Kjeldahl-N	Report				Report	
Nitrate/Nitrite-N	Report				Report	
Total Nitrogen	Report				Report	Report
Total Phosphorus	Report				Report	Report

The EPA waiver is in effect.

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

**PA0003603**, Industrial Waste, SIC, 3312, **Universal Stainless and Alloy Products, Inc.**, 600 Mayer Street, Bridgeville, PA 15017. This application is for renewal of an NPDES permit to discharge stormwater and untreated cooling water from Bridgeville Works in Collier Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Chartiers Creek, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is West View Borough Municipal Water Authority, located at 210 Perry Highway, Pittsburgh PA 15229, 15 miles below the discharge point.

Outfall 007: existing discharge, design flow of 0.012 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow					Monitor and Report
Temperature					110°F
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is not in effect.

Outfall 008: existing discharge, design flow of 0.0014 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow					Monitor and Report
Temperature					110°F
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0				

Outfall 003, 004 and 901—913: existing discharge flow of varied mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow					Monitor and Report
CBOD <sub>5</sub>					Monitor and Report
COD					Monitor and Report
Oil and Grease					Monitor and Report
Total Suspended Solids					Monitor and Report
Lead (Total)					Monitor and Report
Chromium					Monitor and Report

## NOTICES

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Copper					Monitor and Report
Cadmium					Monitor and Report
Arsenic					Monitor and Report
Iron (Total)					Monitor and Report
Nitrate-Nitrite Nitrogen					Monitor and Report
Magnesium (Total)					Monitor and Report
Zinc (Total)					Monitor and Report
Aluminum					Monitor and Report
Boron					Monitor and Report
Nickel					Monitor and Report
Molybdenum					Monitor and Report
Titanium					Monitor and Report
pH	not less than 6.0 nor greater than 9.0				

**PA0004278**, Industrial Waste, SIC, 3295, **Lafarge North America, Inc.**, 5160 Main Street, Whitehall, PA 18052-1827. This application is for renewal of an NPDES permit to discharge treated process water and stormwater from the Duquesne Plant in West Mifflin Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Thompson Run, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is PA American Water Company, located at 410 Cooke Lane, Pittsburgh, PA 15234, 10.1 miles below the discharge point.

*Outfall 001*: existing discharge, design flow of 0.2376 mgd (Interim Limits)

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			35	70	
Aluminum			Monitor and Report		
Iron			3.0	6.0	
Manganese			2.0	4.0	
Nickel			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

*Outfall 001*: existing discharge, design flow of 0.2376 mgd (Final Limits).

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			35	70	88
Aluminum			0.5	1.0	1.25
Iron			1.56	3.12	3.9
Manganese			2.0	4.0	5.0
Nickel			0.054	0.108	0.135
pH	not less than 6.0 nor greater than 9.0				

*Outfalls 002 and 003*: stormwater discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Suspended Solids			Monitor and Report		
Oil and Grease			Monitor and Report		
Aluminum			Monitor and Report		
Iron			Monitor and Report		
Manganese			Monitor and Report		
Nickel			Monitor and Report		
pH	Monitor and Report				

**PA0014311-A1**, Industrial Waste, SIC, 3315, **Keystone Profiles**, 220 Seventh Avenue, Beaver Falls, PA 15010. This application is for amendment of an NPDES permit to discharge treated process water, cooling water and stormwater from the Beaver Falls Plant in Beaver Falls, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Walnut Bottom Run and Beaver River, classified as WWF with existing and/or potential uses for aquatic life, water supply and recreation.

*Outfall 101*: existing discharge, design flow of 0.024 mgd. These effluent limits are valid for an average monthly production rate of up to and including 100 tons/day.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Suspended Solids	5.5	12.9			88
Oil and Grease			15		30
Lead	0.002	0.004	0.021	0.042	0.053
Zinc	0.024	0.071			0.75
Chromium	0.028	0.071			1.3
Nickel	0.046	0.138			1.1
Production (tons/day)	Monitor and Report				
Total Monthly Production	Monitor and Report				
Daily Maximum Production	Monitor and Report				
Monthly Average Production	Monitor and Report				
Number of Days/Month of Production	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

*Outfall 101*: existing discharge, design flow of 0.024 mgd. These effluent limits are valid for an average monthly production rate of greater than 100 tons/day and less than or equal to 150 tons/day.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Suspended Solids	8.3	19.4			88
Oil and Grease			15		30
Lead	0.002	0.004	0.021	0.042	0.053
Zinc	0.035	0.106			0.75
Chromium	0.043	0.107			1.3
Nickel	0.069	0.208			1.1
Production (tons/day)	Monitor and Report				
Total Monthly Production	Monitor and Report				
Daily Maximum Production	Monitor and Report				
Monthly Average Production	Monitor and Report				
Number of Days/Month of Production	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

*Outfall 101*: existing discharge, design flow of 0.024 mgd. These effluent limits are valid for an average monthly production rate of greater than 150 tons/day and less than or equal to 200 tons/day.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Suspended Solids	11.0	25.8			88
Oil and Grease			15		30
Lead	0.002	0.004	0.021	0.042	0.053
Zinc	0.047	0.141			0.75
Chromium	0.057	0.142			1.3
Nickel	0.092	0.277			1.1
Production (tons/day)	Monitor and Report				
Total Monthly Production	Monitor and Report				
Daily Maximum Production	Monitor and Report				

NOTICES

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Monthly Average Production	Monitor and Report				
Number of Days/Month of Production	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

*Outfall 101:* existing discharge, design flow of 0.024 mgd. These effluent limits are valid for an average monthly production rate of greater than 200 tons/day and less than or equal to 250 tons/day.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Suspended Solids	13.8	32.3			88
Oil and Grease			15		30
Lead	0.002	0.004	0.021	0.042	0.053
Zinc	0.059	0.177			0.75
Chromium	0.071	0.178			1.3
Nickel	0.115	0.346			1.1
Production (tons/day)	Monitor and Report				
Total Monthly Production	Monitor and Report				
Daily Maximum Production	Monitor and Report				
Monthly Average Production	Monitor and Report				
Number of Days/Month of Production	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

*Outfall 001:* existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Zinc			Monitor and Report		

*Outfall 002:* existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)					110
pH	not less than 6.0 nor greater than 9.0				

*Outfall 003—007 and 010:* existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Zinc			Monitor and Report		

*Outfall 008:* existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
This outfall shall consist solely of uncontaminated stormwater runoff and groundwater infiltration.					



Outfall 009: existing discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (°F)	110				
Zinc	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

**PA0252875**, Industrial Waste, SIC, 4911 and 4912, **Wellington Development-WVDT**, LLC, 1620 Locust Avenue, Fairmont, WV 26554. This application is for issuance of an NPDES permit to discharge treated process water, sewage and untreated stormwater from Greene Energy Resource Recovery Project in Cumberland Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Carmichaels Municipal Water Authority, located at Monongahela River, 3.0 miles below the discharge point.

Outfall 101: discharge, design flow of 0.005 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	0.005	Monitor and Report			
CBOD <sub>5</sub>				25	50
Suspended Solids				30	60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean				
(10-1 to 4-30)	2,000/100 ml as a geometric mean				
Total Residual Chlorine				1.4	3.3
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is not in effect.

Internal Monitoring Point 201: new discharge, design flow of 0.1 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids				30	60
Oil and Grease				15	20
pH	not less than 6.0 nor greater than 9.0				

Internal Monitoring Point 301: new discharge, design flow of varied mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids				50	
pH	not less than 6.0 nor greater than 9.0				

Internal Monitoring Point 401: new discharge, design flow of varied mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids				30	100
Oil and Grease				15	20
pH	not less than 6.0 nor greater than 9.0				

*Internal Monitoring Point Outfall 501: new discharge, design flow of 1.26 mgd*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Chromium			0.2	0.2	
Zinc			1.0	1.0	
Free Available Chlorine			0.2	0.5	
Total Residual Chlorine			0.5	1.0	
pH	not less than 6.0 nor greater than 9.0				

*Internal Monitoring Point 601: new discharge, design flow of varied mgd*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Suspended Solids			30	100	
Oil and Grease			15	20	30
pH	not less than 6.0 nor greater than 9.0				

*Outfall 001: new discharge, design flow of 1.26 mgd*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids			30	100	
Oil and Grease			15	20	30
Temperature (°F)					110
Total Dissolved Solids			Monitor and Report		
Iron			2.0		4.0
Aluminum			4.0		8.0
Manganese			1.0		2.0
pH	not less than 6.0 nor greater than 9.0				

*Outfall 002: new discharge, design flow of 0.1 mgd*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
This discharge shall consist of intake screen backwash water only.					
Debris collected from the screen shall not be returned to the waterways.					

*Internal Monitoring Point 103: new discharge, design flow of varied mgd*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Suspended Solids					50
Oil and Grease					
pH	not less than 6.0 nor greater than 9.0				

*Internal Monitoring Point 203: new discharge, design flow of varied mgd*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids			Monitor and Report		
Iron			Monitor and Report		

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
pH			Monitor and Report		

*Outfall 003*: new discharge, design flow of varied mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
This discharge shall consist solely of those source previously monitored at IMPs 103 and 203.					

**PA0035262**, Sewage, **James F. Brandt, Matthews Mobile Home Park**, P. O. Box 537, Bainbridge, PA 17502-0537. This application is for renewal of an NPDES permit to discharge treated sewage from Matthews Mobile Home Park in Reade Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters known as Fallentimber Run which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is more than 50 miles downstream.

*Outfall 001*: existing discharge, design flow of 0.0036 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0092274**, Sewage, **Unity Township Municipal Authority**, P. O. Box 506, Pleasant Unity PA 15676. This application is for renewal of an NPDES permit to discharge treated sewage from Pleasant Unity STP in Unity Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Sewickley Creek which are classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Westmoreland County Municipal Authority, McKeesport Plant, on the Youghiogheny River.

*Outfall 001*: existing discharge, design flow of 0.95 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub> (5-1 to 10-31)	10	15		20
(11-1 to 4-30)	15	23		30
Suspended Solids	20	30		40
Ammonia Nitrogen (5-1 to 10-31)	1.5	2.3		3.0
(11-1 to 4-30)	4.5	6.8		9.0
Nitrite/Nitrate			Monitor and Report	
Phosphorus	3.0	4.5		6.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 7.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0095401**, Sewage, **Saint Victor's Roman Catholic Church**, Box 149, Bairford PA 15006. This application is for renewal of an NPDES permit to discharge treated sewage from St. Victor's Roman Catholic Church in West Deer Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Dawson Run, which are classified as a WF 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 Oakmont Borough MWA.

*Outfall 001*: existing discharge, design flow of 0.0018 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	7.5			15.0
(11-1 to 4-30)	20.0			40.0
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	Monitor and Report			
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0097799**, Sewage, **Jerry F. Smith**, 1001 Clubhouse Drive, Donegal PA 15628. This application is for renewal of an NPDES permit to discharge treated sewage from Laurel Highlands Campland STP in Donegal Township, **Westmoreland County**.

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

*Outfall 001*: existing discharge, design flow of 0.043 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.5			7.0
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	.02			
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA0027367**, Sewage, **Borough of Greenville**, 125 Main Street, P. O. Box 604, Greenville, PA 16125. This proposed facility is located in Greenville Borough, **Mercer County**.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Reynolds Water Company intake located on the Shenango River in Pymatuning Township, Mercer County, and is approximately 2 miles below the point of discharge.

The receiving stream, the Shenango River, is in Watershed 20-A and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 2.8 gpd.

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (gpd)	XX	XX			
CBOD <sub>5</sub>					
(5-1 to 10-31)	467	700	20	30	40
(11-1 to 4-30)	584	934	25	40	50
Total Suspended Solids	700	1,050	30	50	60
NH <sub>3</sub> -N					
(5-1 to 10-31)	175		7.5		15
(11-1 to 4-30)	525		22.5		45
Phosphorus as "P"	23		1		2
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a geometric average			
(10-1 to 4-30)		2,000/100 ml as a geometric average			
Total Residual Chlorine			0.44		1.4
pH		6.0 to 9.0 standard units at all times			

XX—Monitor and report on monthly DMRs.

*Special Conditions:* Chronic whole effluent toxicity monitoring.

The EPA waiver is not in effect.

**PA0027227**, Sewage. **City of Farrell**, 500 Roemer Boulevard, Farrell, PA 16121. This facility is located in City of Farrell, **Mercer County**.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Western PA Water Company—New Castle District intake on the Shenango River located at New Castle, and is approximately 20 miles below the point of discharge.

The receiving stream, the Shenango River, is in watershed 20-A and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.57 gpd.

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (gpd)	XX	XX			
CBOD <sub>5</sub>	1,191	25	40	50	
Total Suspended Solids	1,240	30	45	60	
NH <sub>3</sub> -N					
(5-1 to 10-31)	417		14		28
(11-1 to 4-30)	XX		XX		
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a geometric average			
(10-1 to 4-30)		2,000/100 ml as a geometric average			
Total Residual Chlorine			0.5		1.6
pH		6.0 to 9.0 standard units at all times			

XX—Monitor and report on monthly DMRs.

*Combined Sewer Overflow discharge points*

Outfall 002 (Broadway Pump Station)

Outfall 006 (CSO related bypass)

Outfall 007 (Spearman Avenue)

Outfall 008 (Beechwood Avenue)

The proposed effluent limits for Outfall 009 are based on a design flow of n/a mgd. This discharge shall consist of uncontaminated stormwater runoff from the treatment plant site.

*Special Conditions:*

1. Superseding effluent limits in Water Quality Management permits.
2. Total Residual Chlorine Minimization.
3. Combined Sewer Overflows (CSO).

4. CSO related bypass.
5. Whole Effluent Toxicity testing for the renewal permit.
6. Stormwater Best Management Practices.

The EPA waiver is not in effect.

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

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

**WQM Permit No. 0906405**, Sewerage, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This proposed facility is located in Richland Township, **Bucks County**.

Description of Action/Activity: Replacing pumps, pipes, and valves to increase the capacity of the pump station.

**WQM Permit No. 1506413**, Sewerage, **Valley Township**, 890 W. Lincoln Highway, P. O. Box 467, Coatesville, PA 19320. This proposed facility is located in Valley Township, **Chester County**.

Description of Action/Activity: Construction and operation of two pump stations and a force main.

**WQM Permit No. 0906406**, Sewerage, **Milford-Trumbauersville Area Sewer Authority**, 1825 Rosenberger Road, P. O. Box 126, Spinnerstown, PA 18968. This proposed facility is located in Milford Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a new influent pump station including screening system, emergency generator and a stand-by pump.

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

**WQM Permit No. 4506201**, Industrial Waste, **Sanofi Pasteur Inc.**, Discovery Drive, Swiftwater, PA 18370-0187. This proposed facility is located in Pocono Township, **Monroe County**, PA.

Description of Proposed Action/Activity: This project consists of a rerate of the existing wastewater treatment plant from 350,000 gpd to 450,000 gpd.

**WQM Permit No. 4506202**, Industrial Waste, **Sanofi Pasteur Inc.**, Discovery Drive, Swiftwater, PA 18370-0187. This proposed facility is located in Pocono Township, **Monroe County**, PA.

Description of Proposed Action/Activity: This project consists of expansion of the existing wastewater treatment plant to a permitted rate of 550,000 gpd for discharge to Swiftwater Creek and a design flow of 950,000 gpd to meet long-term facility expansion.

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

**WQM Permit No. 0606403**, Sewerage, **Perry Township Municipal Authority**, 680 Moselem Springs Road, Shoemakersville, PA 19555-9415. This proposed facility is located in Perry Township, **Berks County**.

Description of Proposed Action/Activity: Application for upgrade/operation of the Water Street Pump Station to serve the Hunter View Subdivision.

**WQM Permit No. 3106402**, Sewerage, **James and Barbara Angelo**, P. O. Box 49, Huntingdon, PA 16652. This proposed facility is located in Walker Township, **Huntingdon County**.

Description of Proposed Action/Activity: Application for upgrade/operation of a small flow sewage treatment plant to serve their single family residence located along Turkey Farm Road.

**WQM Permit No. 3696407, Amendment 06-1**, Sewerage, **Northern Lancaster County Authority**, 983 Beam Road, Denver, PA 17517. This proposed facility is located in Brecknock Township, **Lancaster County**.

Description of Proposed Action/Activity: Application for the installation/operation of UV disinfection at the Gehman School Road Sewage Treatment Plant.

**WQM Permit No. 3695402, Amendment 06-1**, Sewerage, **Northern Lancaster County Authority**, 983 Beam Road, Denver, PA 17517. This proposed facility is located in Brecknock Township, **Lancaster County**.

Description of Proposed Action/Activity: Application for the installation/operation of UV disinfection at the Kramer Mill Road Sewage Treatment Plant.

**WQM Permit No. 0606404**, Sewerage, **Amity Township**, 2004 Weavertown Road, Douglassville, PA 19518. This proposed facility is located in Amity Township, **Berks County**.

Description of Proposed Action/Activity: Application for construction/operation of the Monocacy Pump Station.

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

**WQM Permit No. 6506403**, Sewerage, **Municipal Sanitary Authority of the City of New Kensington**, 120 Logans Ferry Road, New Kensington, PA 15068-2046. This proposed facility is located in the City of New Kensington, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of headworks and blower building.

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

**WQM Permit No. WQG026110**, Sewerage, **Beaver County Corporation for Economic Development**, 250 Insurance Street, Suite 300, Beaver, PA 15009. This proposed facility is located in Big Beaver Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a pump station.

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

**WQM Permit No. 2504403**, Sewerage Amendment No. 1, **Stephen G. Hess**, 1718 Biebel Avenue, Erie, PA 16509. This proposed facility is located in Franklin Township, **Erie County**.

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

**WQM Permit No. 2503418**, Sewerage, **Municipal Authority of the Borough of Waterford**, 30 South Park Row, P. O. Box 49, Waterford, PA 16441. This proposed facility is located in Waterford Borough, **Erie County**.

Description of Proposed Action/Activity: This project is to install secondary clarifier and modify the primary clarifier at an existing sewage treatment facility.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010906014	Buckingham Ridgeview, LP 2347 Iris Court Jamison, PA 18929	Bucks	Buckingham Township	UNT Paunnacussing Creek HQ-CWF
PAI010906024	Nottingham Building Group, LLC 375 Ivyland Road Warminster, PA 18974	Bucks	Milford Township	UNT Unami Creek HQ-TSF
PAI011506052	Thomas Morelli 81 Lancaster Avenue Suite 209 Malvern, PA 19355	Chester	East Whiteland Township	Valley Creek EV

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

*Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906016	Joel Koehler Jet Development 266 Kristin Lane Allentown, PA 18104	Lehigh	South Whitehall Township	Little Lehigh Creek HQ-CWF
PAI023906017	Joe Posh Posh Properties 2216 Willow Park Road Bethlehem, PA 18017	Lehigh	Salisbury Township	Little Lehigh Creek HQ-CWF

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

*Somerset County AG Center, Somerset Conservation District, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814) 445-4652.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055606003	Lookout WindPower, LLC 10 St. Francis Way Suite 180 Cranberry Township, PA 16066	Somerset	Brothersvalley and Northampton Townships	Blue Lick Creek CWF UNT to Buffalo Creek CWF Ware Run HQ/CWF Brush Creek HQ/CWF

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI061006001	Arden Woods Subdivision Donald Rodgers Arden Development Partners, LP 215 Executive Drive Suite 300 Cranberry Township, PA 16066	Butler	Lancaster Township	Scholars Run WWF Connoquenessing Creek WWF

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

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

### PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

### SAFE DRINKING WATER

#### Applications Received Under the Pennsylvania Safe Drinking Water Act

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

**Application No. 5206503**, Public Water Supply  
Applicant **Aqua Pennsylvania, Inc.**  
Lackawaxen Township  
**Pike County**

Responsible Official Roswell S. McMullen, P. E.  
HCR 6 Box 6040  
Hawley, PA 18428

Type of Facility PWS

Consulting Engineer Entech Engineering, Inc.  
4 South Fourth Street  
P. O. Box 32  
Reading, PA

Application Received Date July 10, 2006

Description of Action The addition of a chlorination system at an existing well in the Woodledge Water System.

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

**Permit No. 0606511**, Public Water Supply.  
Applicant **Sittler's Mobile Home Park**  
Municipality Maxatawny Township  
County **Berks**  
Responsible Official Michael V. Katz, Owner  
60 Quarry Road  
Box 303  
Kutztown, PA 17530-0303

Type of Facility Public Water Supply

Consulting Engineer John P. Spitko, P. E.  
Spotts Stevens and McCoy, Inc.  
1047 North Park Road  
Reading, PA 19610-0307

Application Received: 7/6/2006

Description of Action Permit to use Well No.4.

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

**Permit No. 1406504—Construction** Public Water Supply.  
Applicant **Trotter Farm Planned Community Association, Inc.**  
Township or Borough Halfmoon Township  
County **Centre**



Responsible Official Rodney Frazier, President  
Trotter Farm Planned  
Community Association, Inc.  
2121 Old Gatesburg Road  
State College, PA 16803

Type of Facility Public Water  
Supply—Construction

Consulting Engineer Marcus A. Marasco  
Gwin, Dobson & Foreman, Inc.  
3121 Fairway Drive  
Altoona, PA 16602

Application Received July 27, 2006  
Date

Description of Action Construction of new well, water  
storage tank and  
treatment/pump building.

*Central Office: Bureau Director, Water Standards and  
Facility Regulation, P. O. Box 8467, Harrisburg, PA  
17105-8467.*

**Permit No. 9996374**, Public Water Supply.

Applicant **CG Roxane, LLC**

Township or Borough Salem, SC

Responsible Official Keith Umberger, Plant Manager

Type of Facility Out-of-State Bottled Water  
System

Application Received July 24, 2006  
Date

Description of Action Applicant requesting  
Department approval to sell  
bottled water in this  
Commonwealth under the brand  
name Crystal Geyser Natural  
Alpine Spring Water.

**MINOR AMENDMENT**

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

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

**Application No. 0206505MA**, Minor Amendment.

Applicant **Municipal Authority of the  
Borough of Oakmont**  
P. O. Box 73  
721 Allegheny Avenue Oakmont,  
PA 15139

Township or Borough Penn Hills and West Deer  
Township

Responsible Official John Dunlap, General Manager  
Municipal Authority of the  
Borough of Oakmont  
P. O. Box 73  
721 Allegheny Avenue  
Oakmont, PA 15139

Type of Facility Water storage tanks

Consulting Engineer NIRA Consulting Engineers Inc.  
950 Fifth Avenue  
Coraopolis PA 15108

Application Received July 20, 2006  
Date

Description of Action Cleaning, painting and  
structural steel repairs to the  
Russellton and Rosedale  
Standpipes.

**Application No. 0206506MA**, Minor Amendment.

Applicant **Harrison Township Water  
Authority**  
1705 Rear Freeport Road  
Natrona Heights, PA 15065

Township or Borough Harrison Township

Responsible Official Charles V. Craig, General  
Manager  
Harrison Township Water  
Authority 1705 Rear Freeport  
Road  
Natrona Heights, PA 15065

Type of Facility Water storage tank

Consulting Engineer NIRA Consulting Engineers Inc.  
950 Fifth Avenue  
Coraopolis, PA 15108

Application Received July 25, 2006  
Date

Description of Action Painting of the Summit Avenue  
Water Storage Tank.

**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 divert waters  
of this Commonwealth**

*Northcentral Region: Water Supply Management Pro-  
gram Manager, 208 West Third Street, Suite 101,  
Williamsport, PA 17701-6448.*

**WA 14-1010**, Water Allocations. **Gregg Township Wa-  
ter Authority**, P. O. Box 165, Spring Mills, PA 16875,  
Gregg Township, **Centre County**. Application submitted  
to replace the expired Water Allocation Permit. A maxi-  
mum daily withdrawal of 97,200 gpd from Fireman's  
Spring.

**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.  
§§ 6026.10—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 demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

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

**Gitlin Residence**, Upper Dublin Township, **Montgomery County**. Mark Hawkins, Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Road, West Chester PA 19380 on behalf of Phyllis Gitlin 1723 Benjamin Drive, Ambler, PA 19002 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with No. 2 fuel oil. The future use of the property is residential.

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

**Buckeye Pipeline—Tuckerton Station**, Muhlenberg Township, **Berks County**. Groundwater & Environmental Services, Inc., 410 Eagleview Boulevard, Suite 110, Exton, PA 19341, on behalf of Buckeye Pipeline Co., LP, 5002 Buckeye Road, Emmaus, PA 18049, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by petroleum products. The applicant intends to remediate to the Site-Specific Standard. The property is used as an active pumping control station and will be used as such in the future.

**Middlesex Elementary School, Cumberland Valley School District**, Middlesex Township, **Cumberland County**. ARM Group, Inc., 1129 West Governor Road, P. O. Box 797, Hershey, PA 17033-0797, on behalf of

Cumberland Valley School District, 6746 Carlisle Pike, Mechanicsburg, PA 17050, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with heating oil from an AST release. The applicant intends to remediate to the residential Statewide Health Standard under the Department of Environmental Protection's Low Risk policy. The property is used as a public school and will continue to be used as such in the future

**Walter Stein Residence**, Oliver Township, **Mifflin County**. Marshall Miller Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 and Response Environmental, Inc., 912 Spring Circle, Mechanicsburg, PA 17055, on behalf of Walter Stein, 6157 US 522 South, McVeystown, PA 17051, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil that leaked from an AST. The applicants seek to remediate to a Statewide Health Standard. The property is a private residence and will remain a residence in the future.

**Former Super Rite Facility**, Hampden Township, **Cumberland County**. ARCADIS G & M, 6 Terry Drive, Suite 300, Newtown, PA 18940, on behalf of First Industrial Realty Truist, 311 South Wacker Drive, Suite 400, Chicago, IL 60606, submitted a Notice of Intent to Remediate groundwater contaminated with unleaded gasoline. The applicant seeks to remediate the site to a Site-Specific Standard.

**Marietta Air Force Station, Fire Training Pit**, East Donegal Township, **Lancaster County**. United States Army Corps of Engineers, 10 South Howard Street, Baltimore, MD 21203 on behalf of United States General Services Administration, Project Management Division, The Strawbridge Building, 20 North 8th Street, 9th Floor, Philadelphia, PA 19107-3191, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with metals and VOCs. The site will be remediated to a Statewide Health Standard. Current and future use will be mainly for industrial purposes.

#### RESIDUAL WASTE GENERAL PERMITS

**Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

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

**General Permit Application No. WMGR113. Piney Creek Limited Partnership**, 428 Power Lane, Clarion, PA 16214. Beneficial use of coal tar and oil contaminated waste as a fuel in a circulating fluidized boiler. The application for determination of applicability was accepted as administratively complete by the Division of Municipal and Residual Waste on June 29, 2006. This notice for general permit application WMGR113 supersedes and corrects a notice originally published June 22, 2006.

Comments concerning the application should be directed to General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17101-8472, (717) 787-7381. TDD users may contact the Depart-

ment 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 should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

#### PLAN APPROVALS

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

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

**40-305-028: CEI Anthracite** (601 South Church Street, Hazleton, PA 18201) for construction of a coal processing operation and associated air cleaning devices at the facility located at 603 South Church Street, Hazleton, **Luzerne County**.

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

**22-05046C: Haines and Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) for use of on-specification waste derived liquid fuel as an alternate fuel source for the asphalts plant dryer, Handwerk Materials plant in Lower Swatara Township, **Dauphin County**.

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

**61-187C: SMS Millcraft** (671 Colbert Avenue, Oil City, PA 16301) for modification of an existing air contamination source by no longer venting the copper plating tank to the fume scrubber in the Oil City Industrial Park in Oil City, **Venango County**.

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**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.**

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

**66-399-005: The Procter and Gamble Paper Products, Co.** (P. O. Box 32, Mehoopany, PA 19629) for modification of three paper production machines by installing glue containment boxes, at the facility along Route 87, Washington Township, **Wyoming County**. The company does not anticipate the installation of an air-cleaning device, at this time. The expected particulate emission rate will be less than 0.02 grain per dry standard cubic foot. The company will install and operate the glue containment boxes and maintain the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating permit will contain additional record keeping and operating restrictions, that are designed to keep the process operating within all applicable air quality requirements. The facility has a valid Title V Operating Permit (66-00001). Once the equipment is operational and in compliance with all requirements, this plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit.

**66-318-004: The Procter and Gamble Paper Products Co.** (P. O. Box 32, Mehoopany, PA 19629) for construction of five adhesive application stations at the facility along Route 87, Washington Township, **Wyoming County**. The company does not anticipate the installation of an air-cleaning device, at this time. The expected particulate emission rate will be negligible. The project will result in a VOC increase of 3 tons per year. The company will install and operate the adhesive application equipment and maintain the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operat-

ing permit will contain additional recordkeeping and operating restrictions, that are designed to keep the process operating within all applicable air quality requirements. The facility has a valid Title V Operating Permit (66-00001). Once the equipment is operational and in compliance with all requirements, this plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit.

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

**01-03031A: ISP Minerals, Inc.** (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914) for replacement of dust collectors. Existing sources will be controlled by the use of two new fabric filter baghouses. The facility is located in Hamiltonban Township, **Adams County**. This will result in a decrease in actual emissions of 10.6 tpy of PM. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**21-05028A: Fry Communications, Inc.** (800 West Church Road, Mechanicsburg, PA 17055) for installation of an eight-unit three-web heatset web offset printing press controlled by an integrated dryer/oxidizer at their Building No. 3 facility (15 Pleasantview Drive, Mechanicsburg, PA 17055) in Silver Spring Township, **Cumberland County**. Overall VOC emissions resulting from the installation of the new press are not expected to increase beyond 1.6 tons per year. The plan approval and ensuing update to the facility-wide operating permit shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**28-05020C: T. B. Woods, Inc.** (440 North Fifth Avenue, Chambersburg, PA 17201) for construction of a shake-out system and a no-bake sand reclamation system to be controlled by dedicated existing fabric collectors at their iron foundry in Chambersburg Borough, **Franklin County**. These sources have the combined potential to emit less than 0.1 ton PM10 per year. The plan approval and subsequent State-only operating permit administrative amendment 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.

**28-05020D: T. B. Woods, Inc.** (440 North Fifth Avenue, Chambersburg, PA 17201) for control of the existing 12 foot table blast machine by a reactivated fabric collector at their iron foundry in Chambersburg Borough, **Franklin County**. The source has the potential to emit less than 0.1 ton PM10 per year. The plan approval and subsequent State-only operating permit administrative amendment will include emission restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**36-05094A: Keystone Wood Specialties, Inc.** (P. O. Box 10127, Lancaster, PA 17605) for construction of wood furniture coating booth for wood cabinet finishing operations, at East Lampeter Township, **Lancaster County**. The estimated annual emissions of the VOC from this source is approximately 2.8 tons. The Plan Approval will include restrictions and work practice requirements. This Plan Approval will be incorporated into the facility's synthetic minor operating permit No. 36-05094 in accordance with 25 Pa. Code § 127.450. The permit will contain

work practice standard and restriction, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**43-344A: Hillcrest Memorial Park** (230 East State Street, Sharon, PA 16148) for construction of an animal crematory in the City of Hermitage, **Mercer County**.

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

**43-270E: CCL Container** (One Llodio Drive, Hermitage, PA 16148-9015) for removal of SOx testing requirement established in plan approval 43-270B and construction of a new aluminum container manufacturing line (No. 110) rated at 180 cans per minute with an inside liner baghouse which will be controlled by an existing 45,000 thermal oxidizer in Hermitage City, **Mercer County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The PM emissions shall not exceed 0.02 gr/dscf.
- The SOx emissions shall not exceed 500 ppmv with compliance being shown through an initial stack test.
- The VOC destruction/removal efficiency (DRE) shall be greater than 95% by weight.
- Maintain and operate the control device at all times the source is in operation and in accordance with the manufacturer's specifications.
- As part of the CAM plan, monitor and record continuously the chamber temperature of the RTO and operate within the established indicator range of greater than 1,500°F.
- As part of the CAM plan, monitor and record continuously the airflow to the RTO and operate within the established indicator range of greater than 30,000 cfm (read as greater than 38 Hz).
- Monitor and record daily, the pressure drop across the baghouse and the inlet pressure to the RTO.
- Test for VOC DRE at operating permit renewal.
- Test the temporary total enclosure for capture efficiency at operating permit renewal.

#### OPERATING PERMITS

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**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.**

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*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief (215) 685-9476.*

**V05-013: ConocoPhillips Co.—Philadelphia Terminal** (G Street and Hunting Park Ave., Philadelphia, PA 19124) for operation of a gasoline terminal facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two petroleum products loading racks, nine petroleum products storage tanks (five with vapor pressure less than 11 psia and three with vapor pressure less than or equal to 1.5 psia), and two oil-water separators. The facility's gasoline loading is controlled by a vapor recovery unit.

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

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

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

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

**23-00015: BMR, LP** (145 King of Prussia Road, Radnor, PA 19087) for a Non-Title V Facility, State-only, Natural Minor Permit in Radnor Township, **Delaware County**. The sources of emissions include boilers and emergency generators. The facility has a potential to emit less than 25 tons per year of NO<sub>x</sub>. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

**06-05067: County of Berks** (P. O. Box 520, Leesport, PA 19533-0520) for operation of five boilers at the county complex in Bern Township, **Berks County**. Three of the boilers are subject to 40 CFR Part 60, Subpart Dc, Standards of Performance for New Stationary Sources. This action is a renewal of the State-only operating permit issued in 2001.

**67-03028: Dentsply International—Trubyte Division** (570 West College Avenue, P. O. Box 872, York, PA 17405) for operation of their plant producing artificial teeth, crowns and bridgework. The Dentsply plant is in City of York, **York County**. Chromium Electroplating at the facility is subject to 40 CFR 63 Subpart N (National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks). Degreasers at the facility are subject to 40 CFR 63 Subpart T (National Emission Standards for Halogenated Solvent Cleaning). The State-only operating

permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**S06-004: Jeanes Hospital.** (7600 Central Avenue, Philadelphia, PA 19111) for operation of a hospital facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission source includes three 304 HP boilers and six emergency generators (one 750 kW generators, one 400 kW generator, four generators less than 130 kW).

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

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

**S06-006: Philadelphia Tramrail Co.** (2207 East Ontario Street, Philadelphia, PA 19134) for manufacturing overhead cranes and hydraulic balers and compactors in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three 1.75 mmBtu/hr No. 2 oil-fired space heaters and three painting stations with filters.

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

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

## **COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1-691—1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S.

§§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

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

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the

respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

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

#### *Coal Applications Received*

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

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

\* The parameter is applicable at all times.

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

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

**03801302 and NPDES Permit No. PA0235385. Keystone Coal Mining Corporation** (400 Overview Drive, P. O. Box 219, Shelocta, PA 15774). To renew the permit for the Margaret No. 7 Water Treatment Plant in Plumcreek and Cowanshannock Townships, **Armstrong County** and related NPDES permit for water treatment. No additional discharges. Application received: June 5, 2006.

**11841301 and NPDES Permit No. PA0001317. Pristine Resources, Inc.** (4020 Kinross Lakes Parkway, Richfield, OH 44286). To renew the permit for the Cambria Slope Mine No. 33 in Cambria, Allegheny,

Munster, Portage, Summerhill and Croyle Townships, **Cambria County** and related NPDES permit for reclamation and water treatment. No additional discharges. Application received: October 11, 2005.

**56841608 and NPDES Permit No. PA0213721. PBS Coals, Inc.** (1576 Stoystown Road, P. O. Box 260, Friedens, PA 15541). To renew the permit for the Cambria Fuel Preparation Plant in Stonycreek Township, **Somerset County** and related NPDES permit. No additional discharges. Application received: June 22, 2006.

**56841612 and NPDES Permit No. PA0588491. Svonavec, Inc.** (150 West Union Street, Suite 201, Somerset, PA 15501). To renew the permit the Coal Preparation Plant No. 2 in Black Township, **Somerset County** and related NPDES permit. No additional discharges. Application received: May 23, 2006.

#### *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 <sup>1</sup>			
pH <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> The parameter is applicable at all times.

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

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

**Permit No. 3369BSM32 and NPDES Permit No. PA0605824. General Refractories Company.** (225 City Avenue, Suite 14, Bala Cynwyd, PA 19004). Renewal of NPDES Permit, Addison Township, **Somerset County**. Receiving streams: UNT to Casselman River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received: July 19, 2006.

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

**7574SM1A1C10. Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17105). Correction to change 5.27 acres from support to mining on an existing quarry operation in Silver Spring Township, **Cumberland County** affecting 167.3 acres, receiving stream: Conodoguinet Creek. Application received: July 20, 2006.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are

available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

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

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

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E09-895. Department of Transportation, 7000 Geerdes Blvd., King of Prussia, Hilltown Township, Bucks County, ACOE Philadelphia District.**

To replace the existing three span stone masonry arch Walnut Street Bridge crossing (SR 0152, Section BU1) over a UNT to Pleasant Spring Creek (TSF) with a two span precast concrete arch culvert having a 28-foot span and a top-of-arch height of 6 feet, 6 inches. The water obstruction and encroachment impacts associated with this project are as follows:

1. To construct and maintain the twin arch culvert to include wingwalls and footing work in the streambed and a 10-foot wide multi-use trail adjacent to Walnut Street.
2. To construct and maintain a stormwater outfall and drainage channel in the floodway of the UNT to Pleasant Spring Creek.
3. To conduct grading activities and roadway widening in the floodway to accommodate the increase width of the new culvert and trail construction.
4. To construct temporary cofferdams within the stream and adjacent areas in the floodway as required facilitating bridge footing construction and erosion and sedimentation control measures.

The project will permanently impact approximately 75 linear feet of stream and 0.15 acre of floodway, and temporarily impact 88 linear feet of stream associated with cofferdam construction. The project is located approximately 227 feet south of the Walnut Street and Perkasio Road intersection in Hilltown Township, Bucks County (Telford PA, Quadrangle N: 20.03 inches; W: 4.33 inches).

**E09-899. Bucks County Airport Authority, 3879 Old Easton Road, P. O. Box 1185, Doylestown, PA 18901, Milford Township, Bucks County, ACOE Philadelphia District.**

To perform the following water obstruction and encroachment activities within the Unami Creek watershed (WWF, MF) associated with the Quakertown Airport expansion:

1. To construct and maintain two stream enclosures totaling 661 linear feet along two UNTs to Unami Creek to facilitate runway expansion.

2. To place and maintain fill within three wetland areas totaling 0.6 acre to facilitate runway expansion.

The project is located just south of SR 0663 (Milford Square ISGS Quadrangle, N: 11.0 inches; W: 1.0 inch).

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

**E21-388: Mr. and Mrs. Robert B. Wicks**, 24 East Pine Street, Mt. Holly Springs, PA 17065 in Mt. Holly Springs Borough, **Cumberland County**, ACOE Baltimore District.

To construct and maintain an average of 13.14-foot wide by 21-foot long by 2.5-foot high wooden deck to be connected at the back side of the existing home along the floodway of Mountain Creek (CWF) to enhance their property located along Pine Street about 500 feet east of the Pine Street and Baltimore Street intersection (Mount Holly Springs, PA Quadrangle N: 20.9 inches; W: 8.59 inches; Latitude: 40° 06' 54"; Longitude: 77° 11' 11") in Mount Holly Springs Borough, Cumberland County.

**E22-510: Izaak Walton League of America, Doc Fritchey Chapter**, 2319 Valley Road, Harrisburg, PA 17104 in Swatara Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain a stream restoration project on 2,200 feet of Spring Creek (CWF), including rock and log structures and bank grading for the purpose of correcting the stream pattern and improving streambank stabilization, sediment transport and aquatic habitat. The project is located just downstream of the Route 441 (Harrisburg East, PA Quadrangle N: 0.25 inch; W: 12.2 inches; Latitude: 40° 15' 5", Longitude: 76° 50' 14" to N: 0.3 inch, W: 13.1 inches; Latitude: 40° 15' 6", Longitude: 76° 50' 39") in Swatara Township, Dauphin County. No wetland impacts are proposed.

**E67-804: Izaak Walton League of America, York Chapter**, 7131 Ironstone Road, Dallastown, PA 17313 in Hopewell and Springfield Townships, **York County**, ACOE Baltimore District.

To construct and maintain a stream restoration project on 4,400 feet of the East Branch Codorus Creek (HQ-CWF), including channel reconstruction, rock and log structures and bank grading for the purpose of correcting the stream pattern and improving streambank stabilization, sediment transport and aquatic habitat. The project follows Line Road through Spring Valley Park (Glen Rock, PA Quadrangle N: 16.2 inches; W: 3.3 inches; Latitude: 39° 50' 21", Longitude: 76° 38' 53" to N: 17.5 inches, W: 3.9 inches; Latitude: 39° 50' 46", Longitude: 76° 39' 12") in North Hopewell and Springfield Townships, York County. No wetland impacts are proposed.

**E67-805: Izaak Walton League of America, York Chapter**, 7131 Ironstone Hill Road, Dallastown, PA 17313 in Springfield Township, **York County**, ACOE Baltimore District.

To construct and maintain a stream restoration project on 3,800 feet of a UNT to the East Branch Codorus Creek (CWF), including rock and log structures and bank grading for the purpose of correcting the stream pattern, improving streambank stabilization, sediment transport and aquatic habitat and establishing a riparian buffer. The project is located just west of Jacobus Borough (Glen Rock, PA Quadrangle N: 21.8 inches; W: 12.9 inches; Latitude: 39° 52' 11", Longitude: 76° 43' 4" to York, PA Quadrangle N: 0.6 inch, W: 14.1 inches; Latitude: 39° 52' 41", Longitude: 76° 43' 34") in Springfield Township, York County.

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

**E14-490. Stephen T. Letterman**, P. O. Box 217, Milesburg, PA 16853-0217. Ardery Hollow Run Culvert, in Worth Township, **Centre County**, ACOE Baltimore District (Port Matilda, PA Quadrangle N: 15.5 inches; W: 2.5 inches).

To: 1) remove an existing culvert; 2) construct, operate, and maintain a 35-foot long, 14-foot by 6-foot precast reinforced concrete box culvert with the invert depressed 1.5 feet below the streambed of Ardery Hollow with flared concrete wingwalls/apron projecting 8.75 feet upstream and a concrete "U" wall/apron projecting 20 feet downstream; 3) place and maintain an existing pedestrian walk bridge on the downstream wingwalls, all of which is located 2,150 feet up Ardery Hollow Road from SR 220. This project may permanently impact 63.75 linear feet of Ardery Hollow Run, which is classified as a CWF and should have no wetland impacts.

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

**E03-439. Department of Transportation**, District 10-0, P. O. Box 429, 2550 Oakland Avenue, Indiana, PA 15701. To construct a bridge in Hovey Township, **Armstrong County** and Foxburg Borough, **Clarion County**, Pittsburgh ACOE District. (Emlenton, PA Quadrangle N: 2.6 inches; W: 7.8 inches and Latitude: 41° 8' 24"—Longitude: 79° 41' 39"). The applicant proposes to remove the existing and aged SR 58 single lane, steel truss bridge that has three 180 ft. long each spans; and to construct and maintain a two lane bridge upstream and adjacent to the existing bridge, which will have two 165 ft. center spans and two 140 ft. end spans over the Allegheny River (WWF) and between Foxburg Borough, Clarion County and Hovey Township, Armstrong County. A temporary causeway is intended to be used to construct the pier nearest Foxburg Borough and barges are intended to be used to construct three other piers. The site is located approximately 1.65 miles north of the Allegheny River confluence with the Clarion River.

**E30-217. Allegheny Energy Supply Company, LLC**, 800 Cabin Hill Drive, Greensburg, PA 15601. To construct a conveyance channel in Monongahela Township, **Greene County**, Pittsburgh ACOE District. (Masontown, PA Quadrangle N: 18.14 inches W: 10.02 inches and Latitude: 39° 50' 59.66"—Longitude: 79° 56' 47.01"). The applicant proposes to construct and maintain stormwater conveyance channels to provide stormwater control for a CCB landfill. Approximately 4.27 acres of wetland and 6,640 feet of intermittent and ephemeral stream channel exist on the site. Total impacted length of stream bank will be 130 feet of a UNT to the Monongahela River (WWF). Approximately 0.55 acre of wetland will be



impacted which will be mitigated by construction of 0.92 acre of replacement wetland will be impacted which will be mitigated by construction of 0.92 acre of replacement wetland.

**E32-475. Amfire Mining Company, LLC**, One Energy Place, Latrobe, PA 15650-9628. To construct a bridge in Buffington Township, **Indiana County**, Pittsburgh ACOE District (Strongstown, PA Quadrangle N: 9.79 inches; W: 14.51 inches and Latitude: 40° 33' 14"—Longitude: 78° 58' 46"). The applicant proposes to construct and maintain a bridge having a normal clear span of 123.58 feet and an under clearance of 10.18 feet across Little Yellow Creek (HQ-CWF) located on Factory Hollow Road (T-974 and T-875).

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

**E20-548, Donald W. and Margaret R. Heffernan**, 431 Gilfillian Street, Franklin, PA 16323-2929. Retaining Wall, in Summit Township, **Crawford County**, ACOE Pittsburgh District (Harmonsborg, PA Quadrangle N: 2.0 inches; W: 7.1 inches).

The applicant proposes to construct and maintain a 6-foot high, 2.1-foot thick retaining wall having a length of 80 feet, adjacent to Conneaut Lake and constructed a maximum distance of three feet in front of the existing retaining wall approximately 1 mile SE of the intersection of SR 18 and SR 618. Conneaut Lake is a perennial body of water classified as a HQ-WWF.

**E20-549, Atlantic Development Corporation of PA**, 5048 Peach Street, Erie, PA 16509. Pizza Hut Park Avenue Plaza Meadville, in Vernon Township, **Crawford County**, ACOE Pittsburgh District (Meadville, PA Quadrangle N: 20.0 inches; W: 5.0 inches).

The applicant to construct and maintain an approximately 3,200 square foot Pizza Hut restaurant (Meadville, PA Quadrangle N: 20.0 inches; W: 5.0 inches) in the FEMA detailed floodway of French Creek in the Park Avenue Plaza in Vernon Township, Crawford County approximately 1 mile east of the intersection of SR 322 and US 79. French Creek is a perennial stream classified as a WWF. The project proposes to directly impact approximately 3,200 feet of floodway.

**E24-245, Sheetz, Inc.**, 817 Brookfield Drive, Seven Fields, PA 16046. Sheetz St. Marys, in the City of Saint Marys, **Elk County**, ACOE Pittsburgh District (Saint Marys, PA Quadrangle N: 9.6 inches; W: 8.7 inches).

The applicant proposes to remove existing buildings over Elk Creek and in the Elk Creek FEMA detailed floodway within the St. Marys Historic District for a length of approximately 120 feet associated with the construction of a Sheetz convenience store and gas station. Project includes grading and construction and maintenance of a fence within the floodway, maintenance of existing retaining walls and construction and maintenance of retaining walls, riprap streambank protection and stormwater outfalls. Elk Creek is a perennial stream classified as a CWF. The project proposes to directly impact approximately 120 feet of stream and the FEMA adjacent floodway.

#### ENVIRONMENTAL ASSESSMENTS

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

**EA05-007: Broad Top Township**, P. O. Box 57, Defiance, PA 16633 in Broad Top Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain a passive AMD treatment system consisting of two limestone settling ponds and one conventional settling pond with associated conveyances on approximately 0.86 acre of the right floodway and floodplain of Sixmile Run (WWF), and to construct and maintain a 10.0-foot wide single span temporary bridge having a normal span of 34.0 feet and an underclearance of approximately 2.5 feet across Sixmile Run (WWF). The project will impact 212 linear feet of a UNT to Sixmile Run (WWF) at a site approximately 625 west of the intersection of SR 1023 and SR 1036 (Saxton, PA Quadrangle N: 7.4 inches, W: 9.9 inches; Latitude: 40° 09' 57", Longitude: 78° 11' 41") in Broad Top Township, Bedford County

**EA22-004: Hershey Center for Applied Research, Inc., c/o Wexford Science & Technology, LLC**, 7312 Parkway Drive, Hanover, MD 21076 in Derry Township, **Dauphin County**, ACOE Baltimore District.

To daylight and restore approximately 1,325 LF of a UNT to Swatara Creek (WWF) and perform bank stabilization on another 1,250 LF (in five separate areas), for a total linear stream impact of 2,575 LF, including installation of a rock energy dissipater, 8 rock-lined riffles, 6 "A" vanes, 4 cross-rock vanes, 5 bank rock-toe protection areas, an area of removal of accumulated gravel and cobble, seeding and mulching the riparian corridor with a grass, native herbaceous plant, shrub, and tree mixture (Hershey, PA Quadrangle, upstream starting point, Latitude: 40° 15' 30", Longitude: 76° 41' 6", downstream ending point, Latitude : 40° 15' 54", Longitude: 76° 41' 13").

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**EA01-009. Kenneth Hughbanks**, 3129 Fairfield Road, Gettysburg, PA 17325, Highland Township, **Adams County**, ACOE Baltimore District.

Project proposes to construct, operate and maintain a nonjurisdictional dam in the Lower Marsh Creek watershed (CWF) for recreational and aesthetic purposes. The project will impact approximately 0.0492 acre of palustrine scrub shrub and palustrine emergent wetlands. The dam is located approximately 1,850 feet west of the intersection of SR 116 and Knoxlyn Road (SR 3013) (Fairfield, PA Quadrangle, N: 10.95", W: 10.9").

#### WATER QUALITY CERTIFICATIONS REQUESTS

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

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### REQUESTS FOR CERTIFICATION UNDER SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT

The following requests have been made to the Department of Environmental Protection for certification under section 401(a) of the 1972 amendments to the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), that there is reasonable assurance that the construction herein described will not violate applicable Federal and State water quality standards.

Prior to final approval of the proposed certification, consideration will be given to any comments, suggestions and objections, which are submitted in writing 30 days

from the date of this notice. Comments should be submitted to the Department of Environmental Protection (Department) at the address indicated previously each of the following requests for certification. 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 and suggestions in sufficient detail to inform the Department of the exact basis of the proposal and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given comments if deemed necessary to resolve conflicts. Each individual will be notified in writing of the time and place of any scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are available for inspection and review at the address indicated above each request for certification between the hours of 8 a.m. and 4 p.m on each working day.

*Southeast Regional Office: Regional Water Management Program Manager, 2 East Main Street, Norristown, PA 19401, telephone (484) 250-5970.*

**Certification**  
Request Initiated By: Department of the Army,  
Philadelphia District, Corps of  
Engineers, Wanamaker Building,  
100 Penn Square East,  
Philadelphia, PA 19107-3390

**Project**  
Description/Location: This project involves the discharge of supernatant from the Money Island dredge disposal area to the Delaware River. Emergency maintenance dredging is proposed due to deposits from recent flooding at locations within the Shipping Channel between Trenton, NJ and Burlington, NJ, and the Fairless Turning Basin and berthing areas located at the Port of Bucks County in Falls Township. Approximately 745,000 cubic yards of sediment will be removed and placed in the Money Island dredge disposal area (675,000 cubic yards) and the Biles Island dredge disposal area (70,000 cubic yards) both located in Falls Township, Bucks county. Sediments will settle out in the basin and the supernatant will be returned to the Delaware Estuary.

**Certification**  
Request Initiated By: Department of the Army,  
Philadelphia District, Corps of  
Engineers, Wanamaker Building,  
100 Penn Square East,  
Philadelphia, PA 19107-3390

**Project**  
Description/location: Project Description/Location: This project involves the discharge of supernatant from the Fort Mifflin dredge disposal area resulting from the dredging of the Philadelphia Naval Business Center Reserve Basin. Approximately 860,000 cubic yards of sediment will be removed and placed in the disposal area located at the confluence of the Schuylkill and Delaware Rivers. Sediments will settle out in the basin and the supernatant will be returned to the Delaware Estuary.

#### **DAM SAFETY**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D11-111. Cambria Slurry Pond No. 4.** Cambria Township, 7 Riverside Plaza, P. O. Box 38, Blossburg, PA 16912-1137. To modify, operate and maintain the No. 33 Refuse Site/No. 4 Slurry Pond across a tributary to Howells Run (CWF), for the purpose of performing a long-term, controlled breach of the dam structure and removal of the fine coal slurry. The material from the dam and slurry will be used to fuel a power plant constructed by Reliant Energy new Seward, PA (Ebensburg, PA Quadrangle N: 16.3 inches; W: 11.0 inches) Cambria Township, **Cambria County**.

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## **ACTIONS**

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

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

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## **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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0029483 (Minor Sewage)	Buck Hill Falls Company P. O. Box 426 Buck Hill Falls, PA 18323-0426	Monroe County Barrett Township	Buck Hill Creek (1E)	Y
PA-0061565 (Minor Sewage)	Torah Va'Avodah Institute 25 West 26th Street New York, NY 10010	Berlin Township Wayne County	Beach Lake (1A)	Y
PA0064114 (Minor Sewage)	Jim Thorpe Area School District 1100 Center Street Jim Thorpe, PA 18229	Carbon County Kidder Township	Dilldown Creek (2A)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAR10C30R3	Christopher Bradley Bradley Management Group, Inc. 35 Pinehurst Court Phoenixville, PA 19460-5756	Berks County Maidencreek and Ruscombmanor Townships	UNT to Willow Creek CWF	Y
PAR10M239R	Sunset Townhomes Mike Weiner Gem Craft Homes 2205 Commerce Drive, Suite A Forrest Hills, MD 21050	Franklin County Greene Township	UNT Conococheague Creek CWF	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0029572 (Sewage)	Village of Laurel Run Health Care Facility 6375 Chambersburg Road Fayetteville, PA 17222	Adams County Franklin Township	Clear Run 13-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0115321	Eric J. Pennington 95 Horn Road Cogan Station, PA 17728	Lycoming County Lycoming Township	Little Gap Run (SWP 10A)	Y
PA0114758 Sewerage	GSP Management Co. P. O. Box 677 Morgantown, PA 19543-0677	West Chillisquaque Township Northumberland County	West Branch Susquehanna River 10D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0217166 Sewage	Kenneth W. Grey 13259 SR 422 Kittanning, PA 16201	Armstrong County Kittanning Township	UNT of Cowanshannock Creek	Y

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

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

**NPDES Permit No. PA0012424**, Industrial Waste, **McAdoo & Allen, Inc.** 201 South Hellertown Avenue, Quakertown, PA 18951. This proposed facility is located in Quakertown Borough, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from a facility known as Quaker Color Cooling & SW System into Beaver Run in Watershed 2D—Three Mile Run.

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

**NPDES Permit No. PA0239798**, Sewage, **Mark Herrmann**, 9915 Jones Road, Erie, PA 16510. This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: This is a single residence sewage treatment plant discharging to Six Mile Creek in Watershed 15-6M.

**NPDES Permit No. PA0239836**, Sewage, **Robert C. and Helen McCanna**, 8 Deer Run Road, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: This is a single residence sewage treatment plant discharging to the South Branch Willow Creek in Watershed 16-B.

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

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

**WQM Permit No. 4806403**, Sewerage, **Borough of Glendon**, 24 Franklin Street, Easton, PA 18042-6805. This proposed facility is located in Glendon Borough, **Northampton County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit. The project consists of construction of a sewer extension to service approximately 45 EDUs in the Borough's Sanitary Sewer District I.

**WQM Permit No. 6406402**, **Camp Wayne for Boys, Inc.**, 15 Camp Wayne Road, Preston Park, PA 18455. This proposed facility is located in Buckingham Township, **Wayne County**.

Description of Proposed Action: Issuance of Water Quality Management Permit.

**WQM Permit No. 4506407**, Sewerage, **Great Wolf Lodge of the Poconos, LLC**, 1 Great Wolf Drive, Scotrun, PA 18355. This proposed facility is located in Pocono Township, **Monroe County**.

Description of Proposed Action: Issuance of Water Quality Management Permit. This project involves modification of the existing 0.09 mgd Great Wolf Lodge Sewage Treatment Plant to provide an additional equalization tank for the facility.

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

**WQM Permit No. 2806404**, Sewerage, Rodney Mose, 2779 Grand Point Road, Chambersburg, PA 17201. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Approval of the construction/operation of sewerage facilities consisting of a small flow individual residence spray irrigation system for denitrification consisting of a septic tank, effluent filter, chlorine disinfection and sprayfield to serve their single family residence.

**WQM Permit No. 2101402, Transfer 1**, Sewerage, **Cam Nip Management, LLC**, 575 Underhill Boulevard, Suite 125, Syosset, NY 11791. This proposed facility is located in Dickinson Township, **Cumberland County**.

Description of Proposed Action/Activity: Permit Transfer.

**WQM Permit No. WQG02280601**, Sewerage, **Guilford Township Authority**, 115 Spring Valley Road, Chambersburg, PA 17201. This proposed facility is located in Guilford Township, **Franklin County**.

Description of Proposed Action/Activity: Approval of the construction/operation of the Woodstock Diversion Pump Station.

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

**WQM Permit No. 01470601**, Sewerage 4952. **Scott P. Singer**, 131 Waltmyer Road, Turbotville, PA 17772. This proposed facility is located in Anthony Township, **Montour County**.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management General permit for the installation of a small flow wastewater treatment plant.

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

**WQM Permit No. 6306401**, Sewerage, **Universal Electric Corporation**, 3089 Washington Pike, Bridgeville, PA 15017. This proposed facility is located in Cecil Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a 6,000 gpd sewage treatment plant.

**WQM Permit No. WQG026105**, Sewage, **Harmony Township Municipal Authority**, 2501 Woodland Road, Ambridge, PA 15003. This proposed facility is located in Harmony Township, **Beaver County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of Ridge Road and Cedar Avenue Areas sanitary sewer extension.

**WQM Permit No. WQG026109**, Sewerage, **Burgettstown-Smith Township Joint Sewer Authority**, 1616 Smith Township State Road, Atlasburg, PA 15004. This proposed facility is located in Mount Pleasant Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of Cherry Valley Phase VIII pump station.

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

**WQM Permit No. WQG018474**, Sewerage, **Todd T. and Wendy A. Lowry**, 5624 Obed Heights, Edinboro, PA 16412. This proposed facility is located in McKean Township, **Erie County**.

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

**WQM Permit No. 2506404**, Sewerage, **Mark Herrmann**, 9915 Jones Road, Erie, PA 16510. This proposed facility is located in Greene Township, **Erie County**.

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

**WQM Permit No. WQG018460**, Sewerage, **Robert C. and Helen McCanna**, 8 Deer Run Road, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

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

**WQM Permit No. WQG028301**, Sewerage, **Farmington Township**, 32691 Route 66, P. O. Box 148, Leeper, PA 16233. This proposed facility is located in Farmington Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction of a pump station and sanitary sewer lines to serve SR 66 and the Crown area of Farmington Township and will be conveyed to the Farmington Township sewage treatment plant.

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

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

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

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI011505015	Robert Cook 124 Woodview Lane Oxford, PA 19363	Chester	East Nottingham Township	West Branch Big Elk Creek (HQ-TSF-MF)

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI012306003	Penn State University Office of Physical Plant 101P University Park, PA 16802	Delaware	Middletown Township	Rocky Run/Chester Creek (HQ-CWF-MF)
PAI011506036	Hofstad Builders, Inc. 600 South Five Points Road West Chester, PA 19382	Chester	West Caln Township	Indian Spring Run (EV)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903021(1)	Liberty Property Trust, LLP 1510 Valley Center Parkway Suite 240 Bethlehem, PA 18017	Lehigh	Upper Macungie Township.	Iron Run Creek HQ-CWF
PAI024506008	Knob Crest Associates P. O. Box 426 Shamokin Dam, PA 17876	Monroe	Mount Pocono Borough	Forest Hills Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI061606001	Farmington Township	Clarion	Farmington Township	Licking Creek CWF Toby Creek CWF Groemund Run CWF Foy Run CWF Walley Run CWF

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## VII. Approvals to Use NPDES and/or Other General Permits

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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).

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### List of NPDES and/or Other General Permit Types

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PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

## NOTICES

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*General Permit Type—PAG-2*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Doylestown Township Bucks County	PAG2000906106	Carrollton Contractors 521 West Lancaster Road Haverford, PA 19041	Neshaminy Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Township and Borough Bucks County	PAG2000904004	Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406	Addams Hollow Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Rockhill Township Bucks County	PAG2000906058	Crest View, LLC 2300 Cattail Lane Perkasie, PA 18944	Three Mile Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Perkasie Borough Bucks County	PAG2000906100	Peter Zavitsanos P. O. Box 412 Gwynedd Valley, PA 19437	East Branch Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000906039	School Lane Charter School 2400 Bristol Pike Bensalem, PA 19020	Delaware/Poquessing Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG2000905138	Orleans Homebuilders, Inc. One Greenwood Square 3333 Street Road Bensalem, PA 19020	Jericho Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG2000906017	Toll Brothers, Inc. 374 Stoopville Road Newtown, PA 19040	Mill Creek South/Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Southampton Township Bucks County	PAG2000906007	Tilghman Builders, Inc. 19 Byberry Road Hatboro, PA 19040	Rock Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Township Bucks County	PAG20009050971	Department of Conservation and Natural Resources 3401 State Road Bensalem, PA 19020	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Morrisville Borough Bucks County	PAG2000906074	Toll Integrated Systems 449 South Pennsylvania Avenue Morrisville, PA 19067	Delaware River Canal (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Pennsbury Township Chester County	PAG2001506030	War and Dorothy Kissell 1382 Hickory Hill Road Chadds Ford, PA 19317	Brandywine Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Nottingham Township Chester County	PAG2001505034	William Hostetter 481 Limestone Road Oxford, PA 19363	UNT Tweed Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Delaware County	PAG20023030061	Claude deBotton 1604 Walnut Street Philadelphia, PA 19103	Darby Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Chichester Township Delaware County	PAG2002306009	ABF Freight System, Inc. P. O. Box 10048 Ft. Smith, AR 72917-0048	Marcus Hook Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Upper Chichester Township Delaware County	PAG2002303045	Upper Chichester Partners 3344 Market Street Twin Oaks, PA 19014	Marcus Hook Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Delaware County	PAG2002306012	Bodo Development Corporation 202 Coventry Lane Media, PA 19063	Green Creek/West Branch Chester Creek (CWF, MF/TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chester Township Delaware County	PAG2002306032	Fleetman Family, LTD Partnership 35 Stanley Drive Aston, PA 19014	Chester Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Montgomery Township Montgomery County	PAG2004606013	Commerce Bank 11000 Atrium Way Mt. Laurel, NJ 08054	Little Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Salford Township Montgomery County	PAG2004606075	Advent Lutheran Church 470 Landis Road Harleysville, PA 19438	West Branch Perkiomen and East Branch Skippack Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Dublin Township Montgomery County	PAG2004606087	Liberty Property, LP 500 Chesterfield Parkway Malvern, PA 19355	Pine Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Montgomery Township Montgomery County	PAG20046051141	Moulton Builders 301 North Broad Street Lansdale, PA 19446	West Branch Neshaminy Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Towamencin Township Montgomery County	PAG2004605144	Real Pro Enterprises 2310 North Broad Street Colmar, PA 18915	Towamencin Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004605210	Paul Henry 52 Keen Road Linfield, PA 19468	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106014	Philadelphia Housing Authority 12 South 23rd Street Philadelphia, PA 19103	Combined Sewers-Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
South Abington Township Lackawanna County	PAG2003506017	William Stevens 322 Northern Blvd. P. O. Box 421 Chinchilla, PA 18410	Summit Lake Creek TSF	Lackawanna Co. Cons. Dist. (570) 281-9495
Washington Township Schuylkill County	PAG2005406012	Trent Stauffer 91 Mill Rd. Myerstown, PA 17067	Little Swatara Creek 1200 Feet CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Lehigh Township Northampton County	PAG2004806031	Cathy Gabel 614 Cherryville Rd. Cherryville, PA 18035	Tributaries to Lehigh River (PA 903 Bridge to Allentown Dam) CWF	Northampton Co. Cons. Dist. (610) 746-1971
Exeter Borough Luzerne County	PAG2004005042	Lehigh Construction Attn: Frank Braccini 295 Schooley Ave. Exeter, PA 18643	Hicks Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991



NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Dallas Township Luzerne County	PAG2004006021	Joseph Murphy Masonic Village at Dallas One Masonic Drive Elizabethtown, PA 17022 and Matthew Hartzler Warfel Construction Co. P. O. Box 4488 Lancaster, PA 17604	Toby Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
East St. Clair Township Bedford County	PAG2030506005	Thomas Otis 3281 Valley Road Fishertown, PA 15539	Stone Creek WWF	Bedford County Conservation District 702 West Pitt Street, Suite 3 Bedford, PA 15522 (814) 623-8099, Ext. 4
Spring Township Berks County	PAG2000606048	Douglas Young Douglas Young Builders 2308 Lancaster Pike Reading, PA 19607	Little Muddy Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Union Township Lebanon County	PAG2003806011	Andrew Lautenbach Amerada Hess Corporation One Hess Plaza Woodbridge, NJ 07095	Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Union Township Lebanon County	PAG2003806019	Anthony Fitzgibbons 279 N. Zinns Mill Road Suite D Lebanon, PA 17042	Forge Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Jackson Township Lebanon County	PAG2003806014	Delmar Stauffer 1274 Hilltop Road Myerstown, PA 17067	Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Cornwall Borough Lebanon County	PAG2003805044	John Byler Byler Management Co. LLC 1821 Oregon Pike Lancaster, PA 17601	Furthermost Uplands of Snitz Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Cornwall Borough Lebanon County	PAG2003806020	Joseph H. Schott 2166 Quentin Road Lebanon, PA 17042	Snitz Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
1270 Fairfield Road at Deatruck Drive Cumberland Township Adams County	PAR100138R	David L. Sites Realty Leasing & Management 1270 Fairfield Road Gettysburg, PA 17325 and Keith Sunderman/VP S&A Custom Built Homes, Inc. 2121 Old Gatesburg Rd. Suite 200 State College, PA 16803 and Cumberland Township (Co-applicant) 1370 Fairfield Road Gettysburg, PA 17325 and James Williams, Pres. (Co-applicant) C. E. Williams Sons, Inc. 1141 Highland Ave Rd Gettysburg, PA 17325	Willoughby Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Between Highland Avenue and Route 15 Mount Joy Township Adams County	PAG2000105013	Gary Weiland 126 Heritage Drive Gettysburg, PA 17325	Rock Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Columbia County Briar Creek Township Briar Creek Borough	PAG2001906009	Berwick Area Joint Sewer Authority 1108 Freas Avenue Berwick, PA 18603	Briar Creek and Susquehanna River CWF	Columbia County Conservation District 702 Sawmill Rd, Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
Lycoming County Piatt Township	PAG2004106010	Raye and Thomas Bierly 239 Zionview Road Jersey Shore, PA 17740	UNT to West Branch Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Lycoming County Jersey Shore Borough	PAG2004106011	Jersey Shore Hospital Lou Ditzel 1020 Thompson Street Jersey Shore, PA 17740	UNT to West Branch Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Lycoming County Mifflin Township	PAG2004106013	PPL Gas Utilities 651 Delp Road Lancaster, PA 17601	UNT to Larry's Creek WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Allegheny County Robinson Township	PAR10A4281R	Secor Corporation 2559 Washington Road Pittsburgh, PA 15241	Chartiers Creek (WWF)	Allegheny County CD (412) 241-7645
Allegheny County South Fayette Township	PAR10A528R	Secor Corporation 2559 Washington Road Pittsburgh, PA 15241	Coal Run (WWF)	Allegheny County CD (412) 241-7645

## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Allegheny County Pittsburgh	PAG2000206016	Carnegie Mellon University 5000 Forbes Avenue Pittsburgh, PA 15213	Monongahela River (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Findlay Township	PAG2000206023	Sahrista Development, Inc. 104 Kenyon Road Pittsburgh, PA 15205	Montour Run (TSF)	Allegheny County CD (412) 241-7645
Allegheny County Turtle Creek Borough	PAG2000206039	Woodland Hills School District 2430 Greensburg Pike Pittsburgh, PA 15221	Turtle Creek (TSF)	Allegheny County CD (412) 241-7645
Allegheny County Robinson Township	PAG2000206040	No. 1 Cochran Automotive 4520 William Penn Highway Monroeville, PA 15146	Campbells Run (WWF)	Allegheny County CD (412) 241-7645
Allegheny County West Mifflin Borough	PAG2000206044	Voyager Jet Center Allegheny County Airport No. 43 Lebanon Church Road West Mifflin, PA 15122-2605	Monongahela River (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Dormont Borough Mt. Lebanon	PAG2000206045	Keystone Oaks School District 1000 Kelton Avenue Pittsburgh, PA 15216	Sawmill Run (WWF)	Allegheny County CD (412) 241-7645
Allegheny County Pine Township	PAG2000206051	Gary R. Bolin 1906 Oakhurst Drive Allison Park, PA 15101	Montour Run (TSF)	Allegheny County CD (412) 241-7645
Allegheny County Robinson Township	PAG2000206062	Bearmate Land Development, Inc. 116 Shingle Hollow Road Harmony, PA 16037	Campbells Run (WWF)	Allegheny County CD (412) 241-7645
Washington County South Strabane Township	PAG20063060101	The Foundry Phase 1B The Foundry at South Strabane, LLC 5252 East 82nd Street Suite 300 Indianapolis, IN 46250 Pepper Construction Company 1850 West 15th Street Indianapolis, IN 46202	Tributary of Chartiers Creek (WWF)	Washington County CD (724) 228-6774
Clarion County Farmington Township	PAG2061606007	Passive Mine Drainage Treatment Farmington Township P. O. Box 148 Leeper, PA 16233	Little Coon Run CWF	Dept. Environmental Protection (814) 332-6984
Erie County Millcreek Township	PAG2002506016	St. Mary's Home of Erie 607 E. 26th Street Erie, PA 16504	Lake Erie	Erie Conservation District (814) 825-6403
Erie County Summit Township	PAG2002506027	Porreco Nissan P. O. Box 3086 Erie, PA 16508	LeBoeuf Creek TSF	Erie Conservation District (814) 825-6403
Penn Township Clearfield County	PAG2101706002	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	Kratzer Run to Anderson Creek (CWF)	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311

*General Permit Type—PAG-3**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Allentown City Lehigh County	PAR232210	AERC.com, Inc. 2591 Mitchell Avenue Allentown, PA 18103	Trout Creek CWF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Lehigh County Bethlehem City	PAR202202	Air Products & Chemicals, Inc. Gardner Cryogenics 2136 City Line Road Bethlehem, PA 18017	UNT to Lehigh River CWF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Franklin County Waynesboro Borough	PAR113511	Cinetic Landis Grinding Corporation 20 East 6th Street Waynesboro, PA 17268	UNT East Branch Antietam Creek CWF/13-C	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Waynesboro Borough	PAR113543	York Refrigeration (Frick) 100 CV Avenue Waynesboro, PA 17268-0997	West Branch Antietam Creek CWF/13-C	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Quarryville Borough	PAR603511	James Groff & Son, Inc. 17 North Hess Street Quarryville, PA 17566-1221	UNT To South Fork Big Beaver Creek TSF/7-K	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Mifflinburg Union County	PAR224812	Yorktowne, Inc 5 North Eighth Street Mifflinburg, PA 17844-1003	UNT to Buffalo Creek CWF	Water Management Program Manager 208 West Third Street Williamsport, PA 17701 (570) 327 3664

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Westtown Township Chester County	PAG040052	Edward P. Harvey 1132 Cardinal Drive West Chester, PA 19382	UNT to the Chester Creek Watershed 3G-Darby Crum	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Bedford County Liberty Township	PAG043849	Saxton Congregational Church of Jehovah's Witness—Gary Peters 122 Pioneer Trail Lane Saxton, PA 16678-9718	UNT Sugar Camp Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Anthony Township Montour County	PAG045219	Scott P Singer 131 Waltimyer Rd. Turbotville, PA 17772	McKee Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
McKean Township Erie County	PAG049265	Todd T. and Wendy A. Lowry 5624 Obed Heights Edinboro, PA 16412	UNT to Lamson Run, 15-EC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
McKees Rocks Borough Allegheny County	PAG056106	Sunoco, Inc. 350 Eagleview Boulevard Suite 300 Exton, PA 19341	Chartiers Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
Robinson Township Allegheny County	PAG056158	Sunoco, Inc. 5733 Butler Street Pittsburgh, PA 15201	Moon Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
Peters Township Washington County	PAG056103	Snyder's Automotive Service 801 East McMurray Road Venetia, PA 15367	UNT to Brush Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Berks County Windsor Township	PAG080002 PAG080005 PAG080011 PAG080013 PAG080017 PAG080018 PAG083522 PAG083551	Jesse Baro, Inc. 4 Quarry Road Douglassville, PA 19518	Dean Adams Farm	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-9 (SSN)*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
City of St. Marys Elk County	PAG098309	Buerk's Septic Service 1039 Bruxelles Street St. Marys, PA 15857	Ron Buerk Farm Biosolids Site 1501 Rosely Road St. Marys, PA 15857	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the

*Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

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

**Permit No. 0606508 MA, Minor Amendment, Public Water Supply.**

Applicant	<b>Hamburg Municipal Authority</b>
Municipality	Hamburg Borough
County	<b>Berks</b>
Type of Facility	Addition of a cyclone separator and a rate of flow control valve to existing system.
Consulting Engineer	Gregory T. Unger, P. E. Systems Design Engineering, Inc. 1032 James Drive Leesport, PA 19533

Permit to Construct Issued: 7/31/2006

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

**EMERGENCY Permit** issued to **Village of Rockingham**, 124 Robin Street, Cairnbrook, PA 15924, (PWS ID 4560023) Shade Township, **Somerset County** on July 26, 2006 for the use of a 5,000 gallon water storage tank.

**Operations Permit** issued to **Jennerstown Municipal Authority**, P. O. Box 99, School and Saylor Streets, Jennerstown, PA 15547, (PWS ID 4560038) Jenner Township, **Somerset County** on August 1, 2006 for the operation of facilities approved under Construction Permit No. 5600502.

**Operations Permit** issued to **Carrolltown Borough Municipal Authority**, P. O. Box 307, 140 East Carroll Street, Carrolltown, PA 15722, (PWS ID 4110004) East Carroll Township, **Cambria County** on August 1, 2006 for the operation of facilities approved under Construction Permit No. 1106501MA.

**Permit No. 0406502MA, Minor Amendment. Public Water Supply.**

Applicant	<b>Beaver Falls Municipal Authority,</b> 1426 8th Avenue P. O. Box 400 Beaver Falls, PA 15010
Borough or Township	Patterson Township
County	<b>Beaver</b>
Type of Facility	Patterson water tank No.1
Consulting Engineer	Michael Baker, Jr., Inc. 4301 Dutch Ridge Road Beaver PA 15009
Permit to Construct Issued	July 17, 2006

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

**Transfer of Operations Permit** issued to **Hayfield Estates LLC**, 18539 Reservoir Road, Saegertown, PA 16433, PWS ID 6200049, Hayfield Township, **Crawford County**. Permit No. 2089505-T2, issued July 27, 2006, reflecting change of ownership of the Hayfield Estates Mobile Home Park.

**Operations Permit** issued to **Lewis Run Borough**, 60 Main Street, Lewis Run PA 16738, PWSID 6420020, Lewis Run Borough, **McKean County**. Permit No. EMER OP 4206501, issued for the operation of the emergency interconnection between Lewis Run Borough and the Bradford City Water Authority, issued July 27, 2006.

#### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

##### Plan Location:

Borough or Township	Borough or Township Address	County
Franklin Township	150 Century Lane Dillsburg, PA 17019	York

*Plan Description:* Lorin and Sandra Stough, A3-67923-259-2: The plan consists of an existing single-family residential subdivision with two undeveloped lots (Lots 6 and 7) and one developed lot (Lot 5), all served by individual on-lot sewage disposal systems and water supplies. Lot 5 was permitted for a denitrification system. The proposed development is located on the east side of Capitol Hill, between Scotch Pine Road and Meadowview Drive in Franklin Township, York County. The plan was disapproved because an incorrect recharge rate was apparently used in the calculations for the preliminary hydrogeologic study. When the correct value is used, the onsite sewage systems in the subdivision, as proposed, will pollute the groundwater. Pollution of the water of the Commonwealth is a violation of the PA Clean Streams Laws. Such a condition is considered a nuisance and is prohibited.

### 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, documenta-

tion 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.*

**HiLine Storage System**, East Rockhill Township, **Bucks County**. Douglas B. Scott, Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Rd., West Chester, PA19380 on behalf of Timothy Hughes, Rock Hill Assoc., LP and Rock Hill GP, LLC., 211 Commerce Dr., Montgomeryville, PA 18936 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents and lead. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

**Leverington Holdings**, City of Philadelphia, **Philadelphia County**. Craig Herr, RT Environmental Svcs., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of John Capoferri, Leverington Holding, LP, 310 S. Easton Rd. Glenside, PA 19038 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with other organics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Gitlin Residence**, upper Dublin Township, **Montgomery County**. Mark Hawkins, Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Rd., West Chester, PA 19380 on behalf of Phyllis Gitlin, 1723 Benjamin Dr., Ambler, PA 19002 has submitted a Final Report concerning remediation of site soil contaminated with No. 2. Fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Flats Redevelopment Site**. City of Coatesville, **Chester County**. Sharon Smith, Weston Solutions, Inc., 1400 Weston Way, West Chester, PA 19380 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with inorganic and organic compounds. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**PECO Doylestown MGP**, Doylestown, **Bucks County**. Bruce Middletown, P. G. Jacques Whitford Company, 450 S. Graves Rd. Suite, 105, Plymouth Meeting, PA 19462 on behalf of Jack Stein, Keystone Volvo, 235 Main St., Doylestown, PA 18901 has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with lead, inorganics, PAH's and other 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.*

**Middlesex Elementary School, Cumberland Valley School District**, Middlesex Township, **Cumberland County**. ARM Group, Inc. 1129 W. Governor Road, P. O. Box 797, Hershey, PA 17033-0797, on behalf of Cumberland Valley School District, 6746 Carlisle Pike, Mechanicsburg, PA 17050, submitted a Final Report concerning remediation of site soils and groundwater contaminated with a heating oil release from an AST. The report is intended to document remediation of the site to the residential Statewide Health Standard. The report was submitted under the Department's Low Risk policy.

**Lakeview Mobile Home Park, Gene Kulp Residence**, Mount Joy Township, **Lancaster County**. ARM Group, Inc., 1129 W. Governor Road, P. O. Box 797, Elizabethtown, PA 17033-0797, on behalf of Charles Bailey, 1501 Mill Road, Elizabethtown, PA 17022, submitted a Final Report within 90 days of a release concerning remediation of site soils contaminated with heating oil. The report is intended to document remediation of the site to the Statewide Health Standard. The property is a private residence and will remain the same in the future.

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

**Alpine Plaza**, Wysox Township, **Bradford County**. Converse Consultants 2738 West College Ave., State College, PA 16801 on behalf of Joan and William Woloshyn, R. R. 2, Box 72A-1, Wysox, PA 18854, has submitted a combined Remedial Investigation Report, Risk Assessment and Cleanup Plan concerning remediation of site groundwater contaminated with solvents. The report/plan is intended to document remediation of the site to meet the Site-Specific Standard.

**Mellisa A. Burns**, City of Shamokin, **Northumberland County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Mellisa A. Burns, 122 East Arch St., Shamokin, PA 17872 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Nu-Brite Chemical Company**, Haysville Borough, **Allegheny County**. Steve McGuire, Veolia Water/NA Water Systems, 250 Airside Drive, Moon Township, PA 15108 (on behalf of Andrzej Bernat, Nu-Brite Chemical Company, 2505 Rue de la Metropole, Longueuil, Quebec J4G 1E5) has submitted a Revised Remedial Investigation Report, Risk Assessment Report, Cleanup Plan and a Final Report concerning remediation of site soil and groundwater contaminated with organic solvents, lead and arsenic. The reports are intended to document remediation of the site to meet the Site-Specific 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.*

**Darby Creek Jt. Auth., Sewage Treatment Plt.,** Upper Darby Township, **Delaware County.** Charles Catania, Catania Engineering Assoc., Inc., 520 W.

MacDade Blvd., Milmont Park, PA 19033 and Edward Kashdam, Gannett Fleming, Inc., P. O. Box 80794, Valley Forge, PA 19484 on behalf of Charles Barton, Darby Creek Joint Authority, 100 E. Fifth St., P. O. Box 999, Chester, PA 19016 has submitted a Remedial Investigation and Risk Assessment Report concerning the remediation of site soil and groundwater contaminated with PCB, lead, heavy metals, PHC, PAH and pesticides. The Remedial Investigation Report and Risk Assessment Report was approved by the Department on February 23, 2006.

**PECO Doylestown MGP,** Doylestown Borough, **Bucks County.** Bruce Middletown, P. G. Jacques Whitford Company, 450 S. Graves Rd., Suite, 105, Plymouth Meeting, PA 19462 on behalf of Jack Stein, Keystone Volvo, 235 Main St., Doylestown, PA 18901 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with lead, inorganics, PAHs and other organics. The Remedial Investigation Report was approved by the Department on July 25, 2006.

**Crown Cork & Seal Fac.,** City of Philadelphia, **Philadelphia County.** Peter Beyer, REM, 856 Springdale, Dr., Exton, PA 19341 on behalf of Revi Chawla, St. Prop., 12700 Townsend Rd., Philadelphia, PA 19154 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, MTBE, other organics, No. 5 fuel oil, PAHs and unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and Site-Specific Standard was approved by the Department on July 26, 2006.

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

**Inglis Gardens at Elmwood,** City of Philadelphia, **Philadelphia County.** Scott Smith, Powell-Harstead, Inc., 800 E. Washington St., West Chester, PA 19380 on behalf of Arthuret Morris-Stone, Inglis Housing Corp., 2600 Belmont Ave., and Philadelphia, PA 19193 has submitted a Final Report concerning the remediation of site soil contaminated with other organic. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 23, 2006.

**Five Points Shopping Center,** West Goshen Township, **Chester County.** Phil Gray, Phoenix Geo Environmental LLC, 73 Wethersfield Circle, Telford, PA 18969 on behalf of Gloria Terranova, 7 Summit Dr., Glen Mills, PA 19342 has submitted a Remedial Investigation Report and Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Remedial Investigation and Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on May 16, 2006.

**Georgia Pacific Connelly Fac.,** Lower Merion Township, **Montgomery County.** Jeffrey Walsh, Penn Env. & Remediation, Inc., on behalf of Richard Heany, Righter's Ferry Assoc., LP, 700 S. Henderson Rd., Suite, 225, King of Prussia, PA 19406 has submitted a Remedial Investigation/Risk Investigation Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with petroleum hydrocarbon compounds and VOCs. The Remedial Investigation/Risk Investigation Report and Cleanup Plan was disapproved by the Department on May 26, 2006.

**Nicolet Industries Site,** Ambler Borough, **Montgomery County.** Darryl Borell, Manko, Gold, Katcher & Fox, LLP, 401 City Line Ave., Suite, 500 Bala Cynwyd, PA 19004 on behalf of Arnold Frumin, AMA/American Mar-



keting Assoc., Inc., 57 Old Post No. 2 Road, Greenwich, CT 06830 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with PAH's. The Remedial Investigation Report was approved by the Department on June 27, 2006.

**Colorcon, Inc.**, Upper Gwynedd Township, **Montgomery County**. Rick Wroblewski, ERM Inc., 350 Eagleview Blvd., Suite, 200, Exton, PA 19341 on behalf of Terri Johnson, Colorcon, Inc., 415 Moyer Blvd., West Point, PA 19485 has submitted a Final Report concerning the remediation of site groundwater contaminated with inorganics. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 29, 2006.

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

**Bayliss Oldsmobile/Saturn of Reading**, Muhlenberg Township, **Berks County**. Alliance Environmental Services, Inc. 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Kommakle LP, 2526 Centre Avenue, Reading, PA 19605, submitted a Final Report concerning remediation of site soils and groundwater contaminated with TCE and petroleum hydrocarbons. The Final Report demonstrated attainment of a nonresidential Statewide Health Standard, and was approved by the Department on July 28, 2006.

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

**Exxon Services Station No. 22387 (Former)**, City of Pittsburgh **Allegheny County**. Gary Antoinette, Geologic Services Corporation, 129 McCarrell Lane, Suite 2B, Zelienople, PA 16063 on behalf of Exxon Mobil Corporation, 220 Commerce Drive, Suite 205, Ft. Washington, PA 19034 has submitted a Remedial Investigation, Risk Assessment and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with lead, BTEX and MTBE. The Remedial Investigation, Risk Assessment and Cleanup Plan were approved by the Department on July 20, 2006.

**Liberty Park Development Site**, City of Pittsburgh, **Allegheny County**. Joseph M. Harrick, Penn Environmental and Remediation Inc., 359 Northgate Drive, Warrendale, PA 15066 on behalf of John Coyne, P. E., Director of Engineering and Construction, Urban Redevelopment Authority of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219 has submitted a Remedial Investigation Report/Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Remedial Investigation/Final Report was approved by the Department on April 7, 2006, The Final Report demonstrated attainment of the Site-Specific Standard.

#### RESIDUAL WASTE GENERAL PERMITS

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

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

**General Permit No. WMGI005. Merck & Co., Inc.**, 770 Sumneytown Pike, West Point PA 19486-0004. General Permit No. WMGI005 authorizes processing of infectious waste through chemical and thermal inactivation. The permit was renewed by Central Office on July 27, 2006.

The renewed general permit covers the following Merck & Co., Inc. facilities:

Merck & Co., Inc., West Point, 770 Sumneytown Pike, West Point, PA 19486-0004 (WMGI005A)

Merck & Co., Inc., Cherokee, 100 Avenue C, Riverside, PA 17868 (WMGI005B)

Merck & Co., Inc., Wayne, 466 Devon Park Drive, Wayne, PA 19087 (WMGI005C)

Merck & Co., Inc., MRL North Wales, 502 and 503 Louise Lane, 140 Wissahickon Avenue, North Wales, PA 19545 (WMGI005D)

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**General Permit No. WMGI005D002. Centocor Inc.**, 200 Great Valley Parkway, Malvern PA 19355-1312. General Permit No. WMGI005 authorizes processing of infectious waste through chemical and thermal inactivation. The permit was renewed by Central Office on July 27, 2006.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

## AIR QUALITY

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

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

**15-310-047GP: Limestone Properties, LLC** (1020 Broad Run Road, Landenberg, PA 19350) on July 27, 2006, to operate a crusher/screening equipment in Avondale Borough, **Chester County**.

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

**GP3-67-05098: O-N Minerals (PenRoc) Company, LP** (P. O. Box 1967, 100 South Zarfoss Drive, York, PA 17405) on July 24, 2006, for Portable Nonmetallic Mineral Processing Plants under GP3 in West Manchester Township, **York County**.

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

**GP5-32-00357: The Peoples Natural Gas Co.** (1201 Pitt Street, Pittsburgh, PA 15221) on July 24, 2006, to operate a compressor engine at Creekside Compressor Station in White Township, **Indiana County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**46-0005AA: Merck and Co., Inc.** (770 Summeytown Pike, West Point, PA 19486) on July 26, 2006, to operate a disinfectant operation in Upper Gwynedd Township, **Montgomery County**.

**09-0087E: Air Products and Chemicals Inc.** (351 Phila Avenue, Morrisville, PA 19067) on July 27, 2006, to revise the permit of a silicon tetrofluoride production process in Falls Township, **Bucks County**.

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

**45-399-016: Sanofi Pasteur, Inc.** (Discovery Drive, Swiftwater, PA 18370) on July 25, 2006, to construct a vaccine manufacturing process in Pocono Township, **Monroe County**.

**45-02-076: Sanofi Pasteur, Inc.** (Discovery Drive, Swiftwater, PA 18370) on July 25, 2006, to construct two natural gas/No. 2 fuel oil fired boilers in Pocono Township, **Monroe County**.

**45-329-001: Sanofi Pasteur, Inc.** (Discovery Drive, Swiftwater, PA 18370) on July 25, 2006, to construct three emergency generators in Pocono Township, **Monroe County**.

**66-315-046: Procter and Gamble Paper Products Co.** (P. O. Box 32, Mehoopany, PA 18629) on July 20, 2006, to modify the 2M paper machine in Washington Township, **Wyoming County**.

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

**36-03162A: Ivy Creek Custom Cabinetry, Inc.** (449 Running Pump Road, Suite 113, Lancaster, PA 17603-2250) on July 25, 2006, to construct a custom cabinet facility, including two surface coating booths in East Hempfield Township, **Lancaster County**.

**38-03051A: Grace Alloys** (200 East Richland Avenue, Myerstown, PA 17067-1545) on July 31, 2006, to install a secondary aluminum sweat furnace in Myerstown Borough, **Lebanon County**.

**67-03103A: Gerhardt USA** (400 East Locust Street, Dallastown, PA 17313-1902) on July 31, 2006, to construct a hard chrome plating line in Dallastown Borough, **York County**.

**67-03136A: Service Tire Truck Center, Inc.** (3403 Concord Road, York, PA 17402) on July 26, 2006, to install a truck retreading process in Springettsbury Township, **York County**.

**67-05049A: Oldcastle APG Northeast, Inc.** (1 Connelly Road, Emigsville, PA 17318) on July 25, 2006, to install a concrete block coating system and to vent several existing fabric filters to atmosphere in Manchester Township, **York County**.

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

**10-350A: Cloverleaf Group, Inc.** (1 Trueserve Way, East Butler, PA 16029) on July 18, 2006, to construct the various process needed for the point of purchase display manufacturing operation (NAICS 323100) in East Butler Borough, **Butler County**. This is a State-only facility.

**42-206B: Holm Industries** (700 1/2 Elk Avenue, Kane, PA 16735) on July 19, 2006, to modify existing plan approval language regarding ph limits for the scrubber control device at the Kane facility in the Borough of Kane, **McKean County**.

**25-1006A: Lake Erie Bio-fuels, LLC** (1001 State Street, Erie, PA 16501-1814) on July 20, 2006, to construct a bio-diesel production plant in City of Erie, **Erie County**. This is a State-only facility.

**42-172A: Hexion Specialty Chemicals, Inc.** (Hutchins Road, Mt. Jewett, PA 16740) on July 25, 2006, to modify plan approvals 42-302-021A and 42-399-017A to reflect conditions that are no longer applicable for the facility in Sergeant Township, **McKean County**. The facility is a Natural Minor.

**24-012F: C/G Electrodes LLC—St. Marys Plant** (800 Theresia Street, St. Marys, PA 15857-1898) on July 31, 2006, to construct two car bottom baking kilns Nos. 493 and 494 exhausting to existing thermal incinerator and wet-limestone scrubber in St. Marys City, **Elk County**. This is a Title V facility.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**23-0024D: Hanson Aggregates PA, Inc.** (P. O. Box 231, Easton, PA 18044) on July 24, 2006, to operate two baghouses in Middletown Township, **Delaware County**.

**23-0059: Lyondell Chemical Co.** (3801 West Chester Pike, Newtown Square, PA 19073) on July 24, 2006, to operate an integrated propylene oxide pilot unit in Newtown Township, **Delaware County**.

**46-0169A: H & N Packaging Inc.** (92 County Line Road, Colmar, PA 18915) on July 24, 2006, to operate a graphic arts facility in Hatfield Township, **Montgomery County**.

**46-0169B: H & N Packaging Inc.** (92 County Line Road, Colmar, PA 18915) on July 24, 2006, to operate a five color flexographic printing presses in Hatfield Township, **Montgomery County**.

**23-0001W: Sunoco, Inc.—R & M** (P. O. Box 426, Marcus Hook, PA 19061-0426) on July 24, 2006, to operate a desulphurize gasoline (Tier II) in Marcus Hook Borough, **Delaware County**.

**46-0035B: SmithKline Beecham d/b/a GlaxoSmith-Kline** (709 Swedeland Road, King of Prussia, PA 19406) on July 24, 2006, to operate an emergency electric generator in Upper Merion Township, **Montgomery County**.

**23-0001Z: Sunoco, Inc.—R & M** (P. O. Box 426, Marcus Hook, PA 19061-0426) on July 28, 2006, to operate four (4) auxiliary boilers in Marcus Hook Borough, **Delaware County**.

**09-0143A: Naceville Materials** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on July 28, 2006, to operate a scalping screen and conveyors in West Rockhill Township, **Bucks County**.

**23-0012: Epsilon Product Co., LLC** (Post Road and Blueball Avenue, P. O. Box 432, Marcus Hook, PA 19061) on July 31, 2006, to operate a plant 2 and thermal oxidizer in Marcus Hook Borough, **Delaware County**.

**23-0089: FPL Energy Marcus Hook, LP** (P. O. Box 426 Delaware Avenue and Green Street, Marcus Hook, PA 19061) on July 31, 2006, to operate a 750 megawatt (MW) combined cycle in Marcus Hook Borough, **Delaware County**.

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

**01-05016G: ISP Minerals, Inc.** (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914) on July 21, 2006, to install a new Headlap Plant in Hamiltonban Township, **Adams County**. This plan approval was extended.

**28-05040A: INGENCO** (2250 Dabney Road, Richmond, VA 23230) on June 1, 2006, to increase use of landfill gas for up to 96% of heat input at their existing electric generating facility in Peters Township, **Franklin County**. This plan approval was extended.

**67-05001B: LWB Refractories** (320 Baker Road, P. O. Box 1189, York, PA 17405-1189) on July 31, 2006, to install a regenerative thermal oxidizer on Tunnel Kilns TK5 and TK6 in West Manchester Township, **York County**. This plan approval was extended.

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

**30-00077A: Texas Eastern Transmission, LP** (P. O. Box 1642, Houston, TX) on July 25, 2006, to allow time for review of the source testing report at the Holbrook Compressor Station in Richhill Township, **Greene County**. This plan approval was extended.

**04-00013B: Jewel Acquisition, LLC** (100 River Road, Brackenridge, PA 15014) on July 25, 2006, to conduct an initial operating permit inspection at the Midland Facility in Midland Borough, **Beaver 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.*

**43-270B: CCL Container** (One Llodio Drive, Hermitage, PA 16148-9015) on July 31, 2006, to replace an existing 15,000 cfm incinerator with a new 45,000 cfm regenerative thermal oxidizer and to install an additional aluminum container line rated at 180 cans per minute in Hermitage City, **Mercer County**. This is a Title V facility.

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

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

**36-05027: R. R. Donnelley and Sons Co.** (216 Greenfield Road, Lancaster, PA 17601-5885) on July 28, 2006, to install a printing press (Goss S-3000) to replace an existing unit in City of Lancaster, **Lancaster County**. This operating permit was administratively amended to incorporate the following Plan Approvals 36-05027C, 36-05027E and 36-05027F. This is revision No. 1.

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**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.**

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

**06-05005: Eastern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034-9467) on July 24, 2006, to operate their limestone crushing and asphalt plants at the quarry in Oley Township, **Berks County**.

**07-03049: A. P. Green Refractories, Inc.** (R. R. 1, Box 588D, Claysburg, PA 16625) on July 24, 2006, to operate a refractory manufacturing facility in Greenfield Township, **Blair County**. This operating permit was administratively amended to incorporate Plan Approval 07-03049A. This is revision No. 1.

**21-05040: Valley Quarries, Inc.** (470 Newville Road, Shippensburg, PA 17257-9504) on July 27, 2006, to construct a triple deck screen to replace a double deck screen for the Shippensburg facility in Southampton Township, **Cumberland County**. This is a renewal of the State-only operating permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**63-00901: Allegheny Millwork and Lumber Co.** (104 Commerce Boulevard, Lawrence, PA 15055) on July 18, 2006, to operate a custom millwork facility in Cecil Township, **Washington County**.

**03-00188: Carson Industries, Inc.** (189 Foreman Road, Freeport, PA 16229) on July 25, 2006, for an aluminum giftware manufacturing facility in South Buffalo Township, **Armstrong County**.

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

**61-00187: SMS Millcraft—Oil City** (671 Colbert Avenue, PA 16301) on July 18, 2006, for a Natural Minor Operating Permit to operate the Plating and Polishing Plant in Oil City, **Venango County**.

**42-00133: Collins Pine Cos.—Kane Hardwood—Kane Borough** (95 Hardwood Drive, PA 16735) on July 13, 2006, for a Natural Minor Operating Permit to operate the Sawmill and Planning Mills Plant in Kane Borough, **McKean 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

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**03830116 and NPDES Permit No. PA0599727. Walter L. Houser Coal Co., Inc.** (12968 U. S. Route 422, Kittanning, PA 16201-5446). Permit revised to allow for mining activities on the central and eastern portions of the permit at an existing bituminous surface /auger mining site located in Kittanning Township, **Armstrong County**, affecting 812.0 acres. Receiving streams: UNTs of Mill Run to Cowanshannock Creek to the Allegheny River. Application received: April 12, 2006. Revised permit issued: July 24, 2006.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**16060101 and NPDES Permit No. PA0258105. Ancient Sun, Inc.** (P. O. Box 129, Shippensburg, PA 16254). Commencement, operation and restoration of a bituminous strip operation in Ashland Township, **Clarion County** affecting 23.0 acres. Receiving stream: UNT to Little East Sandy Creek. Application received: January 20, 2006. Permit Issued: July 25, 2006.

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

**14820103 and NPDES No. PA0611719. AMFIRE Mining Company, LLC.** (One Energy Place, Latrobe, PA 15650). Transfer of an existing bituminous surface mine from Junior Coal Contracting, Inc. (2330 Six Mile Road, Philipsburg, PA 16866), located in Rush Township, **Centre County**, affecting 379.7 acres. Receiving streams: UNT to Trout Run and UNT to Moshannon Creek to West Branch Susquehanna River. Application received: April 26, 2006. Transfer permit issued: July 17, 2006.

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

**40840202R4 and NPDES Permit No. PA0613703. Silverbrook Anthracite, Inc.** (1 Market Street, Wilkes-Barre, PA 18702). Renewal of an existing anthracite coal refuse reprocessing operation and discharge of treated mine drainage in Laflin Borough, **Luzerne County** affecting 30.30 acres. Receiving stream: Garden Creek. Application received: September 22, 2004. Renewal issued: July 27, 2006.

**54713002R4 and PA0123293. Reading Anthracite Company.** (P. O. Box 1200, Pottsville, PA 17901). Renewal of an existing anthracite surface mine operation in New Castle Township, **Schuylkill County** affecting 218.0 acres. Receiving stream: East Branch Norwegian Creek. Application received: March 16, 2005. Renewal issued: July 27, 2006.

### Noncoal Permits Actions

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

**14960802. Mountaintop Coal Co., Inc.** (500 West Sycamore Road, Snow Shoe, PA 16874). Noncoal mining operation in Snow Shoe Township, **Centre County**. Restoration of 2.35 acres completed. Receiving Stream: UNT to North Fork of Beech Creek. Application received: June 28, 2006. Final bond release: July 6, 2006.

**08960801. Dennis L. Newhart** (R. R. 5, Box 180, Tunkhannock, PA 18675). Noncoal mining operation in Tuscarora Township, **Bradford County**. Restoration of 1.0 acre completed. Receiving streams: UNT to Fargo Creek, tributary to Tuscarora Creek. Application received: July 6, 2006. Final bond release: July 14, 2006.

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

**58032810. Timothy Mark Smith.** (R. R. 3 Box 239E, Montrose, PA 18801). Commencement, operation and restoration of a quarry operation in Lanesboro Borough and Harmony Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received: July 14, 2003. Permit issued: July 28, 2006.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P. S. §§ 151—161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**26064004. Walsh Construction, Inc.** (605 Pittsburgh Road, Uniontown, PA 15401). Blasting activity permit for construction of the Mon/Fayette Expressway, Section 51A2, located in Georges Township, **Fayette County**, with an expected duration of 120 days. Blasting activity permit issued: July 20, 2006.

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

**18064101. J Roys, Inc.** (P. O. Box 125, Bowmansville, PA 17507). Construction blasting for a warehouse in Castanea Township, **Clinton County**. Application received: June 13, 2006. Permit issued: June 26, 2006.

**08064101. Hayduk Enterprises, Inc.** (257 Riverside Drive, Factoryville, PA 18419). Construction blasting for a warehouse/barn in Terry Township, **Bradford County**. Application received: July 10, 2006. Permit issued: July 13, 2006.

**08064102. Hayduk Enterprises, Inc.** (257 Riverside Drive, Factoryville, PA 18419). Blasting for shale pit for owner's use in Terry Township, **Bradford County**. Application received: July 11, 2006. Permit issued: July 18, 2006.

**14064014. Glenn O. Hawbaker, Inc.** (P. O. Box 135, State College, PA 16804). Construction blasting for Remodelers Workshop located in Spring and Benner Townships, **Centre County**. Application received: July 21, 2006. Permit issued: July 25, 2006.

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

**01064116. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for Keller Farms Development in Straban Township, **Adams County** with an expiration date of July 20, 2007. Permit issued: July 24, 2006.

**01064117. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for Gettysburg Museum & Visitor Center in Gettysburg Borough and Cumberland Township, **Adams County** with an expiration date of November 1, 2006. Permit issued: July 24, 2006.

**06064121. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510). Construction blasting for Rosecliff Development in Amity Township, **Berks County** with an expiration date of July 1, 2007. Permit issued: July 24, 2006.

**38064120. Keystone Blasting Service.** (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for a single dwelling in Heidelberg Township, **Lebanon County** with an expiration date of August 30, 2006. Permit issued: July 24, 2006.

**38064121. Keystone Blasting Service.** (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for a manure storage pit in Jackson Township, **Lebanon County** with an expiration date of September 30, 2006. Permit issued: July 24, 2006.

**09064125. Allan A. Myers, Inc. d/b/a Independence Construction Materials.** (P. O. Box 98, Worcester, PA 19490). Construction blasting for Coventry Meadows in Hilltown Township, **Bucks County** with an expiration date of December 31, 2007. Permit issued: July 25, 2006.

**23064106. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092). Construction blasting for Concordville Town Center in Concord Township, **Delaware County** with an expiration date of December 30, 2006. Permit issued: July 25, 2006.

**40064123. Austin Powder Company.** (25800 Science Park Drive, Cleveland, OH 44122). Construction blasting for Humboldt Industrial Park in Hazleton City, **Luzerne County** with an expiration date of July 17, 2007. Permit issued: July 25, 2006.

**40064124. Austin Powder Company.** (25800 Science Park Drive, Cleveland, OH 44122). Construction blasting for Valmont Industrial Park in West Hazleton Borough, **Luzerne County** with an expiration date of July 17, 2007. Permit issued: July 25, 2006.

**40064125. Austin Powder Company.** (25800 Science Park Drive, Cleveland, OH 44122). Construction blasting for Hanover Industrial Park in Hanover Township, **Luzerne County** with an expiration date of July 17, 2006. Permit issued: July 25, 2006.

**48064119. Silver Valley Drilling & Blasting, Inc.** (R. R. 4 Box 4196, Saylorsburg, PA 18353). Construction blasting for Patriot Hills subdivision in Lower Nazareth Township, **Northampton County** with an expiration date of July 31, 2007. Permit issued: July 25, 2006.

**58064101. Hayduk Enterprises, Inc.** (257 Riverside Drive, Factoryville, PA 18419). Construction blasting for Precision Pipeline in Lathrop and Springville Townships,

**Susquehanna County** with an expiration date of July 31, 2007. Permit issued: July 25, 2006.

**06064122. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510). Construction blasting for Woods Edge in Amity Township, **Berks County** with an expiration date of August 1, 2007. Permit issued: July 27, 2006.

**06064123. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510). Construction blasting for Park View Development in Saint Lawrence Borough, **Berks County** with an expiration date of September 1, 2007. Permit issued: July 27, 2006.

**22064122. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for roadwork at Hershey Medical Center in Derry Township, **Dauphin County** with an expiration date of July 26, 2007. Permit issued: July 27, 2006.

**36064172. Gerlach's Drilling & Blasting.** (172 Bender Mill Road, Lancaster, PA 17603). Construction blasting for Clearview Gardens in Clay Township, **Lancaster County** with an expiration date of August 1, 2007. Permit issued: July 27, 2006.

**36064173. Gerlach's Drilling & Blasting.** (172 Bender Mill Road, Lancaster, PA 17603). Construction blasting for Turkey Hill gas station in Mt. Joy Borough, **Lancaster County** with an expiration date of August 1, 2007. Permit issued: July 27, 2006.

**36064174. Keystone Blasting Service.** (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for a manure storage facility in West Cocalico Township, **Lancaster County** with an expiration date of November 30, 2006. Permit issued: July 27, 2006.

**28064162. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013). Construction blasting for Martin Ridge Development in Washington Township, **Franklin County** with an expiration date of July 31, 2007. Permit issued: July 28, 2006.

**67064128. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507). Construction blasting for a warehouse in West Manchester Township, **York County** with an expiration date of August 1, 2007. Permit issued: July 28, 2006.

## 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.

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**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), 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).**

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*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E09-874. Lower Makefield Township**, 1100 Edgewood Road, Yardley, PA 19067, Lower Makefield Township, **Bucks County**, ACOE Philadelphia District.

To stabilize and maintain a 1,200-linear foot reach of Brock Creek (WWF-MF) at Yardley Meadows, by regrading the stream banks; providing vegetative plantings, j-hook vanes, root-wads and rock cross-vane structures. Temporary cofferdams, temporary dewatering of the stream, and temporary stream crossings will be utilized to facilitate construction at the site. The site is located approximately 1,200 feet north of the intersection of Heacock and Oxford Valley Roads (Trenton West, NJ-PA, USGS Quadrangle N: 15.5 inches; W: 15.5 inches) in Lower Makefield Township, Bucks County.

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

*Northeast Regional Office, Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E58-269. Village of Four Seasons Association, Inc.**, R. R. 2, Box 3350, Uniondale, PA 18470. Herrick Township, **Susquehanna County**, Army Corps of Engineers Baltimore District.

To regrade and to construct facilities associated with the expansion of an existing sewage treatment plant, impacting a de minimus area of PEM/PSS wetlands equal to 0.05 acre, within the watershed of East Branch Tunkhannock Creek (HQ-CWF). The permittee is required to provide 0.05 acre of replacement wetlands. The project is located on the west side of T470, approximately

800 feet south of the intersection of T470 and SR 0374. (Clifford, PA Quadrangle N: 18.6 inches; W: 6.5 inches). (Subbasin: 04F)

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

**E21-377: Skipjack PA LLC**, 7061 Columbia Gateway Drive, Columbia, MD 21046 in Silver Spring Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a 1-foot depressed, 54.5-foot wide, dual 28.0-foot by 5.0-foot cell concrete box culvert and associated channel widening in Trindle Spring Run (CWF) for the purpose of constructing Warm Sunday Way associated with the proposed Rivendell Subdivision located about 1,100 feet downstream of Wood Drive culvert (Mechanicsburg, PA Quadrangle N: 20.5 inches; W: 1.4 inches, Latitude: 40° 06' 46"; Longitude: 77° 00' 36") in Silver Spring Township, Cumberland County.

**E36-810: Lititz Borough Memorial Wall Committee**, 103 West End Avenue, Lititz, PA 17543 in Lititz Borough, **Lancaster County**, ACOE Baltimore District.

To construct and maintain a memorial plaque wall and seat within the 100-year floodway of Lititz Run in Lititz Springs Park (Lititz, PA Quadrangle N: 5.9 inches; W: 8.3 inches; Latitude: 40° 09' 27"; Longitude: 76° 18' 34").

**E21-382: Cumberland Valley School District**, 6746 Carlisle Pike, Mechanicsburg, PA 17055 in Hampden Township, **Cumberland County**, ACOE Baltimore District.

To: 1) place and maintain fill in 0.01 acre of PFO wetland and to construct and maintain a 6-inch depressed, 105.0-foot long, 36-inch diameter reinforced concrete pipe (RCP) culvert and a 15-inch diameter outfall pipe in and along an UNT to Sears Run (WWF), in order to construct Public Street B associated with the proposed Shaul Elementary School located about 1,500 feet north from the intersection of Wertzville Road and Lambs Gap Road, (Wertzville, PA Quadrangle N: 7.53 inches; W: 0.85 inch; Latitude 40° 17' 29"; Longitude 77° 00' 22"); 2) to temporarily impact 0.01 acre of PFO wetland by the installation and maintenance of an 8-inch sanitary sewer line (Wertzville, PA Quadrangle N: 7.0 inches; W: 0.8 inch; Latitude 40° 17' 19"; Longitude 77° 00' 21"); and 3) to place and maintain fill in 0.07 acre of PEM wetland for roadway improvement and to construct and maintain three manholes, a 43.0-foot long, 8-inch diameter sanitary sewer line along and across a UNT to Sears Run (WWF) located just downstream of Pa. 944 culvert (Wertzville, PA Quadrangle N: 6.85 inches; W: 0.45 inch; Latitude 40° 17' 16"; Longitude 77° 00' 17") in Hampden Township, **Cumberland County**. To compensate for wetland impacts, the permittee will construct 0.12 acre of replacement wetlands onsite.

**E67-800: Muddy Creek Trout Unlimited** Chapter 575, P.O. Box 211, Dallastown, PA 17313 in Lower Chanceford and Peach Bottom Townships, **York County**, ACOE Baltimore District.

To construct and maintain 1,896 linear feet of stream restoration/bank stabilization in and along Muddy Creek (CWF) as well as 60 linear feet of Bald Eagle Creek (TSF) using a natural stream design approach, including the installation of in-stream rock structures (rock vanes and rock toe protection), bank grading, channel reconstruction and planting of a riparian buffer. The purpose of the project is to stabilize the streambanks, improve fish

habitat and improve sediment transport. The site is located near Woodbine (Airville, PA Quadrangle N: 6.5 inches; W: 4.4 inches to N: 5.9 inches; W: 4.0 inches; Latitude: 39° 47' 09"; Longitude: 76° 24' 23" to Latitude: 39° 46' 57" Longitude: 76° 24' 13") in Lower Chanceford and Peach Bottom Townships, York County. The project will not impact wetlands.

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

**E18-408. Department of Conservation and Natural Resources**, 15187 Renovo Road, Renovo, PA 17764. Three Chuck Keiper Trail Bridges, in Beech Creek Township, **Clinton County**, ACOE Baltimore District (Renovo NE, PA Quadrangle N: 16.53 inches; W: 0.53 inch).

To construct, operate and maintain three bridges: 1) an aluminum I-beam wood deck pedestrian bank-to-bank bridge with 20-foot long, wooden abutments and a 3-foot underclearance to carry the Chuck Keiper Hiking Trail over East Branch Big Run located 1.1 miles downstream of the Run's crossing of Coon Run Road; 2) an aluminum I-beam wood deck pedestrian bank-to-bank bridge with 25-foot long, wooden abutments and a 3-foot underclearance to carry the Chuck Keiper Hiking Trail over East Branch Big Run located 1.1 miles downstream of the Run's crossing of Coon Run Road; 3) an aluminum I-beam wood deck pedestrian bank-to-bank bridge with 35-foot long, wooden abutments and a 3-foot underclearance to carry the Chuck Keiper Hiking Trail over Swamp Branch Big Run located 800 feet northwest of the southern end of Swamp Branch Road. (Renovo NE, PA Quadrangle N: 16.53 inches; W: 0.53 inch). This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E16-129, Department of Transportation, District 10-0**, P. O. 429, 2550 Oakland Ave., Indiana, PA. Dale Stom Advanced Wetland Compensation Site, in Clarion Township, **Clarion County**, ACOE Pittsburgh District (Strattanville, PA Quadrangle N: 8.5 inches; W: 7.25 inches).

The Department of Transportation proposes to place fill within 0.06 acre of PEM wetland habitat to construct and maintain a berm for the creation of approximately 1.8 acres of PEM/PSS wetland habitat to be used as an advanced wetland compensation site.

**E25-603A, Commodore Perry Yacht Club**, Bayfront Highway, P. O. Box 3455, Erie, PA 16507-2318. Yacht Club Wave Protection, in City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 1.1 inches; W: 14.1 inches).

The applicant proposes to install wave protection and other improvements at the Commodore Perry Yacht Club, located at 664 West Bayfront Highway, near the north end of Poplar Street, in the City of Erie, Erie County (Erie North, PA Quadrangle N: 1.1 inches; W: 14.1 inches), involving and including: 1) to operate and maintain the Commodore Perry Yacht Club, including periodic maintenance dredging within the basin of the marina; 2) to construct and maintain rubble fill wave protection having a length of approximately 570 feet, and a width of approximately 15 feet, along the north side of the north breakwall, extending east from the end of the existing western breakwall; 3) to construct and maintain a rubble mound breakwater having a length of approximately 75 feet, and a width of approximately 32 feet, extending west

from the eastern marina wall, approximately 75 feet south of the end of the existing eastern marina wall; 4) to construct and maintain rubble fill wave protection having a length of approximately 1,048 feet, and a width varying from 9 to 12 feet, along the north side of the southern wall of the yacht club; 5) to install and maintain three floating docks, having lengths of 437.5 feet, 223 feet, and 437.5 feet, respectively, within the confines of the yacht club, and; 6) to remove the remaining portion of the eastern and western earthen fill. Presque Isle Bay is a body of water classified as a warm water fishery (WWF). This project proposes to fill 0.47 acres of Presque Isle Bay.

**E42-320, Smethport Borough**, 201 West Main Street, Smethport, PA 16749. Nelson Street Pedestrian Bridge Over Marvin Creek, in Smethport Borough, **McKean County**, ACOE Pittsburgh District (Smethport, PA Quadrangle N: 10.5 inches; W: 8.3 inches).

The applicant proposes to construct and maintain a steel girder pedestrian bridge having a clear span of 115.1 feet and an underclearance of approximately 9 feet across Marvin Creek approximately 1,500 feet SW of the intersection of SR 6 and SR 46. The project proposes to directly impact approximately 15 feet of stream channel. Marvin Creek is a perennial stream classified as a cold water fishery.

#### WATER QUALITY CERTIFICATIONS

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 323-3636.*

**Certification Request Initiated by Department of the Army**, Baltimore District, Corps of Engineers, P. O. Box 1715, Baltimore, MD 21203. ACOE Baltimore District.

**Department of the Army, Baltimore District, Corps of Engineers**, P. O. Box 1715, Baltimore, Maryland 21203. ACOE Baltimore District. Mansfield Borough, **Tioga County**, ACOE Baltimore District.

The proposed action is to repair approximately 1,000 feet of eroded bank along a former landfill. The second and third components consist of removing sediment from within the confines of the Tioga River and Corey Creek Conduit as future conditions warrant. The fourth component consists of excavating a low flow channel in the Tioga River for about 2,000 feet. The final component is to remove 5,000 cubic yards of gravel, sand and other materials from the Tioga River. This material will be moved to three separate disposal sites adjacent to the Tioga River. Multiple work sites associated with this project will be located in Mansfield Borough north and south of the SR 6 bridge crossing over the Tioga River on property owned by the Army Corps of Engineers. Work will also take place above and below the Corey Creek Conduit located on Mansfield 7.5' Quadrangle, N: 11.0 inches; W: 11.3 inches.

*Final Action on Request: Proposed.*

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D60-055EA. Troy Eichenlaub**, 2808 New Berlin Mountain Road, Mifflinburg, PA 17844, Buffalo Township, **Union County**, ACOE Baltimore District.

Project proposes to breach and remove Bailey Dam across a tributary to Turtle Creek (WWF) for the purpose of restoring the stream to a free flowing condition. The



project will restore approximately 80 feet of stream channel. The dam is located approximately 800 feet northeast of the intersection of Turkey Run Road (T327) and New Berlin Mountain Road (SR2003) (Lewisburg, PA Quadrangle N: 6.65 inches; W: 12.1 inches).

**D31-018EA. Orbisonia Lions Civic Association**, R. R. 1 Box 1156, Three Springs, PA 17264. Cromwell Township, **Huntingdon County**, ACOE Baltimore District.

Project proposes to breach and remove Old Furnace Dam across Blacklog Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dam is located approximately 2,500 feet southeast of the intersec-

tion of US 522 and SR 944 (Orbisonia, PA Quadrangle N: 20.2 inches; W: 1.9 inches).

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D65-009. John and Jessie Ferrante**, R. R. 36, Route 30 West, Greensburg, PA 15601. To modify, operate and maintain Jeannette Dam across a tributary to Brush Creek (TSF), impacting .21 acres of open water, for the purpose of rehabilitating the existing dam creating the Mountain Valley Lake, (Greensburg, PA Quadrangle N: 10.5 inches; W: 12.1 inches) in Hempfield Township, **Westmoreland County**.

### STORAGE TANKS SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
06-42-003	American Refining Group, Inc. 77 N. Kendall Ave. Bradford, PA 16701 Attn: Steve Sherk	McKean	Foster Township	Five ASTs storing regulated oils	155,000 gallons total

### SPECIAL NOTICES

#### Certification to Perform Radon-Related Activities in this Commonwealth

In the month of July 2006 the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Bruce Atkins	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Roger Baker	1564 Dry Hollow Road Warriors Mark, PA 16877	Testing
Brian Cessna	407 West Sample Street Ebensburg, PA 15931	Testing
Ralph D'Angelo	P. O. Box 1105 Havertown, PA 19083	Testing
William Dare	P. O. Box 75 Perkiomenville, PA 18074	Testing
Joe Donnelly	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Samuel Falcone Falcone Building Inspections, Inc.	4204 Greenridge Road Pittsburgh, PA 15234	Testing
Fidelity Inspection & Consulting Services	626 Jacksonville Road Suite 200 Warminster, PA 18974	Testing



<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
David Grammer RAdata, Inc.	27 Ironia Road, Unit 2 Flanders, NJ 07836	Mitigation
William Gushue	813 North Street Jim Thorpe, PA 18229	Testing
David Janshego	151 Bethel Street Hollsopple, PA 15935	Testing
Kenneth Lewis	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
G. Richard Lininger, Jr. Penn-Mar Services	122 Madison Avenue Waynesboro, PA 17268	Mitigation
Thomas McCormick	P. O. Box 977 Milford, PA 18337	Testing
Karl Orwig	471 Hemlock Lane Nazareth, PA 18064	Testing
Steve Platz	4220 Carney Avenue Erie, PA 16510	Testing
Jeffrey Porte	1962 Wager Road Erie, PA 16509	Testing and Laboratory
Radon Testing Corporation Of America (RTCA)	2 Hayes Street Elmsford, NY 10523	Testing and Laboratory
Michael Rhodes	R. R. 2, Box 193 Selinsgrove, PA 17870	Testing
Clarence Sisco Cape Atlantic, Inc.	P. O. Box 954 Blue Bell, PA 19422	Testing
Chris Smith Pocono Environmental Labs, LLC	1 Old Mill Road Tannersville, PA 18372	Testing
Sean Torongeau	830 Nittany Ridge Road Howard, PA 16841	Testing
Terry Wigfield	511 Salem Avenue Hagerstown, PA 21740	Testing
Robert Wilmoth Radon Management of Erie	3410 Ellsworth Avenue Erie, PA 16508	Mitigation

[Pa.B. Doc. No. 06-1547. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Alternative Fuels Incentive Program; Program Opportunity Notice

The Department of Environmental Protection (Department), Bureau of Energy, Innovations and Technology Deployment announces an opportunity to apply for grants under the Alternative Fuels Incentive Program to expand the use of biodiesel and ethanol, when used in E85, which is an alternative fuel comprised of 85% ethanol and 15% gasoline.

Grant funds awarded under the Alternative Fuels Incentive Program can be used to cover the added cost to purchase E85 or biodiesel. Eligible applicants include tax-exempt entities such as school districts, local government agencies, transit authorities, colleges and universities and nonprofit entities. Eligible applicants requesting funding for the purchase of biodiesel or E85 may be eligible for funding to install refueling equipment. Commonwealth producers of biodiesel or ethanol used in E85 are eligible for a reimbursement of \$.05 a gallon for up to

12.500 million gallons covering a 12-month period. Project costs cannot be incurred before the submittal of an application during the grant open opportunity time period.

Grant applications can be requested by contacting Cleo Arp, Department of Environmental Protection, Bureau of Energy, Innovations and Technology Deployment, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 772-8912, fax (717) 783-2703, arp@state.pa.us. Specify the project type when requesting an application package. The application package is also available electronically on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords "Alternative Fuels"). The deadline for submitting an application to the Department is by 4 p.m. October 2, 2006.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1548. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Availability of Final General Plan Approval and/or General Operating Permit for Dry Abrasive Blasting Operations (BAQ-GPA/GP-19)

The Department of Environmental Protection (Department) has finalized the General Plan Approval and/or General Operating Permit for Dry Abrasive Blasting Operations (BAQ-GPA/GP-19).

BAQ-GPA/GP-19 applies to the construction, operation and modification of both new and existing dry abrasive blasting operations. Prior to constructing and/or operating under this General Permit, the permittee must notify the Department using the General Permit Application provided by the Department and receive prior written approval from the Department. The owners and operators of existing permitted dry abrasive blasting operations may either continue to operate under an existing operating permit or they may elect to apply for authorization to use this General Permit. BAQ-GPA/GP-19 is now approved by the Department and available for use by qualifying applicants.

Notice requesting comments on the proposed General Permit was published at 36 Pa.B. 1187 (March 11, 2006). During the 45-day public comment period, EPA Region III submitted minor comments on the proposed General Permit. A Comment and Response Document has been prepared, which summarizes the Environmental Protection Agency's comments and the changes included in the final general permit. These documents can be obtained by contacting Jeanette Van Skike, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. The documents have also been placed on the Department's website: [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Air Permits").

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1549. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Technical Guidance"). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2006.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information

about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Final Technical Guidance*

DEP ID: 294-2309-001. Title: Radon Certification Policy. Description: This document contains guidelines used by the Bureau of Radiation Protection to administer a radon certification program for persons conducting radon gas and radon progeny testing and laboratory analysis and mitigation of radon contamination in buildings. The policy is established under the authority of the Radon Certification Act (act) (63 P. S. §§ 2001—2014) and the Radiation Protection Act (35 P. S. §§ 7110.101—7110.703). It is also an implementation of the radon certification regulations at 25 Pa. Code Chapter 240 (relating to radon certification), which were promulgated under the act. Substantive revisions were made to the guidance, including the incorporation of provisions that require employees of certified mitigation firms to receive written approval and an identification card from the Department prior to commencing radon mitigation activities in this Commonwealth. Notice advertising a 30-day public comment period on the draft version of the document was published at 36 Pa.B. 2863 (June 10, 2006). The Department did not receive any comments on the draft guidance document during the public comment period. Contact: Questions regarding this technical guidance document should be directed to Michael Pyles, Department of Environmental Protection, Bureau of Radiation Protection, 400 Market Street, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 783-3594, [mpyles@state.pa.us](mailto:mpyles@state.pa.us). Effective Date: August 12, 2006.

#### *Draft Technical Guidance*

DEP ID: 392-0830-001. Title: Locational Data Policy for Water Allocation Program and the Water Use Data System. Description: This guidance implements the Department's Locational Data Policy (Document ID# 013-0830-003) by establishing a consistent method for locating and documenting latitude and longitude coordinates and elevation data for water resources facilities. The intent of the policy is to ensure the uniformity, reliability and compatibility of the Department's locational data, which should meet the goal of a 10-meter/32.8 feet or better level of accuracy. Written Comments: The Department is seeking comments on draft technical guidance #392-0830-001. Interested persons may submit written comments on this draft technical guidance document by September 11, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Thomas L. Denslinger, Department of Environmental Protection, Bureau of Watershed Management, Division of Water Use Planning, Rachel Carson State Office Building, 10th Floor, P. O. Box 8555, Harrisburg, PA 17105-8555 or by e-mail to [tdenslinge@state.pa.us](mailto:tdenslinge@state.pa.us). CONTACT: Questions regarding the draft technical guidance document should be directed to Thomas Denslinger at (717) 772-5679 or e-mail at the

address provided previously. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1550. Filed for public inspection August 11, 2006, 9:00 a.m.]

### **Proposed Revision to the State Implementation Plan for Reasonably Available Control Technology (RACT) under the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS); Public Hearings**

The Department of Environmental Protection (Department) plans to submit to the Environmental Protection Agency (EPA) a proposed State Implementation Plan (SIP) Revision for meeting the requirements of Reasonably Available Control Technology (RACT) set forth by the Federal Clean Air Act (CAA). The CAA requires that states achieve the health-based 8-hour ozone National Ambient Air Quality Standard (NAAQS) by specified dates, based on the severity of an area's air quality problem. Furthermore, EPA's Final Rule to Implement the 8-Hour Ozone NAAQS (70 FR 71612, November 29, 2005) states that areas classified as "moderate" nonattainment for ozone must submit a demonstration that their existing rules fulfill the 8-hour ozone RACT requirements. For the purposes of regulating stationary sources, the entire Commonwealth is considered a "moderate" ozone nonattainment area for the Federal 8-hour ozone NAAQS because it is in the Ozone Transport Region established under Section 184 of the CAA. Attaining and maintaining concentrations of ground-level ozone below the health-based standard is important because ozone is a serious human health threat and also can cause damage to important food crops, forests and wildlife.

The Department is certifying through this proposed SIP Revision that the Commonwealth's existing Federally approved SIP meets the CAA RACT requirements under the 8-hour ozone NAAQS. The Department is seeking public comment on this proposed SIP Revision. This proposal is available on the Department's Bureau of Air Quality website at [www.dep.state.pa.us/dep/deputate/airwaste/aq/plans/Clean\\_air\\_plans.htm](http://www.dep.state.pa.us/dep/deputate/airwaste/aq/plans/Clean_air_plans.htm), or through the contact persons in the following list..

The Department will hold three public hearings to receive comments on the proposed SIP Revision. These hearings will be held at 10 a.m. as follows:

- |                    |   |
|--------------------|---|
| September 11, 2006 | Department of Environmental Protection<br>Southwest Regional Office<br>Monongahela Room<br>400 Waterfront Drive<br>Pittsburgh, PA 15222     |
| September 12, 2006 | Department of Environmental Protection<br>Southcentral Regional Office<br>Codorus Creek Room<br>909 Elmerton Avenue<br>Harrisburg, PA 17105 |

September 13, 2006 Department of Environmental Protection  
Southeast Regional Office  
Stony Creek Conference Room  
2 East Main Street  
Norrristown, PA 19401

Persons wishing to present testimony at any of the hearings should contact Yvette House, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495, [yhouse@state.pa.us](mailto:yhouse@state.pa.us) to reserve a time. Persons who do not reserve a time will be able to testify only as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Wick Havens at the previously listed address and telephone number. TDD users may contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Comments must be received by the Department no later than September 14, 2006. Written comments should be sent to J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, [jhavens@state.pa.us](mailto:jhavens@state.pa.us). Use "RACT SIP for 8-Hour Ozone" in the subject line.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1551. Filed for public inspection August 11, 2006, 9:00 a.m.]

### **Small Systems Technical Assistance Center Advisory Board; Meeting Cancellation**

The August 17, 2006, quarterly board meeting of the Small Systems Technical Assistance Center Advisory Board (Board) is cancelled. The Board's next quarterly meeting will occur on November 16, 2006, at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

An agenda, including meeting materials, for the November 16, 2006, meeting will be available on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Public Participation, Participate).

A work group of the Board has been established to assist the Department in the development of notification procedures for public water suppliers to follow to alert residents when there is an imminent threat to drinking water supplies. See 36 Pa.B. 4562 (August 12, 2006) for a complete schedule of work group meeting dates.

Questions concerning any of the meetings referenced in this notice should be directed to Ray Braun at (717) 772-2186 or [rbraun@state.pa.us](mailto:rbraun@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1552. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Small Systems Technical Assistance Center Advisory Board; Schedule of Work Group Meeting Dates

The Small Systems Technical Assistance Center Advisory Board (Board) has convened a work group composed of board members to assist the Department of Environmental Protection (Department) in the development of notification procedures for public water suppliers to follow to alert residents when there is an imminent threat to drinking water supplies. The workgroup will meet from 9 a.m. to 3 p.m. in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA on the following dates to discuss public notice delivery system options:

August 29, 2006 Rachel Carson State Office Building  
12th Floor Conference Room

September 15, 2006 Rachel Carson State Office Building  
10th Floor Conference Room

An agenda, including meeting materials, will be available for the work group meetings on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Public Participation, Participate). The Board's next quarterly board meeting will occur on November 16, 2006, at 10:00 a.m. in Room 105, Rachel Carson State Office Building. (See 36 Pa.B. 4562 (August 12, 2006).)

Questions concerning any of the meetings referenced in this notice should be directed to Ray Braun at (717) 772-2186 or [rbraun@state.pa.us](mailto:rbraun@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1553. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Water Resources Advisory Committee Meeting Cancellation

The Water Resource Advisory Committee meeting scheduled for September 13, 2006, has been cancelled. The meeting has been rescheduled to occur on October 13, 2006, at 9:30 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the cancellation of the September 13, 2006, meeting or the rescheduled October 13, 2006, meeting should be directed to Phil Consonery, Bureau of Water Standards and Facilities Regulation, (717) 772-2184 or [pconsonery@state.pa.us](mailto:pconsonery@state.pa.us). The agenda and meeting materials for the October 13, 2006, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Participation, Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5668 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1554. Filed for public inspection August 11, 2006, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Health Policy Board Meeting

The Health Policy Board is scheduled to hold a meeting on Wednesday, September 13, 2006, at 10 a.m. in Room 812, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA 17120.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Cynthia Trafton, Bureau of Health Planning at (717) 772-5298, [ctrafton@state.pa.us](mailto:ctrafton@state.pa.us) or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 06-1555. Filed for public inspection August 11, 2006, 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 § 201.18(e) (relating to management).

Altoona Center for Nursing Care  
1020 Green Avenue  
Altoona, PA 16601  
FAC ID 065402

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

St. Paul Homes  
339 East Jamestown Road  
Greenville, PA 16125

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities).

Bradford Ecumenical Home, Inc.  
100 St. Francis Drive  
Bradford, PA 16701

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, [ra-paexcept@state.pa.us](mailto:ra-paexcept@state.pa.us).

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the division at the previously listed address or phone number or for speech and/or

hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 06-1556. Filed for public inspection August 11, 2006, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Exelon Generation Company, LLC v. DEP; EHB Doc. No. 2006-170-K, 6-20-06 NPDES Permit No. PA0011631**

Exelon Generation Company, LLC has appealed the issuance by the Department of Environmental Protection of an NPDES Permit to same for a facility in East Pikeland Township, Chester 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. 06-1557. Filed for public inspection August 11, 2006, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-395	Environmental Quality Board Administration of the Storage Tank and Spill Prevention Act 36 Pa.B. 1851 (April 22, 2006)	6/29/06	7/31/06
14-506	Department of Public Welfare Child Care Facilities 36 Pa.B. 2686 (June 3, 2006)	7/3/06	8/2/06

### **Environmental Quality Board Regulation #7-395 (IRRC #2532)**

#### **Administration of the Storage Tank and Spill Prevention Act**

**July 31, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the April 22, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

#### **1. Section 245.1. Definitions.—Statutory authority; Reasonableness; Clarity.**

*Aboveground storage tank and Underground storage tank*—The phrase “used, will be used” is being added to the existing definition of aboveground storage tank and the phrase “were used or will be used” is being added to the definition of underground storage tank. The statutory definition of aboveground storage tank only references a tank “which is or was used,” and the statutory definition of underground storage tank only references tanks “which are used.” The EQB should explain its statutory authority to regulate tanks that are not yet in use. In the alternative, the proposed language should be deleted from the final-form regulation.

*Pipeline facilities (including gathering lines)*—The amended definition is one sentence that contains over 125 words. It includes a list of equipment that may be regulated and a list of equipment that is not regulated. To

improve clarity, we suggest that the definition be broken into subsections.

*Regulated substance*—This definition is being amended to include certain nonpetroleum regulated substances. Subsection (i)(C)(I) pertains to specific nonpetroleum oils. Subsection (i)(C)(II) pertains to compounds for use as additives in gasoline and not already found on the list from the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Subsection (i)(C)(III) pertains to nonpetroleum substances listed in Department of Labor and Industry regulations at 34 Pa. Code Chapter 323 (relating to hazardous substance list.) We have three concerns.

First, we believe it is inappropriate to incorporate by reference the nonpetroleum substances listed in the Department of Labor and Industry's regulation. A number of commentators contend that the incorporation makes it difficult for both the regulated community and the EQB to provide input on what substances are included in the list. They also note that the inclusion of the additional substances will impose a substantial economic burden on the regulated community. In addition, the Pennsylvania Chemical Industry Council has noted that the regulations from the Department of Labor and Industry are not intended to regulate material found in storage tanks. Rather, they are intended to inform employees about hazardous substances found in the workplace.

We agree that including the new substances in this rulemaking, rather than incorporating them by reference, would provide the EQB with greater control over the substances it regulates. We also note that including the substances in EQB regulations would make compliance easier for the regulated community. This approach could also lessen the fiscal impact on the regulated community by potentially eliminating some of the 400 regulated substances included in Chapter 323. Therefore, we suggest the nonpetroleum substances the EQB intends to regulate be specified in this regulation.

Second, the EQB should explain the rationale of the "one-pound reportable quantity" referenced in Subsection (i)(C)(III).

Third, Subsections (i)(C)(I), (II) and (III) of the definition include substantive provisions. Specifically, each of the subsections includes provisions that specify when a substance would be regulated or not regulated. Since substantive provisions in a definition are not enforceable, they should be deleted from the definition and moved to more appropriate sections in the body of the regulation.

**2. Section 245.31. Underground storage tank tightness testing requirements.—Reasonableness.**

Subsection (e) adds a requirement that a written test report shall be provided to the tank owner within 20 days of the test. A commentator believes this time frame is too short. The EQB should consider extending the time frame for providing the report.

**3. Section 245.41. Tank registration requirements.—Clarity.**

Subsection (b) requires tank owners to register storage tanks with the Department "except as specifically excluded by Department policy or this chapter." (Emphasis added.) A Department policy does not have the full force and effect of law. Therefore, Departmental policy cannot exclude a tank that regulations require to be registered. The language noted above should be deleted and the specific exclusions should be included in the final-form regulation.

**4. Section 245.43. Failure to pay registration fee.—Statutory authority; Clarity.**

Subsection (a) states that an owner who fails to pay the required fee shall be subject to "Commonwealth policy and guidelines" for collection of delinquent debts due the Commonwealth. We have two questions. What is the EQB's statutory authority for enforcing policies and guidelines as regulations? Where can the regulated community find these guidelines and policies? If the EQB does not have the statutory authority, the pertinent provisions of the policies and guidelines should be included in the final-form rulemaking.

Subsection (b) states that failure to pay the registration fee could result in Departmental action against the storage tank owner and the operator. Sections 245.42(a) and (b), relating to tank registration fees, state that registration fees are to be paid by tank owners. Therefore, the reference to tank operators should be deleted from this subsection.

Subsection (c) states the Department may withhold an operating permit for a tank if the owner has a delinquent registration debt for any regulated storage tank. Under what circumstances would the Department withhold a permit?

**Subchapter B. CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS AND STORAGE TANK FACILITIES**

**5. Section 245.114. Renewal and amendment of certification.—Clarity.**

Subsection (c) requires an applicant to meet "minimum training requirements or number of activities in the appropriate category for renewal of installer certification." The number of activities that need to be completed for renewal is specified, but the number of hours of training is not specified. The final-form regulation should include the number of hours of training needed for renewal. Similarly, Subsection (d), relating to renewal of inspector certification, should include the required number of hours of training.

Subsection (g)(2) requires an applicant for renewal to "document current safety training which is appropriate for the certification category." We have two questions. First, how will an applicant know if the safety training is appropriate? Second, how much training is required? The final-form regulation should provide criteria for what is appropriate.

**Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS**

**6. Section 245.405. Codes and standards.—Need; Clarity.**

Subsection (a) lists 12 associations and their codes and standards that will be used in conjunction with manufacturers' specifications to comply with this subchapter. Subsection (b) states, in part, the following: "Other Nationally recognized associations and their codes and standards not referenced in this part may also be used to comply with this subchapter, when appropriate." *Pennsylvania Code and Bulletin Style Manual* discourages the use of indefinite terms and phrases (§ 616(b)(6)). "When appropriate" is such a phrase. The purpose of a regulation is to establish binding norms that are enforceable. The provision quoted above does not accomplish this and should be deleted and replaced with specific criteria for when other codes and standards are permissible. We note that § 245.432(d)(1) of this rulemaking references the

national associations identified in this Section, but not other nationally recognized associations.

Subsection (c) states that if codes, standards or specifications are updated, facilities or storage tank systems installed prior to the updates “will not automatically be required to be upgraded to meet the new standards.” The inclusion of the term “automatically” implies that the facilities or storage tank systems may have to be updated in the future. The final-form regulation should include specific details on when the upgrades will be required.

The language contained in Subsections (b) and (c) can also be found in existing sections of Chapter 245. Those sections are §§ 245.504, relating to technical standards for aboveground storage tanks and 245.604, relating to simplified program for small aboveground storage tanks. If the EQB amends § 245.405(b) and (c), we recommend that §§ 245.504 and 245.604 also be amended.

Subsection (d) states: “Regulatory requirements prevail over codes and standards whenever there is a conflict.” This provision is not needed because regulations have the full force and effect of law and already prevail over codes and standards. If the EQB decides to retain this provision, similar language should also be added to §§ 245.504 and 245.604.

**7. Section 245.411. Inspection frequency.—Reasonableness; Clarity.**

Subsection (d) relates to additional inspections and mandatory training. A provision is being added that would allow the Department to require facility owners and operators to complete a release detection or operator maintenance training course when related violations are documented through an inspection. The Preamble explains that this provision is being added because owners and operators that have noncompliant inspections often express the need for training. The final-form regulation should provide details on when this mandatory training will be imposed, what the training will entail and who must pay for the training.

**8. Section 245.421. Performance standards for underground storage tank systems.—Fiscal impact; Clarity.**

Subsection (a) pertains to new underground storage tank systems. Subsection (a)(3) states the following: “An owner or operator of a tank system changing from unregulated to regulated service shall provide certification or documentation that the tank system meets new tank system requirements.” We have three concerns. First, Subsection (a) relates to “new” tank systems, but Subsection (a)(3) relates to existing tank systems. The requirements of Subsection (a)(3) should be moved to a separate subsection that addresses the requirements for owners or operators changing from unregulated to regulated service. Second, this provision should include a time frame for when the certification or documentation must be provided. Third, the provision should explain what type of certification or documentation would be acceptable to prove the tank system meets the new tank system requirements.

Subsection (b)(2) requires replacement of the entire piping system whenever more than 30% of the piping system is replaced. Commentators have suggested that an alternative compliance method based on evidence of piping manufacturer or installer financial responsibility be available as an option. Has the EQB considered such an approach?

**9. Section 245.432. Operation and maintenance including corrosion protection.—Clarity.**

Under Subsection (g), excess water in petroleum tanks must be disposed in accordance with “applicable State and Federal requirements.” The final-form regulation should reference the applicable requirements. Similar language is found at § 245.451(c).

**10. Section 245.441. General requirements for underground storage tank systems.—Clarity.**

Subsection (e) requires monthly monitoring of certain existing tank system equipment “when practicable.” “When practicable” should be replaced with a term or phrase that is definitive and enforceable or specify when monthly monitoring would not apply. Similar language is found at § 245.553(c), relating to out-of-service inspections.

**11. Section 245.444. Methods of release detection for tanks.—Statutory authority; Reasonableness.**

Paragraph (5), relating to vapor monitoring, and Paragraph (6), relating to groundwater monitoring, are being amended to require site evaluations to be performed by professional geologists. Commentators have noted that other professionals, such as civil, environmental, geotechnical or geological engineers are actively engaged in this type of work and could also perform the required evaluations. What is the EQB’s statutory authority for allowing only professional geologists to perform the site evaluations?

**Subchapter F. TECHNICAL STANDARDS FOR ABOVEGROUND STORAGE TANKS AND FACILITIES**

**12. Section 245.523. Aboveground storage tanks in underground vaults.—Clarity.**

Paragraph (11) requires certain underground piping distribution systems to “be appropriately monitored.” The term “appropriately” is indefinite. The final-form regulation should include specific monitoring requirements.

**13. Section 245.534. Interior linings and coatings.—Clarity.**

Subsection (c) will require inspections when “major modifications” are made to interior linings or coatings. Similar to our concern above, the phrase “major modifications” is vague and indefinite. The criteria used to determine if a modification is major should be included in the final-form rulemaking. Similar language is also found at § 245.552(e), relating to in-service inspections.

**14. Section 245.541. Overfill prevention requirements.—Fiscal impact.**

Subsection (e) will require tank systems to be upgraded with a high-level alarm with a cut-off device or a high-level alarm with a manned operator shutdown procedure. Commentators have suggested that the use of a visual gauge, instead of a high-level alarm, for aboveground storage tanks with a manned operator, could be just as effective and also reduce costs. We encourage the EQB to consider this alternative which will lessen the economic burden on the regulated community, yet will still protect against overfills.

**15. Section 245.541. Overfill prevention requirements and Section 245.542. Containment requirements for above-ground storage tank systems.—Fiscal impact.**

A commentator believes that the three-year installation requirements for alarm systems and containment struc-

tures do not take financial and logistical considerations into account. Has the EQB considered providing a longer time period to allow the regulated community to meet the new requirements?

**16. Section 245.542. Containment requirements for above-ground storage tank systems and Section 245.561. Permanent closure or change-in-service.—Statutory authority.**

Both of these sections require certain activities to be conducted in a manner consistent with technical documents of the Department. Several commentators are concerned that incorporating technical documents of the Department into regulations is not appropriate because any changes to those documents would by-pass the regulatory review process. This would prevent them from having the ability to provide meaningful input on future changes. We agree and question the EQB's statutory authority for enforcing technical documents as regulations. We recommend that the requirements contained in the technical documents be included in the final-form regulation.

**17. Section 245.543. Leak detection requirements.—Reasonableness; Need; Clarity.**

Subsection (d) states the following:

Tank test for tightness shall be based on a scientific or statistical method and procedure. The test method and procedure shall be third-party certified with a specific leak detection rate or a method and procedure that is recognized by a National association, such as *API Publication 334 Guide to Leak Detection in Aboveground Storage Tanks*. The test shall be performed by a third-party expert qualified in the test procedure and not an employee of the tank owner.

We have five questions. First, what is required for a third-party to certify the test method and procedure to be used? The final-form regulation should provide details on how certification is accomplished. Second, if the method or procedure must be recognized by a National association, what is the need for the certification? Third, why must a third-party expert perform the test? Fourth, who determines if the third-party is an expert? Finally, can the party that performs the pre-test certification be the same party that performs the test?

**Miscellaneous clarity.**

- The title of the act referenced in the definition of "Air Pollution Control Act" under § 245.1 is incorrect. The correct reference is the "Uniform Interstate Air Pollution Agreements Act."

- Several sections of this proposed rulemaking add a phrase identical or similar to the following, "... unless otherwise agreed upon by the Department." This language appears in the following sections:

- § 245.41(b)
- § 245.41(d)
- § 245.41(e)
- § 245.41(f)(4)
- § 245.111(g)
- § 245.411(b)(2)
- § 245.421(a)(2)
- § 245.451(h)
- § 245.561(3)

This is nonregulatory language that should be deleted from the final-form rulemaking. In the alternative, language could be inserted that explains the process that the

Department will follow and the criteria the Department will use to allow an exemption.

- The phrase, "include, but not limited to" appears as new text in the following sections of the proposed rulemaking:

- § 245.41(f)
- § 245.43(b)
- § 245.432(c)
- § 245.435(b)(1)(i)
- § 245.612(d)
- § 245.616(c)

The phrase "but not limited to" is unnecessary and should be deleted..

- Phrases such as "engineering practices," "engineering specification" and "engineering criteria" are included in the following sections:

- § 245.234(a)(3)
- § 245.522(a)
- § 245.522(d)
- § 245.522(f)
- § 245.524(d)
- § 245.552(a)
- § 245.552(e)
- § 245.553(a)
- § 245.553(f)
- § 245.616(a)

These phrases are vague and would be difficult for the regulated community to know exactly what is expected of them. It would also be difficult for the Department to enforce provisions that include this language. These phrases should be defined or replaced with terms that are more definitive.

- We have the same concern with the phrases "scientific or statistical method and procedure" and "scientific or statistical procedure" used in §§ 245.543(d) and 245.553(c) respectively. These phrases should be defined or deleted.

- The first paragraph of § 245.505 notes that existing tanks that "became" regulated due to the addition of new regulated substances are subject to the requirements of this "subsection." The word "became" should be changed to "become." In addition, should the reference to this "subsection" be changed to "subchapter?"

**Department of Public Welfare Regulation #14-506  
(IRRC #2539)**

**Child Care Facilities**

**August 2, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the June 3, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

**1. Regulatory authority and nonprofit child care facilities.—Statutory authority.**

We question the statutory authority of the Department to regulate nonprofit child care centers. Section 1001 of the Public Welfare Code (62 P. S. § 1001) defines a "child day care center" as:



... any premises operated *for profit* in which child day care is provided simultaneously for seven or more children who are not relatives of the operator . . . (62 P. S. § 1001) [Emphasis added.]

In *St. Elizabeth's Child Care Center v. Department of Public Welfare*, the Commonwealth Court held that Article IX (62 P. S. §§ 901—922) authorizes the Department to regulate both for-profit and nonprofit child care centers for the purpose of examination and inspection. However, Article X (62 P. S. §§ 1001—1087) does not give the Department oversight of nonprofit child care centers. Consequently, the Department has no authority to require nonprofit centers to obtain a certificate of compliance to operate.

We understand that the Department has filed a petition for allowance of appeal to the Supreme Court of Pennsylvania. However, our concern remains as we are required to consider pertinent opinions of Pennsylvania's courts in determining the statutory authority of an agency to promulgate a regulation (71 P. S. § 745.5b(1)).

**2. Sections 3270.4, 3280.4 and 3290.4. Definitions.—Reasonableness; Consistency with other regulations; Clarity.**

*IEP and IFSP*

The terms "Individualized Education Program (IEP)" and "Individualized Family Service Plan (IFSP)" are used repeatedly in the proposed regulation but are not defined. Existing regulations at 22 Pa. Code §§ 14.101 and 14.131 and 14.132 provide a definition for IEP. The term IFSP is defined in 55 Pa. Code Chapter 4226. The final-form regulation should include definitions for these terms that cross-reference the existing regulations where they are defined.

*Service Agreement*

The Education Law Center and Disability Law Project recommend that the proposed regulation include a reference to a "Service Agreement" as described in 22 Pa. Code Chapter 15. This would assist in identifying children with disabilities who do not qualify for an IEP. However, it should be used only for identification. Child care facilities should not be required to implement the Service Agreement. The final-form regulation should be amended to include a definition for the term which cross-references the existing regulations which define the term.

*Age level—Preschool child—and Young school-age child*

Commentators expressed diverse reactions to the shift of kindergarten students from "preschool" to "young school-age" child. Although many expressed support for this change, others, including Representative Jerry Birmelin, Majority Chairman of the House Children and Youth Committee, expressed concern with the impact of this change on subsidies and costs. The Department should carefully examine the impact of this change on facilities that provide care primarily to "preschool" children. If they include a few kindergarten children, these facilities may not be able to take advantage of the less stringent staff-to-children ratios for "young school-age" children. At the same time, these facilities will receive less funding under the subsidized child care program for children in kindergarten.

*Child with special needs*

As noted above, a "Service Agreement" could be used to identify a child with a disability. This term should be added to Subparagraph (i).

The use of the word "formal" in the Subparagraph (ii) is unclear. It is our understanding that it will be replaced with the word "written" in the final-form regulation. In addition, the term "certified behavioral analyst" should be added to the list of clinicians in this subparagraph who are responsible for the behavioral plan.

**3. Sections 3270.17, 3280.16 and 3290.15. Service to child with special needs.—Reasonableness; Implementation procedure; Clarity.**

In response to Subsection (b), some commentators raised the concern that parents may not be willing to share IEPs or other plans with child care facilities. If an IEP, IFSP or Service Agreement is developed by other entities, what can a child care facility do to get a copy of the document? How can these facilities get involved in the team that develops the program or plan? If the availability of the documents or participation on the teams is contingent on parents or other entities, then the proposed regulation should acknowledge this fact and instruct child care staff that they will need the appropriate authorization. In Chapter 4226, are "early intervention services" providers required to include child care facilities on the teams for IFSPs?

Commentators, including parents and facility staffs, expressed concerns with the requirements in Subsection (c). Child care staffs are being asked to identify children who may need assessments for special needs and give referral information to parents. For parents, receiving this type of information could be traumatic for a variety of reasons.

The regulation should indicate whether the Department will provide checklist forms or informational handouts that child care staffs could use when making observations that might lead them to suggest to a parent that their child should be assessed or evaluated by a trained professional in pediatric development or a related field. The Department should identify the level of training necessary to prepare child care staffs for these challenges. The regulation should also require child care staffs to complete the appropriate training before they are required to observe and assess for disabilities, and approach parents or families with referral information.

**4. Sections 3270.27, 3280.26 and 3290.24. Emergency plan.—Protection of public safety; Reasonableness; Consistency with other regulations; Clarity.**

The term "emergency" is not defined. Department staff referred Commission staff to an "Emergency Planning Guide" for child care facilities produced by the Pennsylvania Emergency Management Agency (PEMA). The term "emergency" as described by the PEMA document means any urgent situation which may directly impact the facility and may include severe weather conditions, fire and explosions, utility failures, hazardous materials and radiological emergencies, or acts of terrorism or civil unrest. The proposed regulation should include a similar definition in these sections related to an emergency plan or in Sections 3270.4, 3280.4 and 3290.4 related to definitions.

A second concern is that the list of requirements for the emergency plan is unclear and incomplete. Subsection (a) states the facility "shall have an emergency plan that provides for" four items which are described in a list format. There are two examples of this concern.

First, Subsection (a)(1) requires a facility emergency plan to provide for "shelter of children during an emergency." This is an overly broad statement. According to the PEMA document, a child care facility needs to compile

a listing of shelter areas or relocation areas for different types of emergencies. These areas could be inside the facility if dangerous conditions exist outside or could be outside if there is a need to evacuate. According to the descriptions in the PEMA document, these shelters are intended to be temporary and to consist of existing structures to provide protection. If the intent of the Department is that facilities will adopt the detailed plans and policies developed by PEMA, then the proposed regulation should reference the specific PEMA publications.

A second example is Subsection (a)(2) which requires that the facility plan provide for "evacuation of children during an emergency." However, it is unclear when an evacuation would be necessary. According to PEMA, not all emergencies require an evacuation. Some dangers could require that the children be moved to a different area within a facility (such as away from windows) and not outside. PEMA indicates that it is the facility director who determines the appropriate response. This is another example of why the regulation should reference the PEMA documents rather than use broad statements that omit important details.

Finally, the proposed regulation should require that plans for evacuations during a fire cross-reference the existing regulations on "evacuation routes" and "evacuation plans" in Subsections (f) and (g) of Sections 3270.94, 3280.94 and 3290.94 relating to fire drills. This will help facilities to avoid "re-inventing the wheel" in planning for these emergencies, and will prevent possible conflict or confusion with the routes and plans developed in response to the existing regulations.

**5. Sections 3270.70, 3280.70 and 3290.68. Indoor temperature.—Protection of public health; Reasonableness; Clarity.**

Even though the proposed regulation reduces the allowable temperature level, the Visiting Nurse Association of Central Pennsylvania (VNA) expressed concern that the rule does not factor in the "heat index." This organization indicated that Temperatures in the 80 degree range with a relative humidity of 50 percent can be dangerous. The National Resource Center for Health and Safety in Child Care recommends the following standards for indoor temperature:

A draft-free temperature of 65 degrees F to 75 degrees F shall be maintained at 30% to 50% relative humidity during the winter months. A draft-free temperature of 68 degrees F to 82 degrees F shall be maintained at 30% to 50% humidity during the summer months. All rooms that children use shall be heated, cooled, and ventilated to maintain the required temperatures, humidity, and air exchange and to avoid accumulation of odors and fumes. Air exchange shall be a minimum of 15 cubic feet per minute (or 7.5 liters/second) per person of outdoor air. (Source: [http://nrc.uchsc.edu/CFOC/HTMLVersion/Chapter\\_5.html](http://nrc.uchsc.edu/CFOC/HTMLVersion/Chapter_5.html), Standard 5.028) (*Caring for Our Children, 2nd ed.*—(Copyright 2002))

Since the VNA's concerns with temperature and humidity mirror the limits prescribed by the recommended national standard, the Department should review its policy concerning the allowable high temperature.

**6. Sections 3270.119, 3280.119 and 3290.118. Program plan.—Fiscal impact; Reasonableness; Implementation procedure.**

Several commentators, including Representative Birmelin, raised a variety of concerns with the requirement for a program plan for each child. For example, one

commentator expressed concern that subsections appeared to blend procedures and requirements for plans for children who have IEPs or IFSPs with the plans for children who don't have IEPs or IFSPs. In these sections, it is difficult to identify which requirements apply to each situation. This blending also generated concern that child care staffs would be required to develop plans similar to IEPs and IFSPs for all children regardless of whether the child was receiving services from other institutions, educators or early intervention specialists.

Some also expressed concern with the prospect of child care staffs taking the lead in developing comprehensive plans for children. When the child has an IEP or IFSP, the educators or specialists providing the special education or early intervention services are responsible for developing the plan. In addition, child care staff members need permission from a parent or guardian to get a copy of the plan or other information from special education or early intervention staffs. Some commentators also noted that schools are not required to develop plans for students without "special needs." Administrators and educators at public schools have years of experience and expertise in developing IEPs. We question whether child care staff will have sufficient experience, training and education to develop program plans for children and families who have never been exposed to this process.

Finally, many questioned the cost of this requirement. Facilities may need to hire additional staff to maintain the required staff-to-child ratios while staff members spend time developing and writing plans, and meeting with parents and others to seek input on plans.

It is our understanding that the Department intends to significantly reduce these sections by removing the requirements for a program plan. It will replace the provisions in the proposed regulation with a mandate for a semi-annual statement for each child concerning the use of child care services and the child's developmental progress. We suggest that the Department carefully consider the contents of this statement and give serious consideration to developing a form with prescribed contents that can be used by the facilities. If the Department retains the requirement for a program plan for each child, then it will need to address the costs to facilities and operators in the Department's written response to comments received and in the Regulatory Analysis Form. In addition, the Department will need to amend the final-form regulation to identify the appropriate training requirements for facility staff, family cooperation in accessing IEPs and IFSPs, and adequate coordination with special education and early intervention staffs.

**7. Sections 3270.120, 3280.120 and 3290.119. Infant sleep position.—Protection of public health and safety; Reasonableness; Implementation procedure; Clarity.**

Many commentators expressed support for this new provision. In addition, the Allegheny County Health Department and others suggested that the regulation should include other recommendations from the American Academy for Pediatrics (AAP) for preventing sudden infant death syndrome. We agree and recommend that this provision reference the AAP recommendations and provide information on how facilities can obtain copies.

**8. Sections 3270.131, 3280.131 and 3290.131. Health information.—Protection of public health; Reasonableness; Consistency with other state programs.**

Although it is maintaining requirements for periodic health reports for each child and proof of immunizations,

the Department is deleting the requirement for the health assessments recommended by the AAP. The AAP Pennsylvania Chapter, VNA, Allegheny County Health Department, child care providers, and health care practitioners expressed serious concerns with the changes in this provision.

Several commentators indicated that the AAP recommended policy for health assessments provides critical information necessary to monitor the development of infants and children. This information is necessary to help pediatricians and others react quickly to potential health problems that could interfere with healthy growth and development. In addition, the AAP Pennsylvania Chapter contended that the deletion of the AAP recommendations for health assessments would be inconsistent with the policies for Head Start, the treatment schedule for Early and Periodic Screening, Diagnosis and Treatment program in Medicaid, and the goals of the Department of Health.

There are improvements in the proposed regulation since the Department is requiring new and useful information in the health reports. However, by deleting the AAP recommendations, the Department is eliminating requirements for health screenings at one month, two months, four months, nine months, and 15 months. We understand the concerns with enforcement for child care facilities, and the difficulties for parents related to health care access and affordability, limited insurance coverage, and privacy issues. However, the Department could readily address these situations by allowing for exceptions when families are unable to meet the requirement or have privacy concerns. By acknowledging and documenting exceptions, the Department can gather useful information, provide facilities with relief from enforcement complications, and still encourage families to obtain the recommended screenings for their children. We request that the Department further explain the benefits of the approach taken in the proposed regulation.

**9. Sections 3270.133, 3280.133 and 3290.133. Child medication and special diets.—Public health and safety; Consistency with other regulations; Clarity.**

Comments from the Early Childhood Education Linkage System recommended training in medication administration for facility staff members that provide medications to children. This type of training is required for staff in personal care homes (see 55 Pa. Code § 2600.190). The Department should amend the final-form regulation to require training for medication administration or explain why such training should not be required for child care staff. This concern is especially important for staff working with children with special needs who may need regular access to medications.

These sections should include a specific citation to the pertinent section of the ADA requiring "reasonable accommodation." In addition, the generic reference to a "medication or special diet" could be interpreted to require that facility persons administer any and all medications or special diets prescribed for children with special needs. It is our understanding that the intent of the Department is for this requirement to apply only to medications or special diets prescribed for special needs. The final-form regulation should be amended to clearly state this intent.

ALVIN C. BUSH,  
*Chairperson*

[Pa.B. Doc. No. 06-1558. Filed for public inspection August 11, 2006, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Agency Contract Termination of Griffin Agency under Act 143; Erie Insurance Company; Doc. No. AT06-06-031

A prereview telephone conference initiated by this office is scheduled for August 8, 2006. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before August 3, 2006. A date for a review shall be determined, if necessary, at the prereview telephone conference.

Motion preliminary to those at the review, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 25, 2006, 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 August 1, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1559. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Alleged Violation of Insurance Laws; Curtis A. Barringer, Jr.; Doc. No. SC06-06-027

Notice is hereby given of the Order to Show Cause issued on June 22, 2006, by the Deputy Insurance Commissioner of the Commonwealth in the previously referenced matter. Violation of the following is alleged: 63 P. S. §§ 1601—1608.

Respondent was ordered to file a written answer to the Order to Show. If the respondent files a timely answer, a formal administrative hearing shall be held in accordance with 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), 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn J. Culbertson, Disability Services Coordinator at (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1560. Filed for public inspection August 11, 2006, 9:00 a.m.]

**William Edward Davis, M. D.; Prehearing****Appeal of William Edward Davis, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-07-006**

On or before August 24, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 15, 2006, 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 September 14, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 8, 2006. 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 August 31, 2006, 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 September 7, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1561. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Stephen DeBlasio; Prehearing****Appeal of Stephen DeBlasio under 40 P. S. §§ 991.2101—991.2193; Aetna US Healthcare;  
Doc. No. HC06-06-022**

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 August 10, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 4, 2006.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before July 27, 2006, 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 August 3, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1562. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Lisa Ann Dructor, D. O.; Prehearing****Appeal of Lisa Ann Dructor, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-06-032**

On or before August 2, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 23, 2006, 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 August 24, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 17, 2006. 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 August 9, 2006, 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 August 16, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1563. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Frankford Hospital; Prehearing****Appeal of Frankford Hospital under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-07-013**

On or before August 24, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 14, 2006, 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 September 14, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 8, 2006. 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 August 31, 2006, 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 September 7, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1564. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Ben Zion Friedman, M. D.; Prehearing****Appeal of Ben Zion Friedman, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-06-036**

On or before August 1, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 23, 2006, 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 August 22, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 17, 2006. 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 August 8, 2006, 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 August 15, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1565. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Harmar Village Care Center; Prehearing****Appeal of Harmar Village Care Center under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-06-037**

On or before August 2, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 26, 2006, 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 August 23, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 17, 2006. 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 August 9, 2006, 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 August 16, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1567. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Andrew I. Glantz; Prehearing****Appeal of Andrew I. Glantz under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-06-035**

On or before August 1, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 17, 2006, 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 August 22, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 17, 2006. 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 August 8, 2006, 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 August 15, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1566. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Zahid Husain, M. D.; Prehearing****Appeal of Zahid Husain, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-07-019**

On or before August 17, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 20, 2006, 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 September 7, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 1, 2006. 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 August 24, 2006, 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 August 31, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1568. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Infectious Disease Associates, P. C.; Prehearing****Appeal of Infectious Disease Associates, P. C. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-07-025**

On or before August 17, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 20, 2006, 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 September 7, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 1, 2006. 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 August 24, 2006, 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 August 31, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1569. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Jameson Memorial Hospital; Prehearing****Appeal of Jameson Memorial Hospital under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-07-021**

On or before August 17, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 20, 2006, 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 September 7, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 1, 2006. 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 August 24, 2006, 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 August 31, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1570. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Lehigh Valley Orthopedics, Leo J. Scarpino, M. D., Randy Jaeger, M. D.; Prehearing****Appeal of Lehigh Valley Orthopedics, Leo J. Scarpino, M. D., Randy Jaeger, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-07-015**

On or before August 17, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 31, 2006, 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 September 8, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 1, 2006. 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 August 24, 2006, 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 August 31, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1571. Filed for public inspection August 11, 2006, 9:00 a.m.]

**James McDonald, D. O.; Prehearing****Appeal of James McDonald, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-034**

On or before August 2, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 23, 2006, 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 August 24, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 17, 2006. 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 August 9, 2006, 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 August 16, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1572. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Gerard Myers, D. O.; Prehearing****Appeal of Gerard Myers, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-07-008**

On or before August 17, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 20, 2006, 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 September 8, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 1, 2006. 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 August 24, 2006, 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 August 31, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1573. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Howard Nesbitt, D. O.; Prehearing****Appeal of Howard Nesbitt, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-06-033**

On or before August 2, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 23, 2006, 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 August 24, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 17, 2006. 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 August 9, 2006, 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 August 16, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1574. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Northeast Medical Practice, Ltd.; Prehearing****Appeal of Northeast Medical Practice, Ltd. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910);  
Doc. No. MM06-06-038**

On or before August 2, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 23, 2006, 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 August 24, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 17, 2006. 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 August 9, 2006, 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 August 16, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1575. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Philadelphia Orthopedic Group, LLP; Prehearing****Appeal of Philadelphia Orthopedic Group, LLP under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-07-007**

On or before August 17, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 14, 2006, 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 September 8, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 1, 2006. 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 August 24, 2006, 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 August 31, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1576. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insurer has 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 insured's automobile policy. The hearing 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 Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Allstate Insurance Company; file no. 06-119-17918; Martha and James Bernard; doc. no. P06-06-041; September 26, 2006, at 9 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 Kathryn Culbertson, Agency Coordinator, (717) 705-4194.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1577. Filed for public inspection August 11, 2006, 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. 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 Margaret Balls; file no. 06-119-18456; Progressive Insurance Co.; Doc. No. P06-06-042; August 30, 2006, at 10 a.m.

Appeal of Johnny Quinones; file no. 06-119-20681; Progressive Insurance Co.; Doc. No. P06-07-005; September 26, 2006, at 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 Kathryn Culbertson, Agency Coordinator, (717) 705-4194.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1578. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Richard B. Schlessel, M. D.; Prehearing

### Appeal of Richard B. Schlessel, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM06-06-07-009

On or before August 24, 2006, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's June 20, 2006 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 September 14, 2006. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 8, 2006. 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 August 31, 2006 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 September 7, 2006.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1579. Filed for public inspection August 11, 2006, 9:00 a.m.]

### **United Services Automobile Association and USAA Casualty Insurance Company; Private Passenger Automobile Rate Revisions; Rate Filing**

On July 20, 2006, the Insurance Department (Department) received from United Services Automobile Association and USAA Casualty Insurance Company a filing for rate level changes for private passenger automobile insurance.

United Services Automobile Association requests an overall 0.8% increase amounting to \$0.692 million annually, to be effective October 23, 2006.

USAA Casualty Insurance Company requests an overall 5.4% decrease amounting to -\$3.465 million annually, to be effective October 23, 2006.

Unless formal administrative action is taken prior to September 18, 2006, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is 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 Michael P. McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1580. Filed for public inspection August 11, 2006, 9:00 a.m.]

## **PENNSYLVANIA GAMING CONTROL BOARD**

### **Category 1, 2 and 3 Slot Machine License Hearing Schedule**

The Pennsylvania Gaming Control Board (Board) under 58 Pa. Code § 441.19 (relating to licensing hearings for slot machine licenses), has adopted a schedule for the slot machine licensing hearings for Category 1, 2 and 3 slot machine license applications.

Under the act of July 5, 2004 (P. L. 572, No. 71), the Board is authorized to award 14 slot-machine gaming licenses to facilities across this Commonwealth. Seven Category 1 licenses are authorized for horse-race tracks; five Category 2 licenses are authorized for standalone slots facilities—two in Philadelphia, one in Pittsburgh and two at tourism-enhanced locations across the State; and two Category 3 licenses are authorized for existing resorts.

Licensing hearings provide the Board with an opportunity to question applicants about their character, operational and financial suitability, community impact, diversity plans, plans for the prevention of compulsive gaming and other issues.

All hearings, which will be open to the public, will take place in the auditorium of the State Museum on Third and North Streets in Harrisburg, except as noted. The dates and times of the hearings are as follows:

#### **Conditional Category 1\***

Monday, September 11 (Hearing Room No. 1, North Office Building, Harrisburg)

- 9 a.m.—11 a.m. Washington Trotting Association, Inc.
- 11 a.m.—1 p.m. Presque Isle Downs, Inc.
- 2 p.m.—4 p.m. Downs Racing, LP
- 4 p.m.—6 p.m. Chester Downs and Marina, LLC

Tuesday, September 12 (Auditorium, State Museum, Harrisburg)

- 12:30 p.m.—2:30 p.m. Mountainview Thoroughbred Racing Association
- 3 p.m.—5 p.m. Greenwood Gaming and Entertainment, Inc.

\*Note change from previously announced schedule.

#### **Category 3\***

Wednesday, October 25 (Auditorium, State Museum, Harrisburg)

- 1 p.m.—3 p.m. Woodlands Fayette, LLC
- 3 p.m.—5 p.m. Seven Springs Farm, Inc.

\*Note change from previously announced schedule.

#### **Category 2—At-Large**

Monday, November 6 (Auditorium, State Museum, Harrisburg)

- 10 a.m.—1 p.m. Tropicana Pennsylvania, LLC
- 2 p.m.—5 p.m. Sands Bethworks Gaming, LLC

Tuesday, November 7 (Auditorium, State Museum, Harrisburg)

- 10 a.m.—1 p.m. Pocono Manor Investors, LP
- 2 p.m.—5 p.m. Mt. Airy No. 1, LLC

- 6 p.m.—9 p.m. Boyd Pennsylvania Partners, LP

See Nov. 21 schedule for Crossroads Gaming hearing.

### Category 2—Philadelphia

Monday, November 13 (Auditorium, State Museum, Harrisburg)

- 10 a.m.—1 p.m. HSP Gaming, LP
- 2 p.m.—5 p.m. Riverwalk Casino, LP

Tuesday, November 14 (Auditorium, State Museum, Harrisburg)

- 10 a.m. — 1 p.m. Philadelphia Entertainment and Development Partners, LP
- 2 p.m.—5 p.m. Keystone Redevelopment Partners, LLC

Wednesday, November 15 (Auditorium, State Museum, Harrisburg)

- 9 a.m.—noon Pinnacle Entertainment, Inc.

### Category 2—Pittsburgh/Gettysburg

Monday, November 20 (Auditorium, State Museum, Harrisburg)

- 10 a.m.—1 p.m. Station Square Gaming, LP
- 2 p.m.—5 p.m. Isle of Capri

Tuesday, November 21 (Auditorium, State Museum, Harrisburg)

- 9 a.m.—12 p.m. PITG Gaming, LLC
- 2:30 p.m.—5:30 p.m. Crossroads Gaming Resort & Spa, LP

### Permanent Category 1

Monday, December 4 (Auditorium, State Museum, Harrisburg)

- 10 a.m.—11 a.m. Washington Trotting Association, Inc.
- 11 a.m.—12 p.m. Presque Isle Downs, Inc.
- 1 p.m.—2 p.m. Downs Racing, LP
- 2 p.m.—3 p.m. Chester Downs and Marina, LLC

Tuesday, December 5 (Auditorium, State Museum, Harrisburg)

- 10 a.m.—11 a.m. Mountainview Thoroughbred Racing Association
- 11 a.m.—12 p.m. Greenwood Gaming and Entertainment, Inc.

The Board expects to act on conditional Category 1 license applications in September 2006 and on Category 2, Category 3 and permanent Category 1 applications in December 2006.

THOMAS A. DECKER,  
*Chairperson*

[Pa.B. Doc. No. 06-1581. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Fees for Copies

The Pennsylvania Gaming Control Board (Board), under 58 Pa. Code § 407.2 (relating to minutes of public meeting and annual report), has adopted a fee schedule for copies of Board minutes or annual reports requested by the public.

Requests for copies of documents should be made to Paul Resch, Board Secretary, (717) 214-2436.

Payment for copies shall be by check or money order made out to the "Commonwealth of Pennsylvania." Cash will not be accepted by the Board.

### Schedule of Fees

Type of Copy	Fee
Single-sided	\$.15 per page if using the PGCB copiers—prevailing cost otherwise
Double-sided	\$.30 per page if using the PGCB copiers—prevailing cost otherwise
Single-sided Irregular (not 8 1/2 by 11)	Prevailing cost
Double-sided Irregular (not 8 1/2 by 11)	Prevailing cost
Certified copies	\$1.00 per page
Compact Disk	\$5.00 plus cost of labor
Postage—Material fitting into a standard envelope	No charge
Postage—Other	Actual cost

THOMAS A. DECKER,  
*Chairperson*

[Pa.B. Doc. No. 06-1582. Filed for public inspection August 11, 2006, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Electric Service

**P-00062227. PPL Electric Utilities Corporation.** Petition of PPL Electric Utilities Corporation for approval of a competitive bridge plan to establish the terms and conditions under which PPL Electric Utilities Corporation will supply provider of last resort service during 2010, as a transition to a fully competitive Statewide market beginning January 1, 2011.

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 August 28, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* PPL Electric Utilities Corporation

*Through and By Counsel:* Paul E. Russell, Associate General Counsel, Two North Ninth Street, Allentown, PA 18101

JAMES J. MCNULTY  
*Secretary*

[Pa.B. Doc. No. 06-1583. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Petition for a Finding

**P-00062226. Pennsylvania-American Water Company.** Petition of Pennsylvania-American Water Company for a finding of reasonable necessity under section 619 of the Pennsylvania Municipalities Planning Code (53 P. S. § 10619) for the subdivision of lands and for the proposed situation and construction of the buildings comprising an expansion of the wastewater treatment plant on a site in South Coatesville Borough, Chester County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before August 28, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Pennsylvania-American Water Company

*Through and By Counsel:* Michael D. Klein, Esquire, LeBoeuf, Lamb, Greene & MacRae, LLP, 200 North Third Street, Suite 300, Harrisburg, PA 17108-2105

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1584. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Proposed Revisions to Pennsylvania Guidelines (GL) Based on Footprint GL Changes

*Comment and Reply Comment Schedule for M-00011468 F0010—PMO II Proposed Revisions to PA Guidelines (GL) Based on Footprint GL Changes Stemming from NY PCS July 2006 Consensus GL Changes<sup>1</sup> Regarding: Transactions Provided to Former MCI Entities Are Retail Performance Joint State Subcommittee (JSC) and Other Administrative Changes*

This notice sets forth a 10-day comment period and a 10-day reply comment period for proposed changes to the Pennsylvania Carrier-to-Carrier Guidelines (PA Guidelines).

Verizon PA filed and electronically served the proposed changes on July 14, 2006, and has posted them at <http://www22.verizon.com/wholesale/clecsupport/content/1,,east-performancemeasures-pa,00.html>. The comment and reply schedule was initially proposed and circulated to the PA Carrier Working Group (PA CWG) on July 28, 2006. The proposed changes were reviewed at the regularly scheduled, public session of the PA CWG on August 1, 2006, at which time, the comment period was agreed upon. Comments are due August 11, 2006; reply comments are due August 21, 2006. Consistent with the procedures at this docket, persons must file their pleadings in hard copy with the Commission's Office of the Secretary at Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 and serve the parties with electronic copies on or before the due dates.

<sup>1</sup>The NY PSC order is posted at [http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/7D451E90B959CDBC8525718800679D65/\\$File/97c0139\\_06\\_26\\_06.pdf?OpenElement](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/7D451E90B959CDBC8525718800679D65/$File/97c0139_06_26_06.pdf?OpenElement).

Persons who have questions should contact Ted Farrar, Bureau of Fixed Utility Services, (717) 783-5941 or Louise Fink Smith, Law Bureau, (717) 787-8866.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1585. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by September 5, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

### Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

**A-00122959. (Corrected) Denise S. Polydor, t/a Polydor Services** (113 Dairy Lane, Ellwood City, Beaver County, PA 16117)—persons in limousine service, from points in the Counties of Allegheny, Beaver, Butler, Lawrence and Mercer, to points in Pennsylvania, and return.

**A-00123004. Janet Landis Eberly** (1320 Springville Road, East Earl, Lancaster County, PA 17519)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to points in Pennsylvania, and return.

**A-00123007 William G. Whiteside.** (316 Mt. Eden Road, Kirkwood, Lancaster County, PA 17536)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-00123008. Shelly Limousine, Inc.** (400 Mulberry Street, York, York County, PA 17403)—a corporation of the Commonwealth—persons in limousine service, between points in Pennsylvania. *Attorney:* James W. Patterson, Esquire, Saul-Ewing LLP, 1500 Market Street, 38th Floor, Philadelphia, PA 19102.

**A-00123010. Baldwin Limousines, Inc.** (308 Michele Lane, Bartonsville, Monroe County, PA 18321)—persons, in limousine service, from points in the Counties of Monroe, Pike, Northampton and Lehigh, to points in Pennsylvania, and return. *Attorney:* Scott M. Amori, Esquire, 717 Sarah Street, Stroudsburg, PA 18360.

**A-00123011. Parliament Limousine, Inc.** (2517 Dunksferry Road, Suite H306, Bensalem, Bucks County, PA 19020)—persons, in limousine service, from points in the Counties of Philadelphia and Bucks, to points in Pennsylvania, and return.

**A-00123014. Shelva J. Charles** (230 Mt. Hope School Road, Willow Street, Lancaster County, PA 17584)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-00123020. Linda M. Bush, t/a Big Woods Adventures** (368 Sizerville Road, Emporium, Cameron County, PA 15834)—persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Cameron and Elk, to points in Pennsylvania, and return.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00123015. Transom, Inc.** (117 Pletcher Road, White, Fayette County, PA 15490), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, from points in the County of Somerset, to points in Pennsylvania, and return; which is to be a transfer of all the rights authorized under the certificate issued at A-00114800 to Donna J. Hay, t/a Hay's Van Service, subject to the same limitations and conditions. *Attorney:* C. Gregory Frantz, 118 West Main Street, Suite 301, Somerset, PA 15501.

**A-00123021. Q Limousine, LLC** (432 Spruce Street, West Reading, Berks County, PA 19611)—persons in limousine service, between points in the County of Berks, to points in Pennsylvania and return, which is to be a transfer of all the right authorized under the certificate issued at A-00119661 to PMT Enterprises, LLC, t/d/b/a Toll Free Excursions, subject to the same limitations and conditions. *Attorney:* David P. Temple, Esquire, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

**Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.**

**A-00120051, F.2 AAA. Cab Company, t/a Pottstown Coach** (67 King Street, Pottstown, Montgomery County, PA 19464), a corporation of the Commonwealth—persons, in paratransit service, from points in the Counties of Chester and Montgomery, to points in Pennsylvania, and return.

**A-00121551, F.3. Luxury Limousine of Harrisburg, LLC** (2205 Forest Hills Drive, Suite 10, Harrisburg, Dauphin County, PA 17112), a limited liability company of the Commonwealth for the additional right to begin to transport, as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of York, Dauphin, Cumberland and Lancaster, to points in Pennsylvania and return.

**Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of household goods by transfer of rights as described under the application.**

**A-00094076, Folder 1, Am-D. Glose Moving & Storage, Inc.** (7566 Morris Court, Suite 350, Allentown, Lehigh County, PA 18106), a corporation of the Commonwealth—household goods in use: the transportation of household goods in use, from points in the County of Chester, and within an airline distance of 50 statute miles of the limits thereof, to points in Pennsylvania; which is to be a transfer of all the rights authorized under the certificate issued at A-00116153, F. 1, Am-A to BDB & Sons Moving, Inc., t/a Crews 2 Use, subject to the same limitations and conditions. *Attorney:* William H. R. Casey, 99 East Court Street, Doylestown, PA 18901.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1586. Filed for public inspection August 11, 2006, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept faxed bids for Project #06-105.P, Trash Removal, Tioga Marine Terminal (TMT), LMSR Project until 2 p.m. on Thursday, August 24, 2006. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available August 15, 2006. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 06-1587. Filed for public inspection August 11, 2006, 9:00 a.m.]

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #06-116.1, U/G Storage Tank Removal at Pier 98 S. Annex until 2 p.m. on Thursday, September 14, 2006. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available August 22, 2006. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, ATTN: Procurement Department.

A mandatory prebid job site meeting will be held August 31, 2006, at 11 a.m. at 140 E. Oregon Ave. (Pier entrance west of corner of Columbus Blvd. and Oregon Ave.), Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 06-1588. Filed for public inspection August 11, 2006, 9:00 a.m.]

## STATE BOARD OF MEDICINE

**Bureau of Professional and Occupational Affairs v.  
Doug Lenhart; Doc. No. 0553-49-06**

On June 13, 2006, Doug Lenhart, of New Kensington, Westmoreland County, was assessed a civil penalty of \$10,000, based on his practice of medicine and surgery without a license.

Individuals may obtain a copy of the adjudication by writing to Sabina I. Howell, Board Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Board of Medicine (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

CHARLES D. HUMMER, JR. M. D.,  
*Chairperson*

[Pa.B. Doc. No. 06-1589. Filed for public inspection August 11, 2006, 9:00 a.m.]

## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v.  
Angel Hadley; Doc. No. 0448-51-06**

Angel Hadley, license no. PN-10356-L of Harrisburg, Dauphin County, was automatically suspended for 2 years as a result of the respondent's guilty pleas to misdemeanors under the Drug Act.

Individuals may obtain a copy of the adjudication by writing to Carmen L. Rivera, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the

petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

JOANNE L. SORENSEN, R. N., MS,  
*Chairperson*

[Pa.B. Doc. No. 06-1590. Filed for public inspection August 11, 2006, 9:00 a.m.]

## STATE REAL ESTATE COMMISSION

**Bureau of Professional and Occupational Affairs v.  
Jean A. Cleary; Doc. No. 0616-56-04, File No.  
02-56-05011**

On June 9, 2006, the State Real Estate Commission (Commission) suspended for 60 days respondent's Real Estate License No. RS-220821-L. It is further ordered that respondent pay a civil penalty of \$3,000 due to her substantial misrepresentation of her agency role in the transaction, substantial misrepresentation on, and/or regarding, the contents and/or status of the release, acting for more than one party in a transaction without the knowledge and consent in writing of all parties for whom Respondent acted, knowingly being a party to a materially false or inaccurate representation in a writing regarding a real estate transaction in which Respondent was acting in a representative capacity and engaging in conduct in a real estate transaction demonstrating bad faith, dishonesty, untrustworthiness or incompetency.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Commission decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

JOSEPH TARANTINO, Jr.  
*Chairperson*

[Pa.B. Doc. No. 06-1591. Filed for public inspection August 11, 2006, 9:00 a.m.]

**Bureau of Professional and Occupational Affairs v.  
William T. Tunstall; Doc. No. 1419-56-05; File No.  
02-56-00945**

On June 22, 2006, the State Real Estate Commission (Commission) revoked respondent's Real Estate License No. RS-213718-L due to respondent pleading guilty to felony charges of insurance fraud and theft by deception, and a misdemeanor charge of tampering with public records.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Commission decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

JOSEPH TARANTINO, Jr.  
*Chairperson*

[Pa.B. Doc. No. 06-1592. Filed for public inspection August 11, 2006, 9:00 a.m.]

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# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
Location: Harrisburg, Pa.  
Duration: 12/1/93-12/30/93  
Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

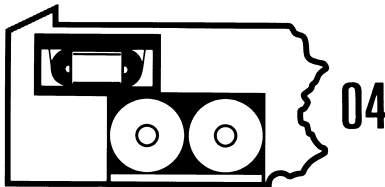
## DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreaury.org](http://www.patreaury.org).

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*

## SERVICES

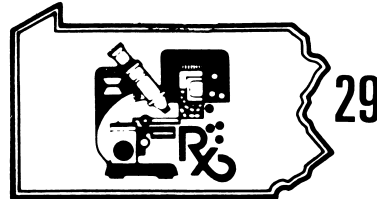


Audio/Video

04

**M-00900239 F0013** RFP to Provide Captioned Telephone Voice-Carry-Over Relay Service Docket No. M-00900239 F0013 On July 29, 2006, the PUC issued a Request-for-Proposal (see below) for a contractor to provide captioned telephone voice-carry-over relay service (CTVRS). The Commission is seeking to enable individuals who are hard-of-hearing and speech-enabled to communicate, within and to and from Pennsylvania, by telephone with other individuals and businesses by access to telecommunications service that is functionally equivalent to regular telephone service. The nature of the captioning is up to the prospective contractor so long as the requisite speed, accuracy, and reliability of the captioning requirements are met or exceeded. A pre-proposal conference is scheduled for Wednesday, August 22, 2006, at 2:00 p.m., in Hearing Room 5 in the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA, 17120. Responses to this RFP are due in hand at the FUS offices, 3rd Floor West, Commonwealth Keystone Building in Harrisburg, by 1:30 p.m. on September 11, 2006. Responses to this RFP must be complete and consistent with the instructions set forth in the RFP. The mail-box rule is NOT APPLICABLE. Responses will be filed at Folder 13 of the M-00900239 Telephone Relay Service docket. Questions concerning the RFP must be submitted via email to Robert A. Rosenthal, Director, FUS, at [rosenthal@state.pa.us](mailto:rosenthal@state.pa.us). All questions submitted by noon on August 18, 2006, will be responded to in writing at the pre-proposal conference. RFP Cover Letter; Request for Proposals; Appendix A-Noncollusion Affidavit; Appendix B-Standard Terms and Conditions; Appendix C-Outsourcing Programs Using 800 Services; Appendix D-Service Level Agreements; Appendix E-Certification Relative to Business Continuity.

**Department:** Public Utility Commission  
**Location:** Keystone Building, 3rd Floor West, 400 North Street, Harrisburg, PA 17120  
**Duration:** 3 year plus renewal for 2 one year each.  
**Contact:** Robert A. Rosenthal, Director, (717) 783-5242

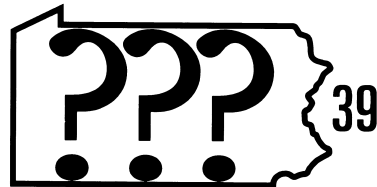


Medical Services

29

**CN00022171** Supply Oxygen cylinders, E-Tanks/Refills, Concentrators and service. Bid Due date: August 24, 2006 2:00 PM

**Department:** Public Welfare  
**Location:** Ebensburg Center, 4501 Admiral Peary Highway, Rt. 22 West, PO Box 600, Ebensburg, PA 15931  
**Duration:** October 1, 2006 through September 30, 2009  
**Contact:** Marilyn Cartwright; Purchasing Agent 3, 814-472-0259



Miscellaneous

39

**Bid 06-0004** Vendors to provide Certified Athletic Trainer Services for extensive sports programs with a total number of hours required being approximately 1,200. Trainer must be certified by NATA, licensed by the Commonwealth of Pennsylvania, and committed to working with disadvantaged and diverse populations. Provider must be agreeable to treating students/athletes not possessing medical insurance. Interested parties must provide an alternative certified athletic trainer when the primary trainer is unavailable. Training services must be available Sunday through Saturday, inclusive of evening work. To ensure comprehensive training services, the provider must be capable of providing educational in-service training upon request. Provider must offer 24 hour cell phone accessibility to an athletic trainer. The provider must extend professional and general liability insurance for the athletic trainer(s).

**Department:** State  
**Location:** Thaddeus Stevens College of Technology, 750 E. King St., Lancaster, PA 17602  
**Duration:** August 9, 2006 through May 15, 2007 with three similar "year" options to renew by mutual consent.  
**Contact:** Nancy Froeschle, 717 299-7787



**RFP 2006-1** Actuarial consulting services. RFP 2006-1 is available in pdf format and can be accessed and downloaded from our web site:

**Department:** State Municipal Retirement System  
**Location:** 1010 N. 7th Street, Suite 301, Harrisburg, PA 17102  
**Duration:** 5 1/2 years  
**Contact:** Benjamin F. Mader, 717-787-2065

[Pa.B. Doc. No. 06-1593. Filed for public inspection August 11, 2006, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,  
*Secretary*



# A Business Opportunity for You. . . .

The publication of the Pennsylvania Code and Bulletin has always been accomplished by contracts between the Commonwealth and private contractors.

The Commonwealth is preparing bid documents for a multi-year contract to begin July 1, 2007. The Commonwealth seeks your input and participation.

Further information can be obtained from:  
Pennsylvania Code and Bulletin  
Legislative Reference Bureau  
647 Main Capitol Building  
Harrisburg, PA 17120  
(Telephone: 717-783-1530)