

PENNSYLVANIA BULLETIN

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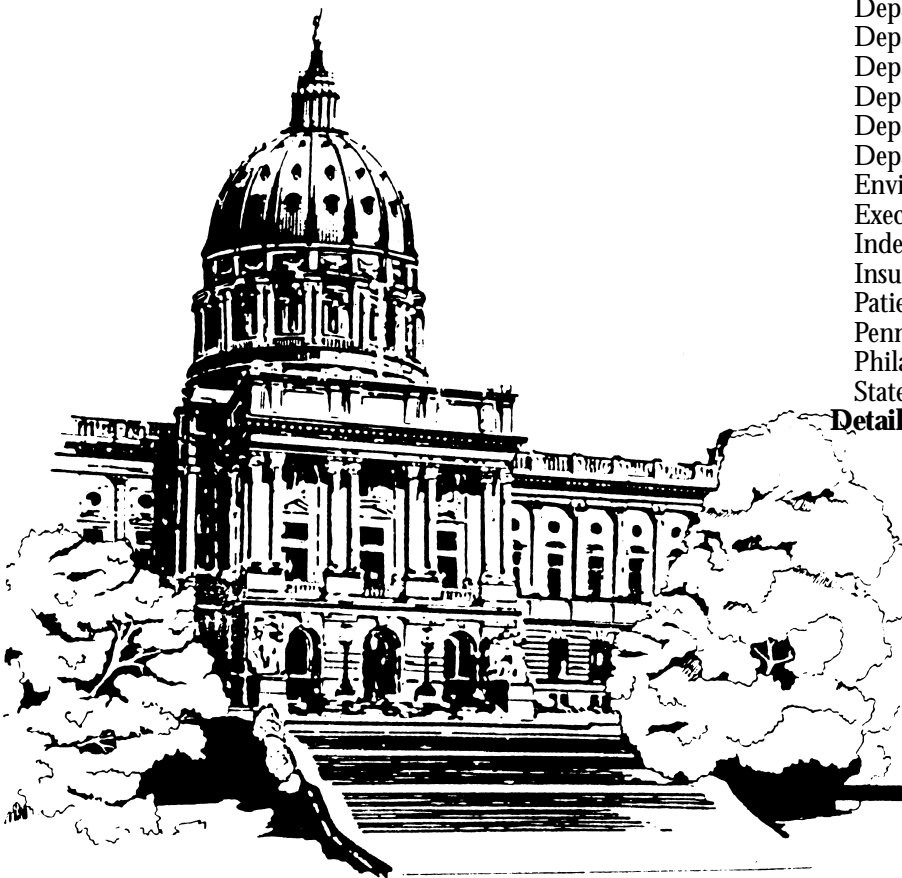
See Part II page 465 for the
Environmental Quality Board's
Oil and Gas Wells, Safe Drinking
Water and Environmental Laboratory
Accreditation Regulations

Part I

Agencies in this issue:

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The General Assembly
The Courts
Department of Banking
Department of Education
Department of Environmental Protection
Department of General Services
Department of Health
Department of Labor and Industry
Department of Public Welfare
Environmental Quality Board
Executive Board
Independent Regulatory Review Commission
Insurance Department
Patient Safety Authority
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Board of Nursing

Detailed list of contents appears inside.



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

No. 374, January 2006

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1068-51-05 458

READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2006.

4 Pa. Code (Administration)		67 Pa. Code (Transportation)	
Adopted Rules		Proposed Rules	
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THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 6]

[EXECUTIVE ORDER NO. 2004-8 AS AMENDED]

Enterprise Information Technology Governance Board

December 19, 2005

Whereas, historically, the Commonwealth's information technology (IT) policy for the governance of IT initiatives throughout the Enterprise has been largely decentralized; and

Whereas, Commonwealth offices under the Governor's jurisdiction invest approximately one billion dollars annually to create and support IT infrastructure and systems; and

Whereas, The Administrative Code of 1929 requires administrative departments and several independent and departmental administrative boards to coordinate their work and activities with other departments, boards, and commissions; and

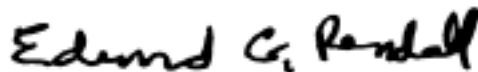
Whereas, IT investments and development efforts should be prioritized across the Commonwealth and coordinated across agencies to enhance information sharing, standardization, and cost-effectiveness; and

Whereas, coordinated technology standardization across Commonwealth agencies will increase the effectiveness of product development projects, reduce research and development investments, enable volume hardware and software purchases, and enhance system compatibility and data sharing; and

Whereas, an integrated IT strategy will improve organizational efficiency, streamline data collection and data sharing, and enhance the security of the Commonwealth IT infrastructure from cyber attacks; and

Whereas, no central IT organization currently exists to govern, evaluate, and monitor agency IT planning, research, project prioritization, investment, and effectiveness. Therefore, it is imperative to establish an Enterprise IT Governance Structure to facilitate a cost-effective, coordinated technology investment strategy that effectively leverages IT resources and data systems across Commonwealth agencies.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws do hereby establish an Enterprise Information Technology Governance Board (hereinafter referred to as the "Board") and order and direct as follows:



Governor

Fiscal Note: GOV 05-17. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

Subchapter Q. ENTERPRISE INFORMATION TECHNOLOGY
GOVERNANCE BOARD**§ 6.242. Powers and duties.**

(a) The Enterprise Information Technology (IT) Governance Board (Board) will:

- (1) Define a strategic vision for Commonwealth IT operations.
- (2) Establish program priorities.
- (3) Approve IT planning.
- (4) Direct IT investments.
- (5) Oversee IT purchasing and policy.

(b) The Board will have the authority to resolve interagency disputes, make and implement recommendations on staffing and operational issues, monitor project performance, assign project management and business process reengineering resources from the Office of Administration, Office for Information Technology to critical agency projects, and perform other duties as assigned by the Governor.

§ 6.244. Responsibilities of the Governor's Office of Administration, Office for Information Technology.

The Governor's Office of Administration, Office for Information Technology (IT) will be responsible for:

(1) Implementing policy, planning, and budget directives adopted by the Enterprise Information Technology Governance Board (Board), including monitoring projects approved by the Board.

(2) Making recommendations to the Governor through the Board on IT-related budget requests; monitoring annual enterprise-wide IT spending; and reviewing and approving, prior to submission to the Department of General Services, IT sole source requests as well as providing pre-issuance approval for all agency Requests for Proposal, Invitation to Qualify scopes of work greater than an amount specified by the Board, and IT Emergency Contracts.

(3) Assisting in drafting IT procurement documents, participate in procurement review and evaluation processes and assist in negotiating final IT contracts. This must adhere to the Commonwealth procurement and technology policy directives.

(4) Providing project management resources as directed by the Board to oversee and manage agency IT projects.

(5) Providing business process reengineering resources as directed by the Board to facilitate the analysis of business process changes prior to the initiation of an IT project.

(6) Reviewing and approving all aspects of the project implementation including change order management, deliverable payments and final acceptance for projects determined by the Board.

(7) Creating and maintaining a current Enterprise IT inventory.

(8) Managing a communities of practice planning process.

(9) Reviewing and approving all agency and central IT senior management appointments through the Deputy Secretary for Information Technology, who will provide a recommendation through the established senior level appointment process to the Governor's Office for all appointments to chief information officer (CIO) or information technology manager positions.

(10) Assisting in the performance appraisal of IT senior management appointments through the Deputy Secretary for Information Technology, who will co-evaluate the performance of CIOs in collaboration with the appropriate, responsible agency official.

(11) Establishing an enterprise architecture and deploy enterprise-wide technology, including establishing product standards, technical reviews of agency systems, and establishing security procedures and protocols.

(12) Developing and deploying geographic information system and geospatial technology investments, including establishing data development priorities, interoperability and architecture standards for data sharing across agencies and with extended enterprise partners.

(13) Establishing and facilitating a process for the identification of IT shared services, and when approved and requested by the Board providing the shared services.

(14) As part of the shared services program, establishing and leading an Enterprise Telecommunications Governance Board to ensure consolidation of Commonwealth telecommunications policy, services and infrastructure, when appropriate, and to review and authorize requests for new services. This board will focus on telecommunications as it related to the Commonwealth operations.

(15) As directed by the Board, establishing a single IT budget within each agency. When directed establish a single IT budget for each community of practice.

(16) Performing other IT-related activities as directed by the Board.

§ 6.246. Agency information technology requirements.

Each executive agency under the Governor's jurisdiction shall:

(1) Establish a central information technology (IT) organization within their agency to manage IT processes.

(2) Submit an annual strategic plan to the Governor's Office of Administration, Office for Information Technology.

(3) Comply with enterprise hardware and software standards established by the Board.

(4) Comply with enterprise security policy and conduct periodic security audit.

(5) Participate in the identification and recommendation of IT shared services for review and approval by the Board.

(6) Provide shared services as requested by the Board.

(7) Comply with the creation of a single IT budget by agency and community of practice as directed by the Board through the Deputy Secretary for Information Technology.

§ 6.248. Termination date.

This subchapter will remain in effect unless revised or rescinded by the Governor.

[Pa.B. Doc. No. 06-133. Filed for public inspection January 27, 2006, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE
[4 PA. CODE CH. 6]
[EXECUTIVE ORDER NO. 2005-05 AS AMENDED]
Training America's Teachers Commission

November 2, 2005

Whereas, the education of all children is a fundamental value to the Commonwealth of Pennsylvania; and

Whereas, the Commonwealth has the responsibility to ensure that Pennsylvania's teacher preparation programs produce high quality teachers in a system that is seamless and provides for continuous growth; and

Whereas, the Commonwealth desires to further position its teaching preparation programs as an economic and educational magnet that not only meets the unique demands of Pennsylvania schools, but also provides other states with quality teaching candidates; and

Whereas, the Commonwealth has a responsibility to identify an agenda for teacher preparation excellence in Pennsylvania through effective research, identification of best practices and input from major stakeholders.

Now, Therefore, I, Edward Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Training America's Teachers Commission (hereinafter referred to as "Commission") as hereinafter set forth:

Governor

Fiscal Note: GOV 05-16. No fiscal impact; (8) recommends adoption. Costs to the Commonwealth of approximately \$261,000 for 2005-06 will be paid from Federal funds.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

Subchapter O. TRAINING AMERICA'S TEACHERS COMMISSION

§ 6.223. Composition and appointments.

(a) The Training America's Teachers Commission (Commission) will be chaired by a prominent Pennsylvanian, and its members will consist of a wide spectrum of stakeholders that include the following:

- (1) The Secretary of Education.
- (2) The Deputy Secretary of the Office of Postsecondary and Higher Education.
- (3) The Deputy Secretary for Elementary and Secondary Education.
- (4) The Secretary of Policy and Planning.
- (5) Two members of the Senate or staff designees, one appointed by the Majority Leader of the Senate and one member appointed by the Minority Leader of the Senate.
- (6) Two members of the House of Representatives or staff designees, one appointed by the Majority Leader of the House of Representatives, and one member appointed by the Minority Leader of the House of Representatives.
- (7) Representatives from each of the following stakeholder groups:
 - (i) Public PreK-12 education, including administrators, teachers and parents.
 - (ii) College and university teacher preparation programs.
 - (iii) College and university administration.

(iv) Civic and business leaders.

(v) At least one student enrolled in a teacher preparation program.

(vi) The State Board of Education.

(b) A Commission Steering Committee, appointed by the Secretary of Education and composed of select members of the Commission, will direct the work of the Commission with the assistance of a consultant who will help manage the process, facilitate key session, conduct necessary research and produce a final report.

(c) The Department of Education will provide administrative support of the Commission.

(d) A Commission member may designate an alternate to attend Commission meetings, if required.

[Pa.B. Doc. No. 06-134. Filed for public inspection January 27, 2006, 9:00 a.m.]

THE GENERAL ASSEMBLY

Recent Actions during the 2006 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2006 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2006 GENERAL ACTS ENACTED—ACT 001 through 003					
001	Jan 6	HB0111	PN3291	Immediately	Liquor Code—omnibus amendments
002	Jan 6	HB0477	PN1076	Immediately	Judicial Code (42 Pa.C.S.)—civil action to recover damages caused by terrorism
003	Jan 6	HB1826	PN2440	60 days	Real and Personal Property (68 Pa.C.S.)—escrow of deposits or posting of surety bond or letter of credit

*denotes an effective date with exceptions

Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

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

[Pa.B. Doc. No. 06-135. Filed for public inspection January 27, 2006, 9:00 a.m.]

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. I]

Order Revising Comment to Rule 101; No. 382
Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 30th day of December, 2005, upon the recommendation of the Committee on Rules of Evidence, and having been published for comment in *Pennsylvania Bulletin*, Vol. 35, No. 31, page 4179, and with a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revision of comment is hereby revised in the following form.

This *Order* shall be processed immediately in accordance with Pa. R.J.A. 103(b), and shall be effective February 1, 2006.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope and Citation of the Rules.

Comment—2005

A principal goal of these rules is to construct a comprehensive code of evidence governing court proceedings in the Commonwealth of Pennsylvania. However, these rules cannot be all-inclusive. Some of our law of evidence is governed by the Constitutions of the United States and of Pennsylvania. Some is governed by statute. Some evidentiary rules are contained in the Rules of Civil and Criminal Procedure and the rules governing proceedings before courts of limited jurisdiction. Traditionally, our courts have not applied the law of evidence in its full rigor in proceedings such as preliminary hearings, bail hearings, grand jury proceedings, sentencing hearings, parole and probation hearings, extradition or rendition hearings, and others. Traditional rules of evidence have also been relaxed to some extent in custody matters, see, e.g., Pa.R.C.P. 1915.11(b) (court interrogation of a child), and other domestic relations matters, see, e.g., Pa.R.C.P. 1930.3 ([**telephone testimony**] **testimony by electronic means**). The Pennsylvania Rules of Evidence are not intended to supersede these other provisions of law unless they do so expressly or by necessary implication.

These rules are applicable [**only to**] in the courts of the Commonwealth of Pennsylvania's unified judicial system. [They are applicable in all divisions of the Courts of Common Pleas including the Civil Division, Criminal Division, Trial Division, Orphans' Court Division and Family Division. They are not applicable to other tribunals, such as administrative agencies and arbitration panels, except as provided by law or unless the tribunal chooses to apply them.] In some respects, these rules are applicable in administrative proceedings. See, e.g., *Gibson v. W.C.A.B.*, 580 Pa. 470, 861 A.2d 938 (2004)(evidentiary rules 602, 701 and 702 applicable

in agency proceedings in general, including workers' compensation proceedings). These rules are also applicable in compulsory arbitration hearings, with specific exceptions relating to the admissibility of certain written evidence and official documents. Pa.R.C.P. 1305 [(rules of evidence shall be followed in compulsory arbitration hearings, with specific provisions relating to the admissibility of certain written evidence and official documents)].

FINAL REPORT

Rule 101. Scope and Citation of the Rules

Comment Changes

The Comment to Pa.R.E. 101 is being revised to reflect the opinion of the Supreme Court in *Gibson v. W.C.A.B.*, 861 A.2d 938 (Pa. 2004). As a result of the *Gibson* opinion, Pennsylvania Rules of Evidence 602, 701 and 702 are applicable in administrative agency proceedings. The revised Comment also calls attention to Pa.R.C.P. 1305 concerning the applicability of the rules of evidence to compulsory arbitration hearings.

[Pa.B. Doc. No. 06-136. Filed for public inspection January 27, 2006, 9:00 a.m.]

[225 PA. CODE ART. IV]

Order Revising Comment to Rule 409; No. 383
Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 30th day of December, 2005, upon the recommendation of the Committee on Rules of Evidence, and with a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revision of comment is hereby revised in the following form.

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

This *Order* shall be processed immediately in accordance with Pa.R.J.A. 103(b), and shall be effective February 1, 2006.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 409. Payment of Medical and Similar Expenses.

* * * * *

Comment—2005

This rule is identical to F.R.E. 409 and is consistent with prior Pennsylvania law. See 42 Pa.C.S. [A.] § 6141(c) (payment [**of expenses**] to **injured person and others generally** not admissible) (text quoted in Comment to Pa.R.E. 408); [**see also**] *Burns v. Joseph Flaherty Co.*, 278 Pa. 579, 123 A. 496 (1924) (guarantee of

medical expenses cannot be used as basis for liability). As with F.R.E. 409 [and Pa.R.E. 408 (but not F.R.E. 408), collateral admissions of fact], ancillary statements made in the course of paying, offering to pay [for medical], or promising to pay, medical, hospital, or similar expenses are not excluded by this rule. However, they may be excluded by Pa.R.E. 408.

FINAL REPORT

Rule 409. Payment of Medical and Similar Expenses

Comment Changes

The purpose of this Revision of Comment is to take note of the amended Pa.R.E. 408. The inaccurate language in the Rule 409 Comment is corrected by this revision.

[Pa.B. Doc. No. 06-137. Filed for public inspection January 27, 2006, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation No. 77

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, April 21, 2006 directed to:

Patricia A. Miles, Esquire
 Counsel, Domestic Relations Procedural Rules Committee
 5035 Ritter Road, Suite 700
 Mechanicsburg, Pennsylvania 17055
 FAX (717) 795-2175
 E-mail: patricia.miles@pacourts.us

*By the Domestic Relations
 Procedural Rules Committee*

NANCY P. WALLITSCH, ESQ.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation. **Allocation of Additional Expenses.**

Additional expenses may be allocated between the parties pursuant to this rule even if the parties' incomes do not justify an order of basic support.

(a) *Child care expenses.* Reasonable child care expenses paid by either parent, if necessary to maintain employment or appropriate education in pursuit of income, shall be allocated between the parties in proportion to their net incomes and added to his and her basic support obligation. When a parent is receiving a child care subsidy through the Department of Public Welfare, the expenses to be allocated between the parties shall be the full unsubsidized cost of the child care, not just the amount actually paid by the parent receiving the subsidy. However, if allocation of the unsubsidized amount would result in a support order that is overly burdensome to the obligor, deviation pursuant to Rule 1910.16-5 may be warranted.

* * * * *

(c) *Unreimbursed Medical Expenses.* Unreimbursed medical expenses of the obligee or the children shall be allocated between the parties in proportion to their respective net incomes. Notwithstanding the prior sentence, there shall be no apportionment of unreimbursed medical expenses incurred by a party who is not owed a statutory duty of support by the other party. The court may direct that the obligor's share be added to his or her basic support obligation, or paid directly to the obligee or to the health care provider.

* * * * *

(3) Annual expenses pursuant to this subdivision (c), shall be calculated on a calendar year basis. In the year in which the initial support order is entered, the \$250 threshold shall be pro-rated. **Documentation of unreimbursed medical expenses that either party seeks to have allocated between the parties shall be provided to the other party not later than March 31 of the year following the calendar year in which the final bill was received by the party seeking allocation. Allocation of unreimbursed medical expenses for which documentation is not timely provided shall be within the discretion of the court.**

* * * * *

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, alimony pendente lite and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award. **If the obligor is occupying the marital residence and the mortgage payment exceeds**

25% of the obligor's monthly net income (less any amount of spousal support, alimony pendente lite or child support the obligor is paying), the court may make an appropriate downward adjustment in the obligor's support obligation. For purposes of this subdivision, the term "mortgage" shall include first mortgages, real estate taxes and homeowners' insurance and may include any subsequent mortgages, home equity loans and any other obligations incurred during the marriage which are secured by the marital residence.

* * * * *

Explanatory Comment—2006

A new introductory sentence in Rule 1910.16-6 clarifies that additional expenses may be allocated between the parties even if the parties' respective incomes do not warrant an award of basic support. Thus, even if application of the formula at Rule 1910.16-4 results in a basic support obligation of zero, the court may enter a support order allocating between the parties any or all of the additional expenses addressed in this rule.

The amendment to subdivision (e) recognizes that the obligor may be occupying the marital residence and that, in particular circumstances, justice and fairness may warrant an adjustment in his or her support obligation.

[Pa.B. Doc. No. 06-138. Filed for public inspection January 27, 2006, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 3000]

Amendment of Rules Governing the Sale of Real Property upon Execution; Proposed Recommendation No. 210

The Civil Procedural Rules Committee is proposing the amendment of Rule of Civil Procedure 3129.3 and the promulgation of new Rule 3129.4 governing the sale of real property upon execution. 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 March 1, 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 3000. JUDGMENTS

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

Rule 3129.3. Postponement of [sale; new notice] Sale. New Notice. Failure of Plaintiff to Attend Sale.

* * * * *

(b) If the sale, notice of which was given as provided by Rule 3129.2, is stayed, continued, postponed or adjourned to a date certain within [one hundred] one hundred thirty days of the scheduled sale, and public announcement thereof, including the new date, is made to the bidders assembled at the time and place [originally] fixed for the sale, no new notice as provided by Rule 3129.2 shall be required, but there may be only [one such stay, continuance, postponement or adjournment] two such stays, continuances, postponements or adjournments without new notice.

(c) If the plaintiff or a representative of the plaintiff is not present at the sale, the real property shall not be sold. The sheriff shall return the writ of execution to the prothonotary and file a return pursuant to Rule 3139 indicating that the real property was not sold because the plaintiff or a representative of the plaintiff was not present at the sale. Thereafter, the writ may be reissued pursuant to Rule 3106.

Rule 3129.4. Sale of Real Property. Motion to Divest Subordinate Lien When Required Notice Not Given.

(a) As used in this rule,

"owner" means the plaintiff or plaintiff's successor in title when the property is sold in execution to the plaintiff or the buyer or the buyer's successor in title when the property is sold in execution to a third party, and

"required amount" includes the amount of the plaintiff's judgment, interest on the judgment through the date of the execution sale, costs and taxes in the amount paid from the proceeds of the sale, and other municipal obligations

(b)(1) After the sale of real property, the owner may file to the court and number of the execution, a proceeding to divest the lien of any person who had a lien on the real property which was subordinate to the lien held by the plaintiff but who was not served with notice of the sale pursuant to Rule 3129.2(c)(1)(iii). The proceeding shall be commenced by filing a Motion under Rule 3129.4(b) for an order requiring tender of the required amount.

(2) The motion shall begin with a notice to answer within twenty days after service and shall

(i) identify the parties to the motion,

(ii) describe the real property which was sold at execution and set forth the date of the sale,

(iii) identify the lien which is sought to be divested and set forth that the lien is subordinate to the plaintiff's claim, and

(iv) state the required amount.

(c)(1) The motion shall be served on all parties to the action and on

(I) each lienholder whose address is known, by first class mail, as provided by Rule 3129.2(c)(1)(iii), and

(II) each lienholder whose address is unknown, by publication in accordance with Rule 430.

(2) The owner shall file a return of service as provided by Rule 3129.3(c)(2).

(d)(1) If the lienholder does not file an answer to the motion, the owner shall request that the court enter an order as provided by subdivision (d)(3).

(2) If the lienholder files an answer to the motion, the motion shall proceed pursuant to Rule 208.1 et seq. and any local rules promulgated thereunder.

(3) If the court determines that the averments of the motion required by this rule are true or uncontested and sets the required amount, the court shall enter an order that the lienholder shall have the right to acquire the property sold upon tender of the required amount within thirty days of the date of the order but that, upon failure to tender the required amount within the thirty day period, the court upon motion under subdivision (e) shall order the lien divested.

(e) If the court enters an order pursuant to subdivision (d) and the lienholder does not tender the required amount within thirty days of the date of the order, the owner shall file a Motion under Rule 3129.4(e) to divest the lien. The motion shall set forth the entry of the order, notice of the order to the lienholder and the failure of the lienholder to tender payment.

Official Note: The motion to divest must be served upon every other party to the action. See Rule 440(a)(1).

(f) The Notice required by subdivision (b)(2) shall be in the following form:

NOTICE

You have been sued in court to divest a lien or other interest in real property as described in the attached motion. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this motion and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and the court may enter an order against you without further notice requiring you to tender within thirty days a "required amount of money" or the lien will be divested. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

Official Note: The office shall be that designated by the court under Rule 1018.1(c).

Explanatory Comment

Recommendation No. 210 addresses three issues with respect to the execution sale of real property.

I. Rule 3129.3(b)—Postponement of sale

Rule 3129.3(b) presently provides for the ability to postpone a sale of real property one time to a date within one hundred days of the scheduled sale without giving new notice of sale required by Rule 3129.2. The proposed amendment would permit two postponements within one hundred thirty days of the scheduled sale without giving new notice. The proposal provides flexibility where more than one postponement is needed, saving time and expense. New notice under Rule 3129.2 is required when additional postponements of the sale are required.

II. Rule 3129.3(c)—Failure of plaintiff to appear at sale

The present execution rules do not provide for the instance when the plaintiff, whether in person or by representative, does not attend the sale of real property. New subdivision (c) of Rule 3129.3 addresses this issue. Subdivision (c) provides that, if the plaintiff is not present at the sale, "the real property shall not be sold." In such a case, the sheriff is directed to "return the writ of execution to the prothonotary and file a return pursuant to Rule 3139." The plaintiff may again seek to have the property sold but must recommence the proceedings by having the writ of execution reissued pursuant to Rule 3106 and giving new notice under Rule 3129.2.

III. Rule 3129.4—Divesting a subordinate lien when required notice is not given

The rules governing execution upon a money judgment contain no procedure to divest a lien subordinate to the lien held by the plaintiff when notice of the sale required under Rule 3129.2 has not been given to the lienholder. New Rule 3129.4 supplies this procedure.

Subdivision (b) of the new rule provides for a proceeding to divest such a lien which is to be commenced by a motion which is filed to the court and number of the execution proceeding. The content of the motion and the requirement of service are set forth in subdivisions (b) and (c) of the rule.

The rule requires the court to enter two orders. The first order under subdivision (d)(3) provides "that the lienholder shall have the right to acquire the property sold upon tender of the required amount within thirty days of the date of the order but that, upon failure to tender the required amount within the thirty day period, the court upon motion under subdivision (e) shall order the lien divested." "Required amount" is a term defined by subdivision (a) of the rule.

If the first order is entered under subdivision (d)(3) and the lienholder does not tender the required amount, the lienholder will file a Motion under Rule 3129.4(e) to divest the lien. The court will enter an order divesting the lien where appropriate.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 06-139. Filed for public inspection January 27, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 5th day of January 2006, Dauphin County Local Rules 212.2, 215.1, 1001, 1038, 1703, 2039 and 4019 are amended as follows:

Rule 212.2. Contents of Pre-Trial Statements

In addition to requirements of Pa.R.C.P. 212.2, the pre-trial statement shall include:

- (a) the estimated length of trial;
- (b) any scheduling problems;
- (c) any special evidentiary issues;
- (d) a realistic settlement offer or demand[.];

(e) a certification that counsel discussed mediation in good faith with his or her client(s) and with opposing counsel and with all unrepresented parties, if any, in accordance with Dauphin County Local Rule 1001.

Rule 215.1 Jury Trials

(1) LISTING—An original and one copy of a Certificate of Readiness shall be filed with the Prothonotary listing a case for a jury trial in accordance with the timelines published in the Annual Court Calendar. No case subject to compulsory arbitration shall be listed for trial, unless on appeal from a report and award of arbitrators. The party filing the Certificate of Readiness shall communicate with all counsel and/or pro se parties and confirm the availability of all counsel or the pro se party, as the case may be, together with the availability of all witnesses and all parties for the particular trial term before the Certificate of Readiness is filed. The listing party shall attest that all discovery has been completed, serious settlement negotiations have been conducted, **[videotaped testimony for use at trial has been recorded,]** and that the case is READY IN ALL RESPECTS for trial. **Absent extraordinary and compelling circumstances, the failure to complete videotaped testimony for use at trial shall not be a proper basis for a request for a continuance.** A copy of the Certificate of Readiness shall be promptly served on all counsel and/or pro se parties. If a party is not represented by counsel of record, such notice shall include the date of the first day of the applicable trial session. The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and shall retain the copy in the file. The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County website (www.dauphincounty.org). Parties filing the Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness. If a party is unable to satisfy the requirements regarding the filing of a Certificate of Readiness due to the unavailability of counsel, parties or witnesses, such party shall immediately file an Administrative Application for Status Conference in accordance with Dauphin County Local Rule 215.3.

Rule 1001 Mediation

a. General Applicability

Every civil action, except protection from abuse matters, filed in the Dauphin County Court of Common Pleas is eligible for mediation. Prior to filing suit and whenever practicable thereafter, parties and their counsel are encouraged to consider and to pursue mediation options.

b. Procedure **For Mediation in Non-Jury Civil Trials, Civil Jury Trials and Cases Subject to Arbitration**

Parties and their attorneys in all civil cases **which will result in a non-jury civil trial, civil jury trial or arbitration** may mutually elect to pursue mediation at any point before a case is listed for trial or arbitration. Status conferences conducted by the Court **in accordance with Dauphin County Local Rule 215.3** shall include a discussion of the likely success of mediation and the appropriate point in the life of that case for mediation session(s) to be scheduled.

c. **Certifications in Non-Jury Civil Trials, Civil Jury Trials and Cases Subject to Arbitration**

All pre-trial conference memoranda **filed in accordance with Dauphin County Local Rule 212.2** shall include certification by the attorney submitting same that mediation has been previously pursued or, if mediation has not been pursued, that the topic of mediation was discussed **[among all]** by not only counsel with their clients but also by all counsel and/or pro se parties and rejected only after good faith consideration. Likewise, certificates of readiness filed with the Court Administrator **[as to any civil action]** listing a case for a **Non-Jury Civil Trial, a Civil Jury Trial or Arbitration** shall contain a similar certification that mediation was pursued or, if not, was the subject of good faith consideration by counsel **and all parties**.

d. Mediation Programs

Parties and their attorneys are encouraged to use mediation to resolve disputes either through the Civil Dispute Resolution Program administered by the Dauphin County Bar Association or any other mediation program acceptable to the parties.

Rule 1038. Trial Without Jury

(1) When a case is READY IN ALL RESPECTS to be scheduled for a trial without a jury, any party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

(2) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and shall retain the copy in the file.

(3) The Court Administrator's Office, under the direction and supervision of the Civil Calendar Judge, shall assign the case to be tried without a jury to a judge who has had prior significant involvement with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis. **Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda to the assigned judge simultaneously with the filing thereof with the Prothonotary.**

(4) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County website (www.dauphincounty.org). Parties filing a Certificate of Readiness form must ensure that the most current form is

utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

Rule 1703 Class Actions

When a Class Action Complaint, which is properly captioned as such, is filed with the Prothonotary, a copy of the Complaint shall be immediately brought to the Court Administrator's Office by the filing party. The Court Administrator's Office, under the direction and supervision of the Civil Calendar Judge, will promptly assign the matter to a judge in accordance with Pa.R.C.P. 1703(b). **Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda to the assigned judge simultaneously with the filing thereof with the Prothonotary.**

Rule 2039 Petitions for Approval of Minors' Compromises

COMMENT: Attorneys and Pro Se Parties are advised that Pa.R.C.P. No. 2039 provides for the payment of a minor's settlement funds to the minor when he/she reaches the age of majority. However, it is currently the court's policy to approve settlements which call for the payment of funds to the minor up to age 22 under the provisions of Pa.R.C.P. No. 2039(a)(3) and (4). Longer terms may also be approved under extraordinary circumstances such as those calling for a special needs trust, and the attorneys and pro se parties are advised to contact the court for guidance in this area before finalizing settlement discussions.

Rule 4019 Discovery

(1) (a) Except in the situations that are covered by subsection (4) hereof, when a dispute arises, during any discovery permitted under the Pennsylvania Rules of Civil Procedure, an aggrieved party shall file with the Prothonotary an original and one copy of a Motion for a Discovery Conference. The Prothonotary shall forward the original discovery conference motion to the Court Administrator's Office for assignment in accordance with Local Rule 208.3(a) and shall retain the copy in the file.

(b) The party filing the motion shall, at the time of filing, serve a copy upon all other parties.

(2) (a) The motion shall be concise and contain the following:

(i) a brief statement identifying the parties and describing the nature of the case;

(ii) a brief statement of the status of any discovery procedure involved;

(iii) a verbatim statement of the discovery sought or objected to;

(iv) an assignment of reasons why the matter sought is discoverable or objected to, and a statement of the relief requested;

(v) a statement identifying all other parties and their counsel, with mailing addresses and telephone numbers, and a statement of the parties' attempt to resolve the dispute;

(vi) if necessary, a request for the suspension of all, or portion of all, discovery until the dispute is resolved;

(b) No briefs will be filed with the motion or thereafter, except as permitted under Rule 4019(3)(b)(ii).

(c) The party filing the motion shall submit therein all discovery disputes then existing between the parties.

(d) Any other party may file an answer to the motion and raise by separate motion, whether an answer is filed or not, any discovery dispute not previously raised.

(3) (a) Upon being filed, the matter shall be assigned to a Judge of this Court for disposition. **Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the assigned discovery motion to the assigned judge simultaneously with the filing thereof with the Prothonotary.**

(b) The Judge to whom the motion is assigned may:

(i) schedule a discovery conference;

(ii) require the filing of briefs;

(iii) require oral argument;

(iv) dismiss the matter if the moving party fails to comply with this rule.

(c) The Judge assigned to conduct the discovery conference shall enter an appropriate order disposing of the issues raised in the motion.

(d) Any order issued pursuant to this Rule shall be entered of record.

(4) Procedure for failure to provide discovery permitted by statute, rule of practice, rule of procedure, or order of court.

(a) WRITTEN DISCOVERY

(1) If a party fails to timely respond to interrogatories or a request for production of documents, and no extension of time has been granted, no motion for a protective order has been granted, or no objection to the written discovery request has been lodged, the party seeking the discovery shall proceed under ONE of the following options:

(a) DISCOVERY CONFERENCE—the aggrieved party may promptly file a Motion for a Discovery Conference in accordance with Local Rule 4019(1), provided that no written Notice of Intention to Seek Sanctions has been sent pursuant to Local Rule 4019(4)(a)(1)(b) as set forth hereafter.

(b) MOTION FOR SANCTIONS—

(i) A written Notice of Intention to Seek Sanctions, specifically (a) referencing this rule, (b) listing the sanctions sought, and (c) where applicable, noting that the Sanctions Hearing Order will require the presence of both the defaulting party(ies) and their counsel at said hearing, unless counsel for the defaulting party(ies) accepts full responsibility for the default, in writing, filed within five calendar days of receipt of the motion, shall be sent to counsel for the defaulting party(ies), if represented, otherwise to the defaulting party(ies), by certified mail, return receipt requested, at least thirty days before filing a Motion for Sanctions.

(ii) If a full and complete discovery response authorized by the Pennsylvania Rules of Civil Procedure is received within said thirty-day notice period, no Motion for Sanctions shall be filed. However, a Discovery Conference can thereafter be sought for any appropriate relief upon motion of any party.

(iii) A Motion for Sanctions shall state the discovery requests alleged to be in default, and the requested appropriate sanctions pursuant to Pa.R.Civ.P. 4019. A written certificate of service of the written Notice of Intention to Seek Sanctions and a copy of the notice shall be attached. If attorneys' fees and expenses are sought, reasonable documentation of time devoted and expenses

incurred must be attached to the Motion. Failure to attach such reasonable documentation shall preclude consideration of that form of relief. A concise Answer to the Motion is permitted if filed within ten days of service of a copy of the Motion for Sanctions. **Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the motion for sanctions to the assigned judge simultaneously with the filing thereof with the Prothonotary.**

(iv) The Civil Calendar Judge shall conduct a hearing on the Motion, even if the default that prompted the Motion has been corrected before the hearing date.

(v) Nothing in this section shall prohibit a party(ies), who is having difficulty in complying with a discovery request, from requesting a Discovery Conference with the Court by filing a Motion for Discovery Conference before a Notice of the Intention to Seek Sanctions is sent by the requesting party(ies).

(b) DEPOSITIONS

(1) When a party or nonparty fails to appear for a duly noticed deposition, and no Protective Order has been obtained, a Motion for Sanctions may be filed immediately and without further notice. However, it shall be the firm responsibility of the party seeking sanctions to ensure, to a certainty, that actual notice of the deposition was personally served on the person failing to appear.

These amendments shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 06-140. Filed for public inspection January 27, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 73]

Credit Life Insurance and Credit Accident and Health Insurance

The Insurance Department (Department), under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and sections 301.1 and 311.1 of The Insurance Department Act (40 P. S. §§ 71.1 and 93), proposes to amend Chapter 73 (relating to credit life insurance and credit accident and health insurance) to read as set forth in Annex A.

Purpose

The purpose of the proposed rulemaking is to: (1) modify the mortality standards in calculating minimum reserves for credit life insurance; and (2) delete the standards for calculating minimum reserves for single premium credit accident and health insurance because these standards are addressed in amendments to Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts), which are being promulgated in conjunction with this proposed rulemaking.

The proposed rulemaking is patterned after the Determining Reserve Liabilities For Credit Life Insurance Model Regulation (model regulation) adopted by the National Association of Insurance Commissioners in June 2004. A copy of the copyrighted model regulation was provided to the Legislative Standing Committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy, the Governor's Office of General Counsel and the Attorney General to help in their analysis of this proposed rulemaking.

Explanation of Regulatory Requirements

The following is a description of the amendments in this proposed rulemaking.

The definition of "2001 CSO Male Composite Ultimate Mortality Table" is proposed to be added to § 73.103 (relating to definitions).

Section 73.138 (relating to financial statement reserves) establishes the standards used in calculating minimum reserves for credit life insurance and credit accident and health insurance. The proposed rulemaking establishes the 2001 CSO Male Composite Ultimate Mortality Table as the mortality standard in calculating the minimum reserves for credit life insurance issued after the effective date of this proposed rulemaking. In addition, the proposed rulemaking clarifies that Chapter 84c (relating to valuation of life insurance policies) does not apply to credit life insurance. The proposed rulemaking also deletes the standards used in calculating minimum reserves for single premium credit accident and health insurance because those standards are being simultaneously proposed for modification and inclusion as amendments to Chapter 84a.

Affected Parties

The proposed rulemaking will apply to life insurance companies, property and casualty insurance companies and fraternal benefit societies marketing and soliciting

the sale of credit life insurance and credit accident and health insurance in this Commonwealth.

Fiscal Impact

State government

There will be no increase in cost to the Department as a result of this proposed rulemaking. As part of its solvency monitoring responsibilities, the Department currently reviews the methodology used by an insurer to calculate credit life insurance reserves to ensure that the reserves are adequate and comply with the minimum standard requirements. Thus, this proposed rulemaking will not require any additional staff time or resources to perform the analysis.

General public

Since the proposed rulemaking concerns the solvency requirements applied to insurers, the public will benefit from a financially sound insurance industry in the ability of insurers to fulfill their contractual obligations under credit life insurance and credit accident and health insurance policies.

Political subdivisions

The proposed rulemaking will not impose additional costs on political subdivisions. However, because the proposed rulemaking promotes stability in this Commonwealth's insurance industry, political subdivisions' tax revenues would benefit as a result of fewer insurer insolvencies. Fewer insolvencies would result in less unemployment and would also increase incentives for insurers to market new insurance products in this Commonwealth.

Private sector

The proposed rulemaking does not apply to policies issued prior to adoption of the final-form rulemaking. Some expense may be incurred by an insurer in modifying the reserve calculation system to comply with amended minimum reserve standards.

Paperwork

The adoption of this proposed rulemaking does not impose additional paperwork on the Department or the insurance industry. The amendment to the minimum standards applies to the reserve calculation, but will not result in additional paperwork.

Effectiveness/Sunset Date

The proposed rulemaking will become effective January 1, 2007. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 772-1969, psalvatore@state.pa.us within 30 days following the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.14), the Department is required to write to commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve stakeholders, the Department has made a determination that

all commentators will receive a copy of the final-form rulemaking when it is made available to IRRC and the Legislative Standing Committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 13, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

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

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For a document relating to this proposed rulemaking, see 36 Pa.B. 392 (January 28, 2006).)

Fiscal Note: 11-227. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART III. CREDIT INSURANCE

CHAPTER 73. CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

§ 73.103. Definitions.

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

* * * * *

2001 CSO Male Composite Ultimate Mortality Table—The ultimate version of the mortality table, consisting of separate rates of mortality for male lives that do not distinguish between smokers and nonsmokers, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners in December 2002. The table includes both the age-nearest birthday and age-last birthday version.

* * * * *

§ 73.138. Financial statement reserves.

The following reserves for all credit insurance policies shall be maintained by insurers doing credit life insurance or credit A and H insurance business in this Commonwealth[.]:

(1) The reserves for credit life insurance may not be less than the reserves as computed using the Commissioners 1980 Extended Term Mortality Table, using mortality rates applicable to male lives for insurance issued prior to [**or on or after June 19, 1998**] **January 1,**

2007, with interest at the rate specified in section 301(c) of The Insurance Department Act of 1921 (40 P. S. § [**1**] **71(c)**).

(2) **The reserves for credit life insurance may not be less than the reserves as computed using the 2001 CSO Male Composite Ultimate Mortality Table for insurance issued on or after January 1, 2007 with interest at the rate specified in section 301(c) of The Insurance Department Act of 1921.**

(3) **If the credit life insurance policy or certificate insures two lives, the minimum standard must be twice the mortality in the 2001 CSO Male Composite Ultimate Mortality Table based on the age of the older insured.**

(4) **Chapter 84c (relating to valuation of life insurance policies) does not apply to credit life insurance.**

(5) The reserves for single premium credit [**A and H insurance or**] TPD benefits may not be less than the mean of the amounts of unearned premium calculated from gross premiums in force on the following bases:

* * * * *

(6) **The reserves for single premium credit A and H insurance are regulated under Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts).**

[(3)] (7) * * *

[(4)] (8) * * *

[Pa.B. Doc. No. 06-141. Filed for public inspection January 27, 2006, 9:00 a.m.]

[31 PA. CODE CH. 84a]

Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts

The Insurance Department (Department), under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and sections 301.1 and 311.1 of The Insurance Department Act (40 P. S. §§ 71.1 and 93), proposes to amend Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts) to read as set forth in Annex A.

Purpose

The purpose of the proposed rulemaking is to: (1) modify the morbidity standards in calculating minimum claim reserves for individual disability income benefits; (2) establish reserve standards for single premium credit health and accident insurance; and (3) modify the standards for calculating minimum contract reserves for long-term care insurance.

The proposed rulemaking is patterned after amendments to the Health Insurance Reserves Model Regulation (model regulation) adopted by the National Association of Insurance Commissioners (NAIC) in June 2001, December 2003 and March 2004. Copies of the copyrighted model regulations were provided to the Legislative Standing Committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of

Policy, the Governor's Office of General Counsel and the Attorney General to aid in their analysis of this proposed rulemaking.

Explanation of Regulatory Requirements

The following is a description of the amendments in this proposed rulemaking.

Section 84a.2 (relating to applicability and scope) is modified to include single premium credit health and accident insurance while differentiating that monthly premium credit health and accident insurance is not subject to this regulation. Rather, monthly premium credit health and accident insurance is regulated under Chapter 73 (relating to credit life insurance and credit accident and health insurance). Amendments to Chapter 73 are being submitted simultaneously with this final-form rulemaking for review.

The definition of "group long-term care insurance" is added in § 84a.3 (relating to definitions).

Section 84a.4 (relating to claim reserves) is amended to describe the minimum standards and methods used in calculating claim reserves. An insurer may use the insurer's experience as the minimum morbidity standard in calculating claim reserves of disability income benefits for claims with a duration from date of disablement of less than 2 years for individual insurance or less than 5 years for group insurance. The proposed rulemaking clarifies that the standard based on the insurer's experience applies to the determination of the claim termination rates during the initial 2- or 5-year periods beginning from the date of disablement.

Section 84a.5 (relating to premium reserves) will now exempt single premium credit health and accident insurance from the regulation.

Section 84a.6 (relating to contract reserves) is amended to augment the minimum standards and methods used in calculating contract reserves. This proposed rulemaking adds a requirement that the contract reserve shall incorporate a provision for moderately adverse deviations. The proposed rulemaking also adds a requirement that a morbidity improvement assumption shall not be used in calculating contract reserves for contracts issued on or after January 1, 2007, as well as modifies the termination rate standards used in calculating contract reserves for long-term care insurance contracts issued on or after January 1, 2007.

Appendix A (relating to specific standards for morbidity, interest and mortality) will be amended to modify the morbidity standard in calculating minimum claim reserves for individual disability income benefits by adding adjustment factors that are multiplied by the termination rates in the 1985 Commissioners Individual Disability Tables A in calculating minimum claim reserves for individual disability income benefits. The adjusted termination rates will then apply to claims incurred on or after the effective date of the final-form rulemaking or, at the option of the insurer, to all claims.

Appendix A is also being amended to add the minimum standards in the calculation of contract and claim reserves for single premium credit health and accident insurance, and to amend the mortality standard in the calculation of contract reserves for long-term care insurance contracts issued on or after January 1, 2007.

Affected Parties

The proposed rulemaking will apply to life insurance companies, property and casualty insurance companies and fraternal benefit societies marketing health and accident insurance contracts.

Fiscal Impact

State government

There will be no increase in cost to the Department as a result of the adoption of the proposed rulemaking. As part of its solvency monitoring responsibilities, the Department currently reviews the methodology used by an insurer to calculate health and accident reserves to ensure that the reserves are adequate and comply with the minimum standard requirements. The proposed rulemaking will not require additional staff time or resources to perform the analysis.

General public

Since the proposed rulemaking concerns the solvency requirements applied to insurance companies, the public will benefit from a financially sound insurance industry and the ability of insurers to fulfill their contractual obligations under accident and health contracts.

Political subdivisions

The proposed rulemaking will not impose additional costs on political subdivisions. However, because the proposed rulemaking promotes stability in this Commonwealth's insurance industry, political subdivisions' tax revenues should benefit as a result of fewer insurer insolvencies. Fewer insolvencies would result in less unemployment, and would increase incentives for insurers to market new insurance products in this Commonwealth.

Private sector

The proposed rulemaking does not apply to claims incurred prior to the adoption of the proposed rulemaking unless elected on an optional basis by the insurance company. There may be some expense incurred by an insurance company in modifying the claim reserve calculation system to comply with amended minimum claim reserve standards.

Paperwork

This proposed rulemaking does not impose additional paperwork on the Department or the insurance industry. The proposed amendment to the reserve minimum standards applies to the claim reserve calculation, but will not result in additional paperwork.

Effectiveness/Sunset Date

The proposed rulemaking will become effective January 1, 2007. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 772-1969, psalvatore@state.pa.us within 30 days following the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.14), the Department is required to write to commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve stakeholders, the Department has made a determination that all commentators will receive a copy of the final-form rulemaking when it is made available to IRRC and the Legislative Standing Committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 13, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

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

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For a document relating to this proposed rulemaking, see 36 Pa.B. 391 (January 28, 2006).)

Fiscal Note: 11-228. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 84a. MINIMUM RESERVE STANDARDS FOR INDIVIDUAL AND GROUP HEALTH AND ACCIDENT INSURANCE CONTRACTS

§ 84a.2. Applicability and scope.

* * * * *

(b) The minimum reserve standards of this chapter apply to individual and group health and accident insurance coverages, [except credit insurance] including single premium credit health and accident insurance, written by life insurance companies and casualty insurance companies. Monthly premium credit health and accident insurance is not subject to this chapter, but instead is subject to the reserve standards in Chapter 73 (relating to credit life and credit accident and health insurance).

* * * * *

§ 84a.3. Definitions.

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

* * * * *

Group long-term care insurance—A long-term care insurance policy that is delivered or issued for delivery in this Commonwealth and issued to one or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations.

* * * * *

§ 84a.4. Claim reserves.

* * * * *

(b) Minimum standards for claim reserves of disability income benefits, **excluding single premium credit health and accident insurance.**

* * * * *

(2) Minimum standards with respect to morbidity are those specified in Appendix A; except that, at the option of the insurer:

(i) For claims [with a duration] incurred on or after January 1, 2007, assumptions regarding claim termination rates for the period less than 2 years from the date of disablement [of less than 2 years, reserves] may be based on the insurer's experience, if the experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(ii) For group disability income claims [with a duration] incurred on or after January 1, 2007, assumptions regarding claim termination rates for the period of 2 or more years but less than 5 years from the date of disablement [of more than 2 years but less than 5 years, reserves] may, with the approval of the Commissioner, be based upon the insurer's experience for which the insurer maintains underwriting and claim administration control if the experience is considered credible. For an insurer's experience to be considered credible, the insurer shall be able to provide claim termination patterns over no more than 6 years reflecting at least 5,000 claim terminations during the third through fifth claim durations on reasonably similar applicable policy forms. Reserve tables based on credible experience shall be adjusted regularly to maintain reasonable margins. Demonstrations may be required by the Commissioner based on published literature. The request for approval of a plan of modification to the reserve basis [shall] must include the following:

* * * * *

(iii) For claims incurred prior to January 1, 2007, each insurer may elect one of the following as the minimum standard.

(A) For claims with a duration from the date of disablement of less than 2 years, reserves may be based on the insurer's experience, if the experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities. For group disability income claims with a duration from the date of disablement of more than 2 years but less than 5 years, reserves may, with the approval of the Commissioner, be based upon the insurer's experience for which the insurer maintains underwriting and claim administration control if the experience is considered credible. For an insurer's experience to be considered credible, the insurer shall be able to provide claim termination patterns over no more than 6 years reflecting at least 5,000 claim terminations during the third through fifth claim durations on reasonably similar applicable policy forms. Reserve tables based on credible experience shall be adjusted regularly to maintain reasonable margins. Demonstrations may be required by the Commissioner based on published literature. The request for approval of a plan of modification to the reserve basis must include the following:

(I) An analysis of the credibility of the experience.

(II) A description of how the insurer's experience is proposed to be used in setting reserves.

(III) A description and quantification of the margins to be included.

(IV) A summary of the financial impact that the proposed plan of modification would have had on the insurer's last filed annual statement.

(V) A copy of the approval of the proposed plan of modification by the Commissioner of the state of domicile.

(VI) Other information deemed necessary by the Commissioner.

(B) The standards as defined in subparagraph (i) and (ii) applied to all open claims. If reserves are calculated on the standards defined in subparagraph (i) and (ii), future calculations must be on that basis.

* * * * *

(c) *Minimum standards for claim reserves of other benefits, including single premium credit health and accident insurance.*

* * * * *

§ 84a.5. Premium reserves.

(a) *General requirements.*

(1) Unearned premium reserves are required for contracts, **except single premium credit health and accident insurance contracts**, with respect to the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation.

* * * * *

§ 84a.6. Contract reserves.

(a) *General requirements.*

* * * * *

(6) The total contract reserve established must incorporate provisions for moderately adverse deviations.

(b) *Minimum standards for contract reserves.*

(1) *Morbidity or other contingency.*

* * * * *

(iv) In determining the morbidity assumptions, the actuary shall use assumptions that represent the best estimate of anticipated future experience, but may not incorporate any expectation of future morbidity improvement for contracts issued on or after January 1, 2007. Morbidity improvement is a change in the combined effect of claim frequency and the present value of future expected claim payments given that a claim has occurred from the current morbidity tables or experience that will result in a reduction to reserves. The actuary can reflect the morbidity impact for a specific known event that has occurred and can be evaluated and quantified.

* * * * *

(3) *Termination rates.*

(i) Termination rates used in the computation of reserves shall be on the basis of a mortality table as

specified in Appendix A except as noted in subparagraphs (ii) [and], (iii), (iv) and (v).

* * * * *

(iv) For long-term care individual contracts and group certificates issued on and after January 1, 2007, the following termination rates in addition to the mortality table rates specified in Appendix A may be used:

(A) For policy year 1, the lesser of 80% of the voluntary lapse rate used in the calculation of gross premiums and 6%.

(B) For policy years 2 through 4, the lesser of 80% of the voluntary lapse rate used in the calculation of gross premiums and 4%.

(C) For policy years 5 and later, the lesser of 100% of the voluntary lapse rate used in the calculation of gross premiums and 2%, except for group long-term care insurance where the 2% shall be 3%.

(v) For single premium credit disability insurance, termination rates may not be used.

* * * * *

APPENDIX A

SPECIFIC STANDARDS FOR MORBIDITY, INTEREST AND MORTALITY

I. MORBIDITY.

(a) Minimum morbidity standards for valuation of specified individual contract health and accident insurance benefits are as follows:

(1) Disability income benefits due to accident or sickness.

* * * * *

(ii) *Claim reserves.* [The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred.]

(A) Claims incurred on or after January 1, 2007: The 1985 Commissioners Individual Disability Table A (85CIDA) with claim termination rates multiplied by the following adjustment factors:

<i>Duration</i>	<i>Adjustment Factor</i>
Week 1	0.366
2	0.366
3	0.366
4	0.366
5	0.365
6	0.365
7	0.365
8	0.365
9	0.370
10	0.370
11	0.370
12	0.370
13	0.370
Month 4	0.391
5	0.371
6	0.435
7	0.500
8	0.564
9	0.613
10	0.633
11	0.712
12	0.756

<i>Duration</i>	<i>Adjustment Factor</i>
13	0.800
14	0.844
15	0.888
16	0.932
17	0.976
18	1.020
19	1.049
20	1.078
21	1.107
22	1.136
23	1.165
24	1.195
Year 3	1.369
4	1.204
5	1.199
6 and later	1.000

The 85 CIDA so adjusted for the computation of claim reserves shall be known as The 1985 Commissioners Individual Disability Table C (85 CIDC).

(B) Claims incurred prior to January 1, 2007: Optional use of either the minimum morbidity standard in effect for contract reserves on contracts issued on the same date the claim is incurred, or 85 CIDC, applied to all claims.

(C) If reserves for all claims are calculated on 85 CIDC, future calculations must be on 85 CIDC.

* * * * *

(5) **Single Premium Credit Health and Accident Insurance.**

(i) *Contract reserves:*

(A) **Contracts issued on or after January 1, 2007:**

(I) **Plans having less than a 30-day elimination period: The 85 CIDA with claim incidence rates increased by 12%.**

(II) **Plans having a 30-day and greater elimination period: The 85 CIDA for a 14 day elimination period with claim incidence rates increased by 12%.**

(B) **Contracts issued prior to January 1, 2007:**

(I) **Optional use of either:**

(a) **The mean of the amounts of unearned premium calculated from gross premiums in force on the pro rata basis and the Rule of 78 basis.**

(b) **The standard as defined in I(a)(5)(i)(A) applied to all contracts.**

(II) **If reserves are calculated on the standard defined in I(a)(5)(i)(A), future calculations must be on that basis.**

(ii) **Claim Reserves: Claim reserves are to be determined as defined in § 84a.4(c)(2).**

(6) **Other individual contract benefits.**

* * * * *

(b) **Minimum morbidity standards for valuation of specified group contract health and accident insurance benefits are as follows:**

* * * * *

(2) **Single Premium Credit Health and Accident Insurance.**

(i) *Contract reserves.*

(A) **Contracts issued on or after January 1, 2007:**

(I) **Plans having less than a 30-day elimination period: The 85 CIDA with claim incidence rates increased by 12%.**

(II) **Plans having a 30-day and greater elimination period: The 85 CIDA for a 14 day elimination period with claim incidence rates increased by 12%.**

(B) **Contracts issued prior to January 1, 2007:**

(I) **Optional use of either:**

(a) **The mean of the amounts of unearned premium calculated from gross premiums in force on the pro rata basis and the Rule of 78 basis.**

(b) **The standard as defined in I(a)(5)(i)(A) applied to all contracts.**

(II) **If reserves are calculated on the standard defined in I(a)(5)(i)(A), future calculations must be on that basis.**

(ii) *Claim reserves.* **Claim reserves are to be determined as defined in § 84a.4(c)(2).**

(3) **Other group contract benefits.**

* * * * *

[(III)] (III). **MORTALITY.**

* * * * *

(c) **Unless subsection (d) applies, the mortality basis used for individual contracts and group certificates issued on or after January 1, 1989, except long-term care individual contracts and group certificates issued on or after January 1, 1999, shall be according to a table, but without use of selection factors, permitted by law for the valuation of whole life insurance issued on the same date as the health and accident insurance contract. For long-term care individual contracts and group certificates issued on or after January 1, 1999, the mortality basis used shall be the 1983 Group Annuity Mortality Table without projection. For long-term care insurance individual policies and group certificates issued on or after January 1, 2007, the mortality basis used shall be the 1994 Group Annuity Mortality Static Table.**

* * * * *

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Education

The Executive Board approved a reorganization of the Department of Education effective December 21, 2005.

The organization chart at 36 Pa.B. 398 (January 28, 2006) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 06-143. Filed for public inspection January 27, 2006, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Office of Administration

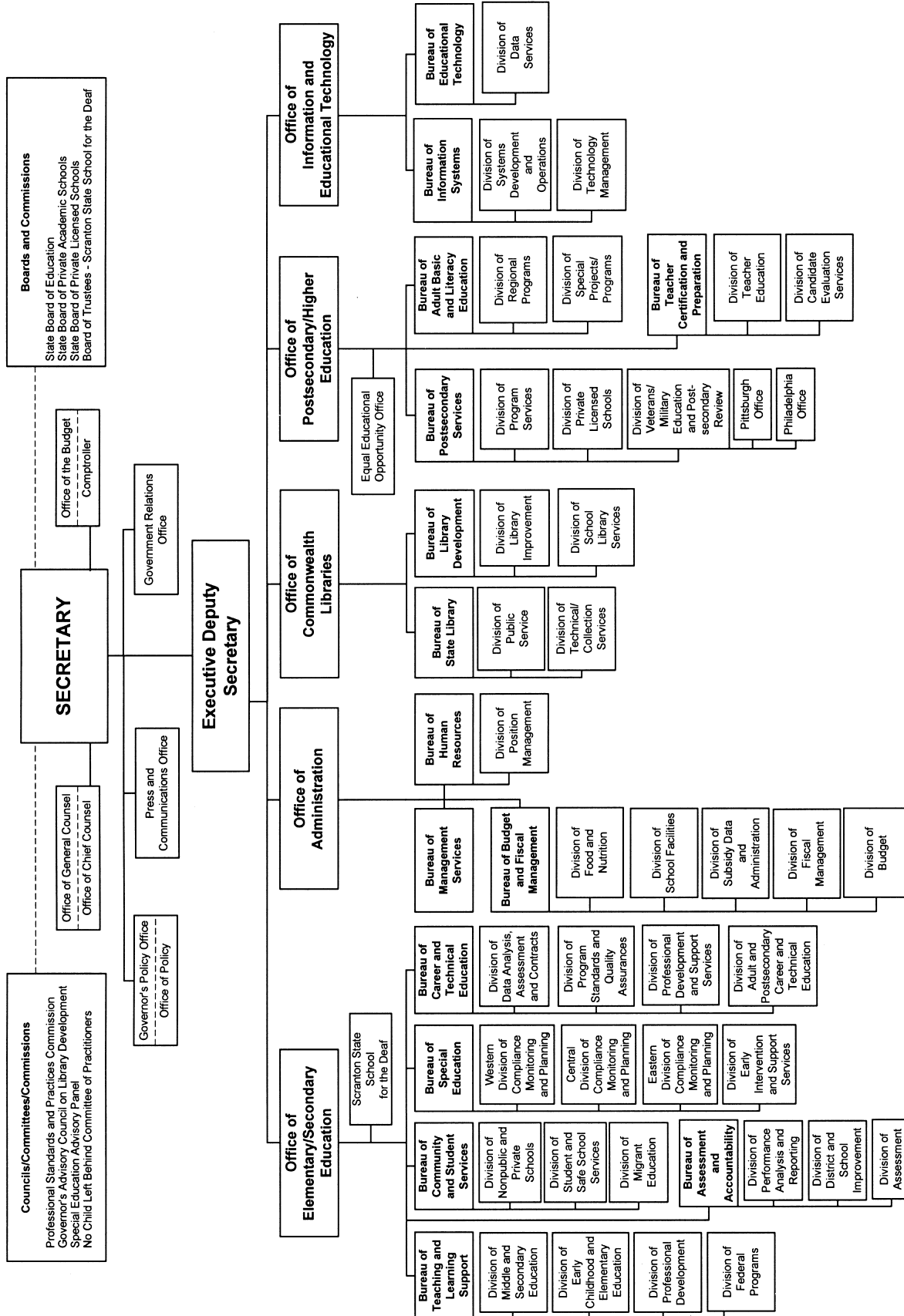
The Executive Board approved a reorganization of the Office of Administration effective December 21, 2005.

The organization chart at 36 Pa.B. 399 (January 28, 2006) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

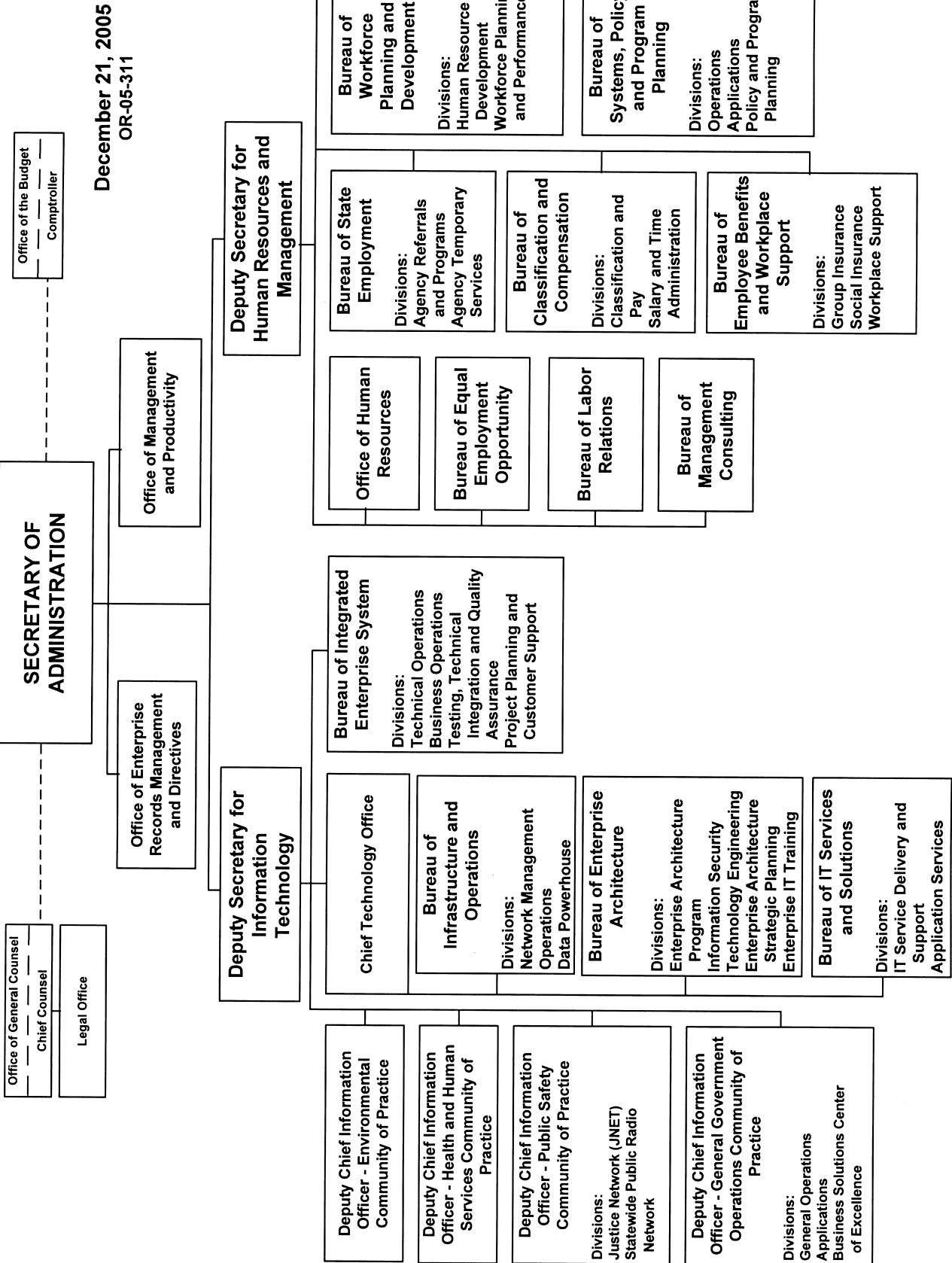
(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 06-144. Filed for public inspection January 27, 2006, 9:00 a.m.]

DEPARTMENT OF EDUCATION



GOVERNOR'S OFFICE OF ADMINISTRATION



NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending January 17, 2006.

BANKING INSTITUTIONS

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-11-06	The First National Bank in Fleetwood Fleetwood Berks County <i>To:</i> Fleetwood Bank Fleetwood Berks County	Fleetwood	Filed
	Application represents a conversion from a National banking association to a State-chartered commercial bank.		

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-12-06	Standard Bank, PaSB, Monroeville, and Hoblitzell National Bank of Hyndman, Hyndman Surviving Institution— Standard Bank, PaSB, Monroeville <i>Branches Acquired by Means of Merger:</i> 3945 Center Street Hyndman Bedford County 187 Hyndman Road Hyndman Bedford County 200 North Mechanic Street Cumberland Allegheny County, MD 1275 National Highway LaVale Allegheny County, MD	Monroeville	Effective

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-11-06	Northwest Savings Bank Warren Warren County	2600 Old Washington Road Upper St. Clair Township Allegheny County	Filed
1-13-06	Farmers and Merchants Trust Company of Chambersburg Chambersburg Franklin County	518 North Antrim Way Greencastle Franklin County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-30-05	Northwest Savings Bank Warren Warren County	1073 Park Avenue Meadville Crawford County (Drive-Up Facility)	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-145. Filed for public inspection January 27, 2006, 9:00 a.m.]

DEPARTMENT OF EDUCATION**Individuals with Disabilities Education Act—Part B; Application for Federal Grant**

To receive a grant under the Individuals with Disabilities Education Act, the Department of Education (Department) is submitting plan assurances to the United States Department of Education (USDE). The Department is not proposing changes to policies and procedures under the Individuals with Disabilities Education Act—Part B (IDEA-B). The Department intends to assure that by June 30, 2007, policies and procedures will be adopted that are consistent with the Individuals with Disabilities Education Improvement Act of 2004 (Pub. L. No. 108-446) (IDEA-2004). Moreover, the Department assures that throughout the period of the grant (July 1, 2006, to June 30, 2007), the Commonwealth will operate consistent with all requirements of IDEA-2004 and applicable regulations.

The IDEA-B funds, received under current 34 CFR 300.110 (relating to condition of assistance), will be used to render services and programs to children with disabilities who are eligible for services under IDEA-B as well as training and technical assistance given to professional staff who render services to children with disabilities.

Copies of the proposed plan assurances are available by calling Nancy Zeigler at (717) 783-6134 or the TDD at (717) 787-7367. Alternative formats of the documents (for example, Braille, large print or cassette tape) are available upon request. Moreover, public comment is welcomed in alternative formats such as Braille, taped comments and telephone comments for the disabled. Individuals who are disabled and wish to submit comments by telephone should call Nancy Zeigler, (717) 783-6134.

Written comments will be received until March 31, 2006. The written comments should be directed to Terry Dawson, Department of Education, Bureau of Special Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126-0333.

Following receipt of all comments, the Department will consider all public comments and make any necessary modifications before final submission of the plan assurances by April 21, 2006, to the Secretary of the USDE.

GERALD L. ZAHORCHAK, D.Ed.,
Acting Secretary

[Pa.B. Doc. No. 06-146. Filed for public inspection January 27, 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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0062375 Sewage	Stone Hedge Sewer Co., Inc. 4 Hollowcrest Corners Tunkhannock, PA 18657	Wyoming Tunkhannock Township	UNT to Osterhout Creek (4G)	Y

*In compliance with the Chesapeake Bay nutrient reduction strategy, the monitoring of total nitrogen and total phosphorus has been added to this renewal.

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0087378 (IW)	Letterkenny Army Depot 1 Overcash Avenue Chambersburg, PA 17201	Franklin County Greene Township	Rowe Run/7-B	Y
PA0086444 (Sew)	Blue Ridge Sportsmen Association, Inc. 3009 Waynesboro Pike Fairfield, PA 17320-9721	Adams County Liberty Township	Miney Branch/13-D	Y
PA0087131 (Sew)	Northern Lancaster County Authority 983 Beam Road Denver, PA 17517-8946	Lancaster County Brecknock Township	Little Muddy Creek/7-J	Y
PAR10C283R1	Forino Co., LP 555 Mountain Road Sinking Spring, PA 19608	Berks County Jefferson Township	Tulpehocken Creek	Y
PAR10C337R	Forino Co., LP 555 Mountain Road Sinking Spring, PA 19608	Berks County Bern Township	Seifert Run	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PAR10C350R	Golden Hills Development Corporation 108 South Hill Street Sinking Spring, PA 19608	Berks County Spring Township	Irish Creek	Y
PAR10C342R	Michael D. Rhodes 813 S. Reading Avenue Boyertown, PA 19512	Berks County Washington Township	Swamp Creek	Y
PAR10C4123	Department of Transportation Engineering District 5-0 1713 Lehigh Street Allentown, PA 18103-4727	Berks County Hamburg Borough	Schuylkill River	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0228320 SP	Davidson Township Municipal Authority Box 7112 Muncy Valley, PA 17758	Sullivan County Davidson Township	Muncy Creek 4C	Y
PA0032514 (Sewage)	Department of Conservation and Natural Resources Denton Hill State Park 5661 US 6 West Coudersport, PA 16915	Ulysses Township Potter County	Elm Hollow Run HQ-CWF	Y
PA0113182 SN	Albert A. Drobka P. O. Box 256 State College, PA 16804-0256	Centre County Harris Township	UNT To Spring Creek 9C	Y
PA0114740 IW	Aqua Pennsylvania Inc 204 East Sunbury Street Shamokin, PA 17872-4859	Northumberland County Coal Township	South Branch Roaring Creek 5E	Y

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

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

PA0013463, Industrial and Sewage, SIC 3312, **U. S. Steel Corporation**, One Ben Fairless Drive, Fairless Hills, PA 19030. This proposed facility is located in Falls Township, **Bucks County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge treated process wastewater, noncontact cooling water and boiler blowdown from Fairless Energy and PECO power plant, stormwater and treated sewage through various outfalls to Delaware Estuary Zone 2 in Falls Township, Bucks County.

The receiving stream, Delaware River Zone 2, is in the State Water Plan watershed 2E and is classified for WWF and MF. The nearest downstream public water supply intake for the City of Philadelphia's Baxter Water Treatment Plant is located on the Delaware River approximately 10 miles below the point of discharge.

The proposed effluent limits for Outfall 002, NCCW and SWRO are as follows:

<i>Parameters</i>	<i>Concentrations (mg/l)</i>	
	<i>Average Annual (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature		110°F
Oil and Grease	15 Average Month	30
pH	within limits of 6.0 to 9.0 standard units at all times	
CBOD ₅ *	Monitor and Report	Monitor and Report
COD*	Monitor and Report	Monitor and Report
Oil and Grease	Monitor and Report	Monitor and Report
Total Suspended Solids*	Monitor and Report	Monitor and Report
Total Lead*	Monitor and Report	Monitor and Report
Total Chromium*	Monitor and Report	Monitor and Report
Total Copper*	Monitor and Report	Monitor and Report
Total Cadmium*	Monitor and Report	Monitor and Report
Iron (Dissolved)*	Monitor and Report	Monitor and Report

*These parameters shall be monitored during storm event while no NCCW discharges.

The proposed effluent limits for Outfall 003, consist of treated process wastewater, cooling wastewater and treated sewage are as follows:

Tidal conditions at Outfall 003 make monitoring impossible. Therefore, contributions to Outfall 003 are monitored at monitoring points as follows:

<i>Monitoring Point</i>	<i>Description of Wastewater</i>
MP 103	Treated Process Wastewater from Terminal Treatment Plant
MP 203	Treated Sewage Wastewater
MP 303	SWRO
MP 404	Treated Process Wastewater from Finishing Mill Treatment Plant

The proposed effluent limits for Monitoring Point MP 103, treated process wastewater from Terminal Treatment Plant based on an average flow of 3.75 mgd are as follows:

<i>Parameters</i>	<i>Mass (lbs/day)</i>		<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
BOD ₅			Monitor and Report	Monitor and Report	
BOD ₅ (% Removal)		Minimum of 88.5%	Removal		
Total Suspended Solids	463	1,063	Monitor and Report	Monitor and Report	37.5
Total Dissolved Solids			1,000	2,000	2,500
Oil and Grease	240	440	Monitor and Report	Monitor and Report	19.2
CBOD ₂₀	2,500				
BOD ₅ (% Removal)	88.5				
Phenols, Total			Monitor and Report	Monitor and Report	
pH	within limits of 6.0 to 9.0 standard units at all times				
Color (Pt-Co)					Monitor and Report
Total Residual Chlorine*			0.32		0.5
Temperature (°F)					110°
Chromium, Total	4.79	6.22	Monitor and Report	Monitor and Report	0.37
Zinc, Total	21.83	24.77	Monitor and Report	Monitor and Report	1.75

*This limit is applicable only when chlorine is used in the process for algae control.

The proposed effluent limits for monitoring point MP 203 (treated sewage), based on an average flow of 0.163 mgd are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD ₅	25	50
BOD ₅ (% Removal)	Minimum of 88.5% per DRBC Requirements	
Suspended Solids	30	60
CBOD ₂₀ (lbs/day)	67	
BOD ₅ (% Removal)	88.5	
Total Residual Chlorine	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a Geometric Average	
pH	within limits of 6.0 to 9.0 standards units at all times	
Phosphorus as P		Monitor and Report (Daily Max.)
Copper, Total		Monitor and Report (Daily Max.)
Lead, Total		Monitor and Report (Daily Max.)
Zinc, Total		Monitor and Report (Daily Max.)

The proposed effluent limits for monitoring point MP 303 during storm events are as follows:

<i>Parameters</i>	<i>Average Annual (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	Monitor and Report	Monitor and Report
Oil and Grease	Monitor and Report	Monitor and Report
pH	Monitor and Report	Monitor and Report
Fecal Coliform	Monitor and Report	Monitor and Report
Iron (Dissolved)*	Monitor and Report	Monitor and Report

The proposed effluent limits for monitoring point MP 403, treated process wastewater from Finishing Mill Treatment Plant, based on an average flow of 0.856 mgd are as follows:

<i>Parameters</i>	<i>Mass (lbs/day)</i>		<i>Concentrations (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>
Lead, Total	1.49	4.49	Monitor and Report	Monitor and Report	0.52
Zinc, Total	1.47	4.41	Monitor and Report	Monitor and Report	0.52
Chromium, Total	Monitor and Report	Monitor and Report	0.1	0.3	0.3
Nickel, Total	Monitor and Report	Monitor and Report	0.2	0.45	0.5
Naphthalene		0.071	Monitor and Report	Monitor and Report	0.012
Chromium, Hex	0.095	0.284	Monitor and Report	Monitor and Report	0.035
Copper, Total	Monitor and Report	Monitor and Report	0.1	0.3	0.3
Tetra Chloroethylene		0.107		Monitor and Report	0.018

The proposed effluent limits for Outfalls 005, 007 and 009 (stormwater) are as follows:

<i>Parameters</i>	<i>Average Annual (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	Monitor and Report	Monitor and Report
Total Suspended Solids	Monitor and Report	Monitor and Report
Oil and Grease	Monitor and Report	Monitor and Report
pH	Monitor and Report	Monitor and Report
Iron (Dissolved) (005, 009 only)	Monitor and Report	Monitor and Report
Total Zinc (007 only)	Monitor and Report	Monitor and Report

The proposed effluent limits for Outfalls 010 and 011 (Intake Screen backwash water) are as follows:

The materials (solids and other debris) physically or mechanically removed by USS in backwash operation shall not be returned to surface waters. The disposal of this material shall prevent any discharge of removed substances to the surface waters.

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

1. The EPA waiver is not in effect.
2. CBOD₂₀ allowances.
3. 88.5% of BOD₅ per DRBC requirements.
4. Thermal requirements.
5. Approved chemical additives.
6. Special Test Methods for certain pollutants.
7. PCBs Monitoring and PMPs requirements.

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

PA0053147, Sewage, **Upper Saucon Sewage Treatment Authority**, 5500 Camp Meeting Road, Center Valley, PA 18034. This proposed facility is located in Upper Saucon Township, **Lehigh County**.

Description of Proposed Activity: Amendment of an existing NPDES permit. Chlorination facility replaced with UV disinfection. Thus, TRC limit removed from permit.

The receiving stream, Saucon Creek, is in the State Water Plan watershed 2C and is classified for CWF. The nearest downstream public water supply intake for Keystone Water Company is located on the Delaware River and is over 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 2.5 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10.0	15.0	20.0
(11-1 to 4-30)	20.0	30.0	40.0
Total Suspended Solids	30.0	45.0	60.0

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<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
NH ₃ -N (5-1 to 10-31)	3.0	4.5	6.0
(11-1 to 4-30)	9.0	13.5	18.0
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.		
Fecal Coliform	200/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Phosphorus as "P"	Quarterly Monitoring		

In addition to the effluent limits, the permit contains the following major special condition: whole effluent toxicity testing.

NPDES Permit No. PA-0023736, Sewage, **Tri-Boro Municipal Authority**, 282 Erie Boulevard, Susquehanna, PA 18847-1641. This proposed facility is located in Susquehanna Depot, **Susquehanna County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	40.0	50.0
Total Suspended Solids	30.0	45.0	60.0
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		
pH			
Total Residual Chlorine	1.0		2.0

The receiving stream, North Branch Susquehanna River, is in the State Watershed Plan 04E and is classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.5 mgd:

The following effluent limit for Outfall 001 in accordance with the Chesapeake Bay Strategy and on projected 2010 flows of 0.45 mgd:

Ammonia-N	Monitor and Report	
Kjeldahl-N	Monitor and Report	
Nitrite-N	Monitor and Report	
Nitrite-N	Monitor and Report	
Total Nitrogen	Monitor and Report	PID + 36 Months
Total Phosphorus	Monitor and Report	PID + 36 Months
Total Nitrogen	10,959 lbs/year	PID + 36 Months through Expiration
Total Phosphorus	1,370 lbs/year	PID + 36 Months through Expiration

The permittee must submit a schedule of compliance with the Chesapeake Bay Strategy requirements within 180 days after permit issuance. They may be met in part of full by obtaining offsets or credits approved by the Department of Environmental Protection.

PAS212217. Stormwater/Industrial Waste, **Catskill Stone Limited, Inc.**, R. R. 1, Box 2114B, Equinunk, PA 18417. This proposed facility is located in Manchester Township, **Wayne County**.

Description of Proposed Activity: Issuance of new Industrial Stormwater Permit. The receiving stream, South Branch Creek, is in the State Water Plan watershed 1A and is classified for HQ-CWF. The nearest downstream public water supply intake for East Stroudsburg Intake is located on the Delaware River.

<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>
CBOD ₅				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Total Suspended Solids (TSS)				Report
Total Kjeldahl Nitrogen (TKN)				Report
Total Phosphorus				Report
Iron (dissolved)				Report

In addition to the effluent limits, the permit contains the following major special condition: requirements applicable to stormwater outfalls along with identified best management practices.

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

Application No. PA 0248037, Sewage, **Bethel Township Municipal Authority**, P. O. Box 24, Bethel, PA 19507. This facility is located in Bethel Township, **Berks County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, Little Swatara Creek, is in Watershed 7-D and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the Swatara Creek, approximately 40 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.205 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	16	24	32
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	5		10
(11-1 to 4-30)	15		30
NO ₂ -N + NO ₃ -N		Monitor and Report	
Total Kjeldahl Nitrogen		Monitor and Report	
Total Phosphorus		Monitor and Report	
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)		13,000/100 ml as a geometric average	

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 0014648, Industrial Waste, SIC Code 4941, **United Water Pennsylvania (Hummelstown Water Treatment Plant)**, 4211 East Park Drive, Harrisburg, PA 17111. This facility is located in Hummelstown Borough, **Dauphin County**.

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

The receiving stream, Swatara Creek, is in Watershed 7-D and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Middletown Borough Water System located on the Swatara Creek, approximately 8 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.250 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		from 6.0 to 9.0 inclusive	
Total Suspended Solids	30	60	75
Total Iron	2.0	4.0	5.0
Total Manganese	1.0	2.0	2.5
Total Aluminum	4.0	8.0	10
Total Residual Chlorine	0.5	1.0	1.6

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 0247961, Contact Cooling Waters, SIC Code 3084, **HPE Extrusion Solutions**, 20 North Front Street, Bally, PA 19503. This facility is located in Bally Borough, **Berks County**.

Description of activity: The application is for issuance of an NPDES permit for new discharge of contact cooling water.

The receiving stream, UNT to West Branch of Perkiomen Creek is in Watershed 3-E and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Philadelphia Suburban located on the Greenlane Reservoir, approximately 10 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.00015 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Oil and Grease	15	29	30
CBOD ₅ (5-1 to 10-31)	13	26	32
(11-1 to 4-30)	26	52	
Temperature		110°F	
Total Suspended Solids	10	19	25
Total Phosphorus	0.5		1.25
pH		6.0 to 9.0 (standard units)	
Ammonia Nitrogen	20	40	50

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.

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

PAS10F076-2R, Construction Stormwater Discharge, **Department of Transportation**, P. O. Box 342, Clearfield, PA 16830. The facilities are located in Huston and Patton Townships, **Centre County**.

Description of Proposed Activity: Proposed amendment of existing permit for discharges of stormwater detention basins, associated with the I-99 construction project, used for treatment of water affected by contact with pyritic materials. The amendment is to add effluent limits for hexavalent chromium at outfalls 002 (West and East) and outfall 007.

Be advised that this notice was incorrectly published as a final action on December 3, 2005. It is republished here as an application notice.

The receiving streams are as follows:

<i>Stream Name</i>	<i>State Water Plan Watershed</i>	<i>Classification</i>
Bald Eagle Creek	9C	TSF
Buffalo Run	9C	HQ-CWF
Waddle Creek	9C	HQ-CWF

The nearest existing downstream public water supply intake for PA American Water Company, located on West Branch Susquehanna River at Milton, PA is 132 river miles below the points of discharge.

On March 17, 2005, the Department approved a Social or Economic Justification (SEJ) under 25 Pa. Code § 93.4c(b)(1)(iii), for interim discharges at technology based treatment levels, from Outfalls 003 through 008 to Buffalo Run and Outfall 009 to Waddle Creek. The SEJ approval is valid only for an interim period ending December 31, 2007, at which time the discharge of pollutants from these Outfalls must either meet nondegrading effluent quality or be abated by the removal of polluting pyritic materials from the discharge source areas.

The proposed interim effluent limits, effective until December 31, 2007, for all Outfalls 001—009, which will discharge to Bald Eagle Creek, Buffalo Run and Waddle Creek are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	
aluminum			
dissolved		Monitor and Report	
total	1.0	1.5	2.0
Iron			
dissolved		Monitor and Report	
total	3.0	6.0	7.0
Manganese			
dissolved		Monitor and Report	
total	2.0	4.0	5.0
nickel		Monitor and Report	
Zinc			
dissolved		Monitor and Report	
total	0.5	0.75	1.0
cadmium		Monitor and Report	
chromium		Monitor and Report	
chromium, hexavalent (002 West and 002 East only)	0.180	0.270	0.360

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/l)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
(007 only) alkalinity	0.038	0.057	0.076
sulfates		greater than acidity Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 001 and 002, which will discharge to Bald Eagle Creek, are as follows:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/l)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	
Aluminum			
dissolved		Monitor and Report	
total	1.0	1.5	2.0
Iron			
dissolved		Monitor and Report	
total	3.0	6.0	7.0
Manganese			
dissolved		Monitor and Report	
total	2.0	4.0	5.0
nickel		Monitor and Report	
zinc			
dissolved		Monitor and Report	
total	0.5	0.75	1.0
cadmium		Monitor and Report	
chromium		Monitor and Report	
alkalinity		greater than acidity	
sulfates		Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 003—008, which will discharge to Buffalo Run, are as follows:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/l)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum			
dissolved	0.032	0.048	0.064
total	0.061	0.092	0.122
Iron			
dissolved	0.024	0.036	0.048
total	0.078	0.117	0.156
manganese			
dissolved	0.002	0.003	0.004
total	0.006	0.009	0.012
nickel		nondetect	
zinc			
dissolved	0.006	0.009	0.012
total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	14	21	28
total suspended solids	8	12	16
pH		6.5 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfall 009, which will discharge to Waddle Creek, are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum			
dissolved	0.032	0.048	0.064
total	0.061	0.092	0.122
Iron			
dissolved	0.024	0.036	0.048
total	0.078	0.117	0.156
Manganese			
dissolved	0.002	0.003	0.004
total	0.006	0.009	0.012
nickel		nondetect	
zinc			
dissolved	0.006	0.009	0.012
total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	21	31.5	42
total suspended solids	28	42	56
pH		6.5 to 9.0 (standard units)	

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

1. Sampling requirements.
2. Requirements for retention of records.
3. Recording requirements.
4. Testing requirements.
5. Quality assurance/quality control requirements.
6. Submission of discharge monitoring reports.
7. Requirements for management of precipitated solids.

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

PA0096571, Sewage, **Bethlehem Center School District**, 194 Crawford Avenue, Fredericktown, PA 15333. This application is for renewal of an NPDES permit to discharge treated sewage from Bethlehem Center School District Sr. High, Jr. High and Elem. Schools STP in Deemston Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Black Dog Hollow, which are classified as a TSF 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 Mariana Municipal Water Works.

Outfall 001: existing discharge, design flow of 0.025 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 ₅	15			30
Suspended Solids	25			50
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	5.0			10.0
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	0.05			0.11
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.

PA0098337, Sewage, **Connellsville Area School District**, 125 North Seventh Street, Connellsville, PA 15425. This application is for renewal of an NPDES permit to discharge treated sewage from Springfield Township Elementary School STP in Springfield Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as swale to a tributary of Indian Creek, 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 North Fayette County Municipal Authority on the Youghiogheny River.

Outfall 001: existing discharge, design flow of 0.003 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	10.5			21.0
(11-1 to 4-30)	25.0			50.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

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

WQM Permit No. WQG02010501, Sewerage, **Cumberland Township Authority**, 1370 Fairfield Road, Gettysburg, PA 17325. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Replacement of the Route 34 Pump Station.

WQM Permit No. 6705415, Sewerage, **Penn Township**, 20 Wayne Avenue, Hanover, PA 17331. This proposed facility is located in Penn Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of the Whispering Run, High Pointe-North, Maitland Investment, Martins Ridge gravity sanitary sewer main extension to serve residential developments.

WQM Permit No. 0705401, Sewerage, **Northern Blair County Regional Sewer Authority**, R. R. 4, Box 236-A, Tyrone, PA 16686. This proposed facility is located in Antis Township, **Blair County**.

Description of Proposed Action/Activity: Application for construction / operation of a sewer system, sewer extensions and pump stations.

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

WQM Permit No. 4900401-A1, Sewerage 4952, **The Municipal Authority of the City of Sunbury**, 462 South Fourth Street, Sunbury, PA 17801. This proposed facility is located in the City of Sunbury, **Northumberland County**.

Description of Proposed Action/Activity: Increase the wastewater pumping capacity at two Front Street Pumping Stations, replacement of 7,900 lineal feet of force main and gravity sewer, installation of two 25 mgd effluent pumps at the Sunbury WWTF and construction of a new effluent outfall line to Shamokin Creek.

WQM Permit No. 4905405 Sewerage 4952, **Borough of Riverside**, P. O. Box 307, Riverside, PA 17868. This proposed facility is located in Riverside Borough, **Northumberland County**. The Borough has applied for a Water Quality Management permit to construct a wastewater pumping station and sanitary sewer force main extension to serve 45 lots in the proposed River Hill Phase Two development. The collected sewage from this extension will be conveyed to the existing Danville Borough Wastewater Treatment Plant.

WQM Permit No. 5305401, Sewerage SIC 4952, **Galeton Borough Authority**, 4 Sherman Street, Galeton, PA 16922. This proposed facility will be located in Galeton Borough, **Potter County**.

Description of Proposed Action/Activity: The Authority proposes the replacement of the existing combined sewer system with separate sanitary and storm sewers in the North Sewershed of the Authority's collection system. The project will include a new sanitary interceptor, a new storm interceptor, the elimination of an existing inverted siphon, the installation of a new pump station and the replacement of a CSO manhole.

WQM Permit No. 1704410, Sewerage 4952, **Clearfield Borough**, 6 South Front Street, Clearfield, PA 16830. This proposed facility is located in Clearfield Borough, **Clearfield County**.

Description of Proposed Action/Activity: Phase 2—Replacement of approximately 42,400 lineal feet of sanitary sewers, manholes and appurtenances throughout Wards 2 and 4 of Clearfield Borough.

WQM Permit No. 1905402, Sewerage 4952, **Berwick Area Joint Sewer Authority**, 1108 Freas Avenue, Berwick, PA 18603. This proposed facility is located in Berwick Borough, **Columbia County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate biological nutrient removal and cannibal sludge process.

WQM Permit No. 1804402, Sewerage 4952, **Department of Conservation and Natural Resources, Bureau of Facility Design and Construction**, R. R. 4 Box 212, Emporium, PA 15834. This proposed facility is located in Leidy Township, **Clinton County**.

Description of Proposed Action/Activity: The applicant proposes the construction and operation of a 2,200 gallon per day sewage treatment plant to serve campsites at Kettle Creek State Park. The proposed treatment plant will consist of an equalization tank, a package activated sludge treatment plant, Ultraviolet Disinfection, sludge holding and a stream discharge to Kettle Creek downstream of the Alvin Bush Dam.

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

WQG Permit No. WQG016119, Sewerage, **Peter M. Nangeroni**, 405 Huffman Road, Waynesburg, PA 15370. This proposed facility is located in Franklin Township, **Greene County**.

Description of Proposed Action/Activity: Application for construction and operation of a sewage treatment plant to serve a proposed single-residence dwelling.

WQM Permit No. 0270413-A4, Sewerage, **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Moon Township, PA 15108. This proposed facility is located in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction of emergency repairs to the Montour Run Sewage Treatment Plant outfall sewer.

WQM Permit No. 0405405, Sewerage, **Borough of Eastvale**, 510 Second Avenue, Beaver Falls, PA 15010. This proposed facility is located in Eastvale Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the replacement and operation of existing pump station and force main.

WQM Permit No. 1197403-A2, Sewerage, **Forest Hills Municipal Authority**, P. O. Box 111, South Fork, PA 15956. This proposed facility is located in Conemaugh Township, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of sewage treatment plant expansion.

WQM Permit No. 6505412, Sewerage, **Hempfield Township Municipal Authority**, R. D. 6, Box 501, Greensburg, PA 15601. This proposed facility is located in Hempfield Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer extension and two pump stations.

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

WQM Permit No. 2605403, Sewerage, **Belle Vernon Borough**, 10 Main Street, Belle Vernon, PA 15012. This proposed facility is located in Belle Vernon Borough, **Fayette County**.

Description of Proposed Action/Activity: Application for the construction and operation of the installation of sanitary sewer line and storm sewers.

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

WQM Permit No. 5606401, Sewerage, **Conemaugh Township**, 1120 Tire Hill Road, Johnstown, PA 15905. This proposed facility is located in Conemaugh Township, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of sanitary sewers.

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

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.

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAS10G267R	The Hankin Group 707 Eagleview Boulevard Exton, PA 19341	Chester	Upper Uwchlan Township	Brandywine Creek (HQ-TSF-MF)
PAI011505083	Downingtown Area School District Wallace Elementary School 122 Wallace Avenue Downingtown, PA 19335	Chester	Wallace Township	East Branch Brandywine Creek (HQ-TSF-MF) Indian Run (HQ-CWF)
PAI011506001	Upper Uwchlan Township East-West Link Road 140 Pottstown Pike Chester Springs, PA 19425	Chester	Upper Uwchlan Township	March Creek (HQ-TSF)
PAI012305006	Edgmtown Township Edgmtown Township Firehouse 1000 Gradyville Road P. O. Box 267 Gradyville, PA 19039	Delaware	Edgmtown Township	Ridley Creek (HQ-TSF)
PAI011505085	Klaus Besier Beiser Development 36 St. Andrews Lane Glenmoore, PA 19343	Chester	West Vincent Township	Black Horse Creek (HQ-TSF)
PAI011506002	Wilson Run Associates, LP c/o Brandolini Companies 1301 Lancaster Avenue Berwyn, PA 19312	Chester	East Nottingham Township	Big Elk Creek (HQ-TSF)
PAI011506003	Britton and Janice Murdoch 1349 Wooded Way Bryn Mawr, PA 19010	Chester	Willistown Township	Crum Creek (HQ-CWF)

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

NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI033105004	Rusty Gates 305 Penn Street Huntingdon, PA 16652	Huntingdon	Todd Township	Tatman Run HQ-CWF

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

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

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

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

Permit No. 0906501, Public Water Supply
 Applicant **Hilltown Township Water and Sewer Authority**
 Township Hilltown
 County **Bucks**
 Responsible Official James Groff
 Type of Facility PWS
 Consulting Engineer Castle Valley Consultants, Inc.
 Application Received Date January 10, 2006
 Description of Action Installation of an arsenic removal system for Well No. 2.

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

Permit No. 3605512, Public Water Supply.
 Applicant **Village Greens Golf. Inc.**
 Municipality Strasburg Township
 County **Lancaster**
 Responsible Official Cindy A. Fairchild, Secretary
 1444 Village Road
 Rt. 741 West
 Strasburg, PA 17579-9625
 Type of Facility Public Water Supply
 Consulting Engineer Robert E. Murphy, P. E.
 Murphy Engineers & Consultants Inc.
 36 S. Prince Street
 Millersville, PA 17551-1900
 Application Received Date 10/4/2005
 Description of Action Installation of nitrate removal and softening treatment at the facility. The equipment will be located at the snack bar and the Gold Course restrooms.

Permit No. 6705509, Public Water Supply.
 Applicant **Craley Associates Mobile Home Park**
 Municipality Lower Windsor Township
 County **York**
 Responsible Official William M. Hess, Agent for Owner
 1255 South Market Street
 Suite 101
 Elizabethtown, PA 17022
 Type of Facility Public Water Supply
 Consulting Engineer Jerry T. Stahlman, P. E.
 Stahlman & Stahlman, Inc.
 139 E. Market Street
 York, PA 17401

Application Received Date 12/19/2005
 Description of Action The addition of nitrate treatment and water softening for the water supply at the Craley Mobile Home Park.

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

Permit No. 3805508, Public Water Supply.
 Applicant **Horning's Market**
 Municipality Jackson Township
 County **Lebanon**
 Responsible Official Joseph H. Horning, Owner
 901 S. College Street
 Myerstown, PA 17067
 Type of Facility Public Water Supply
 Consulting Engineer Charles A. Kehew, II, P. E.
 James R. Holley & Assoc., Inc.
 18 South George St.
 York, PA 17401

Application Received Date 12/16/2005
 Description of Action Construction of a new noncommunity system with UV, softening and nitrate treatment utilizing an existing well.

Permit No. 0105511, Public Water Supply.
 Applicant **York Springs Municipal Authority**
 Municipality Huntington Township
 County **Adams**
 Responsible Official Roy M. Williams, Jr.,
 Chairperson
 P. O. Box 222
 York Springs, PA 17372
 Type of Facility Public Water Supply
 Consulting Engineer Janet R McNally, P. E.
 William F. Hill & Assoc., Inc.
 207 Baltimore St.
 Gettysburg, PA 17325

Application Received Date 12/19/2005
 Description of Action Installation of pH adjustment for corrosion control treatment.

Permit No. 3805509, Public Water Supply.
 Applicant **Mount Gretna Authority**
 Municipality West Cornwall Township
 County **Lebanon**
 Responsible Official William B. Care, Director of Public Works
 P. O. Box 391
 Mt. Gretna, PA 17064
 Type of Facility Public Water Supply
 Consulting Engineer David J. Gettle
 Kohl Bros., Inc.
 P. O. Box 350
 Myerstown, PA 17067

Application Received Date 12/14/2005
 Description of Action Installation of an interconnection with the Mt. Gretna Camp Meeting Association.

Application No. 3105502, Minor Amendment, Public Water Supply.

Applicant **R.P.R. Recreation Limited Partnership**
 Municipality Lincoln Township
 County **Huntingdon**
 Responsible Official P. Jules Patt, General Partner
 100 Chipmunk Crossing
 Entriiken, PA 16638

Type of Facility Public Water Supply
 Consulting Engineer Daniel J. Carbaugh, P. E.
 Keller Engineers, Inc.
 420 Allegheny Street
 Hollidaysburg, PA 16648

Application Received Date 12/7/2005
 Description of Action Addition of potassium permanganate.

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

Permit No. 3288506A1, Public Water Supply.

Applicant **Green Township Municipal Authority**
 P. O. Box 129
 77 Musser Street
 Commodore, PA 15729

Township or Borough Green Township
 Responsible Official David Pitt, Chairperson
 Green Township Municipal Authority
 P. O. Box 129,
 77 Musser Street
 Commodore, PA 15729

Type of Facility Commodore water treatment plant
 Consulting Engineer Keller Engineers Inc.
 420 Allegheny Street
 P. O. Box 61
 Hollidaysburg PA 16648

Application Received Date November 18, 2005
 Description of Action Additional chemical treatment and replacement of gas chlorine with sodium hypochlorite

Permit No. 6305502MA, Public Water Supply.

Applicant **Pennsylvania-American Water Company**
 800 Hersheypark Drive
 Hershey, PA 17033
 Township or Borough Chartiers Township

Responsible Official Scott Thomas, Operations Engineer
 Pennsylvania-American Water Company
 800 Hersheypark Drive
 Hershey, PA 17033
 Type of Facility Kish Avenue water storage tank

Consulting Engineer
 Application Received Date December 21, 2005
 Description of Action Blasting and painting of the interior and exterior of the 4.7 million gallon ground tank.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 0905511, Minor Amendment.

Applicant **Doylestown Hospital t/a Pine Run Community**
 Township Doylestown
 Responsible Official Michael Sullivan
 777 Ferry Road
 Doylestown, PA 18901

Type of Facility PWS
 Consulting Engineer Ebert Engineering, Inc.
 P. O. Box 540
 4092 Skippack Pike
 Skippack, PA 19474

Application Received Date December 30, 2005
 Description of Action Change the disinfection system from gas chlorine to sodium hypochlorite system.

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

Application No. Minor Amendment.

Applicant **City of Easton**
 Township or Borough Williams Township
Northampton County
 Responsible Official David G. Hopkins
Director of Public Works
 City of Easton
 1 South Third Street
 Easton, PA 18042

Type of Facility PWS
 Consulting Engineer James C. Elliott, P. E.
 Vice President and Section Head
 Gannett Fleming, Inc.
 P. O. Box 67100
 Harrisburg, PA 17106

Application Received Date November 14, 2005

Description of Action The applicant proposes the construction of two new 1 million gallon water storage tanks known as the Morgan Hill Water Storage Tanks to replace the existing two 1 million gallon storage tanks at the site.

Application No. Minor Amendment.

Applicant Pennsylvania American Water Company
Township or Borough Coolbaugh Township
Monroe County
Responsible Official John Yamona
 Pennsylvania American Water Company
 100 North Pennsylvania Avenue
 Wilkes-Barre, PA 18701
Type of Facility PWS
Consulting Engineer William J. Malos, P. E.
 Pennsylvania American Water Company
 100 North Pennsylvania Avenue
 Wilkes-Barre, PA 18701
Application Received Date January 9, 2006

Description of Action The minor permit amendment application requests the conversion of existing gas chlorination systems used for disinfection of existing groundwater supplies to a liquid sodium hypochlorite feed system for similar purposes at PCP Wells 2C, 3J and 4K.

WATER ALLOCATIONS

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

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

WA30-1000, Water Allocations. **Dunkard Valley Joint Municipal Authority**, P. O. Box 193, Greensboro, PA 15338, **Greene County**. The applicant is requesting the right to withdraw 250,000 gallons per day, average day, from the Monongahela River.

BIOSOLIDS INDIVIDUAL PERMITS (PABIG AND PABIS)

The following parties have applied for either an Individual Site Permit (PABIS) or an Individual Generator Permit (PABIG) for beneficial use of sewage sludge (biosolids) by land application. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to land apply biosolids subject to certain requirements set forth in the permit.

Persons wishing to comment on the proposed permit are invited to submit a statement to the responsible Department Regional Office noted above the application within 30 days from the date of this public notice.

Comments received within this 30-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address, and telephone number of the writer and a concise statement of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

The application and related documents, comments received and other information are on file and may be inspected and arrangements made for copying at the responsible Department Regional Office indicated before the application.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

PABIS 4821. Circle H Ranch, Pike Township, **Potter County**. Leslie's Septic Service, David Hinman, R. D. 1, Yahn Road, Galeton, PA 16922 has applied to beneficially use their biosolids on the Circle H Ranch in Pike Township, **Potter County**.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person

shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

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

Slutzsky Prop., Northampton Township, **Bucks County**. Edward E. Prout, Jr., American Resource Consultants, Inc., 1000 W. Broad St., Quakertown, PA 18951 on behalf of Harvey Slutzsky, 40 Tulip Rd., Holland, PA 18966 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with No. 2 fuel oil. The intended use of the property will remain residential.

Secane Dry Cleaners, Upper Darby Township, **Delaware County**. David Farrington, P. G., Walter B. Satterthwaite Assoc., Inc., 720 Old Fern Hill Rd., West Chester, PA 19380 on behalf of Avi Nechemia, Golden Gate Electronics, 1417 Callowhill St., Philadelphia, PA 19123 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with chlorinated solvents and MTBE.

Lustrik Corp., City of Philadelphia, **Philadelphia County**. Richard Johnson, RT Environmental Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Tom Vezzosi, T & R Realty, Inc., 7701 Beech Lane, Wyndmoor, PA 19038 has submitted a Notice of Intent to Remediate. Soil and groundwater were impacted with No. 4 fuel oil, MTBE and chlorinated solvents. The future owner will continue to use the site as a metal finishing and anodizing facility.

Frankford Candy & Candy Co., City of Philadelphia, **Philadelphia County**. Michael Christie, Penn E & R, Inc., 2755 Bergery Rd., Hatfield, PA 19440 on behalf of Norman Milan, Stormin Warehousing, LP, 3248 Stonegate Dr., Huntingdon Valley, PA 19006 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with Nos. 4 and 6 fuel oils. The proposed future use of the property will be nonresidential for warehousing. A sum-

mary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on December 27, 2005.

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

Metal Powder Product Washington St. Div., St. Marys Borough, **Elk County**. Peter Robelen, GeoServices Ltd., 1525 Cedar Cliff Drive, Camp Hill, PA 17011 on behalf of Russ Hannibal, Property Owner, Metal Powder Products, 879 Washington St., St. Marys, PA 15857 has submitted a Notice of Intent to Remediate. Property is currently used as a sintered metals manufacturing facility. Property has three sites being addressed by Act 2 process. Compounds of concern are chlorinated solvents, TCE and TCA, vinyl chloride, DCE and DCA. Intended future use of property is as a manufacturing/industrial facility. Soil and groundwater have been affected.

Keystone Powdered Metal Co., St. Marys, **Elk County**. Mary King, Civil & Env. Consultants, 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of Robert Bauer, Keystone Powdered Metal Co., 251 State St., St. Marys, PA 15857 has submitted a Notice of Intent to Remediate. Property has been under industrial use since the 1930s. Groundwater impacted with VOCs, carbon tetrachloride, 1,1-dichloroethane, 1,1-dichloroethene, cis- and trans-1,2-dichloroethene, tetrachloroethene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethene, vinyl chloride and nickel. Future intended use of property is industrial.

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

40-303-024: Barletta Materials and Construction, Inc. (P. O. Box 550, Tamaqua, PA 18252) for modification of a batch asphalt plant to utilize alternate fuels (waste derived liquid fuel/WDLF) in Nescopeck Township, **Luzerne County**.

54-303-018: Lehigh Asphalt Paving and Construction Co. (P. O. Box 549, Tamaqua, PA 18252) for modification of a batch asphalt plant to utilize alternate fuels (waste derived liquid fuel/WDLF) in West Penn Township, **Schuylkill County**.

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

04-00699F: NGC Industries, Inc. d/b/a National Gypsum Co. (2001 Rexford Road, Charlotte, NC 28211) for installation of Cage Mill at Shippingport Plant in Shippingport Borough, **Beaver County**.

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

42-178B: Glenn O. Hawbaker, Inc. (Turtlepoint Sid-ing, Turtlepoint, PA 16750) for modification of a plan approval to burn alternative fuels including Nos. 2, 5 and 6, reprocessed/recycled oil or biodiesel fuel at Glenn O. Hawbaker, Inc., Plant No. 7—Turtlepoint Asphalt in Annin Township, **McKean County**.

16-010B: Owens Illinois—Clarion Plant (151 Grand Avenue, Clarion, PA 16214-1708) for modification of the Hot End Surface Treatment system in Clarion Borough, **Clarion County**. This is a Title V facility.

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

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

46-0237A: Numonics Corp. (101 Commerce Drive, Montgomeryville, PA 18936) for modification of an existing spray booth in Montgomery Township, **Montgomery County**. This facility is a State-only facility. The facility wide VOC emission limit will be limited to less than 32 tons per year HAP methylene chloride, emissions are limited to 9.92 tons per year. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

64-303-010: Leeward Asphalt, LLC (9 Collan Park, Honesdale, PA 18431) for modification of a batch asphalt plant with baghouse to utilize Waste Derived Liquid Fuels (WDLF) in Palmyra Township, **Wayne County**. This facility is a non-Title V facility. The facility will be subject to NSPS Subpart I. Particulate emission shall not exceed 0.02 grain/dscf. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

54-305-022: Wheelabrator Culm Services, Inc. (475 Morea Road, Frackville, PA 17931) for construction of an Anthracite coal culm processing plant in Mahanoy Township, **Schuylkill County**. This facility is a non-Title V facility. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

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

06-03054A: Martin Stone Quarries Inc. (P. O. Box 297, Bechtelsville, PA 19505) for construction of a cone crusher, two screens, and various conveyors at the Bechtelsville Quarry in Colebrookdale Township, **Berks County**. The modifications are expected to increase the facility's potential-to-emit PM to about 22 tpy. The modifications will be subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. The plan approval will include emission restrictions, monitoring, recordkeeping and reporting requirements to assure compliance with all applicable air quality regulations.

67-03133: Separation Technologies, LLC (101 Hampton Avenue, Needham, MA 02494) for construction of a fly ash processing facility at the Brunner Island Steam Electric Station in East Manchester Township, **York County**. The facility's annual emission of PM is expected to be 7 tpy. The plan approval will include emission restrictions, monitoring, recordkeeping and reporting requirements to assure compliance with all applicable air quality regulations.

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

17-00055B: River Hill Power Company, LLC (94 Spruce Street, Indiana, PA 15701-8424) for revisions to the PM—PM10, lead and beryllium emission limitations established in Plan Approval No. 17-00055A for construction of circulating fluidized bed (CFB) boiler with the 290 megawatt waste coal fired electric generating facility in

Karthus Township, **Clearfield County**. The Department of Environmental Protection (Department) issued Plan Approval No. 17-00055A for construction of the facility on July 21, 2005, expiring on July 21, 2007. This application is subject to the Prevention of Significant Deterioration (PSD) of Air Quality regulations of 40 CFR 52.21 and the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12.

The facility's PM and PM10 emissions are subject to the PSD requirements. The Department has determined that the proposed level of PM and PM10 emission control satisfies BAT and the Best Available Control Technology (BACT) requirements. The facility is also subject to the Standards of Performance for New Stationary Sources for Subpart Da: New Electric Utility Steam Generating Units, 40 CFR 60.40a—49a and satisfies all applicable requirements of this subpart. The CFB boiler will emit up to 125.7 tons of filterable PM10, 628.7 tons of total PM10, including both filterable and condensable PM10, 714 pounds of lead and 216 pounds of beryllium in any 12-consecutive month period.

In accordance with the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, River Hill has provided an air quality Class II modeling analysis that demonstrates that the proposed power facility will not cause or significantly contribute to air pollution in violation of the PSD increment standards or the National Ambient Air Quality Standards. In addition, the PSD regulations require an analysis of the impact of the facility's projected PM emissions on visibility, and soils and vegetation, and the air quality impact due to growth associated with the power facility. River Hill has demonstrated that there will be no adverse impact on local visibility and soils and vegetation in the site area and no appreciable air quality impact due to growth associated with the power facility. In accordance with the PSD regulations, River Hill has also provided an air quality Class I modeling analysis and has demonstrated to the satisfaction of the Federal Land Managers that the power facility's projected emissions will not adversely impact air quality related values, including visibility, within Federal Class I areas. Furthermore, modeled ambient concentrations of SO₂, NO_x and PM10 in the Dolly Sods, Otter Creek and Shenandoah National Park Class I areas are below the respective significant impact levels (SIL) for Class I PSD increments.

The air quality modeling analysis estimates that the operation of the River Hill power facility will result in Class II area increment consumption for PM10 of 20.8 µg/m³ of the allowable 30 µg/m³ 24-hour PM10 increment standard and 10.2 µg/m³ of the allowable 17 µg/m³ annual PM10 increment standard. The air quality modeling analysis estimates that the operation of the River Hill power facility will result in maximum Class I area impacts that will not exceed the Class I SIL for PM10. The maximum PM10 Class I impact is 0.174 µg/m³ of the applicable 0.3 µg/m³ 24-hour PM10 SIL and 0.00392 µg/m³ of the applicable 0.2 µg/m³ annual PM10 SIL.

The Department's review of the information contained in the application indicates that the proposed revisions will comply with all State and Federal requirements as specified pertaining to air contamination sources and the emission of air contaminants. Based on this finding, the Department intends to approve the application and issue plan approval for the proposed revisions. The Department proposes the following plan approval conditions to ensure compliance with all applicable regulatory requirements.

1. Under BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of filterable PM10 from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.010 pound per million Btu of heat input, 28.7 pounds per hour and 125.7 tons in any 12-consecutive month period. In addition, the permittee shall not emit any total PM from the exhaust of the fabric collector associated with the CFB boiler with an aerodynamic diameter greater than 10 microns.

2. Under BACT of the PSD provisions in 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of PM10, from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.050 pound per million Btu of heat input, 143.6 pounds per hour and 628.7 tons in any 12-consecutive month period. The total PM10 emission limitation shall include filterable and condensable PM.

3. Under BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of lead from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 28.4 pounds per trillion Btu of heat input, 0.0815 pound per hour and 714 pounds in any 12-consecutive month period.

4. Under BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of beryllium from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 8.58 pounds per trillion Btu of heat input, 0.0246 pound per hour and 216 pounds in any 12-consecutive month period.

5. Under 25 Pa. Code § 127.12b, the Department will evaluate the actual emission rates and may revise (decrease or increase) the allowable emission rates based upon demonstrated performance (CEM data, stack test results and/or subsequently promulgated applicable requirements) during the first 5 years of operation. Any revision of the allowable emission rates shall be accomplished by minor modification provided that the revised allowable emission rates do not exceed levels at which the lowest achievable emission rate (LAER), BACT and BAT were evaluated do not exceed the level at which facility impacts were modeled and is not a result of a physical change at the facility.

6. Within 120 days of achieving maximum production, but no later than 180 days after initial startup, the permittee shall perform testing on the exhaust of the fabric collector associated with the CFB boiler to verify the total PM10 (filterable and condensable), the filterable PM10, total PM, beryllium and lead emission rates. Testing shall be performed while Source ID 031 is operating at its maximum rate of production, using test methods and procedures approved by the Department. For PM emission testing, the permittee shall perform EPA Method 5 (40 CFR Part 60, Appendix A-3), EPA Method 201 or 201A (40 CFR Part 51, Appendix M), and EPA Method 202 (40 CFR Part 51, Appendix M) testing, or other testing methods as approved by the Department. These tests shall be repeated on a yearly basis. The permittee may request a change in the frequency of the testing once enough data has been established to verify compliance.

7. Under the PSD provisions in 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall install, certify, maintain and operate a CEMs for filterable PM10

emissions on the exhaust of the fabric collector associated with the CFB boiler in accordance with all applicable requirements specified in 25 Pa. Code Chapter 139 and the Department's Continuous Source Monitoring Manual. The CEMS specified previously shall be installed prior to startup of the CFB boiler and the fabric collector. No CEMS may however be operated unless Phase I approval has first been obtained from the Department.

8. The PM10 CEMS shall be capable of monitoring the filterable PM10 emission concentrations expressed in ppmv, emission rates expressed in pounds per hour and pounds per million Btu and total emissions in any 12-consecutive month period, expressed in tons per year, from the exhaust of the fabric collector associated with the CFB boiler.

9. Under the PSD provisions in 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall submit a Phase I application to the Department for PM10 CEMS, capable of monitoring filterable PM10, which shall be constructed at least 6 months prior to the anticipated startup date of the CFB boiler and the fabric collector.

10. Under the PSD provisions in 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the CFB boiler shall not be operated for any reason unless the associated PM10 CEMS, capable of monitoring filterable PM10, has received Phase I approval from the Department and has subsequently been installed and made operational in accordance with the conditions of this plan approval.

11. The data collected from the PM10 CEMS shall not be used to demonstrate compliance with any emission limitation specified in this plan approval for up to 24 months from the initial start of operation of the CFB boiler. During the 24-month period, the Department will evaluate the PM10 CEMS data and, if the Department determines that the data is representative of actual PM10 emissions from the CFB boiler, the Department will require the permittee to submit a Phase II plan in accordance with the Department's Continuous Source Monitoring Manual for Department approval.

12. Upon request by the Department, the permittee shall perform relative accuracy testing on the PM10 CEMS. All performance specification testing shall be conducted in accordance with Performance Specification 11 of Appendix B of 40 CFR Part 60 and any appropriate performance specification test procedures contained in the latest revision of the Department's Continuous Source Monitoring Manual.

13. Within 30 months from the initial start of operation of the CFB boiler, the PM10 CEMS shall be fully certified in accordance with the Department's Continuous Source Monitoring Manual. The data from the certified PM10 CEMS shall be used to demonstrate compliance with the filterable PM10 emission limitation for the CFB boiler.

14. After 24 months from the initial start of operation of the CFB boiler, if the Department determines that the data from the PM10 CEMS is not representative of actual PM10 emissions from the CFB boiler, the Permittee may discontinue the operation of the PM10 CEMS upon the notification of the Department.

15. The permittee shall keep comprehensive and accurate records of: the supporting calculations for filterable PM10 emissions from the fabric collector associated with the CFB boiler to verify compliance with the filterable PM10 emissions limitations of pound per million Btu of heat input, pounds per hour and tons in any 12-

consecutive month period; the supporting calculations for total PM10 emissions from the fabric collector associated with the CFB boiler to verify compliance with the total PM10 emissions limitations of pound per million Btu of heat input, pounds per hour and tons in any 12-consecutive month period; the supporting calculations for lead emissions from the fabric collector associated with the CFB boiler to verify compliance with the lead emissions limitations of pounds per trillion Btu of heat input, pounds per hour and pounds in any 12-consecutive month period; and the supporting calculations for beryllium emissions from the fabric collector associated with the CFB boiler to verify compliance with the beryllium emissions limitations of pounds per trillion Btu of heat input, pounds per hour and pounds in any 12-consecutive month period.

16. The permittee shall keep records associated with the continuous emission monitoring system for filterable PM10 emissions from the exhaust of the fabric collector associated with the CFB boiler in accordance with all applicable requirements specified in 25 Pa. Code Chapter 139 and the Department's Continuous Source Monitoring Manual.

17. The permittee shall submit reports to the Department on a semiannual basis that include the supporting calculations used to verify compliance with the filterable PM10, total PM10, lead and beryllium emissions limitations in any 12-consecutive month period.

18. The permittee shall submit all reports to the Department associated with the continuous emission monitoring system for filterable PM10 emissions from the exhaust of the fabric collector associated with the CFB boiler in accordance with all applicable requirements specified in 25 Pa. Code Chapter 139 and the Department's Continuous Source Monitoring Manual.

19. The CFB boiler is subject to the New Source Performance Standards, 40 CFR Part 60, Subpart Da and shall comply with all applicable requirements as specified in 40 CFR 60.40a-60.49a.

20. All conditions contained in Plan Approval 17-00055A remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition contained in this plan approval and a condition contained in Plan Approval 17-00055A, the permittee shall comply with the condition contained in this plan approval.

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

Interested persons may submit written comments, suggestions or objections concerning the proposed plan approval to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period should include the name, address and telephone number of the commentator, identification of proposed Plan Approval 17-00055B and a concise statement regarding the relevancy of the information or objections to the issuance of the plan approval.

A public hearing may be held if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments

or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines that notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

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

10-333A: Penn United Technology, Inc. (799 North Pike Road, Cabot, PA 16023) for installation of batch vapor solvent degreasing equipment at their facility in Jefferson Township, **Butler 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 install batch vapor solvent degreasing equipment at their facility in Jefferson Township, Butler 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.

OPERATING PERMITS

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

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

35-00004: Cascades Tissue GRP PA, Inc.—Ransom Plant (Vogelbacher Industrial Park, 901 Sathers Drive, Pittston Township, PA 18640) for a paper mill in Ransom Township, **Lackawanna County**. The facility's major source of emissions is the operation of the paper mill, which emits VOCs.

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

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

46-00232: Cemco Lift, Inc. (2801 Township Line Road, Hatfield, PA 19440) for a Non-Title V Facility, State-only, Synthetic Minor Permit in Hatfield Township, **Montgomery County**. Cemco Lift, Inc. is a manufacturer of elevators and elevator parts. The main sources of emissions are two paint booths, manual brush painting, a Safety Kleen parts washer and 50 space heaters. The Department has determined that emissions from the Safety Kleen parts washer and the 50 space heaters are de minimis. The Residential Wood Paint Booth will be permitted for 0.87 ton per year of VOCs. The Commercial Paint Booth will be permitted for 5.37 tons per year of VOCs, and Manual Brush Painting will be permitted for 4.73 tons per year of VOCs. Emissions of HAPs and PM

from the aforementioned sources have been deemed de minimis. The permit will contain monitoring, recordkeeping, reporting, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

39-00044: Houghton International, Inc. (6681 Snowdrift Road, Allentown, PA 18106) for operation of a Facility State-only Natural Minor Operating Permit for two boilers in Upper Macungie Township, **Lehigh County**.

45-00015: Selig Construction Co., Inc. (P. O. Box 185, Pocono Lake, PA 18347) for operation of a Facility State-only Natural Minor Operating Permit for mining and quarry operations in Tobyhanna Township, **Monroe County**.

48-00040: 220 Ingraham Operating Corp. (236 Greenpoint Avenue, Suite 200, Brooklyn, NY 11222) for operation of a Facility State-only Natural Minor Operating Permit for a boiler in City of Bethlehem, **Northampton County**.

48-00042: Molded Acoustical Products, Inc. (3 Danfourth Drive, Easton, PA 18054) for operation of a Facility State-only Natural Minor Operating Permit for molded fiberglass operations in Palmer Township, **Northampton County**.

40-00048: Reading Materials, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) for operation of a Facility State-only Synthetic Minor Operating Permit for an asphalt plant in Foster Township, **Luzerne County**.

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

01-03020: HADCO—Division of Genlyte Group, LLC (100 Craftway, Littlestown, PA 17340) a renewal of their State-only Operating Permit for operation of the Littlestown Plant in Littlestown Borough, **Adams County**. 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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

65-00881: Innovative Carbide, Inc. (11040 Parker Drive, WCIDC4, Irwin, PA 15642) for metal powder mixing and drying at their North Huntingdon Township Plant in North Huntingdon, **Westmoreland County**. This is a State-only Operating Permit Renewal.

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

25-00931: Department of Corrections—Albion SCI (10745 Route 18, Albion, PA 16475) for reissuance of State-only Operating Permit No. 25-00931 issued to the Albion State Correctional Institute in Albion Borough, **Erie County**. The air contamination sources at the facility include various boilers, electric generators and painting booths.

61-00032: Hickman Lumber Co. (Route 208, Emlenton, PA 16373-9305) for a Natural Minor Operating Permit to operate a hardwood sawmill and kiln operation in Scrubgrass Township, **Venango County**.

43-00335: McGonigle Funeral Home (1090 East State Street, Sharon, PA 16146) for operation of a crematorium in the city of Sharon, **Mercer County**.

62-00153: Whirley Industries, Inc.—Harmar Street Facility (6 Harmar Street, Warren, PA 16365-4923) to operate a printing and silk screening operation at 6 Harmar Street, Warren City, **Warren County**.

43-00336: PA Rail Car Co. (33 Carbaugh Street, West Middlesex, PA 16159) Natural Minor operating permit for the refurbishing of damaged railcar doors in the Township of West Middlesex, **Mercer County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

Written comments, objections or requests for informal conferences on applications may be submitted by any

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

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

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

Coal Applications Received

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

<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.

30733707 and NPDES Permit No. PA0215830, Consolidation Coal Company (1800 Washington Road,

Pittsburgh, PA 15241), to renew the permit for the Robena Refuse Disposal Area in Monongahela Township, **Greene County** and related NPDES permit. No additional discharges. Application received September 15, 2005.

65841328 and NPDES Permit No. PA0033677, Rosebud Mining Company (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Mine 78 (known as Windber Mine No. 78) in Paint Township, **Somerset County** to change the operation name and add surface and subsidence control plan area acres to reopen the mine. Surface Acres Proposed 25.0, SCP acres pro-

posed 2,570.0. Receiving streams: Paint Creek, classified for the following use: CWF and a UNT to Paint Creek, classified for the following use: CWF. Application received December 14, 2005.

Cambria District Mining Office: 286 Industrial Road, Ebensburg, PA 15931, (824) 472-1900.

56950105 and NPDES Permit No. PA0213136. Mar-quis Mining Corporation, 3889 Menoher Boulevard, Johnstown, PA 15905, permit renewal for reclamation only of a bituminous surface mine in Stonycreek Township, **Somerset County**, affecting 245.0 acres. Receiving streams: UNTs to Wells Creek and UNTs to Stonycreek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hooversville Municipal Authority. Application received January 4, 2006.

56950105 and NPDES Permit No. PA0213136. Mar-quis Mining Corporation, 3889 Menoher Boulevard, Johnstown, PA 15905, transfer of an existing bituminous surface mine from Pennsylvania Coal Company, Inc., 6675 Baltimore Pike, Littlestown, PA 17349 located in Stonycreek Township, **Somerset County**, affecting 245.0 acres. Receiving streams: UNTs to Wells Creek, UNTs to Stonycreek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hooversville Municipal Authority. Application received January 4, 2006.

32010111 and NPDES Permit No. PA0249050. Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, revision of an existing bituminous surface mine to add 9.2 acres of which 1.2 acres are projected for coal removal in Pine Township, **Indiana County**, affecting 34.8 acres. Receiving streams: UNT to Yellow Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 5, 2006.

56030107 and NPDES Permit No. PA0249521. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, revision of an existing bituminous surface mine to add a stream variance including a stream crossing and a SMP boundary revision of 2.8 acres in Brothersvalley Township, **Somerset County**, affecting 182.1 acres. Receiving streams: UNTs to Buffalo Creek and Buffalo Creek; UNTs to Millers Run and Millers Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 4, 2006.

11060101 and NPDES Permit No. PA0249882. CMT Energy, Inc., P. O. Box 223, Brisbin, PA 16620-0223, commencement, operation and restoration of a bituminous surface mine in Chest Township, **Cambria County**, affecting 33.1 acres. Receiving streams: UNTs to Chest

Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 4, 2006.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

03940110 and NPDES Permit No. PA0201138. Canterbury Coal Company (R. D. 1, Box 119, Avonmore, PA 15618). Renewal application for reclamation only to a bituminous surface mine, located in Kiskiminetas Township, **Armstrong County**, affecting 88.4 acres. Receiving streams: UNTs to Roaring Run and Roaring Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: January 4, 2006.

03060101 and NPDES Permit No. PA0250848. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Application for commencement, operation and reclamation of a bituminous surface mine, located in South Buffalo Township, **Armstrong County**, affecting 175.9 acres. Receiving streams: Nicholson Run and UNTs to Allegheny River, classified for the following use: WWF. The first potable water supply intake within 10 miles downstream from the point of discharge: Municipal Authority of Buffalo Township. Application received: January 3, 2006.

Knox District Mining Office: White Memorial Building, P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

10060101 and NPDES Permit No. PA0258091. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Commencement, operation, and restoration of a bituminous surface strip operation in Clay Township, **Butler County** affecting 89.9 acres. Receiving streams: UNT to Muddy Creek, classified for the following use: HQ-CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: January 6, 2006.

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

54950201R2. Gilberton Coal Company (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing operation in Butler Township, **Schuylkill County** affecting 15.0 acres, receiving stream: none. Application received December 29, 2005.

Noncoal Applications Received

Effluent Limits

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

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

¹ The parameter is applicable at all times.

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

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

Permit No. 31950301 and NPDES Permit No. PA0213268. Glass Bagging Enterprises, Inc., P. O. Box 120, Duncansville, PA 16635, renewal of NPDES Permit, Hopewell Township, **Huntingdon County**. Receiving streams: UNT to Shy Beaver Creek classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Lake Raystown Resort. NPDES renewal application received November 17, 2005. Permit issued January 10, 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 FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-987. Lower Salford Township, 379 Main Street, Harleysville, PA 19438, Lower Salford Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain an 80-foot long by 8-foot wide by 4.31-foot high pedestrian bridge across the bank of the West Branch of Skippack Creek (TSF) as a part of a community bike and walking trail.

The bridge is located on the Seneko/Marczuk property near the intersection of Upper Mainland and Quarry Roads (Collegetown, PA, USGS Quadrangle, N: 20.5 inches; W: 1.0 inch).

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

E36-804: Harry H. Bean, III, 404 Rome Road, Lititz, PA 17543-1316 in Lititz Borough and Warwick Township, **Lancaster County**.

To maintain a 170-foot long and 38-inch high timber crib wall made of railroad ties at the left bank of Hubers Run (WWF) to restore the stream bank erosion located about 800 feet from its confluence with Santo Domingo Creek (Lititz, PA Quadrangle N: 6.41 inches; W: 6.25 inches) (Lat: 40° 09' 37"; Long: 76° 17' 41') in Lititz Borough, Lancaster County.

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

E12-160. Cameron County Conservation District, 20 East Fifth Street, Emporium, PA 15834. Clear Creek Stabilization Project in Shippen Township, **Cameron County**, ACOE Baltimore District (Rich Valley, PA Quadrangle N: 2.13 inches; W: 11.25 inches).

To realign the channel of Clear Creek (HQ-CWF) and to construct, operate and maintain a minimum of five rock cross-vanes and two rock straight vanes for the stabilization of 875 feet of eroded stream bank. Rock vane construction shall be conducted in minimum stream flow conditions needed to establish stream centerline, as well as conducted from the stream bank to the fullest extent possible. Since Clear Creek is a WTF, no construction or future repair work shall be done in or along the stream channel between October 1 and December 31 without the prior written approval of the Fish and Boat Commission. The project will not impact wetlands while temporarily impacting 875 feet of stream channel that is located along the southern right-of-way of Clear Creek Road at the intersection of Jenks Run and Clear Creek Roads.

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

E02-1523. Minnock Construction Company, 7202 Old McKnight Road, Pittsburgh, PA 15237. To place fill in wetlands in Hampton Township, **Allegheny County**, Pittsburgh ACOE District. (Glenshaw, PA Quadrangle N: 20.66 inches; W: 8.00 inches and Latitude: 40° 36' 49.61"—Longitude: 79° 55' 57.58"). The applicant proposes to develop 26 townhouse units and associated roadway on the remaining 6.6 acres on the Raintree Manor Phase 2 site. Grading operations for Phase 2 were concurrent with development of Phase 1 about 1980. About 3 acres of the 6.6 acre site will be disturbed. Approximately 0.20 acre of wetland will be impacted.

Prior land usage was farmland. Total impacted length of stream bank will be 470 feet of a UNT to Crouse Run (TSF).

E11-316. Northern Cambria School District, 601 Joseph Street, Northern Cambria, PA 15714. To place fill in wetlands in the Borough of Northern Cambria, **Cambria County**, Pittsburgh ACOE District. (Barnesboro, PA Quadrangle N: 5.6 inches; W: 5.5 inches and Latitude: 40° 39' 21.3"—Longitude: 78° 47' 20.7"). The applicant proposes to place and maintain fill in 0.22 acre of wetlands in the watershed of a UNT to West Branch Susquehanna River (CWF) for the purpose of constructing addition to the school building.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D10-120EA. Butler County Parks and Recreation, P. O. Box 1208, Butler, PA 16003. Butler Township, **Butler County**, ACOE Pittsburgh District Office.

Project proposes to breach and remove Alameda Park Dam across Sullivan Run (WWF) for the purpose of

eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 100 feet of stream channel. The dam is located approximately 3,200 feet north of the intersection of SR 356 and SR 68 (Mount Chestnut, PA Quadrangle N: 0.50 inch; W: 7.0 inches).

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D02-118. Town of McCandless, 9955 Grubbs Road, Wexford, PA 15090. To construct, operate and maintain a stormwater detention dam, the Duncan Avenue Extension West Dam, across a tributary to Little Pine Creek (Emsworth, PA Quadrangle North: 12.4 inches; East: 13.5 inches) in the Town of McCandless, **Allegheny County**. The applicant is requesting the reissuance of this permit. The permit was originally issued on June 5, 1997, and the permit "completion date" was previously extended to December 31, 2003. Construction was delayed due to legal issues that have now been resolved.

ACTIONS

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

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

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0026492A1	Scranton City Sewer Authority 307 North Washington Avenue Scranton, PA 18503	Lackawanna County City of Scranton	Lackawanna River (5A)	N
PA0060046A1	Can-Do, Inc. 1 South Church Street Hazleton, PA 18201	Luzerne County Hazle Township	Tomahicken Creek (5D)	N
PA0027090A1	Lackawanna River Basin Sewer Authority P. O. Box 9068 Dickson City, PA 18515	Lackawanna County Throop Borough	Lackawanna River (5A)	N
PA0027065A1	Lackawanna River Basin Sewer Authority P. O. Box 9068 Dickson City, PA 18515	Lackawanna County Archbald Borough	Lackawanna River (5A)	N
PA0027081A1	Lackawanna River Basin Sewer Authority P. O. Box 9068 Dickson City, PA 18515	Wayne County Clinton Township	Lackawanna River (5A)	N

*In accordance with the Chesapeake Bay Strategy, nutrient monitoring requirements were added to these permits.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063428	Blue Mountain Ski Area P. O. Box 201 Palmerton, PA 18071	Carbon County Lower Towamensing Township	Buckwha Creek (2B)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0090344 Sewage	Ohio Township Sanitary Authority 1719 Roosevelt Road Pittsburgh, PA 15237	Allegheny County Ohio Township	Drainage Swale to Toms Run	Y
PA0098914 Sewage	New Sewickley Township 233 Miller Road Rochester, PA 15074	Beaver County New Sewickley Township	Swale Tributary to Brush 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. PA0055751, Industrial Waste, **Delbar Products, Inc.**, 7th and Spruce Streets, Perkasie, PA 18944. This proposed facility is located in Perkasie Borough, **Bucks County**.

Description of Proposed Action/Activity: Approval to discharge stormwater runoff and treated groundwater into a UNT to East Branch Perkiomen Creek in Watershed 3E.

NPDES Permit No. PA0057924, Sewage, **Claude DeBotton d/b/a/ Joyfor Joint Venture**, 1604 Walnut Street, Philadelphia PA 19103. This proposed facility is located in Newtown Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage through wetlands to Reese's Run to Crum Creek in Watershed 3G.

NPDES Permit No. PA0029530, Sewage, **Palisades School District STP**, 39 Thomas Free Drive, Kintnersville, PA 18930. This proposed facility is located in Nockamixon Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into a UNT to Gallows Run in Watershed 2D.

NPDES Permit No. PA0244040, Sewage, **Shelly Square, LP**, 528 Main Street, Harleysville, PA 19428. This proposed facility is located in Upper Salford Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for a new permit to discharge treated wastewater into the East Branch Perkiomen Creek in Watershed 3E.

NPDES Permit No. PA0244031, Sewage, **Chadds Ford Township**, 10 Station Way Road, P. O. Box 181, Chadds Ford, PA 19317. This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for a new permit to discharge treated sewage from Turner's Mill STP into Harvey Run a tributary to Brandywine Creek in Watershed 3H.

NPDES Permit No. PA0057673, Sewage, **Candlewyck Estates Homeowners Association**, 602 East Broad Street, Souderton, PA 18964. This proposed facility is located in Marlborough Township, **Montgomery County**.

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

NPDES Permit No. PA0050733, Sewage, **Lincoln University of the Commonwealth Systems of Higher Education**, P. O. Box 179, 1570 Baltimore Pike, Lincoln University, PA 19352. This proposed facility is located in Lower Oxford Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into McDonald Run in Watershed 7K.

NPDES Permit No. PA0031666, Sewage, **Concord Country Club**, P. O. Box 68, Concordville, PA 19331. This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the facility into a UNT to West Branch Chester Creek Watershed 3G.

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

NPDES Permit No. PA-0063304, Industrial Waste, **Blythe Township Municipal Authority**, 375 Valley Street, New Philadelphia, PA 17959. This proposed facility is located in Cass Township, **Schuylkill County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

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

NPDES Permit No. PA0028983, Sewage, **McVeytown Borough Authority**, P. O. Box 321, McVeytown, PA 17051. This proposed facility is located in McVeytown Borough, **Mifflin County**.

Description of Proposed Action/Activity: Authorization to discharge to the Juniata River in Watershed 12-A.

NPDES Permit No. PA0082368, Sewage, **Abbottstown-Paradise Joint Sewer Authority**, P. O. Box 505, Abbottstown, PA 17301. This proposed facility is located in Hamilton Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to Beaver Creek in Watershed 7-F.

NPDES Permit No. PA0247847, Sewage, **Rodger Petrone**, 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to the Yellow Breeches Creek in Watershed 7-E.

NPDES Permit No. PA0088439, Sewage, **Lee Mummau, School House Village MHP**, 14192 Day Avenue, Mt. Airy, MD 21771. This proposed facility is located in Licking Creek Township, **Fulton County**.

Description of Proposed Action/Activity: Authorization to discharge to the Sindeldecker Branch in Watershed 13-B.

NPDES Permit No. PA0083143, Industrial Waste, **Saxton Borough Municipal Authority, Saxton Water Treatment Facility**, 707 Ninth Street, Saxton, PA 166678-1213. This proposed facility is located in Liberty Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to the Raystown Branch Juniata River in Watershed 11-D.

NPDES Permit No. PA0086967, Industrial Waste, **Myerstown Water Authority**, 601 Stracks Dam Road, Myerstown, PA 17067. This proposed facility is located in Jackson Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Tulpehocken Creek in Watershed 3-C.

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

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

WQM Permit No. 0605401, Sewerage, **Richmond Township**, P. O. Box 474, Fleetwood, PA 19522. This proposed facility is located in Richmond Township, **Berks County**.

Description of Proposed Action/Activity: Approval for the construction / operation of Sewers and Appurtenances and two Pump Stations.

WQM Permit No. 6705406, Sewerage, **Rodger C. Petrone**, 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction / operation of sewerage facilities consisting of a residential small flow treatment facility using a septic tank, Ecoflo peat filter and chlorine disinfection.

WQM Permit No. 2201402 Amendment No. 06-1, Sewerage, **Nathan W. Buse**, 1055 Manada Gap Road, Grantville, PA 17028-9051. This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Amendment approval for the transfer of sewerage facilities consisting of a single family residence sewage treatment facility.

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

WQG Permit No. WQG016118, Sewerage, **Scott Marker**, 840 Pioneer Road, Rockwood, PA 15557. This proposed facility is located in Milford Township, **Somerset County**.

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

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010904016	Glazier Group, LP William R. Glazier Subdivision 5901 Atkinson Road New Hope, PA 18938-5301	Bucks	Durham Township	UNT Cooks Creek and Delaware River (EV, WWF, MF)
PAS10G558	Tevl Corporation Walnut Spring Farm 528 Main Street, Suite 101 Harylesville, PA 19438	Chester	East Coventry Township	UNT Schuylkill River (HQ-TSF)
PAI011503005A1	Great Valley High School High School Fill Operation 47 Church Road Malvern, PA 19355	Chester	East Whiteland Township	Valley Creek (EV)
PAI011505045	Walter R. Reid Reid Farm Pond 480 West Christine Road Nottingham, PA 19362	Chester	West Nottingham Township	Black Run (EV)
PAI011505055	First Germantown Corporation Charlestown Woods Subdivision 138 Montrose Avenue, Suite 59 Bryn Mawr, PA 19010	Chester	Charlestown Township	UNT Pickering Creek (HQ-TSF)
PAI011505059	CMR Development Corpotion CMR Residential Development 3125 Horseshoe Pike Honey Brook, PA 19344	Chester	Caln Township	West Branch Brandywine Creek (HQ)
PAI011505068	M & N Contractors, Inc. 2050 Chataqua Trail Residence 409 Ferry Road, Suite B Doylestown, PA 18901	Chester	Tredyffrin Township	UNT Pickering Creek (HQ-TSF)
PAI011505076	Gregory Wier Wier Residence 1115 Yorkshire Way West Chester, PA 19382	Chester	West Vincent Township	Tributary Beaver Creek (HQ-TSF-MF)
PAI011505077	Downingtown Area School Dist Shamona Creek Elementary School 126 Wallace Avenue Downingtown, PA 19335	Chester	Uwchlan Township	Shamona and Brandywine Creek (HQ-TSF-MF)
PAI011505079	Commerce Bank, NA Proposed Commerce Bank 11000 Atrium Way Mount Laurel, NJ 08054	Chester	Willistown Township	Crum Creek (HQ)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024804037	Signature Homes 610 Farm Lane Doylestown, PA 18901	Northampton	Forks Township	Bushkill Creek HQ-CWF
PAI024805018	Glen Hale 3511 Glover Rd. Easton, PA 18040	Northampton	Forks Township	Bushkill Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030605003	Borough of Wyomissing 22 Reading Boulevard Wyomissing, PA 19610	Berks	Wyomissing Borough	Wyomissing Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044905002	John Forgarty John Fogarty Custom Built Homes, Inc 4550 Westbranch Hwy. Lewisburg, PA 17837	Northumberland	Ralpho Township	UNT S. Br. Roaring Creek HQ-CWF
PAI041405007	Dr. T. C. Hsu Polymics 2215 High Tech Road State College, PA 16801	Centre	Benner Township	Buffalo Run HQ-CWF

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

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15236, (724) 228-6774.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056304005 Phase II	McDowell Estates, LP 300 Weyman Plaza, Suite 210 Pittsburgh, PA 15236	Washington	North Strabane Township	Little Chartiers Creek (HQ-WWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062405001	MiCale Construction Service, Inc.	Elk	Fox Township	UNT Byrnes Run EV
PAI063305002	Jefferson County	Jefferson	Pinecreek Township	UNT North Fork HQ-CWV and UNT Mill Creek CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application

PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Rockhill Township Bucks County	PAG2000905108	Grand View Hospital 700 Lawn Avenue Sellersville, PA 18960	UNT East Branch Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Bucks County	PAG2000905099	LaSalle University Silver Lane Executive Campus 1900 West Olney Avenue Philadelphia, PA 19141-1108	Core Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG2000905130	Richland Township Kelly Tract Park 1328 California Road Suite A Quakertown, PA 18951	Tohickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Buckingham Township Bucks County	PAG2000905106	Stephen Mazda 907 Masters Manor Road Doylestown, PA 18901	Mill Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Nottingham Township Chester County	PAG2001505053	David Berdonlay Berdonlay Family Subdivision 125 White Horse Road Cochranville, PA 19330	Hog Run (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Kennett Township Chester County	PAG2001505091	Dewson Construction Company Buckler Property Project 7 South Lincoln Street Wilmington, DE 19805	UNT East Branch Red Clay Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
London Grove Township Chester County	PAG2001505050	Yinpu Zhang 722 Ashville Road Oxford, PA 19363	UNT East Branch White Clay Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Pikeland Township Chester County	PAG2001505037	William Lublin Lublin Walsh Subdivision 1708 Welsh Road Philadelphia, PA 19115	UNT French Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Garden Township Chester County	PAG2001505074	Jim Fulehum Lot 1, Carlin Subdivision 316 Main Street Stanton, DE 19804	White Clay Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Darby Township Delaware County	PAG2002305043	Drexelbrook Associates 4812 Drexelbrook Drive Drexel Hill, PA 19206	Darby Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Middletown Township Delaware County	PAG2002305042	Sposata Rayer Builders, Inc. 114 Black Bass Road Media, PA 19063	Chester Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Tinicum Township Delaware County	PAG2002305065	United Parcel Services 2 International Plaza, Suite 210 Philadelphia, PA 19113	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG2004605158	The Clemens Family Corporation Hatfield Business Center 2700 Funks Rd., P. O. Box 902 Hatfield, PA 19440	UNT Skippack Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Salford Township Montgomery County	PAG2004605197	Harleysville Bank 438 Main Street Harleysville, PA 19438	Perkiomen Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG2004605165	New Hanover Township Auth. 2943 North Charlotte Street Gilbertsville, PA 19525	Swamp and Minister Creeks (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plymouth Township Montgomery County	PAR10T673R	Metroplex East Associates, LP 350 Sentry Parkway, Suite 630 Blue Bell, PA 19422	Plymouth Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Pennsburg Borough Montgomery County	PAG2004605163	Perkiomen School District 200 Seminary Avenue P. O. Box 130 Pennsburg, PA 18073	UNT Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Moreland Township Montgomery County	PAG2004605166	Kathleen Mitchell 3440 Pine Road Huntington Valley, PA 19006	Huntington Valley Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plymouth Township Montgomery County	PAG2004605199	Chemalloy Company, Inc. 1301 Conshohocken Road Conshohocken, PA 19428	Schuylkill River (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004605160	Mikelen, LLC 2965 West Germantown Pike Fairview Village, PA 19409	UNT Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Royersford Borough Montgomery County	PAG2004605173	Dan Neely 401 North Third Avenue Royersford, PA 19468	Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105045	School District of Philadelphia Guion S. Bluford Elem. School 440 North Broad Street Philadelphia, PA 19130	Schuylkill River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105022	Home Technology Creekview Condominiums 9547 Bustleton Avenue Philadelphia, PA 19115	Philadelphia Water Department Wastewater Treatment Plant	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
City of Philadelphia Philadelphia County	PAG2015105036	Philadelphia Water Department Wissahickon Branch Sewer Armark Tower, 5th Floor Philadelphia, PA 19107-2994	UNT Wissahickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105040	Thomas Jefferson University Thomas Jefferson University Academic Building 1001 Locust Street Philadelphia, PA 19107	Delaware River (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105042	Northern Liberties Development, LP Schmidts Urban Renewal Area 969 North 2nd Street Philadelphia, PA 19123	Delaware River (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105025	Michaels Development Company Sharswood II Development 1 East Stowe Road P. O. Box 992 Marlton, NJ 08053	Wastewater Treatment Plant-Combined Sewers	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105025	DTG Operations, Inc. Thrifty Car Rental 5330 East 31st Street Tulsa, OK 74135	Mingo Creek/Delaware River (WWF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015105047	Cynergy Group, LLC Ashton Estates 3259 Longshore Avenue Philadelphia, PA 19149-2025	Wooden Bridge Run (TSF-MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hazle Township Luzerne County	PAG2024004001	Eagle Rock Resort Co. Phase 3—The Vistas 1031 Valley of Lakes Hazleton, PA 18201	Black Creek CWF	Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Hazle Township Luzerne County	PAG2004004026	Hazle Township Supervisors P. O. Box 506 Harleigh, PA 18201	Black Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Dallas Borough Luzerne County	PAG2004005044	Mark PA Route 415 Associates, LP 580 Third St. Kingston, PA 18704	Toby Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Williams Township Northampton County	PAG2004806002	G & J Properties P. O. Box 1558 Doylestown, PA 18901	Delaware River WWF	Northampton Co. Cons. Dist. (610) 746-1971
Allen Township and Northampton Borough Northampton County	PAG2004805040	Edward J. Deichmeister 503 Howertown Rd. Northampton, PA 18067	Dry Run CWF	Northampton Co. Cons. Dist. (610) 746-1971

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Sinking Spring Borough Berks County	PAG2000605099	Jeff Kauertz AutoZone, Inc. 123 S. Front St. 3rd Floor Memphis, TN 38103	Cacoosing Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
South Heidelberg Township Berks County	PAG2000605112	Shelly Lee Hillside Christian Church P. O. Box 2105 Sinking Spring, PA 19608	Cacoosing Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Wyomissing Borough Berks County	PAG2000605111	Jim Cornett Cornett Management 6035-B Carlisle Pike Mechanicsburg, PA 17055	Tulpehocken Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Robeson Township Cumru Township Berks County	PAG2000605114	John Herman Orchard Road Properties, LP 3701 Perkiomen Avenue Reading, PA 19606	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Penn Township Berks County	PAG2000605088	Gregory Romano PPR Development 140 Whitenack Road Basking Ridge, NJ 07920	Plum Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Wyomissing Borough Berks County	PAG2000605105	James Oeste Berkshire Mall, LLC P. O. Box 7189 4737 Concord Pike Wilmington, DE 19803	Schuylkill River CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Antrim Township Franklin County	PAG2002805091	Eugene Albert Ron Gene Properties 10715 Downsville Pike Suite 102 Hagerstown MD 21740	Conococheague Cr. WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Upper Frankford Cumberland County	PAG2002105059	Minnich Subdivision Bryant Minnich 95 Fox Lane Newville, PA 17241	Conodoguinet Creek WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAG2002105058	Lynndale Court Patton Properties Reed Patton 207 Lynndale Court Mechanicsburg, PA 17050	Trindle Spring Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Southampton Township Cumberland County	PAG2002105036	Country Manor Mahlon Zimmerman 490 Millway Road Ephrata, PA 17522	Burd Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Upper Allen, Cumberland County	PAG2002105051	Fulton Bank Dave Cowan One Penn Square Lancaster, PA 17602	Cedar Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Broad Top Township Bedford County	PAG2000506001	Broad Top Township P. O. Box 57 Defiance, PA 16633	Longs Run WWF	Broad Top Township-Ernest Fuller (814) 928-5253
Clearfield County Lawrence Township	PAG2001705020	Joseph Waroquier, Sr. P. O. Box 128 Clearfield, PA 16830	UNT W. Br. Susquehanna River CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16830 (814) 765-2629
Snyder County Middlecreek Township	PAG2005506001	Lester Shrauder Shrauder Builders R. R. 3, Box 127 Middleburg, PA 17842	UNT Middle Creek CWF	Snyder County Conservation District 403 W. Market St. Middleburg, PA 17842 (570) 837-0007, Ext. 112
Snyder County Shamokin Dam Borough	PAG2005506002	Don Haubert Haubert Homes 13 Central Ave. Camp Hill, PA 17011	UNT Susquehanna River WWF	Snyder County Conservation District 403 W. Market St. Middleburg, PA 17842 (570) 837-0007, Ext. 112
Cambria County Cresson Borough/Township	PAG2001105024	Department of Transportation District 9-0 1620 North Juniata Street Hollidaysburg, PA 16648	Little Conemaugh River (CWF) Blair Gap Run (CWF)	Cambria County CD (814) 472-2120
Fayette County Luzerne and Redstone Townships	PAG2002605024	Frank J. Kempf Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Dunlap Creek (WWF)	Fayette County CD (724) 438-4497
Butler County Valencia Borough and Adams Township	PAG2001005025	Douglas Day St. Barnabas Health System 5850 Meridian Road Gibsonia, PA 15044 and Co-Applicant Bob Geyer Geyer Construction 149 Ridge Road Valencia, PA 16059	UNT to Breakneck Creek WWF	Butler Conservation District (724) 284-5270
Nesquehoning Borough Carbon County	PAG2111305001	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790	Nesquehoning Creek (CWF)	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790 (570) 826-2371

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lancaster County Columbia Borough	PAR203527	Colonial Metals Company P. O. Box 311 217 Linden Street Columbia, PA 17512-0311	Susquehanna River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

General Permit Type—PAG-4

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water/Use*

*Contact Office &
Phone No.*

Concord Township
Delaware County PAG040039

Keith Cox
30 Ponds View
Glen Mills, PA 19342

UNT to Green Creek

Southeast Regional Office
2 East Main Street
Norristown, PA 19401

Bucks County
Solebury Township PAG040041

Lawrence and Andrea
Rossi
2472 River Road
New Hope, PA 18938

Rabbit Run
Watershed
2D

Southeast Regional Office
2 East Main Street
Norristown, PA 19401

General Permit Type—PAG-8

*Facility Location &
County/Municipality Permit No.*

*Applicant Name &
Address*

*Site Name &
Location*

*Contact Office &
Phone No.*

Monroe Township
Cumberland County PAG083510

Lower Allen Township
Authority
120 Limekiln Road
New Cumberland, PA
17070-2428

Berkheimer Farm
Monroe Township
Cumberland County

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
(717) 705-4707

General Permit Type—PAG-12

*Facility Location &
Municipality*

Permit No.

*Applicant Name &
Address*

*Receiving
Water/Use*

*Contact Office &
Phone No.*

Tioga County
Delmar Township PAG124802

George S. and Deborah
A. Myers, Jr.
R. R. 6, Box 332
Wellsboro, PA 16901

UNT E. Br. Stony Fork
Creek
CWF

Department of
Environmental Protection
Watershed Management
208 W. 3rd St., Suite 101
Williamsport, PA 17701
(570) 327-3574

**PUBLIC WATER SUPPLY (PWS)
PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once.

Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 0905509, Public Water Supply.

Applicant	Perkasie Borough Authority 306 North Fifth Street, Floor 1 Perkasie, PA 18944
Borough	Perkasie
County	Bucks
Type of Facility	PWS
Consulting Engineer	Anderson Engineering Associates, Inc. 306 N Fifth Street Perkasie, PA 18944
Permit to Construct Issued	January 12, 2006

Operations Permit issued to **Pottstown Borough Authority**, 100 East High Street, Pottstown, PA 19464, (PWS ID 460037) Lower Pottsgrove Township, **Bucks County** on January 4, 2006, for the operation of facilities approved under Construction Permit No. 4604506.

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

Operations Permit issued to: **Pennsylvania American Water Co.**, 800 West Hersheypark Drive, Hershey, PA 17033 (PWS ID 2359006) Fell Township, **Lackawanna County** on December 19, 2005, for the operation of facilities approved under Minor Amendment issued January 24, 2005.

Operations Permit issued to: **Nestle Waters North America, Inc.**, 405 Nestle Way, Breinigsville, PA 18031 (PWS ID 3396420) Upper Macungie Township, **Lehigh County** on December 22, 2005, for the operation of facilities approved under Construction Permit No. N/A.

Operations Permit issued to: **Brodhead Creek Regional Authority**, 410 Stokes Avenue, East Stroudsburg, PA 18301 (PWS ID 2450034) Stroud, Pocono and Paradise Townships, **Monroe County** on January 6, 2006, for the operation of facilities approved under Minor Amendment issued on April 22, 2002; Construction Permit No. 4502501 issued on May 8, 2003, and Construction Permit No. 4504504 issued on January 28, 2005.

Permit No. 4805503. Public Water Supply.

Applicant	Bethlehem Authority 10 East Church Street Bethlehem, PA 18018-6028
Borough or Township	Lehigh Township
County	Northampton
Type of Facility	PWS
Consulting Engineer	John M. McCarthy, P. E. Malcolm Pirnie, Inc. 1700 Market Street, Suite 2740 Philadelphia, PA 19103-3924
Permit to Construct Issued	December 28, 2005

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

Permit No. 2105509 MA, Minor Amendment, Public Water Supply.

Applicant	North Middleton Authority
Municipality	North Middleton Township
County	Cumberland
Type of Facility	Improvements to increase chlorine contact time.
Consulting Engineer	Peter Lusardi, P. E. CET Engineering Services 1240 N. Mountain Rd. Harrisburg, PA 17112
Permit to Construct Issued:	1/6/2006

Operations Permit issued to **Pine Run Mobile Home Park**, 7010052, Hamilton Township, **Adams County** on December 23, 2005, for the operation of facilities approved under Construction Permit No. 0102501.

Operations Permit issued to **Loyalton Water Association**, 7220019, Washington Township, **Dauphin County** on December 23, 2005, for the operation of facilities approved under Construction Permit No. 2203501.

Operations Permit issued to **New Oxford Manor MHP**, 7010023, Mt. Pleasant Township, **Adams County** on January 5, 2006, for the operation of facilities approved under Construction Permit No. 0106501 E.

Permit No. 2205506 MA, Minor Amendment, Public Water Supply.

Applicant	Pennsylvania-American Water Company
Municipality	Derry Township
County	Dauphin
Type of Facility	Repainting of the North Reservoir storage tank.
Consulting Engineer	Scott M. Thomas, P. E. Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Permit to Construct Issued:	12/21/2005

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

Permit No. 0205506MA Minor Amendment. Public Water Supply.

Applicant	Pennsylvania-American Water Company 800 Hersheypark Drive Hershey, PA 17033
Borough or Township	Elizabeth Township
County	Allegheny
Type of Facility	Route 48 water storage tank
Permit to Construct Issued	December 23, 2005

Permit No. 0205503, Public Water Supply.

Applicant	Fawn-Frazer Joint Water Authority 326 Donnellville Road Natrona Heights, PA 15065
Borough or Township	Fawn and Frazer Townships
County	Allegheny
Type of Facility	Water system improvements
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051
Permit to Construct Issued	December 20, 2005

Permit No. 0205505MA Minor Amendment. Public Water Supply.

Applicant	Pennsylvania-American Water Company 800 Hersheypark Drive Hershey, PA 17033
Borough or Township	Municipality of Bethel Park
County	Allegheny
Type of Facility	Castle Shannon water storage tank

Permit to Construct Issued December 23, 2005

Permit No. 3205501MA Minor Amendment. Public Water Supply.

Applicant **Pennsylvania-American Water Company**
800 Hersheypark Drive
Hershey, PA 17033

Borough or Township White Township
County **Indiana**

Type of Facility Indiana Aldrich Unit No. 1

Permit to Construct Issued January 5, 2006

Permit No. 5688509-A2, Public Water Supply.

Applicant **Meyersdale Municipal Authority**
236 Center Street
Meyersdale, PA 15552

Borough or Township Summit Township
County **Somerset**

Type of Facility WTP

Consulting Engineer The EADS Group, Inc.
450 Aberdeen Drive
P. O. Box 837
Somerset, PA 15501

Permit to Construct Issued January 4, 2006

Operations Permit issued to **Highland Sewer & Water Authority**, 120 Tank Drive, Johnstown, PA 15904, (PWS ID 4110017) Summerhill Township, **Cambria County** on December 22, 2005, for the operation of facilities approved under Construction Permit No. 1185501-A5.

Operations Permit issued to **National Pike Water Authority**, 4888 National Pike, Markleysburg, PA 15459, (PWS ID 5260048) Henry Clay Township, **Fayette County** on December 22, 2005, for the operation of facilities approved under Construction Permit No. 2603501-A1.

Operations Permit issued to **Pennsylvania-American Water Company**, 800 Hersheypark Drive, Hershey, PA 17033, (PWS ID 5020039) Hanover Township, **Washington County** on January 11, 2006, for the operation of facilities approved under Construction Permit No. 6305501.

Operations Permit issued to **Masontown Borough**, 2 Court Avenue, Masontown, PA 15461, (PWS ID 5260013) Masontown Borough, **Fayette County** on January 4, 2006, for the operation of facilities approved under Construction Permit No. 2605506MA.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals 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.

Plan Location:

Borough or Township	Borough or Township Address	County
Chambersburg Borough	100 S. Second St. Chambersburg, PA 17201	Franklin County

Plan Description: The approved plan entitled Progress Road Pump Station provides for a pump station and sewer extension to serve 32 existing dwellings on Mill Road and Molly Pitcher Highway. The Water Quality Management Part II Permit will be issued in the name of the Borough of Chambersburg, who will own, operate and maintain the facilities. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

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

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

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

The Department has received the following plans and reports:

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

Frankford Candy & Candy Co., City of Philadelphia, **Philadelphia County**. Michael Christie, Penn E & R, Inc., 2755 Bergery Rd., Hatfield, PA 19440 on behalf of Norman Milan, Stormin Warehousing, LP, 3248 Stonegate Dr., Huntingdon Valley, PA 19006 has submitted a Final Report concerning remediation of site soil contaminated with Nos. 4 and 6 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

601-701 Washington St. Prop., Whitmarsh Township, **Montgomery County**. Michael Gonshor, P. G., Roux Assoc., Inc., 1222 Forest Pkwy., Suite 190, West Deptford, NJ 08066 on behalf of Scott Backer, 601 Washington St. Assoc., LP, 700 S. Henderson Rd., Suite 225, King of Prussia, PA 19406 has submitted a Remedial Investigation, Risk Assessment and Cleanup Plan Reports concerning remediation of site soil and groundwater contaminated with inorganics. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

Powelton Heights Site, City of Philadelphia, **Philadelphia County**. Tom Wilkes, Malcolm Pirnie, Inc., 1700 Market St., Suite 2740, Philadelphia, PA 19103 on behalf of David Hahn, 1260 Housing Dev. Corp., 2042-48 Arch St., 2nd Floor, Philadelphia, PA 19103 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Natl Linens Svc, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with PAH and chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

960 Baltimore Ave., Upper Darby Township, **Delaware County**. Samuel Kucia, Environmental Consulting, Inc., 500 E. Washington St., Suite 375, Norristown, PA 19401 on behalf of Sal Tarta, T & T Financial, Inc., 3400 Bartram Rd., Willow Grove, PA 19090 has submitted a Remedial Investigation, Risk Assessment and Cleanup Plan Reports concerning remediation of site soil and groundwater contaminated with leaded and unleaded gasoline. The report is intended to document remediation of the site to meet the Site-Specific Standard and Statewide Health Standard.

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

Metal Powder Product Washington St. Div., St. Marys Borough, **Elk County**. Peter Robelen, GeoServices Ltd., 1525 Cedar Cliff Drive, Camp Hill PA 17011 on behalf of Russ Hannibal, Property Owner, Metal Powder Products, 879 Washington St., St. Marys, PA 15857 has submitted an RIR/Cleanup Plan concerning remediation of site soil and groundwater contaminated with chlorinated solvents, TCE and TCA, vinyl chloride, DCE and DCA. The Reports are intended to document remediation of the site to meet the Site Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

Seton Corp. Ctr. Bldg. B, Lower Providence Township, **Montgomery County**. Michael Kozar, P. G., O'Brien & Gere Eng., Inc., 512 Township Line Rd., Two

Valley Sq., Suite 210, Blue Bell, PA 19422 on behalf of Carl Zipfel, Co., 1000 Madison Ave., Norristown, PA 19403 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 27, 2005.

Wissinoming Ind. Park, City of Philadelphia, **Philadelphia County**. Cliff Harper, Harper Env. Assoc., 771 Hideaway, Ln., Harleysville, PA 19438 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PHC. The Final Report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department on December 16, 2005.

Sheller Oil Co., Inc., Newlin Township, **Chester County**. Joseph Diamadi, Jr., PG, Marshall Geoscience, Inc., 170 East First Ave., Colledgeville, PA 19426 on behalf of Steve Gaul, Sheller Oil Co., Inc., 389 Brandywine Dr., Newlin, PA has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final Report was submitted within 90-days of the release-demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 14, 2005.

Stoltzfus Airfield, Coatesville Township, **Chester County**. Mark Hawkins, Walter B. Satterwaite Assoc., Inc., 720 Old Fern Hill Rd., West Chester, PA 19380 on behalf of G. Green, Caldera Prop-Valley II, c/o Archer & Greiner has submitted a Low Risk Property Final Report concerning the remediation of site soil contaminated with pesticides and arsenic. The Low Risk Property Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 19, 2005.

Manganaro Site, Thornbury Township, **Chester County**. Thomas Marks, Marks Env., 140 Bollinger Rd., Elverson, PA 19520 has submitted a Low Risk Property Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Low Risk Property Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 21, 2005.

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

International Paper Erie Mill, Main Site Area, City of Erie, **Erie County**. William Staph, Atlantic Environmental Group, Inc., 20990 Neiltown Rd., Pleasantville, PA 16341 on behalf of Patrick Arneault, Property Owner, Presque Isle Downs, Inc., Rt. 2, P. O. Box 358, Chester WV 26034 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with VOCs, semi-VOCs, diesel fuel, No. 2 fuel oil, inorganics, leaded and unleaded gasoline, PAHs and PCBs. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on January 9, 2006.

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a General Permit to operate municipal waste processing facilities and the beneficial use of municipal waste.

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. WMGM015D002. Clinton County Solid Waste Authority, 264 Landfill Lane, McElhattan, PA 177486-0209.

General Permit No. WMGM015D002 is for processing and beneficial use of wood and timber waste (for example, tree stumps, limbs, clean wood, untreated and unpainted wood and pallets) to create mulch for commercial purposes and the leaf and yard waste compost operation to compliment the mulch production generated at the Wayne Township Landfill, located in **Clinton County**. The general permit was issued by Central Office on January 11, 2006.

General Permit Application No. WMGM019D001. Horgan Recycling, Inc., 2188 Detwiler Road, Harleysville, PA 19486.

General Permit No. WMGM019D001 is for the processing of concrete and asphalt waste, leaf and yard waste, wood waste and soil for beneficial use as: (1) construction material; and (2) topsoil and mulch for commercial purposes generated at West Point Pike facility, located in **Montgomery County**. The general permit was issued by Central Office on January 17, 2006.

Persons interested in reviewing a general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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.

AQ-SE-0019: Reading Materials, Inc. (5031 Point Pleasant Pike, Doylestown, PA 18901) on January 9, 2006, to operate a portable crusher processing plant in Plumstead 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.

54-310-035GP3: Haines and Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on January 10, 2006, to construct and operate a portable stone crushing plant and associated air cleaning device in the Humboldt Industrial Park, East Union Township, **Schuylkill 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.

15-0098B: Cephalon, Inc. (383 Phoenixville Pike, Malvern, PA 19355) on January 10, 2006, to operate a 100-gallon reactor in Charlestown Township, **Chester County**.

46-0251: Anders Detweiler Funeral Home (130 East Broad Street, Souderton, PA 18964) on January 13, 2006, to operate a power-pak II cremator in Souderton Borough, **Montgomery County**.

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

06-03117D: Custom Processing Services, Inc. (2 Birchmont Drive, Reading, PA 19606-3266) on January 6, 2006, to construct a material grinding mill controlled by a fabric collector and to install a fabric collector to control various fugitive emission points in Exeter Township, **Berks County**.

06-05037F: McConway and Torley Corp. (109 48th Street, Pittsburgh, PA 15201-2755) on January 13, 2006, to add to the sand reclaim system and modify the finishing department ductwork and control device at the Kutztown Foundry in Kutztown Borough, **Berks County**.

06-05149: Fleetwood Industries, Inc. (225 Peach Street, Leesport, PA 19533-8644) on January 9, 2006, to construct a wooden furniture manufacturing facility with surface coating controlled by dry filters and low VOC coatings in Ontelaunee Township, **Berks County**.

34-05003B: Tedd Wood, Inc. (P. O. Box 187, Johnstown Road, Thompsonstown, PA 17094) on January 11, 2006, to construct two new coating booths and relocate various existing coating booths in Delaware Township, **Juniata County**.

36-03080A: Rohrer's Quarry, Inc. (P. O. Box 365, 70 Lititz Road, Lititz, PA 17543) on January 12, 2006, to replace two 6-foot by 16-foot Hewitt Robins triple-deck screens with two 6-foot by 20-foot Metso Minerals triple-deck screens in Warwick Township, **Lancaster County**.

44-05014C: Glenn O. Hawbaker, Inc. (711 E. College Avenue, Pleasant Gap, PA 16823-6854) on January 13, 2006, to modify the asphalt and crushing plants at the Hostetler site in Armagh Township, **Mifflin County**.

67-03083A: Utz Quality Foods, Inc. (900 High Street, Hanover, PA 17331-1639) on January 11, 2006, to install two fabric collectors to control particulate matter emissions from the existing corn extruder lines and seasoning application process at their snack food manufacturing facility in Hanover Borough, **York County**.

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

37-304C: Heraeus Electro-Nite (3 Fountain Avenue, Ellwood City, PA 16117) on January 6, 2006, to modify Plan Approval 37-304B conditions in Ellwood City Borough, **Lawrence County**. This is a State-only V facility.

25-987D: Hanes Erie, Inc. (7601 Klier Drive Fairview, PA 16415) on January 5, 2006, to construct a new spray coating line for cosmetic containers in Fairview Township, **Erie County**. The facility is currently permitted under a Natural Minor Operating Permit.

25-0066E: Accuride Erie, LP (1015 East 12th Street, Suite 200, Erie, PA 16503) on January 10, 2006, to

construct a new Heat Treat Line at the Aluminum truck wheel forging plant in Erie, **Erie County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

46-0161B: Reading Materials, Inc. (2052 Lucon Road, P. O. Box 1467, Skippack, PA 19474) on January 13, 2006, to operate a hot asphalt plant in Lower Pottsgrove Township, **Montgomery County**.

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

36-03147A: A and M Composting, Inc. (2022 Mountain Road, Manheim, PA 17545) on January 7, 2006, to increase the capacity of their sludge composting facility in Penn Township, **Lancaster County**. This plan approval was extended.

67-05004H: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-0500) on November 28, 2005, to install a selective noncatalytic control system on Power Boiler No. 5 in Spring Grove Borough, **York County**. This plan approval was extended.

67-05014A: The York Group, Inc. (2880 Blackbridge Road, York, PA 17402) on January 10, 2006, to install a regenerative thermal oxidizer to replace the catalytic oxidizer that is part of the system that controls VOC emissions from five spray paint booths at their wood casket manufacturing facility in Manchester Township, **York County**. This plan approval was extended.

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

41-00018A: Springs Window Fashions, LLC (8601 Route 405, Montgomery, PA 17752) on January 11, 2006, to transfer a plan approval to modify two coil coating lines by increasing the line speed from Springs Window Fashions, LP to Springs Window Fashions, LLC in Clinton Township, **Lycoming County**.

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

04-00721A: Beaver Valley Asphalt Corp. (6010 Woodlawn Road, Aliquippa, PA 15001) on January 03, 2006, to complete stack testing approval process for their Asphalt Plant in Aliquippa Township, **Beaver County**. This plan approval was extended.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00141: TSG, Inc. (1400 Welsh Road, North Wales, PA 19454) on January 13, 2006, to operate two boilers, spray line, can line and processor to the facility Natural Minor Operating Permit in North Wales Borough, **Montgomery County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790; Michael Safko, Facilities Permitting Chief, (570) 826-2531.

13-00008: Kovatch Mobile Systems (One Industrial Complex, Nesquehoning, PA 18240) on December 30, 2005, to renew their Title V Operating Permit for a manufacturing facility in Nesquehoning Borough, **Carbon County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

09-00099: Donald R. Kreider, V.M.D. (1501 Second Street Pike, Southampton, PA 18966) on January 13, 2006, to operate a facility Natural Minor Operating Permit in Upper Southampton Township, **Bucks County**.

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

25-00124: Mayer Brothers Construction Co. (1225 West 18th Street, Erie, PA 16502) on January 6, 2006, for a Synthetic Minor Permit to operate a hot mix asphalt plant in City of Erie, **Erie County**. The significant sources are hot mix batch plant; fugitives from transfer points (3), Asphalt Tanks (2). The facility has taken a restriction on production not exceeding 495,000 tons per year to qualify as a Synthetic Minor facility.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-9476.

S05-010: Convent of the Sisters of Saint Joseph (9601 Germantown Avenue, Philadelphia, PA 19118) on January 12, 2006, to operate a nonprofit educational institution in the City of Philadelphia, **Philadelphia County**. This facility's air emission sources include four emergency generators, two natural gas fired boilers each rated at less than 1.0 mmBtu/hr, three No. 2 oil or natural gas fired boilers with low NOx burners; two units are rated at 600 hp and one unit is rated at 300 hp.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

09-00110: Riverside Construction Materials, Inc. (355 Newbold Road, Fairless Hills, PA 19030) on January 13, 2006, to amend the facility Natural Minor Operating Permit in Bristol Township, **Bucks County**.

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

67-05001: LWB Refractories Company (320 Baker Road, P. O. Box 1189, York, PA 17405) on January 10, 2006, to administratively amend the operating permit to correct errors in Section F, Group 005, Restriction No. 001 for their dolomitic lime production facility in West Manchester Township, **York County**. This is revision No. 1.

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

37-00185: Universal Refractories, Inc. (915 Clyde Street, Wampum, PA 16157) on January 12, 2006, to administratively amend the previous Natural Minor Operating Permit (issued on March 28, 2002) for their magnesium oxide processing line and refractory manufacturing plant in Wampum Borough, **Lawrence County**. This administrative amendment incorporates the conditions authorized by Plan Approval No. 37-185C.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

03870701 and NPDES Permit No. PA0214558, T.J.S. Mining, Inc. (R. D. 1, Box 260D, Shelocta, PA 15774), to renew the permit for the Coal Refuse Disposal No. 2 in Plumcreek Township, **Armstrong County** and related NPDES Permit. No additional discharges. Permit issued January 13, 2006.

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

33950109 and NPDES Permit No. PA0227161. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Renewal of the bituminous strip and auger operation in Beaver Township, **Jefferson County** affecting 110.5 acres. This renewal is issued for reclamation only. Receiving streams: UNT to Tarkiln Run and Red Run. Application received: November 18, 2005. Permit Issued: January 9, 2006.

16050109 and NPDES Permit No. PA0257066. RFI Energy, Inc. (555 Philadelphia Street, Indiana, PA 15701) Commencement, operation and restoration of a bituminous strip operation in Perry Township, **Clarion County** affecting 85.0 acres. Receiving streams: Two UNTs to the Clarion River. Application received: August 4, 2005. Permit Issued: January 10, 2006.

5974-16050109-E-1. RFI Energy, Inc. (555 Philadelphia Street, Indiana, PA 15701) Application for a stream encroachment to upgrade and maintain a haul road crossing over UNT No. 1 to the Clarion River and to mine through and reconstruct large sections of both UNTs to the Clarion River in Perry Township, **Clarion County**. Receiving streams: Two UNTs to the Clarion River. Application received: August 4, 2005. Permit Issued: January 10, 2006.

Noncoal Permits Actions

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

60910302C4. Iddings Quarry, Inc. (900 Chestnut Street, Mifflinburg, PA 17844), boundary correction for an existing quarry operation in Limestone Township, **Union County** affecting 33.8 acres. Receiving stream: none. Application received June 13, 2005. Correction issued January 11, 2006.

09840301C8 and NPDES Permit No. PA0614301. Waste Management Disposal Services of PA, Inc. (1121 Bordentown Road, Morrisville, PA 19067), renewal of NPDES Permit for discharge of mine drainage from a quarry operation in Falls Township, **Bucks County**. Receiving stream: UNT to Delaware River. Application received November 9, 2005. Renewal issued January 12, 2006.

7674SM1C9. Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105), correction to an existing quarry to update NPDES discharge for treated mine drainage and a boundary correction in South Lebanon and Jackson Townships, **Lebanon County** affecting 461.1 acres. Receiving stream: Tulpehocken Creek. Application received May 26, 2004. Permit issued January 13, 2006

54950302C10 and NPDES Permit No. PA0223603. Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit for discharge of mine drainage from a quarry operation in Wayne Township, **Schuylkill County**. Receiving stream: Bear Creek. Application received October 6, 2005. Permit issued January 13, 2006.

7775SM11A2C4 and NPDES Permit No. PA0595101. Glen-Gery Corp. (P. O. Box 7001, Wyomissing, PA 19610), renewal of NPDES Permit for discharge of mine drainage from a quarry operation in Lower Heidelberg Township, **Berks County**. Receiving stream: UNT to Cacoosing Creek. Application received October 11, 2005. Permit issued January 13, 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.

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

14054028. Glenn O. Hawbaker (P. O. Box 135, State College, PA 16804), construction blasting for Amberleigh subdivision residential housing development located in Spring Township, **Centre County** with an expiration date of December 25, 2006. Permit issued December 30, 2005.

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

67054153. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Kingswood Estates in Springettsbury Township, **York County** with an expiration date of December 31, 2006. Permit issued January 6, 2006.

67054154. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for Yorktowne Dental in Springettsbury Township, **York County** with an expiration date of December 31, 2006. Permit issued January 6, 2006.

23054109. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for The Esplanade in Nether Providence Township, **Delaware County** with an expiration date of September 1, 2006. Permit issued January 9, 2006.

45064101. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Weiler Brush Company in Barrett Township, **Monroe County** with an expiration date of January 5, 2007. Permit issued January 9, 2006.

36054102. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Golden Triangle Apartments in Manheim Township, **Lancaster County** with an expiration date of December 31, 2006. Permit issued January 9, 2006.

36054103. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Woodcrest Villa in East Hempfield Township, **Lancaster County** with an expiration date of December 31, 2006. Permit issued January 9, 2006.

35064101. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Laurel Ridge Estates in Jefferson Township, **Lackawanna County** with an expiration date of January 31, 2007. Permit issued January 10, 2006.

45064102. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Quail Ridge Estates in Hamilton Township, **Monroe County** with an expiration date of January 31, 2007. Permit issued January 10, 2006.

45064103. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Arbor Woods Development in Stroud Township, **Monroe County** with an expiration date of January 31, 2007. Permit issued January 10, 2006.

45064104. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Nottingham Manor Estates in Pocono Township, **Monroe County** with an expiration date of January 31, 2007. Permit issued January 10, 2006.

52064101. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Mt. Lake Estates in Delaware, Dingman and Lehman Townships, **Pike County** with an expiration date of January 31, 2007. Permit issued January 10, 2006.

36064104. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for a single dwelling in West Lampeter Township, **Lancaster County** with an expiration date of June 1, 2006. Permit issued January 11, 2006.

36064105. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Arbor Rose Development in Mt. Joy Borough, **Lancaster County** with an expiration date of January 30, 2007. Permit issued January 12, 2006.

36064106. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507), construction blasting for Willow Bends Farms in West Lampeter Township, **Lancaster County** with an expiration date of January 31, 2007. Permit issued January 12, 2006.

40064101. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for the Humboldt Industrial Park in the City of Hazleton, **Luzerne County** with an expiration date of January 7, 2007. Permit issued January 12, 2006.

45064105. West End Drilling & Blasting, Inc. (4196 Deer Lane, Saylorsburg, PA 18353), construction blasting for a single dwelling on Oak Lane in Chestnuthill Township, **Monroe County** with an expiration date of December 23, 2006. Permit issued January 12, 2006.

45064106. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Weiler Brush Company in Barrett Township, **Monroe County** with an expiration date of January 11, 2007. Permit issued January 12, 2006.

46064101. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Coddington View in Upper Pottsgrove Township, **Montgomery County** with an expiration date of July 4, 2007. Permit issued January 12, 2006.

46064102. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Kingston Hill II in New Hanover Township, **Montgomery County** with an expiration date of December 31, 2007. Permit issued January 12, 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.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E23-035. ConocoPhillips Company, Trainer Refinery, 4101 Post Road, Trainer, PA 19061, Marcus Hook, **Delaware County**, ACOE Philadelphia District.

To modify, operate and maintain the following structures associated with the existing ConocoPhillips Trainer Refinery:

1. To remove the existing Docks 1 and 2 and appurtenances.
2. To construct and maintain the proposed Dock 1 and appurtenances.
3. To maintain the proposed mooring area associated with Dock 1.
4. To maintain the existing bulkheads, intake structure, and associated fill that supports the refinery facilities.
5. To maintain the existing barge dock, appurtenances, and associated mooring area.

These facilities are located on both sides of Marcus Hook Creek and along approximately 1,400 linear feet of the Delaware Estuary (WWF-MF) in (Marcus Hook, PA, Quadrangle N: 11.4 inches; W: 4.6 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. 1341(a)).

E15-710. Bryan Hunsberger, Telvil Corporation, 528 Main Street, Suite 101, Harleysville, PA 19438, East Coventry Township, **Chester County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed Walnut Springs Farms Project, a 23-lot single-family home residential subdivision:

1. To construct and maintain Road Crossing A, consisting of two open-bottom arch culverts and measuring 42 and 44 feet long, within a UNT of Pigeon Creek. Work includes roadway approach fill within the assumed 100-year floodway, 0.09 acre of fill within wetlands (PEM) and approximately 160 linear feet of temporary stream impacts during construction. Utilities will be installed within the road fill on top of the culvert for road crossing A, associated with Linwood Circle.

2. To construct and maintain Road Crossing B consisting of a 70-foot long open-bottom arch culvert within a UNT of Pigeon Creek. Work includes roadway approach fill within the assumed 100-year floodway, 0.06 acre of fill within wetlands (PEM) and approximately 150 linear feet of temporary stream impacts during construction. Utilities will be installed in the road fill on top of the culvert for road crossing B, associated with Linwood Circle.

3. To construct and maintain an outfall channel servicing Sediment/Stormwater Retention Basin No. 1 and impacting approximately 5 linear feet of stream.

4. To construct and maintain an outfall channel servicing Sediment/Stormwater Retention Basin No. 2 and impacting approximately 24 linear feet of stream.

The permittee had agreed to provide two replacement wetland areas totaling 0.44 acre. The project proposes impacts to 339 linear feet of watercourse to a UNT of Pigeon Creek (HQ-TSF) and 0.15 acre of adjacent wetland and is located approximately 380 feet from the intersection of Ebelhare and Ellis Woods Roads (Phoenixville, PA, Quadrangle N: 12.11 inches; W: 15.81 inches).

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)).

E23-455. Haverford Township, 2325 Darby Road, Havertown, PA 19083, Haverford Township, **Delaware County**, ACOE Philadelphia District.

To construct and maintain a footbridge, approximately 70 feet long and 6 feet wide with a 2-foot underclearance over Cobbs Creek (WWF). The encroachment will involve minor floodway excavation and soil stabilization and the construction of a temporary ford crossing to facilitate the bridge construction work.

The project will permanently impact approximately 15 linear feet of watercourse and 0.5 acre of floodway. The project is located on the northeast side of the intersection of Wynnefield Drive and Eagle Road (SR 1005) (Lansdowne, PA, Quadrangle N: 21.49 inches; W: 6.89 inches).

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)).

E46-977. Providence Ridge Associates, LP, 1030 W. Germantown Pike, P.O. Box 287, East Norriton, PA 19403, Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed Court at Upper Providence Retail Center:

1. To place fill within a 1,743 linear-foot segment of intermittent headwater in the Mingo Creek (WWF) Watershed, associated with the construction of a parking lot.

2. To place fill within 0.08 acre of adjacent wetland (PEM) associated with the construction of a parking lot.

3. To modify and maintain an existing 30-inch by 48-inch RCP culvert pipe which conveys Mingo Creek under Township Line Road. The pipe will be extended 25 feet upstream to the edge of the right-of-way and connected by means of a junction box to a stormwater collection system outfall serving the proposed commercial center.

As compensatory mitigation for adverse affects to regulated waters of the Commonwealth, the permittee has agreed to restore 0.50 acre of offsite wetlands and to provide aquatic habitat enhancements at the Schuylkill Canal in Upper Providence Township, Montgomery County. Additionally, 0.08 acre of wetlands/bioswale will be constructed onsite and within a stormwater collection system as a water quality best management practice associated with the sites related NPDES permit, and the applicant has provided a monetary contribution to the PF&BC for dam removal and restoration projects within the Perkiomen Creek near Schwenksville. The site is located on southeast corner of the intersection of Ridge Pike and Township Line Road (Collegeville, PA, USGS Quadrangle N: 15.7 inches; W: 0.4 inch).

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)).

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

E36-792. Mennonite Home, 1520 Harrisburg Pike, Lancaster, PA 17601-2697 in East Hempfield Township, **Lancaster County**, ACOE Baltimore District

To construct and maintain seven outfall pipes (five 15-inch, one 18-inch and one 24-inch) and place fill material in the floodway of the Little Conestoga Creek (WWF) for a roadway which will provide access to the proposed and existing retirement home community located just north of the Harrisburg Pike SR 4020 (Lancaster, PA Quadrangle N: 12.3 inches; W: 13.5 inches; Latitude: 40° 4.0' 4.0"; Longitude: 76° 20' 47") in East Hempfield Township, Lancaster 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)).

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

E14-483. J. Stephen Dershimer and Sherry E. Dershimer, 8021 South Eagle Valley Rd., Port Matilda, PA 16870. Retaining Wall, in Port Matilda Borough, **Centre County**, ACOE Baltimore District (Port Matilda, PA Quadrangle N: 11.82 inches; W: 5.01 inches).

To construct and maintain: 1) 60 linear feet of 12-inch thick concrete floodway wall with the wall projecting above the existing ground level a maximum of 2.5 feet to act as a floodwall and part of a 1,000 cubic foot stormwater retention area in the left 100-year floodway; 2) a 6-inch diameter plastic pipe protruding through the concrete wall to discharge stormwater at a controlled rate into an existing R-4 riprapped stream channel locally known as Bob Cat Run that flows into Bald Eagle Creek located 1.5 miles north of Port Matilda on the right side of SR 220 as part of a proposed expansion of an existing storage facility. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E02-1372. Anthony Merante, P. O. Box 97935, Pittsburgh, PA 15227. To maintain a culvert in West Mifflin Borough, **Allegheny County**, Pittsburgh ACOE District. (Glassport, PA Quadrangle N: 21.5 inches; W: 9.8 inches and Latitude: 40° 22' 9.5"—Longitude: 79° 56' 15.7"). To operate and maintain a 48-inch diameter culvert approximately 325 feet long with a 55-foot long riprap channel energy dissipater on the downstream end, located in a UNT to Streets Run (WWF). The site is located on the south side of Streets Run Road, approximately 440 feet east from its intersection with Lutz Hollow Road.

E02-1503. Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. To construct an extension on a culvert in Robinson and Collier Township, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh West, PA Quadrangle N: 8.6 inches; W: 14.7 inches and Latitude: 40° 25' 23"—Longitude: 80° 06' 17"). To construct and maintain an approximate 188-foot extension on the downstream end of an existing 16-foot span by 10.5 high arch culvert with a 16-foot span by 8.5 foot high open bottom box culvert and to construct and maintain 25-foot long riprap energy dissipater on the downstream end of the proposed extension located on a UNT to Campbells Run WWF); to construct and maintain a 72-inch diameter culvert approximately 18 feet long and to riprap approximately 32 feet of a UNT to Campbells Run—the culvert will connect to the new 16-foot by 8.5-foot extension; to construct and maintain an approximate 175-foot long stream relocation on a UNT of Campbells Run; to construct and maintain approximately 157 feet of concrete grouted lining in a UNT of Chartiers Creek (WWF) through an existing 72-inch arch culvert and to construct and maintain a 20-foot long concrete apron along with an additional 17 feet of R-5 riprap on the downstream end of the existing structure; to construct and maintain a bridge having 5 spans (105.5 feet, 134.0 feet; 134.0 feet, 134 feet and 132.5 feet) for a total span of 640.0 feet with a minimum underclearance of approximately 100 feet over the stream channel across Campbells Run; to construct various stormwater outfalls to Campbells Run and tributaries to Campbells Run; and to place and maintain fill in 0.64 acre of wetlands (PEM/FO). The project is for the construction of missing ramps, located at the interchanges of SR 60 and I-79, and I-279 (Section A23, SR 0079, Section A67 and SR 0022, Section A22). To compensate for the wetland and stream impacts the applicant shall construct 1.1-acre PEM/SS/FO wetland located within the project to replace a minimum of 0.64 acre and provide 500 feet of stream bank stabilization and/or riparian plants along the left bank of a UNT to Chartiers Creek.

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

E24-241, Department of Transportation, District 2-0, 1924-30 Daisy Street. Clearfield, PA. SR 0219, Sec-

tions C10 and D10, in Johnsonburg, **Elk County**, ACOE Pittsburgh District (Ridgeway, PA Quadrangle N: 41° 29' 07"; W: 78° 40' 47").

To construct and maintain: (1) a 7-span continuous curved plate girder bridge having clear spans of 110 feet, 145 feet, 145 feet, 145 feet, 145 feet, 110 feet and an underclearance of 38 feet on a 22° skew across West Branch of Clarion River (CWF); (2) a 6-span continuous prestressed concrete I-beam bridge having clear spans of 118.76 feet, 106.09 feet, 108.99 feet, 130.62 feet, 129.48 feet, and 99.40 feet and a minimum underclearance of 33.77 feet on 0°, 9°, 18°, 20°, 14°, 30° and 90° skews across Clarion River (CWF); (3) a 9-span continuous composite prestressed concrete I-beam and steel curved plate girder bridge having a clear spans of 110 feet, 110 feet, 110 feet, 110 feet, 110 feet, 190 feet, 280 feet and 190 feet and an underclearance of 31.97 feet across Johnson Run (CWF); (4) placement of 5,267 cubic yards of fill material within the Clarion River Floodplain and 9,365 cubic yards of fill material within the floodplain of the West Branch of the Clarion River while permanently impacting 1.01 acres of PEM wetlands; and (5) 0.01 acre of stream impacts all as part of the construction of the Johnsonburg Bypass SR 0219 project sections C10 and D10.

The permittee is required to provide 1.09 acres of replacement wetlands.

E25-602, Millcreek Township, 3608 West 26th Street, Erie, PA 16506. Heidler Road Drainage Improvement Project, in Millcreek Township, **Erie County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 8.0 inches; W: 6.9 inches).

This referenced permit, which expired on December 31, 2005, has been extended to February 28, 2006 in order to address public comments received by the Department. This Bulletin also provides official notice of the receipt of Millcreek Township's August 12, 2005, request to extend the permit and provides for a 30-day public comment period. Readers should refer to the Water Obstructions and Encroachments Application section of this Bulletin.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

EA33-003. J. R. Resources, LP, P. O. Box 188, Ringgold, PA 15770. Ringgold Township, **Jefferson County**, ACOE Pittsburgh District.

Project proposes to construct, operate and maintain a nonjurisdictional dam across a tributary to Eagle Run (CWF) for recreational purposes. The proposed dam will directly and indirectly impact approximately 500 linear feet of stream channel and approximately 0.18 acre of riparian wetlands. The applicant proposes to construct 0.40 acre of replacement wetland at the project site. The dam is located approximately 50 feet north of the intersection of Ringgold Timblin Road (SR 3003) and St. James Road (T311) (Dayton, PA Quadrangle, N: 20.4", W: 7.6").

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 & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
0602026	Pittsburgh Terminals Corp. P. O. Box 2621 Harrisburg, PA 17105-2621 Attn: Stephen Carten	Allegheny	Moon Township	Three ASTs storing gasoline/distillate	10,617,885 gallons total

SPECIAL NOTICES

Request for Proposals for Municipal Solid Waste Capacity

In accordance with Act 101 and 25 Pa. Code Chapter 272, the County of Wyoming is seeking waste disposal capacity for municipal waste (MSW) for a minimum of 5 years, with an option to extend said capacity for an additional 5 years, for a total of 10 years. Wyoming County is hereby soliciting responses to qualify facilities to provide processing/disposal capacity for county-generated MSW to begin on or after April 1, 2006.

Copies of Wyoming County's Facility Qualification Request (FQR) may be obtained from the Wyoming County Commissioners Office, Wyoming County Courthouse, One Courthouse Square, Tunkhannock, PA 18657, (570) 836-0729. Responses must be made on the Submittal Form and in accordance with the Instructions to Respondents provided in the FQR. The respondent must submit the original and three copies to the address listed previously, Attention William Gaylord, by 3 p.m. on February 10, 2006. Qualified facilities will be notified once all applications have been reviewed by the Wyoming County Solid Waste Advisory Committee.

Wyoming County reserves the right to reject any or all responses and to waive any informalities in the solicitation process.

NPDES Permit Application No. PAI025205006; Public Hearing

The Department of Environmental Protection (Department) will hold a public hearing to accept comment on Individual National Pollutant Discharge Elimination System (NPDES) Permit Application No. PAI025205006 for the discharge of stormwater from construction activities at the proposed Forest Glen Estates in Delaware Township, Pike County.

The public hearing will be conducted on March 14, 2006, at 7 p.m. in the Delaware Township Municipal Building, 116 Wilson Hill Road, Dingmans Ferry, PA 18328 by the Department of Environmental Protection, Watershed Management Program, Permitting and Technical Services Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511. The hearing is in response to an application submitted by Forest Glen Estates, LLC, 155 3rd Street, Brooklyn, NY 11231-4822. The NPDES permit application proposes the discharge of stormwater from construction activities to Dingmans Creek (HQ-CWF) and Adams Creek (EV).

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Forest Glen Estates NPDES Public Hearing, Department of Environmental Protection, Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testimony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to the NPDES Permit Application No. PAI025205006. Written copies of oral testimony are requested. Relinquishing time to others will not be allowed. All individuals attending the hearing will have the opportunity to testify, if they so desire; however, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Christine Domashinski at (570) 826-2511 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application is available for review at the Pike County Conservation District Office located on Route 402, 1/4 mile north of I-84 at exit 30, Blooming Grove, (570) 226-8220.

For further information, contact Mark Carmon of the Department's Northeast Regional Office at (570) 826-2511.

[Pa.B. Doc. No. 06-147. Filed for public inspection January 27, 2006, 9:00 a.m.]

Availability of Technical Guidance

[Correction]

An error occurred in the document that appeared at 35 Pa.B. 6835, 6836 (December 17, 2005). The contact person's e-mail address was listed incorrectly. The correct version of the notice is as follows, with ellipses referring to the existing text of the notice.

Technical guidance documents are on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

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Draft Technical Guidance

DEP ID: 362-0300-009. Title: Reuse of Treated Wastewater Guidance Manual. Description: This manual provides guidance to domestic sewage treatment plant operators and other parties who are interested in implementing a beneficial wastewater reuse project. It contains information on the design, operation and maintenance requirements for wastewater systems discharging treated water for beneficial reuse. The manual is intended to ensure that wastewater is managed in an environmentally sound manner in accordance with Department regulations and that wastewater discharges are free from substances that pose a serious threat to the public health, safety and welfare. The manual is issued under the authority of Act 537 of 1966, the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a), The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and 25 Pa. Code Chapter 91 (relating to general provisions). Written Comments: The Department is seeking comments on draft technical guidance #362-0300-009. Interested persons may submit written comments on this draft technical guidance document by January 17, 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 John Wetherell, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8774, jwetherell@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*. Contact: Questions regarding the draft technical guidance document should be directed to John Wetherell, (717) 705-0486, jwetherell@state.pa.us.

[Pa.B. Doc. No. 05-2325 Filed for public inspection December 16, 2005, 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 (DEP Keyword: 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.

Draft Technical Guidance

DEP ID: 363-4000-002. Title: Standards and Guidelines for Identifying, Tracking and Resolving Violations for: Erosion and Sediment Control Program, National Pollutant Discharge Elimination System (NPDES) Stormwater Construction Program, Dam Safety Program, Waterways Management Program, and Wetlands Protection Program. Description: This proposed guidance document summarizes the compliance and enforcement methods employed by the Department and delegated Conservation Districts for the Erosion and Sediment Control Program, NPDES Stormwater Construction Program, Dam Safety Program, Waterways Management Program and Wetlands Protection Program. The document was developed in conformance with the Department's policy on "Standards and Guidelines for Identifying, Tracking and Resolving Violations" and is issued under the authority of the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); 25 Pa. Code Chapters 92, 102 and 105 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance; erosion and sediment control; and dam safety and waterway management). Written Comments: The Department is seeking comments on draft technical guidance #363-4000-002. Interested persons should submit written comments on this draft technical guidance document by February 27, 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 Kenneth Murin, Department of Environmental Protection, Bureau of Watershed Management, Division of Waterways, Wetlands and Stormwater Management, P. O. Box 8775, Rachel Carson State Office Building, 400 Market Street, 10th Floor, Harrisburg, PA 17105-8775, kmurin@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*. Contact: Questions regarding the draft technical guidance document should be directed to Kenneth Murin, (717) 787-6827, kmurin@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-148. Filed for public inspection January 27, 2006, 9:00 a.m.]

Proposed General Plan Approval and General Operating Permit for Human or Animal Crematories (BAQ-GPA/GP-14)

The Department of Environmental Protection (Department) proposes to issue the following general plan approval and/or general operating permit (General Permit) which contains predetermined Best Available Technology (BAT) and other regulatory requirements:

BAQ-GPA/GP-14 (Human or Animal Crematories)

This proposed General Permit, authorized under section 6.1(f) of the Air Pollution Control Act (35 P. S. § 4006.1(f)) and 25 Pa. Code § 127.611 (relating to general plan approvals and general operating permits), will apply to the construction, operation and modification of both new and existing human or animal crematories.

The proposed General Permit contains conditions that prescribe applicability, compliance, notification, monitoring, recordkeeping and reporting, emissions, work practice, prohibited use, operator training and administrative requirements.

Prior to constructing and/or operating under this General Permit, the permittee must notify the Department using the General Permit application form provided by the Department and receive prior written approval from the Department before initiating construction and/or commencing operation of a crematory. The permittee shall also provide with the application a letter from the local municipality and a letter from the county in which the units are located, or are proposed to be located, signed by public officials on their respective letterheads stating that "the installation and/or operation of this crematory is not inconsistent with applicable comprehensive plans and zoning ordinances" or "all required zoning approvals or variances have been secured for the installation and/or operation of this crematory." Existing permitted crematories may either continue to operate under an existing operating permit or owners may elect to apply for authorization to use this General Permit. The application for authorization to use this General Permit must be submitted on a form provided by the Department. The owner or operator of any facility operating under this General Permit shall comply with the terms and conditions of this General Permit.

BAQ-GPA/GP-14: Human or Animal Crematories

As proposed, GP-14 is designed to serve as either plan approval and/or operating permit for human or animal crematories.

This proposed General Permit may not be used where the installation of a crematory, individually or in conjunction with other source installations or modifications, would be subject to the requirements of 25 Pa. Code Chapter 127, Subchapter D (relating to prevention of significant deterioration of air quality) or 25 Pa. Code Chapter 127, Subchapter E (relating to new source review).

This proposed General Permit establishes emission limits for particulate matter, sulfur oxides, visible and odor emissions and work practice standards for human or animal crematories depending on whether their constructions commenced before or after April 17, 1989.

These requirements shall be verified through stack tests or recent test data on similar sources and monitoring records of operation of these crematories. The Department also reserves the right to require an additional verification of emission rates, which may include source testing in accordance with applicable provisions of 25 Pa. Code Chapter 139 (relating to sampling and testing).

The owner or operator of the crematory shall maintain accurate records of hours of operation, number of cremations performed, fuel used, temperature maintained in cremation chambers and emissions test results. These results shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

The proposed General Permit establishes the following uses and restrictions for crematories:

a. Human or animal remains may be cremated, but not both, in the same unit.

b. The crematory may only be used to cremate human or animal remains and the container used to transport the remains.

c. The crematory may not be used to dispose of any animals resulting from commercial or medical experimentation.

d. The crematory may not be used to dispose of any other type of waste.

e. The crematory may not be used to cremate human or animal bodies whose weight exceeds 500 pounds including the weight of the container.

Bodies to be cremated must have all electronic and potentially hazardous remedial devices removed prior to cremation and properly disposed. Documentation certifying compliance with this requirement shall be maintained for each cremation.

GP-14 proposes to establish comprehensive operator training requirements for crematories authorized to use this General Permit. The manufacturer's representative or another qualified training source shall provide adequate instruction to operators of each new crematory and to new operators of existing crematories including hands-on control of the unit to consist of at least two cycles of operation.

Authorizations granted to use this General Permit will be for a term of 5 years. At least 30 days prior to the expiration date of the authorization to use this General Permit, the permittee must submit an application to renew the authorization if the facility intends to continue to operate under this General Permit.

The Department proposes to establish application and permit renewal fees for GP-14 as follows: \$500

A plan approval application and fee is required each time the permittee installs or modifies a crematory. The installation or modification of a crematory must be conducted according to the terms and conditions of this proposed General Permit.

Interested parties are encouraged to obtain and review a complete copy of this proposed General Permit by contacting Jeanette Van Skike, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. TDD users may telephone the Department through the AT&T Relay Service, (800) 654-5984. Internet users can access a copy of the General Permit at www.depweb.state.pa.us (DEP Keyword: Air Quality Home).

The Department invites written comments on the proposed General Permit. Notice and opportunity for comment will also be provided to the United States Environmental Protection Agency and the States of Delaware, Maryland, New Jersey, New York, Ohio, West Virginia and the Commonwealth of Virginia. Interested persons may submit written comments, suggestions or objections to John Slade, Chief, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. The Department will also consider written requests that a public hearing be held concerning this proposed General Permit. Written public comments must be sub-

mitted to the Department by March 14, 2006. Comments received by facsimile will not be accepted.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-149. Filed for public inspection January 27, 2006, 9:00 a.m.]

State Water Plan; Delaware and Lower Susquehanna Water Resources Regional Committees Meeting Schedule for February 2006

The following is a list of February 2006 meetings of the Delaware and Lower Susquehanna Water Resources Regional Committees associated with the Department of Environmental Protection (Department).

These schedules and an agenda for each meeting, including meeting materials, will be available through the Public Participation Center on the Department's website at www.depweb.state.pa.us (DEP Keywords: Public Participation, Participate).

The regional committees listed as follows were created under 27 Pa.C.S. Chapter 31 (relating to water resources planning) to help guide the development of a new State Water Plan (plan) for the Commonwealth. The regional committees' purpose is to develop the regional component of the overall plan and to provide recommendations to the Statewide Water Resources Committee, which is charged under 27 Pa.C.S. Chapter 31 to develop the plan.

The February 2006 meeting dates of the Delaware and Lower Susquehanna Water Resources Regional Committees are as follows:

Lower Susquehanna Water Resources Regional Committee

The February meeting of the Lower Susquehanna Water Resources Regional Committee will be held at 9:30 a.m. at the following location:

February 6, 2006 PA DEP Southcentral Regional Office
909 Elmerton Ave.
Harrisburg, PA 17110

Delaware Water Resources Regional Committee

The February meeting of the Delaware Water Resources Regional committee will be held at 9:30 a.m. at the following location:

February 9, 2006 Delaware Valley Regional Planning
Commission
The ACP Building
190 North Independence Mall West
Philadelphia, PA 19106

Questions concerning these meetings should be directed to Leslie Sarvis, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634, lsarvis@state.pa.us.

Persons with a disability who require accommodations to attend any of the meetings listed previously should contact the Department at (717) 705-2425 or through the

Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-150. Filed for public inspection January 27, 2006, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Susquehanna Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Susquehanna Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-151. Filed for public inspection January 27, 2006, 9:00 a.m.]

Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee, established under 20 Pa.C.S. § 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a public meeting on March 8, 2006, from 10 a.m. to 2 p.m. at the Gift of Life Donor Program, 401 North 3rd Street, Philadelphia, PA 19123.

For additional information contact Jayme L. Trogus, Public Health Educator, Health Education and Information Program, Bureau of Chronic Diseases and Injury Prevention, Room 1000, Health & Welfare Building, Harrisburg, PA, (717) 787-6214.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Jayme L. Trogus at (717) 787-6214 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-152. Filed for public inspection January 27, 2006, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-11—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these persons and firms, or any firms, corporations or partnerships in which these persons and firms have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
American Pipe and Sprinkler, Inc. -and-	37 Eldred Street Williamsport, PA 17701-3459	6/21/2005
Roan J. Confer, Sr., individually	460 West Market Street, Suite 409 Williamsport, PA 17701	
Clark Construction Company, Inc. -and- John M. Clark, individually	828 Hamilton Corners Road Titusville, PA 16354-8009	5/18/2005
Michael J. Gedman, individually -and- A to Z Concrete	2000 Cressman Drive Aliquippa, PA 15001	5/10/2005
Rogers Electric Inc. and Bradley J. Rogers, individually and Deborah J. Rogers, individually Fed. ER Tax I.D. No. 23-2225268	HCR 71 Box 40 Orbisonia, PA 17243	10/03/2005
RL Insulation Company, Inc. -and-	R. D. 1, Box 202 Hopewell, PA 16650	11/3/2005
Ronald Lundquist, individually -and- Robin Lundquist, individually	1246 Jacks Corner Road Hopewell, PA 16650	
John Allegretto General Construction Company, Inc. -and- John Allegretto, individually	1083 North James Street Hazleton, PA 18202	11/7/2005
Rolling Scrap Tires, Inc. -and- Joseph Anthony Bova, individually -and- Sherri Renee Bova, individually	176 Wilson Street Struthers, OH 44471	12/8/2005
Kurtiak Enterprises -and- John R. Kurtiak, individually	17599 Route 322 Strattanville, PA 16258	12/15/2005
Lawrence Roofing Company, Inc. -and- Lawrence August, individually	P. O. Box 123 19212 Route 119 Punxsutawney, PA 15767-0123	12/21/2005

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 06-153. Filed for public inspection January 27, 2006, 9:00 a.m.]

Maximum Pennsylvania Workers' Compensation Payable

Based upon the Statewide Average Weekly Wage, as determined by the Department of Labor and Industry for the fiscal year ending June 30, 2005, the maximum compensation payable under sections 105.1 and 105.2 of the Workers' Compensation Act (77 P. S. §§ 25.1 and 25.2) shall be \$745 per week for injuries occurring on and after January 1, 2006. For purposes of calculating the update to payments for medical treatment rendered on and after January 1, 2006, the percentage increase in the Statewide Average Weekly Wage is 4.05%

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 06-154. Filed for public inspection January 27, 2006, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Expansion of the Long-Term Care Capitated Assistance Program; Request for Information

The Long-Term Care Capitated Assistance Program (LTCCAP) is the Commonwealth's replication of the Program of All-inclusive Care for the Elderly (PACE) Model. Under this request for information, the Department of Public Welfare (Department) is asking organizations interested in participating as an LTCCAP provider to contact the Department. Providers will be responsible to provide a specific package of services to individuals enrolled in LTCCAP, who are eligible for Medical Assistance (MA) and have been determined to require nursing facility services. To be considered for an LTCCAP site,

organizations must be enrolled in the MA Program, meet the requirements included in the PACE Protocol and LTCCAP Provider Agreement and have a completed feasibility study through an approved PACE Technical Assistance Center. The feasibility study must evaluate and address at least the following:

- Market analysis to determine potential demand for PACE services in the proposed service area.
- Organization's commitment to principles consistent with PACE model; depth of leadership and experience required to develop PACE; evidence of primary, acute and/or long-term care services; and experience in serving eligible dual populations.
- Financial capacity of organization to fund program development, assume financial risk and fund risk reserve.
- Project design.
- Projected 5-year startup budget.

The Department will consider, among other things, the following factors when determining site selection for LTCCAP:

- MA service need.
- MA service availability (such as availability of nursing facility services and home and community based services).
- Project location (such as suburban versus urban locations and existing project sites).
- Uniqueness of project design (such as closing existing nursing facility beds and collaboration efforts with affordable housing providers, hospitals, nursing facilities and referral sources).
- Time line for program development.
- Demonstration of plan to achieve solvency and fund risk reserve.

Questions regarding the PACE Protocol or the feasibility study through a PACE Technical Assistance Center should be directed to Cindy M. Proper at (717) 772-2525.

Organizations that meet the criteria listed in this notice that are interested in being considered to provide services under LTCCAP should submit a letter of interest, along with a copy of their completed feasibility study no later than 90 days from the date of this notice, to LTCCAP, Division of LTC Client Services, Department of Public Welfare, 6th Floor, Bertolino Building, P. O. Box 2675, Harrisburg, PA 17105.

Current LTCCAP providers interested in expanding beyond their designated zip code area are also invited to respond to this request. Responses should be directed to the address previously given and include a letter of interest, along with a market analysis of the area of interest.

ESTELLE B. RICHMAN
Secretary,

Fiscal Note: 14-NOT-463. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 06-155. Filed for public inspection January 27, 2006, 9:00 a.m.]

Medical Assistance Program Fee Schedule Procedure Code Changes for Certified Registered Nurse Practitioner, Physician, Podiatrist and Hospice Services

The Department of Public Welfare (Department) announces several changes to the Medical Assistance (MA) Program Fee Schedule for services provided by certified registered nurse practitioners, physicians, podiatrists and hospices, effective for dates of service on or after February 1, 2006.

Fee Schedule Revisions

Local procedure codes W0165, W0171 and W0608 are being end-dated and will not be replaced with National procedure codes because there have been no claims submitted using these procedure codes since January 1, 2003.

The SU modifier associated with National procedure code 11720 is being end-dated because there have been no claims submitted using this procedure code and modifier combination since January 1, 2002.

Local procedure code X1070 is being removed from the MA Program Fee Schedule and will not be replaced with a National procedure code. The regulation at 55 Pa. Code § 1150.51(h)(5) (relating to general payment policies) precludes a separate payment for the removal of sutures. The fee for surgical services includes the removal of sutures. See 55 Pa. Code § 1150.54(a)(4)(iii) and (b)(1)(ii) (relating to surgical services).

The following local and National procedure codes are being end-dated for podiatrists as the regulation at 55 Pa. Code § 1143.58(a)(11) (relating to noncompensable services and items) precludes payment for physical therapy services provided by podiatrists under the MA Program. Some podiatrists have inappropriately been submitting claims using these procedure codes.

Procedure Code

97001
97002
97010
97012
97014
97016
97018
97020
97022
97024
97026
97028
97032
97033
97034
97035
97036
97112
97116
97124
97140
W9715

The following local procedure codes are being end-dated and replaced with existing National procedure codes already on the MA Program Fee Schedule and the corresponding fees already on the MA Program Fee Schedule.

Procedure Code

W0160
W0607

X1101
X1102
X1166
X1167
X1172
X1177
X1720
X5741
X9630

The following local procedure codes are being end-dated and replaced with new National procedure codes that the Department is adding to the MA Program Fee Schedule.

<i>Local Procedure Code</i>	<i>National Procedure Code</i>	<i>Pricing Modifier</i>	<i>Informational Modifier</i>	<i>MA Fee</i>
W0602	T2042			Provider Specific Rate
W0603	T2043			Provider Specific Rate
W0604	T2044			Provider Specific Rate
W0605	T2045			Provider Specific Rate
W0606	T2046			Provider Specific Rate
X1720	17004			\$132.38

Some of the National procedure code fees may be higher and some may be lower than the fees corresponding with the local procedure codes.

Medical Assistance Bulletins will be issued to certified registered nurse practitioners, physicians, podiatrists and hospices setting forth the local procedure codes that are being end-dated and the National procedure codes that are replacing them.

Services rendered on or after February 1, 2006, must be billed using the National procedure code and modifier, if appropriate.

Fiscal Impact

The conversion from local to National procedure codes is anticipated to be budget neutral and therefore these changes will have no fiscal impact.

Public Comment

Interested persons are invited to submit written comments regarding this notice the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revisions of the MA Program Fee Schedule.

Persons with a disability who require auxiliary aid or service may submit comments using the AT&T Relay

Services at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-462. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 06-156. Filed for public inspection January 27, 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>
6-297	State Board of Education Higher Education General Provisions 35 Pa.B. 6242 (November 12, 2005)	12/12/05	1/11/06

**State Board of Education Regulation #6-297
(IRRC #2506)**

Higher Education General Provisions

January 11, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the November 12, 2005 *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 State Board of Education (Board) to respond to all comments received from us or any other source.

1. Section 31.1. Purpose and scope.—Need; Clarity.

In Subsection (e), the proposed regulation contains new language labeled as a new Paragraph (1). There are two concerns.

First, there is no need to enumerate a paragraph as “(1)” if there is no paragraph labeled as “(2).”

Second, in Subparagraph (iii), what mandates or requisites are included in the phrase “all other requirements to operate in this Commonwealth as defined in this subpart”? This provision should reference the specific operational requirements that these institutions are expected to meet.

2. Section 31.2. Definitions.—Consistency with the statute; Clarity.

CEC—Community Education Council

The definition of this term in the proposed regulation is very similar to the statutory definition of the term at 24 P. S. § 19-1901-d(1). However, the regulatory definition is longer than the statutory definition and includes substantive provisions from other sections of the statute. Substantive provisions in a definition are not enforceable. Therefore, the Board should move substantive provisions to a section establishing the parameters of and requirements for CECs. The definition of this term in Section 31.2 should either reference the statutory definition or repeat it verbatim in the regulation.

3. Section 31.21. Curricula.—Reasonableness; Implementation procedure; Clarity.

Subsection (b) Degree requirements

This subsection includes degree requirements for different programs in semester or quarter credit hours. We have two concerns.

First, we question the meaning of the term “general education” as it applies to “specialized associate degree” in Paragraph (2). The Pennsylvania Association of Private School Administrators indicates that “general education” for “ASB—Associate in Specialized Business” or “AST—Associate in Specialized Technology” degrees should specifically apply to and support the specialized program of the school. People enroll in specialized programs to focus on the tools and skills they need for a specific occupation. Usually, they are not expecting nor do they want to pay for a general education which features the possible breadth of a “liberal arts” experience. There is also a concern with how Department of Education staff will interpret the term “general education.” The term “general

education” is used for associate degrees in Paragraph (1), specialized degrees in Paragraph (2), and baccalaureate degrees in Paragraph (3). In addition, the proposed regulation replaces the term “the arts and sciences” with the term “general education” in Paragraph (3). The impact of this change on the meaning of the term “general education” is unclear. The Board should clarify the meaning and its interpretation of the term for each degree or consider the use of different terms.

Second, the structure of this section in the proposed regulation is confusing. It places two new paragraphs labeled as (i) and (ii) in front of existing paragraphs labeled as (1)—(6). The intent in using both Roman and Arabic numbers for these paragraphs is unclear. The new Paragraphs (i) and (ii) define “semester credit hour” and “quarter credit hour” respectively. As recommended in Chapter 7 of the *Pennsylvania Code & Bulletin Style Manual*, Paragraphs (i) and (ii) should be placed as subparagraphs of a paragraph labeled with an Arabic number. The two new subparagraphs could be placed in a new Paragraph (1), which defines terms as used in Subsection (b). The existing Paragraphs (1)—(6) could be renumbered as (2)—(7).

Subsection (d) Distance education programs

The last sentence of Subsection (d) reads:

These [distance education] programs must comply with the regulations and policies that apply to resident-based programs.

This provision should reference the specific “regulations and policies” that will apply to both distance education and resident-based programs.

4. Section 31.33. Student records and services.—Clarity.

In Subsection (a), the proposed regulation adds new language which includes these two sentences:

Institutions shall adopt a plan for the collection, maintenance and dissemination of student academic, counseling, health and other records. Copies of the plan shall be maintained by the institution and updated as required by changes in *State or Federal law or local policy*. [Emphasis added.]

What types of laws or policies are included in the phrase “changes in State or Federal law or local policy” and how would they impact the required plans at these institutions? This section should include specific references to the laws or local policies that could require updates in the plans of the institutions.

New language added in Subsection (b)(7) reads:

Compliance with State and Federal laws and regulations regarding reasonable accommodation for students with special needs.

This provision should reference the specific laws and regulations that are pertinent to students with special needs at the covered institutions.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 06-157. Filed for public inspection January 27, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Merger

An application has been received requesting approval of the merger of Transnation Title Insurance Company of New York, a nonadmitted title insurance company organized under the laws of New York, with Commonwealth Land Title Insurance Company, a title insurance company organized under the laws of the Commonwealth. The survivor of the merger would be Commonwealth Land Title Insurance Company. The initial filing was received on January 3, 2006, and was made under 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets), the GAA Amendments Act of 1990 (15 P.S. §§ 21101—21208) and the Insurance Holding Companies Act (40 P.S. §§ 991.1401—991.1413). Persons wishing to comment on the grounds of public or private interest in this merger are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Stephanie Ohnmacht, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, sohnmacht@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-158. Filed for public inspection January 27, 2006, 9:00 a.m.]

Qualified Annuity Contractors for Awarded Periodic Medical Professional Liability Payments

Under section 509(b)(6) of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.509 (b)(6)), the Insurance Commissioner hereby lists insurers designated by the Insurance Department as qualified to participate in the funding of periodic payment judgments:

<i>NAIC #</i>	<i>Insurer Qualified to Issue Annuity Contracts Under the MCARE Act</i>
60607	American International Life Assurance Company of New York
62898	Aviva Life Insurance Company
93432	C. M. Life Insurance Company
29980	First Colony Life Insurance Company
70025	Genworth Life Insurance Company
88072	Hartford Life Insurance Company
65935	Massachusetts Mutual Life Insurance Company
65978	Metropolitan Life Insurance Company
70416	MML Bay State Life Insurance Company
66281	Monumental Life Insurance Company
66915	New York Life Insurance Company
61271	Principal Life Insurance Company
68241	The Prudential Insurance Company of America
87726	The Travelers Insurance Company

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-159. Filed for public inspection January 27, 2006, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's 11 member Board of Directors on Monday, February 6, 2006, at 10:30 a.m. in the Wildwood Conference Center, Harrisburg Area Community College, One HACC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ALAN B. K. RABINOWITZ,
Administrator

[Pa.B. Doc. No. 06-160. Filed for public inspection January 27, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

January 2006 Review of Fuel Cost Recovery Surcharge; S. P. 28208

Public Meeting held
January 12, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) by its Fuel Cost Recovery Surcharge Order at Special Permission Number 28208, adopted June 10, 2004, authorized call or demand, paratransit and airport transfer carriers under the jurisdiction of this Commission to adjust rates and fares to offset unanticipated fuel expenditures. At its Public Meeting of June 2, 2005 the Commission approved an extension of the temporary fuel surcharge until June 12, 2006. The Commission also required the Bureau of Transportation and Safety to investigate the merits of the fuel surcharge on a quarterly basis.

As a result of the volatile nature of gasoline prices in the aftermath of Hurricane Katrina, the amounts for the fuel surcharge were adjusted accordingly at Public Meeting on September 9, 2005. Recognizing that the price of fuel is likely to fluctuate in the future months, the Commission also ordered that the temporary fuel surcharge was to be evaluated on a monthly basis until further notice to ensure that the surcharge is appropriately adjusted to the price of fuel. Though prices continue to fluctuate, the market no longer experiences the dramatic changes which necessitated monthly evaluations; therefore, evaluations will be performed on a quarterly basis. The last adjustment was made by the Commission at Public Meeting on December 1, 2005.

The most recent data for the week ending January 9, 2006 indicates that the price of gasoline is \$2.46 per gallon, which is an increase of \$.23 or 10% from the average price for November 28, 2005. The effect of this increase results in an average cost of fuel per trip of \$1.11 for call or demand operations. The average cost of fuel per trip for paratransit and airport transfer operations is \$2.57. Considering this increase, the surcharge shall be adjusted to \$.50 per trip for each paying passenger for call or demand service and \$1.15 per trip for each paying passenger for airport transfer and paratransit services, effective January 16, 2006.

The changes which have occurred in the Fuel Cost Recovery Surcharge at S. P. 28208 are summarized in the following table.

*Historical Charges for Fuel Cost Recovery
Surcharge at S. P. 28208*

<i>Effective Date</i>	<i>Call or Demand</i>	<i>Airport Transfer/Paratransit</i>
June 14, 2004	\$.30	\$.70
September 2, 2005	\$.70	\$1.55
September 12, 2005	\$.90	\$2.00
October 3, 2005	\$.70	\$1.55
October 31, 2005	\$.55	\$1.25
December 5, 2005	\$.40	\$.95
January 16, 2006	\$.50	\$1.15

Based upon the evidence available, we are of the opinion that the passenger motor carrier industry continues to have a need for the fuel surcharge. However, due to the increase in prices we believe it is necessary to make adjustments to the fuel cost recovery surcharge; *Therefore,*

It Is Ordered That:

1. The Fuel Cost Recovery Surcharge established at Special Permission No. 28208 be continued.

2. Call or demand carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission shall increase the surcharge to \$.50 per trip for each paying passenger.

3. Paratransit carriers and airport transfer carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission shall increase the surcharge to \$1.15 per trip for each paying passenger.

4. The increases be approved to become effective January 16, 2006.

5. The Fuel Cost Recovery Surcharge will be reviewed on a quarterly basis with the next review taking place at the Public Meeting of April 6, 2006.

6. Call or demand motor carriers shall notify the public by placing a notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28208. The surcharge has been increased to \$.50 per trip for each paying passenger and is effective on January 16, 2006. The fuel surcharge shall terminate on June 12, 2006."

7. Paratransit and airport transfer motor carriers shall notify the public by placing a notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No.

28208. The surcharge has been increased to \$1.15 per trip for each paying passenger and is effective on January 16, 2006. The fuel surcharge shall terminate on June 12, 2006."

8. The Secretary of this Commission shall duly certify this order and deposit same with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-161. Filed for public inspection January 27, 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 February 21, 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.

Application of the following for approval of the right to *begin* to operate motor vehicles as *common carriers* for the transportation of *household goods* by *transfer* as described under the application.

A-00122357. Dafix Enterprises, Inc. (1013 Piney Ridge Drive, South Park, Allegheny County, PA 15129), a corporation of the Commonwealth—for the right to transport, as a common carrier, by motor vehicle, household goods in use: (1) from points in the North Side section of the City of Pittsburgh, the Boroughs of Avalon, Bellevue, Ben Avon, Ben Avon Heights, Emsworth and Westview, and Ross Township, Allegheny County, to other points in Pennsylvania within 25 miles by the usually traveled highways of the City-County Building in the City of Pittsburgh; (2) between points in the City of Pittsburgh, Allegheny County; (3) from points in the City of Pittsburgh, Allegheny County, to points in the County of Allegheny within 20 miles by the usually traveled highways of the limits of the City of Pittsburgh, and vice versa; and (4) between points in the Borough of Bellevue, Allegheny County, and within 30 miles by the usually traveled highways of the limits of said borough, excluding the County of Washington, and excluding the right to transport household goods in use for distances in excess of 40 miles; which is to be a transfer of all the rights authorized under the certificate issued at A-00108586 to Gary Martin Geiger t/a Deily Moving & Storage Company, subject to the same limitations and conditions. *Attorney:* Louis W. Emmi, Esquire, 201 Lebanon Shops, 300 Mt. Lebanon Boulevard, Pittsburgh, PA 15234.

Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of household goods in use by transfer as described under the application.

A-00121721, Folder 2. Keystone Relocation, LLC (2929 Stewart Drive, Suite 103, State College, Centre County, PA 16801), a limited liability company of the Commonwealth, additional right—household goods in use, from points in Centre County to points in Pennsylvania, and vice versa; which is to be a transfer of the rights authorized under the certificate issued at A-00089650, F. 2, Am-E to Williamsport Moving Company, Inc. t/a Keystone Relocation, subject to the same limitations and conditions. *Attorney:* James P. Melia, 17 North Second Street, Harrisburg, PA 17101-1507.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for the transportation of household goods by transfer as described under the application.

A-00108084, F. 1, Am-A. Joseph Sparacino Movers, Inc. (6 South Keyser Avenue, Taylor, Lackawanna County, PA 18517), a corporation of the Commonwealth—for the amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, household goods in use, from points in the City of Scranton, Lackawanna County, to other points in Pennsylvania and vice versa; which is to be a transfer of the rights authorized under the certificate issued at A-00104113 to Sparacino Brothers, Inc., subject to the same limitations and conditions. *Attorney:* William A. Gray, Esquire, 2310 Grant Building, Pittsburgh, PA 15219.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-162. Filed for public inspection January 27, 2006, 9:00 a.m.]

Tentative Order

Public Meeting held
January 12, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

Dancris Telecom, LLC (2005.0313); A-311226

Tentative Order

By the Commission:

Dancris Telecom, LLC ("Dancris") has failed to pay its \$37 general assessment for 2005-2006 pursuant to section 510(c) of the Public Utility Code. 66 Pa.C.S. § 510(c). Dancris is a telecommunications interexchange reseller certificated at A-311226, whose certificate of public convenience was issued on January 23, 2003. On or about August 17, 2005, Commission staff sent an invoice to Dancris notifying it that its 2005-2006 annual assessment was due. The Commission has not received payment for this invoice. Commission staff attempted to reach Dancris and was advised by its former consultant that she understands Dancris is out of business in Pennsylvania. She had no other information about Dancris, and we have no other contact information for the company.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506, and 3301. Based on the above and because of Dancris's failure to pay its general assessment for 2005-2006, we believe it is appropriate to revoke Dancris's certificate of public convenience without the necessity of a formal complaint, and we tentatively conclude that revocation of Dancris's certificate of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Dancris seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. Revocation of Dancris Telecom, LLC's certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Dancris Telecom, LLC at A-311226 shall be canceled, and Dancris Telecom, LLC's name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-163. Filed for public inspection January 27, 2006, 9:00 a.m.]

Tentative Order

Public Meeting held
December 15, 2005

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

Radiant Telecom Inc. (2005.0313); A-311129

Tentative Order

By the Commission:

Radiant Telecom Inc. ("Radiant") has failed to pay its \$24 general assessment for 2005-2006 pursuant to section 510(c) of the Public Utility Code. 66 Pa.C.S. § 510(c). Radiant is a telecommunications interexchange reseller certificated at A-311129, whose certificate of public convenience was issued on September 26, 2001. On or about

August 17, 2005, Commission staff sent an invoice to Radiant notifying it that its 2005-2006 annual assessment was due. The Commission has not received payment for this invoice. Commission staff attempted to reach Radiant and found a website for Radiant with a telephone listing. However, when staff called this telephone number, staff was advised by an attorney at this phone number that the attorney's current employer, another telephone company, spun off Radiant three years ago, and that he understands Radiant has since gone out of business. He had no other information about Radiant.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506, and 3301. Based on the above and because of Radiant's failure to pay its general assessment for 2005-2006, we believe it is appropriate to revoke Radiant's certificate of public convenience without the necessity of a formal complaint, and we tentatively conclude that revocation of Radiant's certificate of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Radiant seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. Revocation of Radiant Telecom Inc.'s certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Radiant Telecom Inc. at A-311129 shall be canceled, and Radiant Telecom Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-164. Filed for public inspection January 27, 2006, 9:00 a.m.]

Tentative Order

Public Meeting held
December 1, 2005

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

Transcommunications, Inc.; A-310428

Tentative Order

By the Commission:

Transcommunications, Inc. (Transcommunications) has failed to pay its \$141 general assessment for 2005-2006 pursuant to section 510(c) of the Public Utility Code. 66 Pa.C.S. § 510(c). Transcommunications is a telecommunications interexchange reseller certificated at A-310428, whose certificate of public convenience was issued on December 12, 1996. On or about August 17, 2005, Commission staff sent an invoice to Transcommunications notifying it that its 2005-2006 annual assessment was due. The Commission has not received payment for this invoice. Commission staff attempted to reach Transcommunications by telephone and was advised by a former employee that Transcommunications is no longer in business and that it filed a Chapter 7 bankruptcy petition in July 2005 to liquidate the company.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506, and 3301. Based on the above and because of Transcommunications' failure to pay its general assessment for 2005-2006, we believe it is appropriate to revoke Transcommunications' certificate of public convenience without the necessity of a formal complaint, and we tentatively conclude that revocation of Transcommunications' certificate of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Transcommunications seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. Revocation of Transcommunications, Inc.'s certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Transcommunications, Inc. at A-310428 shall be canceled, and Transcommunications, Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-165. Filed for public inspection January 27, 2006, 9:00 a.m.]

Water Service

A-220010. City of Lebanon. Application of the City of Lebanon for approval of the right to begin to offer, render, furnish or supply water service to the public in the Boroughs of Cleona and Jonestown and the Townships of Annville, North Cornwall, South Lebanon, North Lebanon, West Lebanon, Swatara and Union, all in Lebanon County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before February 13, 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: City of Lebanon

Through and By Counsel: Kenneth Zielonis, Esquire, Stevens and Lee, 17 North 2nd Street, 16th Floor, Harrisburg, PA 17101

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-166. Filed for public inspection January 27, 2006, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #05-124.5, Asbestos Removal for Heat Humidification, Pier 40 South until 2 p.m. on Thursday, March 2, 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 February 6, 2006. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% Pennsylvania 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 on February 16, 2006, at 10 a.m. at Columbus Blvd. and Christian St., Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 06-167. Filed for public inspection January 27, 2006, 9:00 a.m.]

STATE BOARD OF NURSING

Petition for Reinstatement of the License to Practice Professional Nursing of Paul V. Wons; Doc. No. 0996-51-05

On December 6, 2005, the State Board of Nursing (Board) dismissed the petition for reinstatement of Paul V. Wons, License No. RN-512467-L, of Philadelphia, Philadelphia County due to his failure to appear at his hearing.

Individuals may obtain a copy of the adjudication by writing to Thomas A. Blackburn, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final 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 SORENSEN, RN, MS,
Chairperson

[Pa.B. Doc. No. 06-168. Filed for public inspection January 27, 2006, 9:00 a.m.]

Petition for Reinstatement of the Practical Nursing License of Janson Williams, L.P.N.; Doc. No. 1068-51-05

On December 6, 2005, Janson Williams, L.P.N., of Erie, Erie County had his petition for reinstatement of License No. PN-250461-L dismissed by the State Board of Nursing based on his failure to present required evidence to support his petition for reinstatement.

Individuals may obtain a copy of the adjudication by writing to Thomas A. Blackburn, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final 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 SORENSEN, RN, MS,
Chairperson

[Pa.B. Doc. No. 06-169. Filed for public inspection January 27, 2006, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.


Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services		③ Contract Information
Location:	Harrisburg, Pa.	④	④ Department
Duration:	12/1/93-12/30/93	⑤	⑤ Location
Contact:	Procurement Division 787-0000	⑥	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

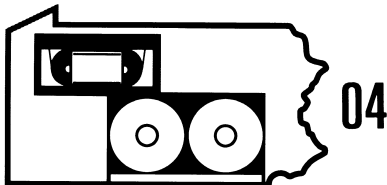
DO BUSINESS WITH STATE AGENCIES

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.patreasury.org.

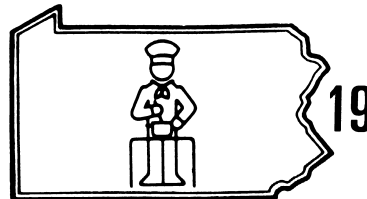
Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

SERVICES



Audio/Video



Food

KURFP-0095 Kutztown University is seeking proposals from qualified contractors for the work associated with furnishing and installation of Audiovisual Equipment at The Academic Forum Building, Kutztown University. Proposed contract to include the installation of a turnkey audiovisual system in a newly constructed facility. The contractor selection process will be via sealed competitive proposals in accordance with the Request for Proposal (RFP). Contractors must have a minimum of five (5) years experience in audiovisual equipment installation. RFP packets are available for a non refundable fee of \$55.00 from: STV Architects, 205 West Welsh Drive, Douglasville, PA 19508, Attn: Stu Rothenberger; or phone (610) 385-8248; fax (610) 385-8584; email: rothensm@stvinc.com. Proposal packets are available January 30, 2006 through February 13, 2006. To obtain the RFP packet, please submit a written request and send either cash or check in the amount of \$55.00 to STV Architects. Checks must be made payable to STV Architects. The RFP packet will not be mailed until the fee is received. A mandatory pre-proposal conference will be held on February 13, 2006 at 1:30 PM in the Kutztown University Facilities Plans Room located in the Facilities Building on Baldy Street, Kutztown, PA. All questions must be submitted in writing by 3:00 PM on February 15, 2006, to the attention of Stu Rothenberger at STV Architects. Proposals must be received no later than 3:00 PM on February 27, 2006 in Room 229, I-Wing, Old Main, Facilities Project Services Office, Kutztown University, Kutztown, PA 19530. No exceptions will be made for proposals received after the time specified. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: One-year contract from the Notice to Proceed date.
Contact: Stu Rothenberger, 610-385-8248

CN00018741 Frozen meat contract for April, May, and June 2006. To request a bid package, fax your company name, address, telephone and fax numbers, Federal ID Number and PA State vendor number to 570-587-7108. Bid packages cannot be faxed. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

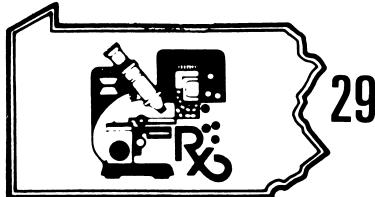
Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411
Duration: April 1, 2006 - June 30, 2006
Contact: Stanley Rygelski, PA, 570-587-7291

CN00018742 Frozen miscellaneous contract for April, May, and June 2006. To request a bid package, fax your company name, address, telephone and fax numbers, Federal ID Number and PA State Vendor Number to 570-587-7108. Bid packages cannot be faxed. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411
Duration: April 1, 2006 - June 30, 2006
Contact: Stanley Rygelski, PA, 570-587-7291

CN00018740 Frozen poultry contract for April, May, and June 2006. To request a bid package, fax your company name, address, telephone and fax numbers, Federal ID Number and PA State Vendor Number to 570-587-7108. Bid packages cannot be faxed. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

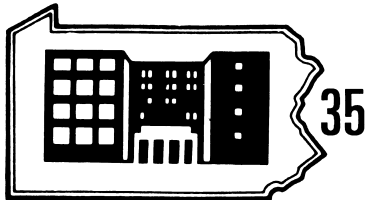
Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411
Duration: April 1, 2006 - June 30, 2006
Contact: Stanley Regelski, PA, 570-587-7291



Medical Services

CN00018750 Rental of Oxygen Concentrators and Humidifier Bottles. Furnish one (1) to thirty (30) with servicing, preventive maintenance and emergency intervention as required. On-site visits as required dependent upon acuity and needs. Removal of units when not required.

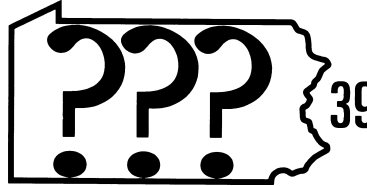
Department: Public Welfare
Location: Polk Center, Main Street, P. O. Box 94, Polk, PA 16342
Duration: Anticipated June 1, 2006 - June 30, 2009
Contact: Marty DuPont, Purchasing Agent, 814-432-0326



Real Estate Services

KURFP-0096 Kutztown University declares and acknowledges its intention to consider any and all proposals made by parties interested in obtaining a lease for space on either or both of its North and South Water Towers in exchange for consideration/remuneration from the parties, for the purpose of installation and operation of Public Mobile Services Antennae as defined in FCC Rule 22 § 22.99. Definitions. Kutztown University reserves the right to select more than one firm or no firms or consortiums with which to execute an agreement based upon the results of the Request For Proposal evaluation. Interested firms should request a Request for Proposal package(s) by number and submit that request in writing to: David Keithley, Asst. Director of Purchasing, Kutztown University, Kutztown, PA 19530. Phone: 610/683-4831; fax: 610/683-4674; e-mail: keithley@kutztown.edu. RFP Packages will be available from January 30, 2006 through February 9, 2006. There will be a mandatory pre-proposal meeting on February 9, 2006 at 10:00 A.M. Questions requiring clarification prior to proposal submission are due on/before 12:00 noon on February 10, 2006. Proposal submissions are due no later than 2:00 P.M. on February 23, 2006. Late submissions will not be accepted.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: Initial contract term will be five (5) yrs with the option to renew three (3) times for five (5) yr periods. Total of 20 years.
Contact: David Keithley, 610-683-4831



Miscellaneous

2005-2 Rebid To provide proxy voting, research and analysis services.

Department: State Municipal Retirement System
Location: 1010 N. 7th Street, Harrisburg, PA 17102
Duration: 5 years
Contact: Reynold E. Witmer, 717-787-2065

RFP No. 106-R-1939050000 The Department of State, Bureau of Finance and Operations, on behalf of the Bureau of Professional and Occupational Affairs wishes to procure the services of a qualified contractor to administer all aspects of the Professional Health Monitoring Programs forensic toxicology drug screening program.

Department: State
Location: Bureau of Finance and Operations, Room 308, North Office Building, Harrisburg, PA 17120
Duration: Five year, firm fixed-price contract
Contact: Monna J. Accurti, (717) 214-4927

SU-05-13 Shippensburg University is seeking vendors interested in submitting bids for a Face-up Publication Scanning System for our campus Library. Publication System to include Scanner, PC Interface Kit, Printer, image capture software and training. Please Fax or email your request to be added to the Bidders list no later than February 6, 2006. Fax your request to the Attn: Pam King 717-477-1350 or email request to be added to bidders list to paking@ship.edu. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Drive, Shippensburg PA 17257
Duration: April 1, 2006
Contact: Pamela A. King, 717-477-1386

[Pa.B. Doc. No. 06-170. Filed for public inspection January 27, 2006, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 78, 109 AND 252]

Oil and Gas Wells, Safe Drinking Water and Environmental Laboratory Accreditation

The Environmental Quality Board (Board) amends Chapters 78 and 109 (relating to oil and gas wells; and safe drinking water) and adds Chapter 252 (relating to environmental laboratory accreditation). This final-form rulemaking delineates and consolidates the requirements for accreditation of environmental laboratories in Chapter 252.

This order was adopted by the Board at its meeting of August 16, 2005.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Richard H. Sheibley, Chief, Laboratory Accreditation Program, P. O. Box 1467, 2575 Interstate Drive, Harrisburg, PA 17105-1467, (717) 346-8215; or Scott Perry, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us.

C. *Statutory Authority*

This final-form rulemaking is being made under the authority of 27 Pa.C.S. § 4103(a) (relating to establishment of program), which directs the Department to establish an accreditation program for environmental laboratories, 27 Pa.C.S. § 4104 (relating to powers and duties), which directs the Department to establish, administer and enforce an environmental laboratory accreditation program which shall include the standards necessary for a State certification program, 27 Pa.C.S. § 4105 (relating to powers and duties of Environmental Quality Board), delegating the Board the power to adopt the regulations of the Department to implement 27 Pa.C.S. §§ 4101—4113 (act) (relating to environmental laboratory accreditation), and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), authorizing and directing the Board to adopt regulations necessary for the proper performance of the work of the Department.

D. *Background of the Final-Form Rulemaking*

Over the past 25 years, the General Assembly and the United States Congress have enacted numerous statutes protecting air, water and soil and regulating activities that might otherwise pose a threat to the environment. Valid and accurate laboratory data are essential to assure compliance with the laws administered by the Department. Additionally, throughout this Commonwealth numerous decisions made everyday by the public, the regulated community and the government are based upon

data generated by environmental laboratories. Recently however, several highly publicized instances of laboratory fraud or reliance on faulty data have undermined the public's confidence in the data generated by environmental laboratories. Presently, in this Commonwealth only the Drinking Water Program and the Oil and Gas Program address the issue of data quality through a laboratory accreditation program. The quality of laboratory data used to determine compliance with the remaining Department regulations is unknown. Without these regulations, verification of the accuracy of data submitted to the Department is a very costly and time-consuming task.

The goal of this final-form rulemaking is to assure the quality of the data used to make environmental decisions and thus better protect the environment and the health, safety and welfare of the citizens of this Commonwealth. This goal is achieved by requiring affected environmental laboratories to perform proficiency test (PT) samples, data verification requirements and undergo periodic onsite inspections where the Department evaluates laboratory procedures in place in that facility. The final-form rulemaking includes only items that are essential for the production of good quality data.

This final-form rulemaking applies to environmental laboratories that test or analyze nonpotable water (wastewater), solid and chemical materials or drinking water samples as required by the following statutes:

1. The Oil and Gas Act (58 P. S. §§ 601.101—601.605).
2. The Clean Streams Law (35 P. S. §§ 691.1—691.1001).
3. The Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305).
4. The Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).
5. The Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).
6. The Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).
7. The Storage Tank and Spill Prevention Act (35 P. S. §§ 6021.101—6021.2104).
8. The Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 701.101—701.706).
9. The Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31).
10. The Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.206).
11. The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).
12. The Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3001—3326).

This final-form rulemaking transfers the laboratory accreditation program, currently under the Safe Drinking Water Program (Chapter 109), to Chapter 252. The Safe Drinking Water Act (42 U.S.C.A. §§ 300f—300j-10) requires that laboratories performing drinking water analysis be accredited. Additionally, this final-form rulemaking transfers the laboratory accreditation program, currently under the Oil and Gas Program (Chapter 78), to Chapter 252. The Federal drinking water laboratory accreditation program consists of requiring the use of promulgated

methods for testing and analysis and recommending good laboratory practices, including the use of appropriate quality control measures. There are no Federal standards for accreditation of an environmental laboratory testing nonpotable water (wastewater) and solid and chemical materials.

The National Environmental Laboratory Accreditation Conference (NELAC) developed a set of standards for the accreditation of environmental laboratories performing testing and analysis of environmental samples. At the time the current NELAC Standard was being developed, NELAC was a voluntary organization of state and Federal environmental officials and interest groups. NELAC's primary mission was to establish mutually acceptable standards for accrediting environmental laboratories. The NELAC Standard provides uniform requirements for accreditation of environmental laboratories and facilitates mutual recognition among laboratory accreditation programs using the NELAC Standard. The NELAC Standard was developed using a consensus-based approach. The Department would offer a dual accreditation system whereby accreditation to the NELAC Standard is available as a voluntary option for environmental laboratories.

At the request of small laboratories, the requirements in this final-form rulemaking for State environmental laboratory accreditation are less stringent than the NELAC Standard. Currently, a relatively small number of accredited laboratories in this Commonwealth are accredited to the NELAC Standard. The costs associated with complying with the NELAC Standard are higher than those anticipated with this final-form rulemaking. To meet the requirements in the NELAC Standard, an environmental laboratory is required to participate in at least double the number of PT studies. The cost of the PT studies varies widely depending on the laboratory's scope of accreditation. The cost ranges from \$88 for a single microbiology PT to approximately \$13,000 to acquire PT samples for the entire scope of PT samples available for accreditation. An environmental laboratory accredited to the NELAC Standard must implement a very rigorous quality system that requires highly specific documentation and quality assurance procedures.

The final-form rulemaking is very comparable in terms of the range and stringency of requirements to other state (non-NELAC based) laboratory accreditation programs for drinking water, wastewater and solid and chemical materials. A survey of 40 other states indicated that at least 22 states have mandatory accreditation programs for environmental laboratories testing wastewater and solid and chemical materials.

An environmental laboratory may choose State accreditation, described by this final-form rulemaking, or seek accreditation using the NELAC Standard as a voluntary alternative to this final-form rulemaking. Accreditation to either set of standards would be equivalent and acceptable and meet the requirements for accreditation required by the act. An environmental laboratory may be accredited to the NELAC Standard and also be accredited under Pennsylvania accreditation standards in this final-form rulemaking for fields of accreditation not included under the NELAC Standard.

The Laboratory Accreditation Advisory Committee (LAAC) provided technical assistance throughout the development of this final-form rulemaking. The LAAC met approximately every other month from August 2002 through April 2004 and advised the Department on the development of proposed Chapter 252. Additionally, the LAAC and the Certification Program Advisory Committee

(CPAC) met jointly on January 23, 2004, to discuss and provide recommendations on several key concepts (fee structure, qualifications of a laboratory supervisor and parameters to be included in accreditation-by-rule).

The LAAC reviewed the draft final-form rulemaking on June 1, 2005, and unanimously supported moving the draft rulemaking forward to the Board.

To the extent possible, the unique needs of small businesses, municipalities, municipal authorities and in-house laboratories (collectively referred to as small laboratories) have been considered and addressed throughout this final-form rulemaking when compatible with the goals of creating an effective and sensible environmental laboratory accreditation program. Specific provisions that address these unique needs include: an accreditation-by-rule section addressing the testing and analyses conducted by many of the smallest laboratories; laboratory supervisor qualifications tailored to the complexity of the analysis; provisions concerning certified operators and experienced supervisors; and a fee structure that addresses the needs of laboratories that perform only a few types of tests.

A section outlining accreditation-by-rule is included in Chapter 252 to specifically address the unique needs of small laboratories. Accreditation-by-rule is a mechanism permitting an environmental laboratory to perform testing or analysis with only minimal oversight by the Department. Therefore, only certain tests or analyses are appropriate for inclusion under accreditation-by-rule.

The final-form accreditation-by-rule section continues the exemptions provided in the current Drinking Water Program regulations under §§ 109.304(c) and 109.704 (relating to analytical requirements; and operator certification). Reference is made in this final-form rulemaking to the Chapter 109 drinking water regulations. Because of the significance of these parameters in assessing environmental quality and because of the technical skills necessary to perform these tests correctly, total residue testing, biochemical oxygen demand testing and fecal coliform testing are not included under accreditation-by-rule.

Consistent with the requirements of the act, the final-form rulemaking establishes qualifications for laboratory supervisors. The laboratory supervisor may have different titles in different laboratories, such as lead analyst or technical director. The act identifies a laboratory supervisor as the individual who supervises laboratory procedures and reporting of analytical data. Specific educational qualifications are not established for other technical personnel or analysts in the laboratory. The unique needs of small laboratories are addressed by basing the laboratory supervisor requirements upon the testing or analysis performed in the laboratory. A person who is functioning as a laboratory supervisor now would be able to continue in that position under the grandfathering provisions as provided in § 252.303 (relating to grandfathering provisions for laboratory supervisors).

The final-form rulemaking also recognizes that a drinking water or wastewater operator with a valid treatment plant operator's certificate for laboratory supervisor in the appropriate water or wastewater subclassification would qualify as a laboratory supervisor. To provide a smooth transition during the period when the laboratory supervisor subclassification may not be available, a contingency provision is included in the final-form rulemaking. The final-form rulemaking provides that for the period up to 12 months after a certificate for laboratory supervisor in

the appropriate water or wastewater subclassification becomes available from the Department, 2 years of experience performing testing or analysis of environmental samples using the methods and procedures currently in use by the environmental laboratory may be substituted for a laboratory supervisory certificate.

All laboratory supervisors will be required to have experience in the areas for which they will be responsible. In addition, minimum levels of college credits in basic science are identified for laboratory supervisors, when appropriate. Consistent with the requirements of the act, the final-form rulemaking identifies the responsibilities of a laboratory supervisor. The final-form rulemaking provides that a person may be a supervisor of more than one laboratory under certain conditions.

E. Summary of Changes to the Proposed Rulemaking

Chapter 78

Subchapter A. General Provisions

The definition for “certified laboratory” in § 78.1 (relating to definitions) was changed to “accredited laboratory” and revised to refer to Chapter 252 instead of Subchapter F.

Subchapter C. Environmental Protection Performance Standards

In § 78.52(c) (relating to predrilling or prealteration survey), “certified laboratory” was changed to “accredited laboratory” and the text was revised to refer to Chapter 252 instead of Subchapter F

Subchapter F

Subchapter F was rescinded.

Chapter 109

Subchapter H. Laboratory Certification

In §§ 109.801 and 109.810(a) and (b) (relating to certification requirement; and reporting and notification requirements), “certified laboratory” was changed to “accredited laboratory” and the text was revised to refer to Chapter 252.

Sections 109.802—109.809 were rescinded.

Subsections (c)—(e) were deleted from § 109.810.

Chapter 252

Subchapter A. General Provisions

Clarifying language was added to the definitions of “laboratory notebook,” “matrix spike” and “method blank” in § 252.1 (relating to definitions). The word “analytical” was added to the definition of “laboratory supervisor” to be consistent with the definition in the act. Definitions were added for “spike” and “surrogate” and the definition of “relative standard deviation” was deleted.

The reference to The Bituminous Mine Subsidence and Land Conservation Act in § 252.3 (relating to scope) was corrected.

Clarifying language was added to § 252.4 (relating to general requirements) regarding the provision for interim accreditation for laboratories that apply during the 6 months immediately following the effective date of the final-form rulemaking.

Subsections (c) and (d) of § 252.5 (relating to NELAP equivalency) were reordered for clarity.

Subsections (a)(1) and (2), (c) and (f) of § 252.6 (relating to accreditation-by-rule) were revised for clarity and “sludge” was added to subsection (f)(25) for completeness.

Subchapter B. Application, Fees and Supporting Documents

Section 252.203(b) (relating to accreditation renewal) was added for clarity.

The fee structure in § 252.204 (relating to fees) was revised by differentiating between renewal of accreditation and an initial application. Eliminating the fee for each additional method and establishing category groups simplified the remaining categories. The provision linking fee increases to the Consumer Price Index was eliminated. However, the act requires the Department to establish fees in an amount sufficient to recover the Department’s costs to implement and administer the accreditation program. Therefore, the Department will evaluate its costs to administer the accreditation program at least every 3 years and, if necessary, revise the accreditation fees through future rulemakings.

In response to a commentator, § 252.205(b) (relating to out-of-State laboratories) has been revised for additional clarity.

Section 252.206(4) (relating to out-of-State onsite reimbursement) was deleted.

Proposed § 252.701 was moved to Subchapter B and renumbered as § 252.207 (relating to expiration of application).

Subchapter C. General Standards for Accreditation

Clarifying language was added to § 252.301(b) (relating to laboratory supervisor) to provide additional detail on the meaning of “certify.” Subsection (c) was added to clarify the laboratory supervisor’s responsibility for maintaining records. Also, an incorrect reference was corrected that was created by deletion of a paragraph in Subchapter G (relating to miscellaneous provisions).

Section 252.302(b) (relating to qualifications of the laboratory supervisor) was moved to immediately follow a related section on laboratory supervisor qualifications. Sections were renumbered appropriately.

Specific language was added to § 252.303 to indicate that the date an environmental laboratory becomes subject to accreditation is the effective date of this final-form rulemaking. Also, the final-form rulemaking was clarified to state that approval under the grandfathering provision will be limited to the current facility and may not be transferred to a different environmental laboratory.

The incorrect method reference in § 252.304(b)(3)(vii)(C) (relating to personnel requirements) was corrected. Section 252.304(4) and (8) was deleted because these paragraphs are redundant and not needed.

Section 252.306(f)(4)(ii) and (iii) (relating to equipment, supplies and reference materials) was combined for simplicity.

Clarifying language was added to § 252.307(b)(2) (relating to methodology). Additional details were added to § 252.307(c)(4) and (5).

Subchapter D. Quality Assurance and Quality Control Requirements

The general reference to “guidance” in § 252.403 (relating to essential quality control requirements—toxicity testing) was replaced with a reference to Chapter 16 (relating to water quality toxics management strategy—statement of policy).

Subchapter E. Proficiency Test Study Requirements

Section 252.501 (relating to proficiency test study requirements) was clarified to state that failure to successfully analyze a PT study only affects an individual field of accreditation.

Subchapter G. Miscellaneous Provisions

Proposed § 252.701 was moved to Subchapter B and renumbered as § 252.207 for readability. The remaining sections and internal reference numbers were renumbered accordingly. Several sections dealing with denial and revocation were clarified and simplified. Language clarifying the records an environmental laboratory is required to maintain was also added. Paragraphs in § 252.707 (relating to subcontracting) were reordered for clarity. Section 252.708 (relating to reporting and notification requirements) was simplified.

F. Summary of Comments and Responses on the Final-Form Rulemaking

Comments were received from 20 commentators, including the Independent Regulatory Review Commission (IRRC), the Chairpersons of the Senate Environmental Resources and Energy Committee and the House Environmental Resources and Energy Committee, as a result of the public comment period. None of the commentators opposed the technical requirements or merits of the rulemaking. Several commentators opposed linking the fee increases to the Consumer Price Index. Other commentators provided comments on the technical aspects of the rulemaking. Several commentators indicated that particular tests or types of environmental laboratories should be included under the accreditation-by-rule provision, effectively removing the suggested tests or analyses from the requirements of the proposed rulemaking.

Comments on the fees and fee structure from commentators and LAAC members indicated that the proposed fee structure was difficult to understand and that the fees favored (depending upon the commentator) large, mid-size or small laboratories. This clarity concern is addressed in this final-form rulemaking. The changes to the fee structure include: charging a fee per category per matrix, thus eliminating the individual method charges; different fees for an initial application fee and a renewal application fee; reducing the fees for both basic drinking water and nonpotable water categories; adding categories that are combinations of several categories; and removing the provision linking fee increases to the Consumer Price Index. In addition to improved clarity, all these changes make fee structure more responsive to the unique needs of small, in-house environmental laboratories.

Several comments were received about the accreditation-by-rule section or the definition of "environmental laboratory." Most of these comments were requests for inclusion of specific tests or analysis under the accreditation-by-rule section or exclusion of a group of laboratories from the rulemaking entirely. Because of the significance of these parameters in assessing environmental quality and because of the technical skills necessary to perform these tests correctly, this final-form rulemaking was not changed and additional tests were not included under accreditation-by-rule. Differentiating between in-house and commercial laboratories is not appropriate. The purpose of this final-form rulemaking is to improve the quality of data for any testing or analysis of environmental samples that is required by the Department. Data from these tests are essential for making decisions that affect the environment and the public health, safety and welfare of the citizens of this Commonwealth. Additional

tests should not be included under the accreditation-by-rule section. The location of the testing nor the firm or individual performing the testing should be the basis for inclusion under the final-form rulemaking.

Several commentators indicated that the rulemaking would discourage out-of-State laboratories from doing business in this Commonwealth or raise costs to businesses based in this Commonwealth. It is neither the Department's desire nor intent to discourage out-of-State laboratories from doing business in this Commonwealth. The act states that a laboratory meeting Pennsylvania accreditation standards may perform any required testing and analysis. Section 4104(1) of the act limits the recognition of other accreditation programs to Federal or State accreditation programs. Additionally, the NELAC Standard requires that an accrediting authority be a state or Federal agency. The proposed and final-form rulemakings conform to both the NELAC Standard and the act. The final-form rulemaking and the accreditation program are designed to assure that the tests and analyses are performed according to the minimum documentation, quality control and method requirements and that the laboratory's procedures have been reviewed to assure these requirements are being met. The Department does not believe that including a provision for a variance for out-of-State laboratories is consistent with the intent of the act.

Several commentators thought that the proposed rulemaking did not adequately address the unique needs of small businesses, municipalities, municipal authorities and in-house laboratories. The Department disagrees; specific provisions that address these unique needs include: an accreditation-by-rule section addressing the testing and analyses conducted by many of the smallest laboratories; laboratory supervisor qualifications tailored to the complexity of the analysis; provisions concerning certified operators and experienced supervisors; and a fee structure that addresses the needs of laboratories that perform only a few types of tests.

A description of comments received by section of the proposed rulemaking and the Department's response follows:

Scope: Several commentators requested additional clarification regarding testing that is required by the Clean Air Act (42 U.S.C.A. §§ 7401—7642) and the Air Pollution Control Act (35 P. S. §§ 4001—4015). The commentators requested specific exclusions for all sampling and monitoring of air emissions and air quality, including any sampling and analysis requirements covered by the Clean Air Act and Air Pollution Control Act, whether or not the air related requirements are referenced regulations or permits issued under environmental statutes listed in § 252.3(a).

Response: Because the final-form rulemaking lists only the specific statutes included in the scope of the regulations, the Department believes that this section is sufficiently clear. In contrast, specifically exempting the Clean Air Act or the Air Pollution Control Act would create confusion. The Department administers other statutes regarding the protection of the environment and the health, safety and welfare of the citizens of this Commonwealth that are not included within the scope of this final-form rulemaking. New statutes may be enacted that will be administered by the Department. Listing an exemption for only one or two specific statutes could lead to questions concerning the applicability of the final-form rulemaking to the other unlisted statutes. The Department believes that additional clarifying language is not

necessary in the final-form rulemaking. Facilities that test environmental samples to comply with the Clean Air Act or the Air Pollution Control Act do not need to be accredited to perform these tests.

Two commentators requested additional clarification exempting industries that are subject to the Federal pretreatment standards.

Response: The final-form rulemaking is applicable to testing or analysis required by the Department. Testing performed to satisfy only Federal requirements is outside the scope of the act and could not be covered by the final-form rulemaking. Additional clarifying language is not necessary in the final-form rulemaking and might lead to confusion.

Definitions: Several commentators requested removal of terms that were defined but not used, clarification of existing terms, rewording of definitions to be consistent with the act and addition of new terms for clarity.

Response: The Department agreed with most of the comments and made appropriate changes to the final-form rulemaking. Additionally, the Department added clarifying language to other definitions. The Department did not agree to change the definition of "environmental laboratory" or "environmental sample" as the definitions used in the draft rulemaking and the final-form rulemaking are identical to the definition in the act.

Two commentators indicated that the meaning of "direct supervision" as used in § 252.301(a) is unclear.

Response: Section 4106(c) of the act (relating to requirements of certificate of accreditation) requires "testing, analysis and reporting of data by an accredited laboratory shall be under the direct supervision of a laboratory supervisor." This section of the act provides additional detail for the responsibilities of the laboratory supervisor. Section 252.301 reflects these requirements. The laboratory supervisor is not required to be in the laboratory during all times that testing and analysis is being performed. A laboratory supervisor would be required to be available, be able to exercise appropriate control over the operations of the laboratory and be responsible for the accuracy and validity of the data provided by the laboratory. The requirements are described in section 4106(c) of the act and in Subchapter C, especially §§ 252.301 and 252.304. Should multiple environmental laboratories wish to use the same individual as the laboratory supervisor, each laboratory would need to demonstrate the adequacy of the supervision as required by § 252.301(g).

Two commentators requested addition of a definition for "failure" as it applies in § 252.501(k).

Response: The Department added clarifying language that indicates failure applies to each individual field of accreditation.

Interim accreditation and time of application for accreditation: Several commentators noted that the proposed rulemaking did not include a provision for interim accreditation or provide sufficient detail regarding the date an environmental laboratory would be subject to accreditation.

Response: The Department changed § 252.4 to reflect the requirements of section 4107 of the act (relating to interim requirements), which provides that a laboratory that submits an application within 6 months of the effective date of this final-form rulemaking will be granted interim authorization to continue operations until the Department takes a final action on the application. Additional language was added indicating that the effective

date for environmental laboratories is the date of final-form publication in the *Pennsylvania Bulletin*.

Accreditation-by-rule: Several commentators requested inclusion of additional tests or analyses, including Biological Oxygen Demand and Total Suspended Solids, under the accreditation-by-rule section. Other commentators requested that specific types of environmental laboratories be included under the accreditation-by-rule section or exempted from the section. Several commentators requested more flexibility by allowing individual cases where the intent of the law is being followed. The commentators suggested adding an exemption for a variety of other reasons.

Response: Because of the significance of these parameters in assessing environmental quality and because of the technical skills necessary to perform these tests correctly, these tests were not included under accreditation-by-rule. The purpose of this final-form rulemaking is to improve the quality of data for any testing or analysis of environmental samples that is required by the Department. Because these data are essential for making decisions that affect the environment and the public health, safety and welfare of the citizens of this Commonwealth, the Department believes these tests should not be included under the accreditation-by-rule section.

Several commentators indicated that major National Pollutant Discharge Elimination System (NPDES) dischargers are already required to participate in the United States Environmental Protection Agency's (EPA) annual Discharge Monitoring Report-Quality Assurance (DMRQA) Study. As long as an in-house lab (one that only performs analyses for its own facility's permit requirements) successfully performs the analytical procedures under the DMRQA program, it should be deemed accredited-by-rule.

Response: Successful performance on one proficiency test sample per year (for example, a DMRQA Study) is only one indicator that a laboratory is producing good quality data. A more thorough evaluation is necessary to insure that a laboratory is producing adequate quality data and is in conformance with all of the requirements of the laboratory accreditation regulation, the promulgated method and all other applicable Federal and State regulations. The accreditation process includes other aspects of data evaluation and an onsite review of the laboratory, which include consideration of facilities, personnel, equipment, methodology, quality assurance, recordkeeping and performance.

Several commentators questioned the rationale for inclusion or exclusion of the analytical parameters under accreditation-by-rule.

Response: The preamble to the proposed rulemaking indicated that to be considered for accreditation-by-rule the test would need to meet one of the criteria listed in the preamble. The LAAC agreed to these criteria following an extensive discussion of the merits of the proposed items. Tests proposed for inclusion under accreditation-by-rule were then evaluated against these criteria, especially with regard to the impact that an improperly performed test would have on the environment or the public health, safety and welfare. Short holding times, sample degradation during transport and non-instrumented tests were factors for consideration for inclusion of a particular test or analysis under accreditation-by-rule provided that mistakes in testing would not necessarily result in a significant threat of

harm to the environment. The Department, in conjunction with the LAAC, subsequently selected the accreditation-by-rule parameters included in the proposed rulemaking. The final-form rulemaking retains the original listing of parameters.

Two commentators indicated that § 252.6(d) states that the tests not mandated by Department statute are accredited-by-rule. The final-form rulemaking should not refer to tests and analysis not mandated by the Department. The scope of this final-form rulemaking is to regulate only those tests mandated by specific environmental statutes.

Response: Discussion with individuals, advisory committees and other groups affected by this final-form rulemaking indicated a need to clarify applicability of the final-form rulemaking to this type of testing. In particular, testing for certain parameters may not be required by the Department. However if a test is conducted, the results must be reported. Laboratories were concerned that they would be required to be accredited to perform these types of tests. Requests were made to emphasize this point in the final-form rulemaking. This section was added and is being retained for additional clarification.

Two commentators requested that the accreditation-by-rule section be expanded to include all analyses or tests that are required by State or Federal laws, regulations, an order or permit conditions.

Response: The Department strongly disagrees with the commentators, as the suggested exclusion would exempt in-house laboratories from accreditation requirements. The purpose of this final-form rulemaking is to improve the quality of data for any testing or analysis of environmental samples that is required by the Department. Because these data are essential for making decisions that affect the environment and the public health, safety and welfare of the citizens of this Commonwealth, accreditation of the facilities performing this type of testing is appropriate..

Mobile Laboratories: Two commentators indicated that requiring separate accreditation for mobile laboratories convolutes the field testing process. One commentator asked whether individual accreditations would be required if the same entity owned multiple mobile laboratories. A commentator asked about the acceptability of a single individual acting as the laboratory supervisor for multiple mobile laboratories.

Response: Each laboratory would be considered as a separate environmental laboratory and would be required to maintain separate accreditation. Separate accreditation is required because a mobile laboratory would be expected to be operated independently of an associated fixed facility and under a different quality manual and standard operating procedures (SOPs). A mobile laboratory would not be required to apply for accreditation for each site or testing location. Accreditation of a mobile laboratory would include any methods or procedures for which it has demonstrated compliance with the requirements of Chapter 252. Even though the mobile laboratories are owned or operated by the same entity, they may be performing testing and analysis at geographically separate locations. A single individual could serve as the laboratory supervisor for more than one mobile laboratory provided the requirements of § 252.301(g) are met. The Department does not think the regulation will be too burdensome for mobile laboratories.

Fees: Several commentators indicated that the fees were prohibitive and favored small, medium or large

laboratories, depending upon the commentator. Several commentators indicated that the fee structure was difficult to understand or unnecessarily complex. Other suggested changes to the fee structure included charging a different fee for an initial and for a renewal application and basing the fee on the number of samples analyzed by the laboratory.

Response: After reviewing the comments regarding the fees and their structure, the Department reexamined the fee structure. As a result of some recently implemented and planned cost saving measures, including the use of newly developed database technology, the Department was able to make some changes to the fee structure. These changes include: charging a fee per category per matrix, thus eliminating the individual method charges; different fees for an initial application fee and a renewal application fee; reducing the fees for both basic drinking water and nonpotable water categories; and adding categories that are combinations of several categories. The changes make fees more responsive to the unique needs of small, in-house environmental laboratories.

The act requires that the fees be sufficient to pay the Department's cost of implementing and administering the accreditation program. See section 4104(6) of the act. Based upon the Department's experience with the drinking water laboratory accreditation program, the cost of an accreditation program is related to the complexity of the analytical method and to the number of methods for which a laboratory is seeking accreditation. The fee structure distributes the costs accordingly. The number of samples analyzed by the laboratory does not affect the time required by Department staff to perform onsite evaluations, review PT results and perform other activities that are required for determining the accreditation status of a laboratory.

Several commentators indicated that the Consumer Price Index escalator is a circumvention of the regulatory process. Linking fee increases to the changes in the Consumer Price Index does not allow for consideration of actual program costs to determine the fee charged to the regulated community. The escalator does not account for any future changes in the scope of the accreditation program. The establishment and change of fees is a fundamental regulatory step. The purpose of the regulatory review process is to avoid unchallenged or hurried decision-making. The change of fees should be subject to full public disclosure. This language regarding an automatic escalator should be removed from the proposed rulemaking.

Response: The Department removed the section that links increasing fees based upon increases to the Consumer Price Index.

Out-of-State Laboratories: Two commentators requested clarification about the time included in "travel time."

Response: Travel time only includes time spent traveling to and from the home office to the location of the out-of-State laboratory and does not include overnight time spent in a hotel before or after the assessment.

Several commentators indicated that the Department should consider reciprocating with other accreditation programs other than the National Environmental Laboratory Accreditation Program. These commentators suggested that the final-form rulemaking should include language giving the Department the ability to recognize reciprocal accreditation when granted by a program with guidelines similar to those of the Commonwealth.

Response: Section 4104(1) of the act limits the recognition of other accreditation programs to Federal or State accreditation programs. Additionally, the NELAC Standard requires that an accrediting authority be a state or Federal agency. The final-form rulemaking conforms to both the NELAC Standard and the act.

One commentator requested clarification on the criteria the Department planned to use to evaluate other accreditation programs to determine if they are substantially equivalent and meet the statutory requirements.

Response: The Department will consider the following items to determine if a State accreditation program is substantially equivalent to the requirements of § 252.205(a)(2)(ii): frequency and rigor of onsite evaluation; requirements for corrective action for deficiencies identified during the onsite evaluation; qualification requirements for laboratory supervisor and other laboratory personnel; PT requirements; authority to deny, revoke or suspend accreditation; recordkeeping requirements; quality manual requirements; and other quality control requirements. In accord with section 4104(1) of the act, recognition of other accreditation programs will be limited to Federal or State accreditation programs.

Laboratory Supervisor: Two commentators suggested changes to the requirements regarding designation of an alternate laboratory supervisor when the designated supervisor is absent for more than 15 days.

Response: An absence of a laboratory supervisor for more than 15 days could adversely affect the quality of the data produced by the laboratory, especially in the case of a laboratory that operates 7 days a week. The Department does not believe that designation of an alternate supervisor imposes an unreasonable burden on a laboratory. To accommodate the situation when the laboratory supervisor is absent for a 2-week vacation, including the initial and final weekends, the Department changed the final-form rulemaking to read more than 16 days, 6 weekend days plus 10 weekdays.

Several commentators indicated that the notification requirements concerning changes in supervisors, analysts, supervisor/analyst relationships, testing or analysis equipment or facilities were overly burdensome.

Response: The Department modified the notification requirements to limit the notification requirement to changes to information provided on the application for accreditation.

Several commentators objected to the inclusion of a reference to the laboratory supervisor subclassification for certified operators when a section delineating the requirements for the subclassification does not exist.

Response: Section 252.302(h)(2) and (3) is included because the regulation authorizing the subclassification is in the regulatory development process and the Department expects that proposed rulemaking will be submitted for consideration in the near future. There was no reason to postpone inclusion of this section. The section addresses the concerns of certified operators about being able to meet the formal educational requirements contained elsewhere in the final-form rulemaking. Certified operators who meet the laboratory supervisor grandfather provision can continue to act as the laboratory supervisor.

Personnel Requirements and Training: One commentator asked: How will an environmental laboratory know that it has sufficient personnel with the necessary education, training, technical knowledge and experience for

their assigned functions? How will a laboratory know when it has satisfied this requirement? How will the requirement be enforced?

Response: A laboratory will have sufficient trained personnel when it is able to meet all quality control, documentation and reporting requirements of the final-form rulemaking and the promulgated method. The Department will review the practices and procedures of the laboratory for conformance with the requirements of the final-form rulemaking. Failure to analyze samples within required holding times, failure to maintain documentation, failure to perform required quality control and failure to follow method requirements would be evidence of lack of sufficient trained personnel.

One commentator indicated that the requirements for the documentation required under § 252.304(b)(4) and (8) were vague. Both items should be expanded to describe what documentation is required.

Response: Other areas of the rulemaking contain more specific provisions that address the intent of 252.304(b)(4) and (8). The Department removed these sections from the final-form rulemaking. Changes were made to § 252.706 (relating to recordkeeping) to clarify the records that an environmental laboratory must maintain.

Several commentators indicated the provisions for the ongoing demonstrations of capability for analysts go beyond the required quarterly QC samples and annual PTs. Requiring each member to be retested for proficiency in each method that a lab performs would be arduous. Repeated proficiency testing should only be required when there is a change in instrumentation or method.

Response: The Department strongly believes that demonstrating continued proficiency at least once every 12 months is a reasonable minimum. The analysts must only demonstrate continued proficiency for the tests the analysts performs. This demonstration does not require analysis of purchased PT samples. Options are provided that can easily be met by an individual that routinely performs a particular test or analysis. Specifically, the provision allowing for the use of four consecutive laboratory control samples would not add cost to the laboratory. Analyses of the laboratory control samples are necessary to meet other method and Chapter 252 requirements.

Equipment: Two commentators indicated the term visual comparison devices was vague and confusing.

Response: The Department agreed and replaced the term in the final-form rulemaking with spectrophotometer or colorimeter.

Two commentators indicated that the requirements for equipment calibration in § 252.306 were excessively specific. The commentators further indicated that the constant calibration and measurement of laboratory equipment is an unmanageable requirement that is equally difficult to enforce. The commentators requested that the Department draft a simpler requirement.

Response: Specific requirements for some commonly used equipment are included to eliminate the need for guidance documents and eliminate questions of interpretation. Small laboratories also requested that all requirements be included in a single document for ease of use. The requirements in the regulation are very similar to the requirements in the *US EPA Manual for the Certification of Laboratories Analyzing Drinking Water*, 5th Edition, January 2005, and in *Standard Methods for the Examination of Water and Wastewater*. The Department has been determining compliance with these require-

ments, or similar requirements from earlier versions of the same documents, as a routine part of the current Drinking Water Laboratory Certification Program since 1984. The Department believes the requirements are both understandable and enforceable.

One commentator asked who was considered a "qualified person" to service an analytical balance.

Response: A qualified person is a person that has been trained to service and calibrate an analytical balance. Service companies employ individuals who are specifically trained in servicing and calibrating analytical balances.

Methodology: Several commentators indicated the prescriptive nature of determining analytical methods exceeds some of the requirements of the Federal regulation. The EPA does not approve methods for testing that fall under a performance based measurement system (PBMS). Section 252.307(b) requires the laboratory to comply with applicable State or Federal regulations when selecting an appropriate method. The EPA's Office of Solid Waste has implemented a PBMS for all analytical measurements conducted in support of the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6901—6986). The requirement of laboratories to comply with available Department methods denies a laboratory the flexibility to select a method that is most appropriate for that particular sample. It greatly limits the ability of laboratories to implement new and emerging technologies to meet mandated reporting requirements. The Department should amend any sections referring to methodology to allow laboratories flexibility in determining the most appropriate methodology available to them through a PBMS. In addition, the prescriptive nature of determining methods violates the requirements of Executive Order 1996-1, which prohibits the Commonwealth's regulations from exceeding Federal standards without a compelling reason.

Response: The final-form rulemaking does not violate the requirements of Executive Order 1996-1 because the laboratory accreditation program does not determine or specify which tests or methods are acceptable for use in a regulated program. Other programs within the Department or the EPA are responsible for the promulgation of methods and guidelines limiting the use of methods. No additional limitations on the acceptable use of methods are in this final-form rulemaking. The purpose of the laboratory accreditation program is to ensure that when a test or methodology is specified, the environmental laboratory analyzes the sample properly. Wording has been added to § 252.307(b)(2) to address situations that require use of a method considered appropriate for use.

One commentator asked how a laboratory would apply for permission to use an alternative procedure, the criteria for evaluation, the process for appeal and the mechanism for notification of the laboratory.

Response: A laboratory would apply for permission by submitting a request in writing to the Department. The Department is not requiring a specific format at this time to allow laboratories the flexibility to use various formats that are appropriate for the test method and analyte. The method for validation of an alternate or experimental procedure is dependant upon the analyte. The Department will utilize the EPA Guidelines, for example, *Protocol for EPA Approval of Alternate Test Procedures for Organic and Inorganic Analytes in Wastewater and Drinking Water* (EPA 821-B-98-002, March 1999), when available and when appropriate. A decision to allow or disallow an alternative or experimental procedure would be appealed to the Board. The Department will notify the laboratory by mail of its decision.

Records and Recordkeeping: Several commentators questioned the need to maintain records for 5 years when most NPDES permits only require that records be maintained for 3 years. Onsite captive laboratories should be allowed to follow the recordkeeping requirements of the permit for which the tests are made.

Response: The Department believes the maintenance of historical laboratory records is essential to data integrity. Requiring that an environmental laboratory maintain records for 5 years helps to insure that historical records will be available to reconstruct important and vital environmental data. Under some regulations, for example the drinking water program, the permit holder is only required to retain a summary of the results.

Three commentators indicated that there is no need for in-house captive laboratories to have a written procedure to transfer and assure maintenance of records if there is a change in ownership. Normally, the former permittee for whom the tests were conducted (the seller) must retain records covering their period of operation.

Response: The Department believes the maintenance of historical laboratory records is essential to data integrity. The procedure for the transfer of laboratory records may reference or be linked to the plan for transfer and maintenance of records of the parent facility in the event of a sale or closure. The plan could include transferring the records to the new owner or indicate that the seller would retain the responsibility for maintenance of the records.

Chemistry Quality Control Requirements: One commentator requested clarification for the term "out-of-control" as the term is used in § 252.401(i)(4) (relating to basic requirements).

Response: The Department does not believe that an additional clarification for the term "out-of-control" is required. This term is well understood by environmental laboratory personnel. An out-of-control situation is identified as any situation that does not conform to the requirements or expectations, or both, of the analytical method, regulation, or Chapter 252 requirements. Examples would include failed quality control, failed calibration curve and retention time shifts outside established retention time windows.

Toxicity Testing Quality Control Requirements: One commentator suggested that for clarity the laboratory accreditation regulations should cross reference the guidance documents regarding the counting of neonates, algae cells and weighing of fish for selected endpoints. Also, the commentator indicated that the size requirements for an incubator should be clearer regarding the meaning of "refrigerator-sized."

Response: The Department agrees with the commentator and appropriate changes were made to the final-form rulemaking.

Radiochemistry Quality Control Requirements: One commentator questioned if there may be situations where the method and regulations would differ with regard to acceptance criteria for instrument suitability standards. See § 252.405(d)(8) (relating to essential quality control requirement—radiochemistry).

Response: Yes, there may be situations when the final-form rulemaking imposes different, and more stringent requirements, than the method. For example, the EPA drinking water program often establishes very specific quality control requirements in regulation that exceed the

requirements of the promulgated method. In that instance, the Federal program regulation requirements would take precedence.

Coordination with Other Regulations: One commentator pointed out that the preamble to the proposed rulemaking indicated that the requirements in Chapter 109, Subchapter 109 would be deleted and moved to this final-form rulemaking. The proposed rulemaking did not include deletion of Chapter 109 requirements.

Response: It has clearly been the intent of the Department that this final-form rulemaking would replace and supersede Chapter 109, Subchapter H that describes the requirements of the laboratory certification. Appropriate amendments to Chapter 109 are included in this final-form rulemaking. The Department is also proposing similar amendments to Chapter 78 to avoid any potential conflict or confusion.

G. Benefits, Costs and Compliance

Benefits

The most significant benefit of the final-form rulemaking is an improvement in the overall quality of the data produced by environmental laboratories. Improved data quality will allow the Department, the regulated community and the citizens of this Commonwealth to make better decisions concerning the protection of the environment and protecting public health, safety and welfare. Accurate laboratory results are critical to achieving the goals of the environmental laws.

It is difficult to quantify the benefits of Chapter 252 in specific dollar amounts. One approach to partially quantify the benefit is to examine the extra costs associated with unacceptable data. Fines assessed against environmental laboratories guilty of producing fraudulent data or of producing data that does not meet the regulatory requirements range from several thousand dollars to over \$9 million. These fines reflect the amount of harm done to the environment or to public health by poorly operated laboratories. When an environmental laboratory fails to provide accurate and valid data, additional testing and analysis and costly remediation is often required. This environmental laboratory accreditation program is a proactive approach designed to prevent problems before they become critical and responds to the mandate given by the General Assembly to the Department.

Compliance Costs

An environmental laboratory that is accredited-by-rule will incur no additional compliance costs. For other environmental laboratories, the direct costs for compliance will be payment of the required fees and the purchase of PT samples. These costs will vary depending upon the type of testing and analyses that the environmental laboratory chooses to perform. The annual application fees will range from \$850 to \$13,600. The cost for the PT samples range from less than \$100 to approximately \$13,000. The Department believes that the accreditation requirements will not result in prohibitive cost increases for any environmental laboratory. The Department is required to set fees in an amount sufficient to cover the cost of establishing and maintaining a laboratory accreditation program.

The final-form rulemaking contains a fee structure that is responsive to the needs of small laboratories. Categories of testing are included for basic drinking water parameters and for basic wastewater parameters as a group. Additional tests were added to the basic wastewater parameter group in response to comments received.

These groupings include the tests usually performed by the smaller drinking water and wastewater facilities. Additionally, it has been the Department's experience in the drinking water laboratory accreditation program that accreditation is affordable for many small laboratories. Many small and municipal laboratories have met similar requirements under the Drinking Water Program regulations in Chapter 109.

Laboratories performing testing in the wastewater program are already required to use approved methods, many of which have requirements similar to this final-form rulemaking. Also, many of the laboratories performing testing in the wastewater program currently participate in PT studies.

Compliance Assistance Plan

The ultimate goal of the compliance assistance effort will be improving an environmental laboratory's ability to produce valid and defensible data for use by the Department, the regulated community and the public. Several areas where compliance assistance is necessary are general laboratory operation, correct performance of specific test procedures and documentation of laboratory activities. These areas, as well as others yet to be identified, will be provided to all environmental laboratories regardless of size or location within this Commonwealth. Several different ways of providing assistance have been identified.

The Department will develop a compliance guide to help an environmental laboratory understand the compliance requirements associated with any final-form or newly adopted regulations. Initially, the compliance guide would be tailored to the smallest wastewater and drinking water environmental laboratories because these laboratories are expected to be the least familiar with the requirements of a laboratory accreditation program. The guide would address the requirements for the basic testing performed by these smaller laboratories. Eventually the compliance guide may be expanded to larger laboratories. Additionally, the Department will develop and provide formal training courses or seminars that would assist environmental laboratories as they prepare for accreditation.

The training courses or seminars would present information that would be applicable to all environmental laboratories, regardless of size and would be presented across this Commonwealth at numerous locations. Possible sites include the Department's laboratory and regional and district offices, colleges or universities, hotels and other training facilities. The seminars and courses may be presented in conjunction with existing organizations, such as the Pennsylvania Rural Water Association, the Pennsylvania Association of Accredited Environmental Laboratories and the Pennsylvania Municipal Authorities Association.

Finally, a periodic newsletter may also be developed to provide updates about the environmental laboratory accreditation program in this Commonwealth. The Department may also expand the use of technology-based solutions to provide additional mechanisms for asking for and receiving assistance. Possible mechanisms for providing and making compliance assistance materials available include the use of the Department's website, e-mail and a toll-free telephone number.

Paperwork Requirements

An application for accreditation shall be submitted each year. On the application for accreditation, the environmental laboratory will be asked to supply the Department

with information about the laboratory supervisor, the areas for which accreditation is being requested and basic information about the environmental laboratory, such as the address, telephone number and hours of operation.

An environmental laboratory will be required to follow specific recordkeeping procedures. An environmental laboratory is required to maintain documentation that describes the testing and analysis performed and to permit a scientist to reconstruct all activities associated with producing the reported result. The environmental laboratory shall maintain the records for a minimum of 5 years and the laboratory shall have a written plan that specifies how records will be maintained or transferred in the event that the laboratory transfers ownership or terminates operations.

Basic documentation includes a document describing the policies and procedures that an environmental laboratory instituted to insure the production of good quality data. This document is generally referred to as a quality manual. An environmental laboratory is also required to maintain SOPs describing how the laboratory performs the test or analysis. The quality manual and SOPs may be separately prepared documents, a copy of a standard policy or procedure or a cut and paste copy of a method or manual. The only specific requirement is that it accurately reflects and fully describes the operation of the environmental laboratory. Thus, small laboratories that perform a limited number of tests will only need to develop a quality manual and SOPs suited to their particular circumstances. In addition to assuring quality data and consistency among analysts, these documents may provide significant benefits to small laboratories in the event of staff turnover because the "institutional memory" of the laboratory will be preserved.

H. Pollution Prevention

This final-form rulemaking will neither promote nor discourage a multimedia pollution prevention approach. Essentially all of the procedures or methods used for testing or analysis have a pollution prevention component incorporated into them. This final-form rulemaking will assure that the laboratories are following the promulgated methods. This final-form rulemaking does contain a mechanism for the approval of alternate methods that use new or innovative technologies on a case-by-case basis. Innovative technologies often use less chemicals and therefore effectively work to reduce the amount of hazardous waste generated resulting in pollution prevention.

I. Sunset Review

The final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 20, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 519 (January 22, 2005), to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees 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 November 30, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 1, 2005, and approved the final-form rulemaking.

K. 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 241) (45 P. S. §§ 1201 and 1202) and 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 the proposal published at 35 Pa.B. 519.

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts.

L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapters 78, 109 and 252, are amended by amending §§ 78.1, 78.52, 109.801 and 109.810; by deleting §§ 78.141—78.146 and 109.802—109.809; and by adding §§ 252.1—252.6, 252.201—252.207, 252.301—252.307, 252.401—252.405, 252.501, 252.601 and 252.701—252.708 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson of 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 immediately upon publication in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6852 (December 17, 2005).)

Fiscal Note: Fiscal Note 7-392 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 78. OIL AND GAS WELLS

Subchapter A. GENERAL PROVISIONS

§ 78.1. Definitions.

* * * * *

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

* * * * *

Certified laboratory—A laboratory accredited by the Department under Chapter 252 (relating to laboratory accreditation).

* * * * *

Subchapter C. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 78.52. Predrilling or prealteration survey.

(a) A well operator who wishes to preserve its defense under section 208(d)(1) of the act (58 P. S. § 601.208(d)(1)) that the pollution of a water supply existed prior to the drilling or alteration of the well shall cause a predrilling or prealteration survey to be conducted in accordance with this section.

(b) A person who wishes to document the quality of a water supply to support a future claim that the drilling or alteration of the well affected the water supply by pollution may conduct a predrilling or prealteration survey in accordance with this section.

(c) The survey shall be conducted by an independent certified laboratory. A person independent of the well owner or well operator, other than an employee of the certified laboratory, may collect the sample and document the condition of the water supply, if the certified laboratory affirms that the sampling and documentation is performed in accordance with the laboratory's approved sample collection, preservation and handling procedure and chain of custody.

(d) An operator electing to preserve its defenses under section 208(d)(1) of the act shall provide a copy of the results of the survey to the Department and the landowner or water purveyor within 10-calendar days of being notified by the Department to submit a copy of the results.

(e) The report describing the results of the survey must contain the following information:

(1) The location of the water supply and the name of the surface landowner or water purveyor.

(2) The date of the survey, and the name of the certified laboratory and the person who conducted the survey.

(3) A description of where and how the sample was collected.

(4) A description of the type and age, if known, of the water supply, and treatment, if any.

(5) The name of the well operator, name and number of well to be drilled and permit number if known.

(6) The results of the laboratory analysis.

(f) A well operator who wishes to preserve the defense under section 208(d)(2) of the act that the landowner or water purveyor refused the operator access to conduct a survey shall confirm the desire to conduct this survey and that access was refused by issuing notice to the person by certified mail, or otherwise document that access was refused. The notice must include the following:

(1) The operator's intention to drill or alter a well.

(2) The desire to conduct a predrilling or prealteration survey.

(3) The name of the person who requested and was refused access to conduct the survey and the date of the request and refusal.

(4) The name and address of the well operator and the address of the Department, to which the water purveyor or landowner may respond.

Subchapter F. (RESERVED)

§§ 78.141—78.146. (Reserved).

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter H. LABORATORY CERTIFICATION

§ 109.801. Certification requirement.

A laboratory shall be accredited under Chapter 252 (relating to laboratory accreditation) to perform analyses acceptable to the Department for the purposes of ascertaining drinking water quality and demonstrating compliance with monitoring requirements established in Subchapter C (relating to monitoring requirements).

§§ 109.802—109.809. (Reserved).

§ 109.810. Reporting and notification requirements.

(a) A laboratory accredited under Chapter 252 (relating to laboratory accreditation) shall submit to the Department, on forms provided by the Department, the results of test measurements or analyses performed by the laboratory under this chapter. Unless a different reporting period is specified in this chapter, these results shall be reported within either the first 10 days following the month in which the result is determined or the first 10 days following the end of the required monitoring period as stipulated by the Department, whichever is shorter.

(b) A laboratory accredited under Chapter 252 shall whenever an MCL, MRDL or a treatment technique performance requirement under § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements) is violated, or a sample result requires the collection of check samples under § 109.301 (relating to general monitoring requirements):

(1) Notify the public water supplier by telephone within 1 hour of the laboratory's determination. If the supplier cannot be reached within that time, notify the Department by telephone within 2 hours of the determination. If it is necessary for the laboratory to contact the Department after the Department's routine business hours, the laboratory shall contact the appropriate Department regional office's after-hours emergency response telephone number and provide information regarding the occurrence, the name of a contact person and the telephone number where that individual may be reached in the event further information is needed. If the Department's appropriate emergency number cannot be reached, the laboratory shall notify the appropriate Department regional office by telephone within 1 hour of the beginning of the next business day. Each certified laboratory shall be responsible for the following:

(i) Obtaining and then maintaining the Department's current after-hours emergency response telephone numbers for each applicable regional office.

(ii) Establishing or updating a standard operating procedure by November 8, 2002, and at least annually thereafter to provide the information needed to report the occurrences to the Department. The information regarding the public water system must include, but is not limited to, the PWSID number of the system, the system's name, the contaminant involved in the occurrence, the

level of the contaminant found, where the sample was collected, the dates and times that the sample was collected and analyzed, the name and identification number of the certified laboratory, the name and telephone number of a contact person at the laboratory and what steps the laboratory took to contact the public water system before calling the Department.

(2) Notify the appropriate Department district office in writing within 24 hours of the determination. For the purpose of determining compliance with this requirement, the postmark, if the notice is mailed, or the date the notice is received by the Department, whichever is earlier, will be used. Upon approval by the Department, the notice may be made electronically to the Department as long as the information is received within the 24-hour deadline.

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VI. GENERAL HEALTH AND SAFETY CHAPTER 252. ENVIRONMENTAL LABORATORY ACCREDITATION

Subchap.

- A. GENERAL PROVISIONS
- B. APPLICATION, FEES AND SUPPORTING DOCUMENTS
- C. GENERAL STANDARDS FOR ACCREDITATION
- D. QUALITY ASSURANCE AND QUALITY CONTROL REQUIREMENTS
- E. PROFICIENCY TEST STUDY REQUIREMENTS
- F. ONSITE ASSESSMENT REQUIREMENTS
- G. MISCELLANEOUS PROVISIONS

Subchapter A. GENERAL PROVISIONS

Sec.	
252.1.	Definitions.
252.2.	Purpose.
252.3.	Scope.
252.4.	General requirements.
252.5.	NELAP equivalency.
252.6.	Accreditation-by-rule.

§ 252.1. Definitions.

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

Acceptance criteria—Specified limits placed on a measurement, quality control sample or process.

Accreditation—A determination by the Department that an environmental laboratory is capable of performing one or more classes of testing or analysis of environmental samples in accordance with the act and this chapter.

Accreditation-by-rule—Accreditation which an environmental laboratory is deemed to have for the fields of accreditation identified in § 252.6 (relating to accreditation-by-rule) upon compliance with that section.

Accrediting authority—A territorial, state or Federal agency having responsibility and accountability for environmental laboratory accreditation and which grants accreditation.

Act—27 Pa.C.S. §§ 4101—4113 (relating to environmental laboratory accreditation).

Analysis day—A continuous 24-hour period during which testing or analysis of environmental samples is performed.

Analyst—An individual who performs the analytical methods and associated techniques and who is responsible for applying the required laboratory practices and quality controls to meet the required level of quality.

Analyte—The component, compound, element or isotope to be identified or quantified using a test or analysis.

Batch—Environmental samples that are prepared or analyzed together using the same procedures, personnel, lots of reagents and standards.

Batch, analytical—A batch composed of prepared environmental samples that are analyzed together as a group. An analytical batch may contain samples originating from various environmental matrices and can exceed 20 samples.

Batch, preparation—A batch composed of 1 to 20 environmental samples of the same matrix with a maximum time between the start of processing of the first and last sample in the batch to be 24 hours.

Calibration verification standard—A standard used to confirm the validity of a previously performed initial calibration of a measurement process.

Certificate of accreditation—A document issued by the Department certifying that an environmental laboratory has met standards for accreditation.

Commonwealth agency—An agency that is a Commonwealth agency as that term is defined under 62 Pa.C.S. § 103 (relating to definitions.)

Deficiency—A deviation from acceptable procedures or practices.

Detection limit—The lowest concentration or amount of the target analyte that can be identified, measured and reported with confidence that the analyte concentration is not zero.

Drinking water—Any aqueous sample that has been collected for the purposes of demonstrating compliance with the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) or is from a potable or potential potable water source.

ECp—Effective concentration percent—The concentration that affects the test variable at p percent from the control value.

Environmental laboratory—A facility engaged in the testing or analysis of environmental samples.

Environmental sample—A solid, liquid, gas or other specimen taken for the purpose of testing or analysis as required by an environmental statute.

Environmental statute—A statute administered by the Department relating to the protection of the environment or of public health, safety and welfare.

Facility—A sole proprietor, partnership, corporation, association, institution, cooperative enterprise, municipal authority, political subdivision, Federal government or agency, state institution or agency or other legal entity which is recognized by law as the subject of rights and duties.

Field of accreditation—A combination of matrix; method or technology, or both; and analyte or analyte group for which an environmental laboratory may be accredited. Examples are:

(i) Nonpotable water; GC/MS, US EPA Method 625; benzo(a)pyrene.

(ii) Drinking water; ICP, US EPA Method 200.7; magnesium.

(iii) Drinking water; GC/MS, US EPA Method 524.2; total trihalomethanes.

Holding time —The maximum elapsed time from sample collection to initiation of testing or analysis.

ICp —Inhibition concentration percent—The concentration that inhibits the test variable at p percent from the control value.

Industrial wastewater treatment facility —Any facility that treats industrial waste or pollution, but not sewage, as those terms are defined in The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Initial calibration —Determination by measurement or comparison with a standard of known concentration the correct value or response of each scale reading on a meter, instrument or other device. Comparison of a measurement standard or instrument with another standard or instrument to report or eliminate by adjustment any variation in the accuracy of the item being compared.

Initial demonstration of capability —A procedure to establish the ability of an analyst, technical staff member or work cell to generate data of acceptable accuracy and precision.

LCP —Lethal concentration percent—The concentration that is lethal to p percent of the test organisms from the control organisms.

Laboratory control sample —A sample of a controlled matrix known to be free of the analyte of interest, to which a known and verified concentration of analyte has been added and that is taken through all preparation and analytical steps in the method.

Laboratory management —

(i) The individuals responsible for the overall operation, all personnel and the physical plant of an environmental laboratory.

(ii) The term includes the laboratory supervisor.

Laboratory notebook —A chronological record of observations, results of testing or analysis, equipment maintenance or calibration or other environmental laboratory data. A laboratory notebook may be maintained in an electronic format.

Laboratory supervisor —A technical supervisor of an environmental laboratory who supervises laboratory procedures and reporting of analytical data.

Linear range —The range of concentrations over which the instrument response is directly proportional to the analyte concentration.

MCL—Maximum Contaminant Level —The maximum permissible level of a contaminant in water which is delivered to a user of a public water system, and includes the primary and secondary MCLs established under the Safe Drinking Water Act (42 U.S.C.A. §§ 300f—300j—10) and MCLs adopted under the Pennsylvania Safe Drinking Water Act and the regulations promulgated thereunder.

Matrix or matrices —The media of an environmental sample that includes drinking water, nonpotable water, and solid and chemical materials.

Matrix spike —A sample prepared by adding a known mass of target analyte to a specified amount of environmental sample and that is taken through all preparation and analytical steps in the method.

Method —The scientific technique used to perform testing or analysis on an environmental sample.

Method blank —A sample of a known matrix, similar to the associated samples, and known to be free of the analyte of interest and that is taken through all preparation and analytical steps in the method.

Mobile laboratory —

(i) A portable enclosed structure within which testing or analysis of environmental samples occurs.

(ii) Examples include trailers, vans and skid-mounted structures configured to house environmental testing equipment and personnel.

NELAC —National Environmental Laboratory Accreditation Conference.

NELAP —National Environmental Laboratory Accreditation Program.

NELAP accrediting authority —An accrediting authority that has been recognized as meeting the requirements of the NELAC standards and has the authority to grant NELAP accreditation.

NIST —The National Institute of Standards and Technology of the United States Department of Commerce's Technology Administration.

NOAEC —No observed adverse effect concentration.

NOEC —No observed effect concentration.

Negative culture control —An organism selected to demonstrate that the medium does not support the growth of nontarget organisms or does not demonstrate the typical positive reaction of the target organisms.

Nonpotable water —

(i) Any aqueous sample excluded from the definition of drinking water matrix.

(ii) The term includes wastewater, ambient water, surface water, groundwater, effluents, water treatment chemicals and toxicity characteristic leaching procedure or other extracts.

Positive culture control —An organism selected to demonstrate that the medium can support the growth of the target organisms and that the medium produces the specified or expected reaction to the target organism.

Primary accreditation —Accreditation received from the Department that is not based upon accreditation from another accrediting authority.

Proficiency test study —A sample or group of samples, the composition of which is unknown to the environmental laboratory and the analyst.

Promulgated method —A protocol for testing or analysis of a specific analyte that is approved for use by a State or Federal regulation.

Quality manual —A document stating, or making reference to, the policies, objectives, principles, responsibilities, accountability, implementation plans, methods, operating procedures or other documents of an environmental laboratory for ensuring the quality of its testing and analysis.

Quantitation limit —The minimum concentration or activity of the component, compound, element or isotope that can be reported with a specified degree of confidence. Typically it is the concentration that produces a signal ten standard deviations above the reagent water blank signal.

Range of quantitation—The concentration range between which an environmental laboratory reports results quantitatively which is defined by a low concentration standard and a high concentration standard.

Reagent water—Water with no detectable concentration of the component, compound, element or isotope to be analyzed and that is free of substances that interfere with the method. Reagent water may be prepared by distillation, ion exchange, adsorption, reverse osmosis or a combination thereof.

Revocation—Removal by the Department of one or more fields of accreditation from an environmental laboratory.

Sample duplicate—Replicate aliquots of the same sample taken through the entire analytical procedure.

Secondary accreditation—Accreditation received from the Department based upon the accreditation status granted by another accrediting authority.

Solid and chemical materials—Soils, sediments, sludges, solid waste, drill cuttings, overburden, minerals, coal ash, and products and by-products of an industrial process that result in a matrix that is not otherwise defined.

Solid waste—Any waste, including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials as that term is defined in the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Spike—A known and verified mass or activity of the target analyte of interest added to reagent water or environmental sample to determine recovery efficiency or for other quality control purposes.

Standard operating procedure—A written document that provides detailed instructions for the performance of all aspects of test, analysis, operation or action.

Surrogate—A substance with properties similar to the analyte of interest. A surrogate is unlikely to be found in an environmental sample. A surrogate is added to an environmental sample prior to all preparation and analytical steps in the method for quality control purposes.

Suspension—The temporary removal by the Department of one or more fields of accreditation from an environmental laboratory for a period not to exceed 6 months.

Technical staff—Employees of an environmental laboratory that perform any portion of testing or analysis of environmental samples, including the analysts of the environmental laboratory.

Test—A technical operation that consists of the determination of one or more characteristics or performance of a given product, material, equipment, organism, physical phenomenon, process or service according to a specified procedure.

Wastewater—A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation, or which constitutes pollution under The Clean Streams Law.

Wastewater facility—A facility that operates a system designed to collect, convey or treat wastewater and from which effluent is discharged into waters of this Commonwealth.

Work area—The areas in an environmental laboratory necessary for testing and analysis and related activities. These areas include sample receipt area, sample storage area, chemical and waste storage area, data handling area and analytical areas.

Work cell—A defined group of analysts that together perform testing or analysis of environmental samples.

§ 252.2. Purpose.

The purpose of this chapter is to protect public health, safety, welfare and the environment by ensuring the accuracy, precision and reliability of data generated by environmental laboratories by establishing an accreditation program for environmental laboratories.

§ 252.3. Scope.

(a) *Environmental statutes.* This chapter applies to facilities that test or analyze environmental samples in the matrices listed in subsection (b) for the purpose of complying with the following environmental statutes:

- (1) The Oil and Gas Act (58 P. S. §§ 601.101—601.605).
- (2) The Clean Streams Law (35 P. S. §§ 691.1—691.1001).
- (3) The Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305).
- (4) The Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).
- (5) The Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).
- (6) The Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).
- (7) The Storage Tank and Spill Prevention Act (35 P. S. §§ 6021.101—6021.2104).
- (8) The Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 701-101—701-706).
- (9) The Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1369.31).
- (10) The Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.206).
- (11) The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).
- (12) The Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3001—3326).

(b) *Matrix.* The following matrices are included:

- (1) Drinking water.
- (2) Nonpotable water.
- (3) Solid and chemical materials.

(c) *Exclusions.* The following testing and analysis is specifically excluded from the requirements of this chapter:

- (1) Corrosion protection system testing or testing of a storage tank system for tightness or structural soundness under Chapter 245 (relating to the Administration of the Storage Tank and Spill Prevention Program).
- (2) Routine release detection monitoring under §§ 245.442—245.445, 245.543 and 245.613.

(3) Analyses to determine the acceptability of soils for protective, daily, intermediate and final cover material, subbase, clay liner, clay cap, attenuating soil base and liner system construction material under Chapters 260a, 261a, 262a, 263a, 264a, 265a, 266a, 266b, 268a, 269a and 270a (relating to hazardous waste), Chapters 271—273, 275, 277, 279, 281 and 283—285 (relating to municipal waste) and Chapters 287—289, 291, 293, 295 and 297—299 (relating to residual waste).

(4) Testing or analysis of the physical, chemical, mechanical and thermal properties of liners, liner systems, leachate detection zones and barriers under Chapters 260a, 261a, 262a, 263a, 264a, 265a, 266a, 266b, 268a, 269a, 270a, 271—273, 275, 277, 279, 281, 283—285, 287—289, 291, 293, 295 and 297—299.

§ 252.4. General requirements.

(a) Testing or analysis of environmental samples within a matrix identified in § 252.3 (relating to scope) and to comply with a statute listed in § 252.3 shall be performed by an environmental laboratory accredited under this chapter.

(b) An environmental laboratory testing or analyzing environmental samples in a matrix identified in § 252.3 and required by a statute identified in § 252.3 shall be accredited and in compliance with this chapter to generate data and perform analysis used to comply with an environmental statute listed in § 252.3.

(c) By July 28, 2006, an environmental laboratory testing or analyzing environmental samples within a matrix identified in § 252.3 and to comply with a statute listed in § 252.3 shall apply to the Department for accreditation in accordance with Subchapter B (relating to application, fees and supporting documents). An environmental laboratory that files an application within that time period shall have interim accreditation to continue operations until the Department takes final action on the application.

(d) After July 28, 2006, an environmental laboratory that seeks accreditation under this chapter shall apply in accordance with Subchapter B. Interim accreditation will not be granted to an environmental laboratory which submits an application for accreditation after July 28, 2006.

§ 252.5. NELAP equivalency.

(a) An environmental laboratory may apply to the Department for NELAP accreditation for the fields of accreditation for which the Department offers accreditation.

(b) An environmental laboratory seeking NELAP accreditation shall:

(1) Submit a complete application as provided in Subchapter B (relating to application, fees and supporting documents).

(2) Comply with Subchapter G (relating to miscellaneous provisions).

(c) An environmental laboratory receiving NELAP accreditation from the Department may apply for accreditation under the remainder of this chapter for the fields of accreditation that are not included in NELAP accreditation and for which the Department offers accreditation.

(d) An environmental laboratory receiving NELAP accreditation from the Department may only test or analyze environmental samples within the fields of accreditation authorized by the accreditation received from the Department.

§ 252.6. Accreditation-by-rule.

(a) *Purpose.* Environmental laboratories performing testing or analysis described in this section will be deemed to have accreditation-by-rule if the following general requirements are met:

(1) The environmental laboratory performs the testing or analysis in conformance with applicable State or Federal laws, regulations, promulgated methods, orders and permit conditions.

(2) The environmental laboratory assures that samples for testing or analysis are properly preserved, are in proper containers, do not exceed maximum holding times between collection and analysis and are handled in accordance with applicable State or Federal Laws, regulations, promulgated methods, orders and permit conditions.

(3) The environmental laboratory has the other necessary permits under the applicable environmental protection acts and is operating under the acts and regulations promulgated thereunder and the terms and conditions of permits.

(4) Records pertaining to the testing or analysis of environmental samples are retained onsite and in accordance with § 252.706 (relating to recordkeeping). Records shall be made available to the Department upon request.

(5) The environmental laboratory is reporting the results of the testing or analysis of environmental samples in conformance with the applicable State or Federal laws, regulations, orders or permit conditions.

(b) *Inappropriate activity.* The Department may require an environmental laboratory deemed to have accreditation-by-rule to apply for, and obtain, environmental laboratory accreditation under Subchapter B (relating to application, fees and supporting documents), or take other appropriate action, when the environmental laboratory is not in compliance with the conditions of accreditation-by-rule or is conducting an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

(c) *Testing and analysis of samples from public water suppliers.* An environmental laboratory using an individual meeting the requirements specified in § 109.704 (relating to operator certification) and in compliance with subsections (a) and (b) will be deemed to be accredited under this chapter to perform only those measurements identified in § 109.304(c) (relating to analytical requirements) as measurements that may be performed by a person meeting the requirements of § 109.704.

(d) *Industrial wastewater treatment facility laboratory.* An environmental laboratory operated by an industrial wastewater treatment facility in compliance with subsections (a) and (b) will be deemed to be accredited under this chapter to perform testing or analysis not mandated by the Department and those tests identified in subsection (f).

(e) *Wastewater facility laboratory.* An environmental laboratory operated by a wastewater facility in compliance with subsections (a) and (b) will be deemed to be accredited under this chapter to perform testing or analysis not mandated by the Department and those tests identified in subsection (f).

(f) *Other testing and analysis.* With the exception of environmental laboratories testing or analyzing environmental samples to comply with the Pennsylvania Safe

Drinking Water Act (35 P. S. §§ 721.1—721.17), an environmental laboratory in compliance with subsections (a) and (b) will be deemed accredited under this chapter for the following tests or analyses:

- (1) Alkalinity.
- (2) Carbon dioxide (CO₂).
- (3) Color.
- (4) Conductivity.
- (5) Dissolved oxygen.
- (6) Field radioactivity using hand held survey instruments.
- (7) Flash point and total halogen determination on waste oil by a waste oil transporter or waste oil transfer facility as required by § 298.44 (relating to rebuttable presumption for waste oil and flash point screening).
- (8) Flow.
- (9) Foam.
- (10) Hardness.
- (11) Odor.
- (12) Oxidation reduction potential.
- (13) Paint filter test.
- (14) pH.
- (15) Residual disinfectant concentration.
- (16) Settleable solids.
- (17) Sheen.
- (18) Sludge volume index.
- (19) Specific gravity.
- (20) Sulfite.
- (21) Taste.
- (22) Temperature.
- (23) Turbidity.
- (24) Vapor analysis using hand held survey instruments.
- (25) Volatile acids in wastewater and sludge.

(g) *Exclusion from requirements.* An environmental laboratory deemed to be accredited under this section is not required to meet any other requirements in this chapter.

Subchapter B. APPLICATION, FEES AND SUPPORTING DOCUMENTS

Sec.

- 252.201. Application and supporting documents.
 252.202. Application for transfer of laboratory accreditation.
 252.203. Accreditation renewal.
 252.204. Fees.
 252.205. Out-of-State laboratories.
 252.206. Out-of-State onsite reimbursement.
 252.207. Expiration of application.

§ 252.201. Application and supporting documents.

(a) An environmental laboratory seeking accreditation for one or more fields of accreditation within a matrix described in § 252.3 (relating to scope) or that seeks to add a field of accreditation, shall apply to the Department

for accreditation in writing on forms provided by the Department. The applicant shall provide other relevant material requested by the Department.

(b) An application for accreditation must include the appropriate application fee in accordance with § 252.204 (relating to fees.)

(c) Environmental laboratories maintained on separate premises shall maintain distinct accreditation. Separate accreditation is not required for environmental laboratories in different buildings on the same or adjoining grounds, provided the laboratories are operated under the same management.

(d) Separate accreditation is required for a mobile laboratory.

§ 252.202. Application for transfer of laboratory accreditation.

(a) The new owner of an accredited environmental laboratory shall notify the Department in writing within 10 calendar days following a change in laboratory ownership. Within 30 calendar days following the change in laboratory ownership, an accredited environmental laboratory shall do the following:

(1) Submit an ownership transfer application, indicating any changes in the equipment, methodology and staffing.

(2) Pay the application fee for ownership transfer.

(3) Agree to correct any violations that exist at the time of the sale or transfer in accordance with a schedule that is acceptable to the Department.

(b) Open or pending enforcement actions will be transferred with the accreditation.

(c) Failure to comply with this section will cause the previous accreditation to expire.

(d) An environmental laboratory may operate under the previous accreditation until the Department makes a final decision on the transfer application. If the Department denies the transfer application, the environmental laboratory is no longer accredited and the new owner shall submit an application under § 252.201 (relating to application and supporting documents).

§ 252.203. Accreditation renewal.

(a) Applications for accreditation renewal shall be submitted annually to the Department at least 60 calendar days prior to the expiration date of the current certificate of accreditation on forms provided by the Department.

(b) An application for accreditation renewal must include the appropriate application fee in accordance with § 252.204 (relating to fees.)

(c) Failure to submit an application for renewal in accordance with this section will result in a lapse in accreditation if the Department has not approved the renewal application prior to the expiration of the current certificate of accreditation. If a lapse in accreditation occurs, the environmental laboratory shall cease all testing or analysis of environmental samples for the affected fields of accreditation.

§ 252.204. Fees.

(a) The appropriate fee in accordance with the following schedule must accompany an application for accreditation, renewal of accreditation, change of ownership, or addition of fields of accreditation. A check must be payable to "Commonwealth of Pennsylvania." The fees are as follows:

<i>Category</i>	<i>Fee</i>
Application fee—initial application	\$600
Application fee—renewal application	\$500
Application fee—ownership transfer	\$150
Application fee—addition of fields of accreditation	\$250
Basic drinking water category (one method for each of the following: total coliform bacteria, fecal coliform bacteria, E-coli bacteria, heterotropic bacteria, nitrate, nitrite, fluoride, cyanide)	\$600
Asbestos—drinking water	\$350
Microbiology—drinking water	\$450
Trace metal category—drinking water	\$450
Inorganic nonmetal category—drinking water	\$500
Trace metal and inorganic nonmetal category—drinking water	\$800
Volatile organic chemicals—drinking water	\$500
Extractable and semivolatile organic chemicals—drinking water	\$750
Dioxin—drinking water	\$600
Radiochemical category—drinking water	\$700
Basic nonpotable water category (one method for each of the following: fecal coliform bacteria, BOD, CBOD, nitrate, ammonia, total nitrogen, total kjeldahl nitrogen, nitrite, phosphorus and one method for each type of residue)	\$700
Asbestos—nonpotable water	\$350
Microbiology—nonpotable water	\$400
Trace metal category—nonpotable water	\$450
Inorganic nonmetal category—nonpotable water	\$550
Trace metal and inorganic nonmetal category—nonpotable water	\$900
Volatile organic chemicals—nonpotable water	\$500
Extractable and semivolatile organic chemicals—nonpotable water	\$950
Dioxin—nonpotable water	\$600
Radiochemical category—nonpotable water	\$600
Whole effluent toxicity testing category	\$600
Microbiology—drinking water and nonpotable water	\$750
Trace metal category—drinking water and nonpotable water	\$800
Inorganic nonmetal category—drinking water and nonpotable water	\$1,000
Trace metal and inorganic nonmetal category—drinking water and nonpotable water	\$1,550
Volatile organic chemicals—drinking water and nonpotable water	\$900
Extractable and semivolatile organic chemicals—drinking water and nonpotable water	\$1,650
Dioxin—drinking water and nonpotable water	\$1,050
Radiochemical category—drinking water and nonpotable water	\$1,050
Asbestos—solid and chemical materials	\$350
Microbiology—solid and chemical materials	\$450
Trace metal category—solid and chemical materials	\$450

<i>Category</i>	<i>Fee</i>
Inorganic nonmetal category—solid and chemical materials	\$550
Volatile organic chemicals—solid and chemical materials	\$550
Extractable and semivolatile organic chemicals—solid and chemical materials	\$1,200
Dioxin—solid and chemical materials	\$600
Radiochemical category—solid and chemical materials	\$600

(b) At least every 3 years, the Department will recommend regulatory changes to the fees in this section to the EQB to address any disparity between the program income generated by the fees and program costs. The regulatory amendment will be based upon an evaluation of the accreditation program fees income and the Department's costs of administering the accreditation program.

(c) An environmental laboratory owned or operated by a Commonwealth agency is exempt from this fee requirement, but shall apply for accreditation under this chapter.

(d) Fees are nonrefundable.

(e) In addition to the nonrefundable application fee, an out-of-State environmental laboratory shall reimburse the Department for the costs associated with onsite assessments necessitated by accreditation as specified in § 252.206 (relating to out-of-State onsite reimbursement).

§ 252.205. Out-of-State laboratories.

(a) Out-of-State environmental laboratories may apply for primary accreditation or secondary accreditation from the Department.

(1) *Primary accreditation.* Out-of-State environmental laboratories may apply to the Department for primary accreditation under this chapter.

(2) *Secondary accreditation.*

(i) The Department will recognize accreditation granted by a primary NELAP accrediting authority for the same fields of accreditation for which the Department is a primary NELAP accrediting authority.

(ii) The Department may recognize the accreditation of an environmental laboratory by another state accrediting authority if the standards for accreditation are substantially equivalent to those established under this chapter and the laboratory is physically located within the state granting accreditation.

(iii) An environmental laboratory seeking secondary accreditation from the Department shall:

(A) Submit a properly completed application on forms provided by the Department.

(B) Pay the appropriate fee.

(C) Submit a copy of a valid accreditation certificate from the primary accrediting authority.

(D) Submit a copy of all onsite assessment reports conducted by the primary accrediting authority within the last 3 years.

(E) Submit copies of all proficiency test sample results reported to the primary accrediting authority within the past 12 months.

(F) Submit any other material relevant to accreditation, upon request of the Department.

(b) The Department may conduct an onsite assessment or require analysis of a proficiency test study by an out-of-State environmental laboratory seeking secondary

accreditation for reasons which may include addressing complaints from the public or Department personnel, discrepancies with environmental sample results, onsite assessment deficiencies, frequent errors in reporting data to the Department and suspicions of fraud regarding data quality. If the Department determines that an onsite assessment is required, the environmental laboratory shall pay the Department's travel costs associated with the onsite assessment in accordance with § 252.206 (relating to out-of-State onsite reimbursement).

(c) If any portion of the out-of-State environmental laboratory's accreditation is denied, revoked or suspended by the primary accrediting authority, the laboratory's authorization to perform testing or analysis is automatically revoked for the same fields of accreditation.

§ 252.206. Out-of-State onsite reimbursement.

In addition to the nonrefundable application fee, an out-of-State environmental laboratory shall reimburse the Department for the following costs associated with onsite assessments necessitated by accreditation:

- (1) Transportation costs, including airfare, mileage, tolls, car rental, public transportation and parking.
- (2) Meals and lodging.
- (3) Travel time for each assessor at a rate of \$50/hour.

§ 252.207. Expiration of application.

An environmental laboratory that fails to meet the requirements for accreditation within 1 year from the date the Department receives the application shall submit a new application and pay the appropriate fee to become accredited under this chapter.

Subchapter C. GENERAL STANDARDS FOR ACCREDITATION

Sec.

- 252.301. Laboratory supervisor.
- 252.302. Qualifications of the laboratory supervisor.
- 252.303. Grandfathering provisions for laboratory supervisors.
- 252.304. Personnel requirements.
- 252.305. Physical facilities.
- 252.306. Equipment, supplies and reference materials.
- 252.307. Methodology.

§ 252.301. Laboratory supervisor.

(a) Testing, analysis and reporting of data by an environmental laboratory shall be under the direct supervision of a laboratory supervisor.

(b) The laboratory supervisor shall certify that each test or analysis is accurate and valid and the test or analysis was performed in accordance with all conditions of accreditation. A laboratory supervisor may certify a test or analysis by signing the final laboratory report. A laboratory may use other mechanisms to certify a test or analysis, provided the mechanism is documented in the laboratory quality manual.

(c) The laboratory supervisor shall ensure that the records required by this chapter are maintained.

(d) The Department may disqualify a laboratory supervisor who is responsible for the submission of inaccurate test or analysis results.

(e) The Department will disqualify a laboratory supervisor convicted of any crime or offense related to violations of State or Federal laws or regulations related to the provision of environmental laboratory services or reimbursement for the services.

(f) An environmental laboratory may appoint one or more laboratory supervisors for the appropriate fields of accreditation for which they are seeking accreditation.

(g) An environmental laboratory shall designate another staff member meeting the qualifications of a laboratory supervisor to temporarily perform this function when a laboratory supervisor is absent for a period of time exceeding 16 consecutive calendar days. If this absence exceeds 30 consecutive calendar days, the environmental laboratory shall notify the Department in writing under § 252.708 (relating to reporting and notification requirements).

(h) An individual may not be the laboratory supervisor of more than one environmental laboratory without authorization from the Department. Circumstances to be considered in the decision to grant the authorization will include at least the following:

- (1) The extent to which operating hours of the laboratories to be supervised overlap.
- (2) The adequacy of supervision in each laboratory.

§ 252.302. Qualifications of the laboratory supervisor.

(a) A laboratory supervisor of an environmental laboratory engaged in chemical analysis shall have the following qualifications:

(1) A bachelor's degree in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering.

(2) At least 24-college semester credit hours in chemistry.

(3) At least 2 years of experience in the testing or analysis of environmental samples in representative inorganic and organic fields of accreditation for which the environmental laboratory seeks to obtain or to maintain accreditation. An earned master's or doctoral degree in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering may be substituted for 1 year of experience.

(b) A laboratory supervisor of an environmental laboratory limited to inorganic chemical analysis, other than metals analysis, shall have the following qualifications:

(1) At least an earned associate's degree in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering, or 2 years of equivalent and successful college education.

(2) At least 16-college semester credit hours in chemistry.

(3) At least 2 years of experience in the testing or analysis of environmental samples in representative fields of accreditation for which the environmental laboratory seeks to obtain or to maintain accreditation.

(c) A laboratory supervisor of an environmental laboratory engaged in microbiological or biological analysis shall have the following qualifications:

(1) A bachelor's degree in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering.

(2) At least 16-college semester credit hours in general microbiology and biology.

(3) At least 2 years of experience in the testing or analysis of environmental samples in representative microbiological or biological fields of accreditation for which the environmental laboratory seeks to obtain or to maintain accreditation. A master's or doctoral degree in chemistry, biochemistry, physics, environmental science, biol-

ogy, microbiology, physical sciences or engineering may be substituted for 1 year of experience.

(d) A laboratory supervisor of an environmental laboratory engaged in microbiological analysis limited to fecal coliform, total coliform and heterotropic bacteria shall have the following qualifications:

(1) At least an associate's degree in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering.

(2) A minimum of 4-college semester credit hours in general microbiology.

(3) At least 2 years of equivalent and successful college education, including a minimum of 4-college semester credit hours in general microbiology, may be substituted for the associate's degree.

(4) At least 2 years of experience in the testing or analysis of environmental samples in representative fields of accreditation for which the environmental laboratory seeks to obtain or to maintain accreditation.

(e) A laboratory supervisor of an environmental laboratory engaged in radiological analysis shall have the following qualifications:

(1) A bachelor's degree in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering.

(2) At least 24-college semester credit hours in chemistry.

(3) At least 2 years of experience in the testing or analysis of environmental samples in representative radiological fields of accreditation for which the environmental laboratory seeks to obtain or to maintain accreditation. An earned master's or doctoral degree in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering may be substituted for 1 year of experience.

(f) A laboratory supervisor of an environmental laboratory engaged in microscopic examination of asbestos or airborne fibers shall have the following qualifications:

(1) For procedures requiring the use of a transmission electron microscope, a bachelor's degree, successful completion of formal course work in the use of the instrument, and 1 year of experience, under supervision, in the use of the instrument. The experience must include the identification of minerals.

(2) For procedures requiring the use of a polarized light microscope, an associate's degree or 2 years of college study, successful completion of formal coursework in polarized light microscopy, and 1 year of experience, under supervision, in the use of the instrument. The experience must include the identification of minerals.

(3) For procedures requiring the use of a phase contrast microscope, an associate's degree or 1 year of college study, documentation of successful completion of formal coursework in phase contrast microscopy, and 1 year of experience, under supervision, in the use of the instrument.

(g) Notwithstanding any other provision of this section, a laboratory supervisor of an environmental laboratory limited to the basic nonpotable water category or the basic drinking water category, shall have the following qualifications:

(1) At least 16-college semester credit hours in chemistry, biochemistry, physics, environmental science, biology, microbiology, physical sciences or engineering.

(2) At least 2 years of experience in the testing or analysis of environmental samples in representative fields of accreditation for which the environmental laboratory seeks to obtain or to maintain accreditation.

(h) Notwithstanding any other provision of this section, an employee of a drinking water, wastewater or industrial waste treatment facility meeting the following requirements will be deemed qualified as a laboratory supervisor of an environmental laboratory:

(1) The employee holds a valid treatment plant operator's certificate under the Water and Wastewater Systems Operators' Certification Act (63 P. S. §§ 1001—1015.1) in the appropriate water or wastewater subclassification for the facility.

(2) The employee holds a valid certificate under the Water and Wastewater Systems Operators' Certification Act for laboratory supervisor in the appropriate water or wastewater subclassification.

(3) Until 12 months after a certificate under the Water and Wastewater Systems Operators' Certification Act for laboratory supervisor in the appropriate water or wastewater subclassification becomes available from the Department, 2 years of experience performing testing or analysis of environmental samples using the methods and procedures currently in use by the environmental laboratory may be substituted for a laboratory supervisory certificate.

(i) Approval as a laboratory supervisor under subsection (h) will be limited to the fields of accreditation required by the scope of that facility's regulatory permit.

§ 252.303. Grandfathering provisions for laboratory supervisors.

(a) A person who does not meet the education credential requirements for a laboratory supervisor but possesses the requisite years of experience required by § 252.302 (relating to qualifications of the laboratory supervisor) shall qualify as laboratory supervisor subject to the following conditions:

(1) The person shall be a laboratory supervisor of the environmental laboratory on January 28, 2006.

(2) The person shall have been a laboratory supervisor of the environmental laboratory for at least 12 months for the fields of accreditation for which the environmental laboratory is applying.

(b) A person will be approved as a laboratory supervisor only for those fields of accreditation for which the person has been laboratory supervisor of the environmental laboratory for at least 12 months.

(c) The Department may approve a person, qualified as a laboratory supervisor under this section, for additional fields of accreditation if the person has the appropriate knowledge, skills and abilities to perform and supervise the testing or analyses on environmental samples for the requested fields of accreditation.

(d) Qualification as a laboratory supervisor under this subsection may not be transferred to another laboratory.

§ 252.304. Personnel requirements.

(a) *General requirements for technical staff.*

(1) An environmental laboratory shall have sufficient personnel with the necessary education, training, technical knowledge and experience for their assigned functions.

(2) Each member of the environmental laboratory technical staff shall be responsible for complying with quality

assurance and quality control requirements that pertain to their organizational or technical function.

(3) Each environmental laboratory technical staff member shall have a combination of experience and education to adequately demonstrate a specific knowledge of the member's particular function and a general knowledge of laboratory operations, test methods, quality assurance and quality control procedures and records management.

(b) *Laboratory management responsibilities.* The environmental laboratory management shall be responsible for:

(1) Defining the minimal level of qualification, experience and skills necessary for all positions or work cells in the environmental laboratory.

(2) Ensuring and documenting that the environmental laboratory technical staff members or work cells have demonstrated capability in the activities for which they are responsible.

(3) Ensuring and documenting that the training and competency of each member of the environmental laboratory technical staff is kept up to date by maintaining records demonstrating the following:

(i) That each employee has read, understood and is using the latest version of the environmental laboratory's quality manual that relates to each employee's job responsibilities.

(ii) That each employee has read, understood and is using the latest versions of the environmental laboratory's standard operating procedures that relate to each employee's job responsibilities.

(iii) Participation in training courses or workshops on specific equipment, analytical techniques or laboratory procedures that relate to each employee's job responsibilities.

(iv) Participation in training courses in ethical and legal responsibilities including the potential liabilities for improper, unethical or illegal actions.

(v) That each employee has read, understood and acknowledged his personal ethical and legal responsibilities including the potential punishments and penalties for improper, unethical or illegal actions.

(vi) An initial demonstration of capability for each method that relates to the employee's job responsibilities.

(vii) A demonstration of continued proficiency by at least one of the following every 12 months for each method that relates to the employee's job responsibilities:

(A) Another initial demonstration of capability.

(B) Acceptable performance of blind performance samples (single blind to the analyst).

(C) Successful analysis of blind proficiency test samples on a similar test method using the same technology (for example—GC/MS volatiles by purge and trap for EPA Methods 524.2, 624 or 5030/8260 would require documentation for only one of the test methods.)

(D) At least four consecutive laboratory control samples with acceptable levels of precision and accuracy.

(E) Analysis of at least ten authentic samples with results statistically indistinguishable from those obtained by another trained analyst. The samples must include samples free of the analyte of interest and samples containing the analyte of interest at measurable concentrations.

(4) Supervising personnel employed by the laboratory.

(5) Establishing and implementing procedures and processes for permitting departures from documented policies and procedures.

(6) Ensuring that sample acceptance criteria are verified and that samples are logged into the sample tracking system and properly labeled and stored.

(7) Developing a proactive program for prevention and detection of improper, unethical, or illegal actions. Components of this program may include the following:

(i) Internal proficiency testing (single and double blind).

(ii) Postanalysis electronic data and magnetic tape audits or reviews.

(iii) Separate standard operating procedures identifying appropriate and inappropriate laboratory and instrument manipulation practices.

(c) An environmental laboratory shall maintain records on initial demonstrations of capability, demonstrations of continued proficiency, proficiency test samples for each laboratory method and the qualifications, training, skills and experience of the laboratory technical staff members.

§ 252.305. Physical facilities.

(a) An environmental laboratory shall have accommodations, work areas, energy sources, lighting, heating and ventilation necessary to assure proper performance of tests and analyses.

(b) The environment in which testing or analysis of environmental samples is undertaken may not adversely affect the results of the testing or analysis or the required accuracy of measurement.

(c) An environmental laboratory shall document its monitoring and control of environmental conditions where monitoring or control of environmental conditions is specified in a method or by regulation.

(d) There must be effective separation between neighboring work areas and between work areas and nonwork areas when the activities performed in the different areas are incompatible.

(e) Adequate measures shall be taken to ensure that contamination does not adversely affect data quality.

§ 252.306. Equipment, supplies and reference materials.

(a) An environmental laboratory shall be furnished with all items of equipment, including reference materials, required for the correct performance of tests or analyses for which accreditation is sought.

(b) An environmental laboratory shall maintain records of each item of equipment significant to the testing or analysis performed. These records must include documentation on the following:

(1) The name of the item of equipment.

(2) The manufacturer's name, type identification, and serial number or other unique identification.

(3) The date received and date placed in service (if available).

(4) The current location, when appropriate.

(5) If available, condition when received (for example, new, used or reconditioned).

(6) A copy of the manufacturer's instructions, where available.

(7) The dates and results of calibrations or verifications.

(8) The manufacturer's instructions, if available, or reference their location.

(9) The details of maintenance performed.

(10) A history of damage, malfunction, modification or repair.

(c) An environmental laboratory shall assure that the test instruments consistently operate within the specifications required of the application for which the equipment is used.

(d) Equipment shall be properly maintained, inspected and cleaned.

(e) Any item of equipment that has been subjected to overloading, mishandling, gives suspect results or has otherwise been shown to be defective, shall be taken out of service and clearly identified until it has been repaired and shown by calibration, verification or test to perform satisfactorily. The laboratory shall examine the effect of this defect on previous testing or analysis.

(f) The following pieces of equipment shall be maintained according to this subsection.

(1) *Certified NIST-reference thermometer.*

(i) A certified NIST-reference thermometer must have appropriate graduations and a range that spans the requirements of the method.

(ii) The certified NIST-reference thermometer shall be recalibrated at least once every 5 years at the temperatures of use.

(iii) An environmental laboratory shall retain a certificate documenting traceability of the calibration to NIST standards.

(2) *Working thermometers.*

(i) Working thermometers must have appropriate graduations and a range that spans the requirements of the method.

(ii) Working thermometers may be glass, dial or electronic and shall be calibrated against a certified NIST-reference thermometer as follows:

(A) Glass and electronic thermometers and continuous recording devices shall be calibrated every 12 months at the temperature used.

(B) Dial thermometers shall be calibrated every 3 months at the temperature used. Dial thermometers that cannot be calibrated may not be used.

(C) An environmental laboratory shall maintain records in a laboratory notebook for each working thermometer that documents the date of calibration, NIST reference thermometer identification, working thermometer identification, reference thermometer temperature reading, working thermometer temperature reading, correction factor and the initials of the individual conducting the calibration.

(D) Working thermometers shall be uniquely identified and labeled with the date of calibration and correction factor.

(iii) The fluid column in glass thermometers may not be separated.

(iv) A working thermometer that differs by more than 1.0°C from the reference thermometer may not be used.

(3) *ASTM type 1, 2 or 3 (Class S or S-1) certified reference weights.*

(i) The mass of ASTM type 1, 2 or 3 (Class S or S-1) certified reference weights shall be recertified at least once every 5 years.

(ii) An environmental laboratory shall retain a certificate documenting traceability of the calibration to ASTM standards.

(4) *Analytical or pan balances.*

(i) Analytical or pan balances must provide sufficient accuracy and sensitivity for the weighing needs of the method.

(ii) An environmental laboratory shall verify the calibration of a balance daily or before each use, whichever is less frequent.

(iii) A reference weight that is damaged or corroded may not be used for calibration of balances.

(iv) Balance calibration shall be verified using a minimum of three ASTM type 1, 2 or 3 (Class S or S-1) certified reference weights that bracket the effective range of the balance's use.

(v) An environmental laboratory shall maintain records in a laboratory notebook of balance calibrations that document the balance identification, date of calibration verification, reference weights used and initials of the individual performing the calibration. Correction factors shall be documented and used.

(vi) A qualified person shall service and calibrate analytical balances at least once per year.

(vii) Records of annual service shall be maintained and the service date shall be recorded on the balance.

(5) *pH meter.*

(i) A pH meter must be equipped with an appropriate electrode and have scale graduations and accuracy appropriate to the method.

(ii) An environmental laboratory shall utilize either a thermometer or a temperature sensor for automatic compensation to make corrections for pH measurements.

(iii) The pH meter shall be standardized daily or before each use, whichever is less frequent, by one of the following:

(A) With at least three standard buffers which are at least three pH units apart and which bracket the expected pH range of the samples.

(B) Use a pH 7.0 and either a pH 4.0 or 10.0 standard buffer; whichever range covers the desired pH range of use.

(iv) Aliquots of standard buffers may not be used for longer than 1 analysis day.

(v) Records of pH meter standardization shall be maintained in a laboratory notebook that documents the date of standardization, calibration buffers used and initials of the individual conducting the standardization.

(6) *Conductivity meter.*

(i) A conductivity meter must have a probe of sufficient sensitivity for the method. The scale must have readability in appropriate units, for example micromhos or microsiemens per centimeter.

(ii) An in-line conductivity meter that cannot be calibrated may not be used.

(iii) An environmental laboratory shall calibrate the conductivity meter daily or before each use whichever is less frequent, by one of the following:

(A) With certified and traceable standard solutions within the range of interest.

(B) By determining the cell constant utilizing the method described in currently approved editions of *Standard Methods for the Examination of Water and Wastewater* (available from American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005.)

(iv) Records of conductivity meter calibrations shall be maintained in a laboratory notebook that documents the date of calibration, standards used, results of calibration or cell constant determined and the initials of the individual conducting the calibration.

(7) *Refrigeration equipment and freezers.*

(i) An environmental laboratory shall maintain one thermometer immersed in liquid (except electronic thermometers) to the appropriate immersion line for each refrigerator or freezer. The thermometer must be graduated in increments no larger than 1°C.

(ii) Calibration-corrected temperatures for each refrigerator and freezer shall be recorded once a day for each day in use for all laboratory activities. The date, refrigerator or freezer identification, calibration corrected temperature and initial of responsible individual shall be recorded.

(iii) Samples and standards shall be stored in separate refrigerators where the potential for cross-contamination exists.

(iv) Samples which require thermal preservation shall be stored at a temperature which is + 2°C of the specified preservation temperature unless method specific criteria exist. For samples with a storage temperature of 4°C, storage at a temperature of 0.5°C to 6°C is acceptable.

(v) Freezer temperatures must be less than 0°C.

(8) *Incubators, water baths and heating blocks.*

(i) An environmental laboratory shall control and monitor the temperature of incubators, water baths and heating blocks in accordance with the method or as specified by regulations.

(ii) An environmental laboratory shall maintain a minimum of one thermometer per incubator, water bath or heating block immersed in liquid (except electronic thermometers) to the appropriate immersion line. When used as an incubation unit for microbiology, a minimum of one working thermometer shall be on the top and bottom shelf of the use area in each incubator.

(iii) When used as an incubation unit for microbiology, a water bath must be equipped with a gable cover and a pump or paddles to circulate the water.

(iv) Calibration-corrected temperatures for each incubator, water bath or heating block shall be recorded once a day for each day in use for all laboratory activities. When used as an incubation unit for microbiology, the calibration-corrected temperature shall be recorded at least twice per day in use with the readings separated by at least 4 hours. The incubator, water bath or heating block identification, date, time, calibration corrected temperature and the initials of the responsible individual shall be recorded.

(9) *Volumetric dispensing devices.* Except for Class A glassware, mechanical volumetric dispensing devices including burettes, autopipetors and dilutors, must be of sufficient sensitivity for the application. Delivery volumes of mechanical volumetric dispensing devices shall be checked using a gravimetric method at least once every 3 months.

(10) *Graduated sample containers.* When graduation marks on clear glass or plastic funnels or sample bottles are used to measure sample volume, an environmental laboratory shall verify and document the accuracy of the volume of each lot or at least once per year, whichever is more frequent.

(11) *Spectrophotometer or colorimeter.* A spectrophotometer or colorimeter must be calibrated according to the manufacturer's specifications or test methods. An environmental laboratory shall maintain records of the calibrations.

(g) An environmental laboratory shall maintain records for all reference materials, reagents and support services utilized by the laboratory for testing or analysis.

(h) Reference materials and reagents used for environmental testing must meet the following minimum requirements:

(1) Analytical reagent grade chemicals or equivalent are acceptable, unless a method specifies other reagent purity grade requirements.

(2) Reagent and standard solutions shall be checked regularly for signs of decomposition, evaporation, and expiration. An environmental laboratory shall maintain standard and reagent preparation logs for all stock and working standard solutions in a laboratory notebook. Standards and reagent preparation logs must contain identification of the compound, concentration, date prepared, initials of the individual preparing the solution and expiration date.

(3) Reagent and standard solution containers shall be labeled with identification of the compound, concentration, date prepared, initials of the individual who prepared the solution and expiration date.

(4) Purchased chemicals, solutions and standards shall be labeled with date of receipt and the date when the container is opened. Purchased chemicals, solutions and standards without an expiration date on the original container shall be discarded after 10 years from the date of receipt.

(5) When reagents are removed from a container, the amount removed shall be used entirely or the unused portion discarded.

(6) Compressed gases must be of commercial grade, unless a method specifies other requirements.

(i) Plastic and glassware shall be cleaned to meet the sensitivity of the test method. Any cleaning and storage procedures that are not specified by the method shall be documented in a laboratory standard operating procedure.

§ 252.307. Methodology.

(a) An environmental laboratory shall follow the requirements for testing or analysis, sample collection, sample preservation and holding times specified in this section.

(b) An environmental laboratory shall select an analytical method for a specific test or analysis that meets the following criteria:

(1) The method is appropriate for the analyte and sample matrix.

(2) The method is required by, or considered appropriate for use under, applicable State or Federal regulations, a permit, an order, or is an approved alternate method under subsection (c).

(3) The method enables the laboratory to quantitate at required levels.

(c) When a method meeting the requirements of subsection (b) is not available, an environmental laboratory may apply to the Department to use alternate or experimental procedures.

(1) The Department will approve the use of alternate methodologies if the EPA has approved their use. An environmental laboratory shall submit a copy of the EPA's written approval for the use of the alternate method to the Department.

(2) The Department may allow alternate methods that use new or innovative technologies on a case-by-case basis.

(3) An environmental laboratory shall submit a request for use of new or innovative technology in writing to the Department. The request must include the reasons for proposing the method and the potential scope of use for the method.

(4) The Department will establish criteria for validating the method that are based upon the analyte to be tested.

(5) Upon receipt of the method validation data that meets the established criteria, the Department will approve or deny the request within 90 days and inform the laboratory of the basis of its decision in writing. The evaluation for approval will include consideration of the demonstrated need for the new or innovative technology, reasons for using the method, performance of the method, method validation data and applicability of the method to the matrix.

(d) An environmental laboratory shall develop and maintain written standard operating procedures for all fields of accreditation.

(1) The environmental laboratory's standard operating procedures must accurately reflect all aspects of the testing or analysis for the fields of accreditation, including the following:

- (i) Identification of the method.
- (ii) Effective date.
- (iii) Scope, including applicable matrix or matrices.
- (iv) Equipment and supplies.
- (v) Reagents and standards.
- (vi) Quality control.
- (vii) Calibration and standardization.
- (viii) Analytical procedure.
- (ix) Calculations.
- (x) Corrective actions or contingencies for handling out-of-control or unacceptable quality control data.
- (xi) Reporting of results.

(2) The standard operating procedures may consist of copies of published or referenced test methods or standard operating procedures that have been written by the environmental laboratory. When modifications to the published or referenced method have been made by the

laboratory or when the published or referenced method is ambiguous or provides insufficient detail, the changes or clarifications shall be clearly described.

(e) An environmental laboratory shall make copies of the standard operating procedures, the promulgated method, Department regulations and Department guidance pertaining to testing or analysis of environmental samples available to the technical staff.

(f) When an environmental laboratory collects a sample to be analyzed, the sample collection method required by applicable State and Federal laws, regulations or permit conditions shall be followed.

(g) An environmental laboratory shall follow the sample container, preservation procedures and holding times required by State and Federal regulations. If the sample container, preservation procedures and holding times are not required by State or Federal regulations, an environmental laboratory shall follow the sample container, sample preservation procedures and holding time established in the method.

(h) The range of quantitation and detection limit shall be determined for each analyte reported by an environmental laboratory in accordance with a method specified by the Department.

(i) When a method specifies a validation procedure, the validation procedure shall be completed before environmental samples may be analyzed and reported. The results of this validation procedure shall be documented and kept on file for the duration of use of the method and for at least 5 years after the method is no longer in use.

(j) The initial demonstration of capability requirements are as follows:

(1) Prior to the use of any method, an initial demonstration of capability is required.

(2) An initial demonstration of capability shall be completed each time there is a change in instrument type, personnel, or method.

(3) An initial demonstration of capability must include all sample preparation and analytical steps contained in the method.

(4) If the method or State or Federal regulations specify a procedure for the initial demonstration of capability, that procedure shall be followed, otherwise, an initial demonstration of capability shall be performed as follows:

(i) The analyte shall be diluted in a volume of clean matrix sufficient to prepare four aliquots at the concentration specified in the method. If the method does not specify a concentration, the concentration must be approximately ten times the detection limit.

(ii) At least four aliquots of the quality control sample must be prepared and analyzed according to the method.

(iii) Using all of the results, calculate the mean recovery and the standard deviation of the mean recovery for the population sample in the same units used to report environmental samples. When it is not possible to determine mean and standard deviation, such as for presence-absence and logarithmic values, the environmental laboratory shall assess method performance using criteria from the method or other established and documented criteria.

(iv) Compare the information from subparagraph (iii) to the corresponding acceptance criteria for precision and accuracy in the method. To be considered acceptable, an initial demonstration of capability must meet all acceptance criteria.

(5) When a method has been in use by an environmental laboratory prior to January 1, 2005, and there have been no changes in instrument type, personnel or method, an initial demonstration of capability is not required. An environmental laboratory shall have records on file to demonstrate that an initial demonstration of capability is not required.

(6) The laboratory shall retain all data necessary to reproduce the initial demonstration of capability.

(7) The work cell as a unit shall meet the requirements of this paragraph.

(i) When a member of a work cell changes, the new employee shall work with an experienced analyst in the work cell.

(ii) When a member of a work cell changes, the new work cell shall demonstrate capability by means of acceptable quality control performance checks on four consecutive batches. The acceptable performance shall be documented. If any quality control performance check within the four consecutive batches following the change in personnel fails to meet acceptance criteria, an initial demonstration of capability shall be completed.

(iii) If the entire work cell is changed, an initial demonstration of capability shall be completed.

Subchapter D. QUALITY ASSURANCE AND QUALITY CONTROL REQUIREMENTS

Sec.

- 252.401. Basic requirements.
- 252.402. Essential quality control requirements—chemistry.
- 252.403. Essential quality control requirements—toxicity testing.
- 252.404. Essential quality control requirement—microbiology.
- 252.405. Essential quality control requirement—radiochemistry.

§ 252.401. Basic requirements.

(a) An environmental laboratory shall develop and maintain a quality manual appropriate to the type, range and volume of testing and analysis of environmental samples. The quality manual shall be available to and used by environmental laboratory personnel.

(b) The quality manual must state the environmental laboratory's policies, operational procedures, protocols and practices established to meet the requirements of this chapter.

(c) An environmental laboratory shall have a document control system that provides procedures for control and maintenance of all documents. The document control system must ensure that standard operating procedures, methods, manuals or documents clearly indicate the time period during which the procedure or document was in force.

(d) An environmental laboratory shall develop and maintain an ethics policy statement relevant to the employee's duties and responsibilities under the act. The laboratory shall have procedures for educating and training personnel in their ethical and legal responsibilities under the act.

(e) An environmental laboratory shall maintain records of the technical personnel, which include dates of employment, signatures, initials and a list of persons authorized to approve or release reports of testing or analysis of environmental samples.

(f) An environmental laboratory shall establish procedures for handling environmental samples.

(g) An environmental laboratory shall have a sample acceptance policy that clearly outlines the circumstances under which environmental samples will be accepted or rejected. The environmental sample acceptance policy must include the following areas:

(1) Sample identification, location, date and time of collection, collector's name, preservation type and sample type.

(2) Sample labeling.

(3) Use of appropriate containers and sample preservation method.

(4) Adherence to holding times specified in the regulation and when not specified by the regulation, adherence to the holding times specified by the method.

(5) Sufficient sample volume shall be available to perform the necessary testing and analysis, including any required quality control testing or analysis.

(6) Procedures to be used when samples show signs of damage, contamination or inadequate preservation.

(h) An environmental laboratory shall document the laboratory management's processes and procedures for permitting departures from the method, quality manual, established policies and procedures or standard operating procedures.

(i) An environmental laboratory shall establish procedures for detecting when departures from the method or quality manual have occurred. These procedures must include the following:

(1) Identify the individuals responsible for assessing each quality control type.

(2) Identify the individuals responsible for initiating or recommending, or both, corrective actions.

(3) Define how the analyst shall treat the results of testing or analysis of environmental samples if the associated quality control measures fail to meet the requirements of the method.

(4) Specify how out-of-control situations and subsequent corrective actions are to be documented.

(5) Specify procedures for the laboratory supervisor to review corrective action reports.

(j) An environmental laboratory shall develop procedures for reporting results of testing or analysis of environmental samples.

(k) An environmental laboratory shall implement procedures or practices to monitor the quality of the laboratory's analytical activities. Examples of the procedures or practices are:

(1) Internal quality control procedures using statistical techniques.

(2) Participation in proficiency testing, other interlaboratory comparisons, or round robin testing.

(3) Analysis of split samples by different laboratories.

(4) Use of certified reference materials or in-house quality control using secondary reference materials, or both.

(5) Replicate testing using the same or different test methods.

(6) Retesting of retained samples.

(7) Correlation of results for different but related analysis of a sample (for example, total phosphorus should be greater than or equal to orthophosphate).

(l) To the extent possible, results of testing or analysis of environmental samples shall be reported only if all quality control measures are acceptable. If a quality control measure is found to be out of control and the results of the testing or analysis of environmental samples are to be reported, all environmental samples associated with the failed quality control measure shall be documented and the results flagged in an unambiguous manner on the sample analysis report with the appropriate data qualifiers.

(m) Policies, procedures, protocols and practices specified in this section must be in writing and be followed.

§ 252.402. Essential quality control requirements—chemistry.

(a) In addition to the requirements of § 252.401 (relating to basic requirements), laboratories performing testing or analysis of environmental samples in the area of chemistry shall comply with this section.

(b) When the method selected by an environmental laboratory in accordance with § 252.307 (relating to methodology) contains more stringent requirements than the requirements of this section, the environmental laboratory shall follow the more stringent requirements contained in the method.

(c) Initial calibration requirements are as follows:

(1) An environmental laboratory shall follow the initial calibration requirements of the method.

(2) The results of testing or analysis of environmental samples shall be determined from an initial calibration and may not be determined from any continuing calibration verification, unless otherwise required by regulation, method or program.

(3) The details of the initial calibration procedures including calculations, integrations, acceptance criteria and associated statistics shall be included or referenced in the laboratory's standard operating procedure.

(4) Raw data records shall be retained to permit reconstruction of the initial calibration.

(5) Initial calibrations shall be verified with a standard obtained from a second manufacturer or with a standard from the same manufacturer if the verification standard is documented by the manufacturer as prepared independently of the standard used during initial calibration.

(6) Results not bracketed by the initial calibration standards shall be reported with appropriate qualifiers.

(7) The lowest standard used for initial calibration may not be below the detection limit. The lowest standard must be at or below the lower limit of the range of quantitation.

(d) Except for methods that explicitly allow initial calibration using a single concentration of standard, initial calibration shall be done using multiple concentrations of standards according to the requirements of this subsection.

(1) Unless otherwise specified in the method, the initial calibration must meet one of the following criteria:

(i) A relative standard deviation of less than 20% for the calculated response factors.

(ii) A correlation coefficient (r) of 0.99 for a linear calibration curve.

(iii) A correlation coefficient (r) of 0.999 for a nonlinear calibration curve or as otherwise specified by the Department.

(2) If the initial calibration fails to meet established acceptance criteria, corrective action shall be performed and all associated environmental samples shall be reanalyzed after an acceptable initial calibration is obtained. If reanalysis of the environmental samples is not possible, a new environmental sample shall be collected.

(3) If the results of testing or analysis of environmental samples that are below the initial calibration range are reported, the results shall be reported with appropriate data qualifiers.

(4) If the results of testing or analysis of environmental samples are above the initial calibration range, the environmental sample shall be diluted and reanalyzed or the results reported with appropriate data qualifiers. Sample results within the established calibration range will not require data qualifiers.

(5) The lowest calibration standard may not be below the detection limit and may not be above the MCL.

(6) If the method does not specify the number of calibration standards, the minimum number of calibration standards, not including blanks or a zero standard, shall be determined as follows:

(i) For an initial calibration covering a range up to 20 times the lowest quantitation level, a minimum of three calibration standards shall be used.

(ii) For an initial calibration covering a range from greater than 20 times and up to 50 times the lowest quantitation level, a minimum of four calibration standards shall be used.

(iii) For an initial calibration covering a range greater than 50 times and up to 100 times the lowest quantitation level, a minimum of five calibration standards shall be used.

(e) For a method that explicitly allows calibration using a single concentration of a standard, not including a blank or zero concentration standard, the initial calibration shall meet the requirements of this subsection.

(1) Prior to the testing or analysis of environmental samples, the linear range of the instrument shall be established by analyzing a series of standards, one of which shall be at the lowest quantitation level.

(2) An initial calibration using a single calibration standard and a zero point shall be performed at the beginning of each analysis day.

(3) A standard corresponding to the lowest quantitation level must be analyzed with each analytical batch and must meet the acceptance criteria established by the method. When there are no established criteria in the method, an environmental laboratory shall determine internal criteria and document the procedure used to establish the acceptance limits.

(4) If the results of testing or analysis of environmental samples that are below the lowest quantitation level verification standard, specified in paragraph (3), are to be reported, the results shall be reported with appropriate data qualifiers.

(5) If the results of testing or analysis of environmental samples produce a result above the associated single point standard, the environmental laboratory shall do one of the following:

(i) Analyze a standard at or above the sample concentration that meets established acceptance criteria to validate linearity.

(ii) Dilute the sample so that the result falls below the single point calibration concentration.

(iii) Report the data with an appropriate data qualifier.

(f) Calibration verification requirements are as follows:

(1) A calibration verification standard shall be analyzed at the beginning and end of each analysis day. For methods that use an internal standard, a calibration verification standard is not required at the end of the analysis day unless specified in the method, or State or Federal law or regulation.

(2) A calibration verification standard shall be analyzed after every ten samples, unless a different frequency is specified in the method.

(3) At a minimum, the concentration of the calibration verification standard shall be alternated between a low and a high level.

(i) The concentration of the low calibration verification standard shall be within the lower 20% of the calibration curve and not more than five times the lowest quantitation level.

(ii) The concentration of the high calibration verification standard shall be within the upper 20% of the calibration curve.

(4) Details of the calibration verification procedure including calculations, integrations, acceptance criteria and associated statistics shall be included or referenced in the laboratory's standard operating procedure.

(5) Raw data records shall be retained to permit reconstruction of the calibration verification.

(6) Acceptance criteria for calibration verification standards in the method shall be followed. When there are no established criteria in the method, an environmental laboratory shall determine internal criteria and document the procedure used to establish the acceptance limits.

(7) If a calibration verification standard fails the established acceptance criteria, an environmental laboratory shall initiate corrective actions. If the corrective actions fail to produce an immediate consecutive calibration verification standard within the acceptance criteria, a new calibration verification standard shall be prepared. If the freshly prepared calibration verification standard fails to produce a result within the established acceptance criteria, the environmental laboratory shall recalibrate the test or analysis according to the method or as set forth in subsection (c) and as set forth in either subsection (d) or (e).

(8) To the extent possible, and as provided by paragraph (1), environmental samples not bracketed by acceptable calibration verification standards shall be reanalyzed. If the calibration verification standard is found to be out of control, and the results of the testing or analysis of environmental samples are to be reported, all environmental samples associated with the failed calibration verification standard shall be documented and the results flagged in an unambiguous manner on the sample analysis report with the appropriate data qualifiers. Sample results associated with an unacceptable calibration verification may be useable under the following conditions:

(i) When the acceptance criteria for the calibration verification are exceeded high and associated sample results are below the lowest level of quantitation for the analyte of interest.

(ii) When the acceptance criteria for the calibration verification are exceeded low and associated sample results are above the maximum regulatory limit for the analyte of interest.

(g) Method blank requirements are as follows:

(1) A method blank must be processed along with and under the same conditions as the associated environmental samples including all steps of the analytical procedure.

(2) A method blank must be analyzed at a minimum of one per preparation batch. When no separate preparation method is used (example: volatiles in water), the batch shall be defined as no more than 20 environmental samples that are analyzed together using the same method, personnel and lots of reagents.

(3) A method blank must consist of a matrix that is similar to the associated environmental samples and is free of the analytes of interest. When a matrix that is similar to the associated environmental samples that is free of the analytes of interest is not available, reagent water or an artificial or simulated matrix may be used.

(4) A method blank is considered contaminated if one of the following applies:

(i) The concentration of a target analyte in the method blank is at or above the reporting limit established by the method, by the laboratory or by regulation.

(ii) The contamination in the method blank otherwise affects the environmental sample results as described in the method or in individual project data quality objectives.

(5) If a contaminant is detected in the method blank, the source of contamination shall be investigated and measures shall be taken to minimize or eliminate the problem.

(6) To the extent possible, any environmental samples associated with a contaminated method blank shall be reprocessed for analysis. If a contaminated method blank is found to be out of control, and the results of the testing or analysis of environmental samples are to be reported, all environmental samples associated with the contaminated method blank shall be documented and the results flagged in an unambiguous manner on the sample analysis report with the appropriate data qualifiers.

(h) Laboratory control sample requirements are as follows:

(1) A laboratory control sample must be processed along with and under the same conditions as the associated environmental samples, including all steps of the preparation and analytical procedure.

(2) The laboratory control sample must consist of a defined matrix containing known and verified concentrations of analytes. The Department will allow the use of an artificial or simulated matrix when a defined matrix is not commercially available.

(3) An environmental laboratory shall analyze a laboratory control sample at a minimum of one per preparation batch. When no separate preparation method is used, for example volatiles in water, the batch shall be defined as no more than 20 environmental samples that are analyzed together with the same method, personnel and lots of reagents.

(4) All analyte concentrations in the laboratory control sample must be within the calibration range of the method and at or below the maximum contaminant level.

(5) The components to be spiked into the laboratory control sample must be as specified by the method or other regulatory requirement. In the absence of specified components, the environmental laboratory shall use the following:

(i) For those components that interfere with an accurate assessment, such as spiking simultaneously with technical chlordane, toxaphene and PCBs, the laboratory control sample must represent the chemistries and elution patterns of the components to be reported.

(ii) For methods with more than ten analytes, a representative number may be chosen. The analytes selected shall be representative of all chemistries and analytes reported and shall be chosen using the following criteria:

(A) Targeted components shall be included in the laboratory control sample over a 2-year period.

(B) For methods that include 1–10 components, the laboratory control sample must contain all components.

(C) For methods that include 11–20 components, the laboratory control sample must contain at least ten components or 80%, whichever is greater.

(D) For methods with more than 20 components, the laboratory control samples must contain at least 16 components.

(6) Each individual laboratory control sample must be compared to the acceptance criteria in the method. When there are no established criteria in the method, an environmental laboratory shall determine internal criteria and document the procedure used to establish the limits.

(7) Environmental samples associated with an out of control laboratory control sample must be reprocessed and reanalyzed from the beginning of the method or the results reported with the appropriate data qualifiers.

(i) Sample duplicate requirements are as follows:

(1) A sample duplicate or matrix spike duplicate shall be analyzed at a minimum of one per preparation batch. When no separate preparation method is used, for example volatiles in water, the batch shall be defined as no more than 20 environmental samples that are analyzed together using the same method, personnel and lots of reagents.

(2) An environmental laboratory shall document the calculations used for determining the relative percent difference or other statistical method for evaluation of the duplicate pairs.

(3) Each duplicate relative percent difference shall be compared to the acceptance criteria in the method. When there are no established criteria in the method, an environmental laboratory shall determine internal criteria and document the procedure used to establish the acceptance limits.

(4) For duplicate results outside established criteria, corrective action shall be documented and the data reported with appropriate data qualifiers.

(j) Surrogate spike requirements are as follows:

(1) Surrogate compounds, when commercially available, shall be added to all samples, standards and blanks for all organic chromatography test methods.

(2) Surrogate compounds shall be chosen to represent the various chemistries of the target analytes in the method.

(3) The results of the surrogate spike shall be compared to the acceptance criteria published in the method. When there are no established acceptance criteria for surrogate recovery in the method, the environmental laboratory shall establish internal criteria and document the method used to establish the acceptance limits.

(4) For surrogate spike results outside established criteria, corrective action shall be documented and the data reported with appropriate data qualifiers.

(k) Detection limit requirements are as follows:

(1) A detection limit shall be determined by the protocol in the method or regulation. If the protocol for determining detection limits is not specified in the method or regulation, the environmental laboratory shall select a procedure that reflects instrument limitations and the intended application of the method.

(2) A detection limit study is not required for any component for which spiking solutions or quality control samples are not available, such as temperature. A detection limit study is not required for testing or analysis where the results are logarithmic, such as pH, or when the results are expressed as presence or absence.

(3) A detection limit shall be initially determined for the compounds of interest in each method in a matrix in which neither the target analyte nor interferences are at a concentration that would impact the results. The detection limit shall be determined in the matrix of interest.

(4) A detection limit shall be determined each time there is a change in the method that affects how the test is performed or that affects the sensitivity of the analysis.

(5) The sample processing steps of the method shall be included in the determination of the detection limit.

(6) Supporting data shall be retained to permit reconstruction of the detection limit study.

(7) An environmental laboratory shall have an established procedure to relate detection limits with quantitation limits.

(8) The method's lower limit of quantitation shall be established and shall be above the detection limit.

(l) When retention times are used for the identification of an analyte, an environmental laboratory shall develop and document acceptance criteria for retention time windows. The laboratory shall document acceptance criteria for mass spectral tuning.

**§ 252.403. Essential quality control requirements—
toxicity testing.**

(a) In addition to the requirements of § 252.401 (relating to basic requirements), an environmental laboratory that measures the toxicity or bioaccumulation of contaminants, including testing of effluents, receiving waters, sediments, elutriates, leachates and soils shall comply with this section.

(b) When the method selected by an environmental laboratory in accordance with § 252.307 (relating to methodology) contains more stringent requirements than the requirements of this section, the environmental laboratory shall follow the more stringent requirements contained in the method.

(c) An environmental laboratory that measures toxicity or bioaccumulation of contaminants shall comply with Chapter 16 (relating to water quality toxics management strategy—statement of policy) regarding counting of neonates, algae cells and weighing of fish for selected endpoints.

(d) Negative control requirements are as follows:

(1) In addition to the negative controls specified by the method, permit or regulation, additional negative controls shall be included when sample adjustments (for example, pH adjustments or dechlorination) or solvent carriers are used in the test.

(2) The results of the negative controls shall be compared to the acceptance criteria published in the method. When there are no established acceptance criteria for the negative control in the method, the environmental laboratory shall establish internal criteria and document the method used to establish the acceptance limits.

(3) The test acceptability criteria for negative controls as specified in the method must be achieved for both the reference toxicant and the environmental sample toxicity test.

(e) The requirements for reference toxicants are as follows:

(1) The environmental laboratory shall demonstrate the ability to obtain consistent results with reference toxicants before performing toxicity tests on environmental samples.

(i) Intralaboratory precision shall be determined by performing a minimum of five acceptable reference toxicant tests for each method and species using different batches of organisms and negative controls (water, sediment or soil) before performing testing or analysis on environmental samples.

(ii) An environmental laboratory shall maintain control charts for the control performance and reference toxicant statistical endpoint (such as NOEC or ECp) and evaluate the intralaboratory variability with a specific reference toxicant for each method.

(iii) The results of the toxicant test shall be compared to the acceptance criteria published in the method. When there are no established acceptance criteria for the toxicant test in the method, the environmental laboratory shall establish internal criteria and document the method used to establish the acceptance limits.

(2) The following minimum frequency of reference toxicant testing shall be met:

(i) Each batch of test organisms obtained from an outside source, field collection or from laboratory spawning of field-collected species not amenable to routine laboratory culture shall be evaluated with a reference toxicant test of the same type as the environmental toxicity test within 7 days preceding the test or concurrently with the test.

(ii) Test organisms obtained from in-house laboratory cultures shall be tested with reference toxicant tests at least once each month for each method.

(iii) If a species produced by in-house laboratory cultures is used less than once per month, a reference toxicant test of the same type shall be performed with each environmental toxicity test.

(iv) When methods and species commonly used in the laboratory are only tested on a seasonal basis, reference toxicant tests shall be conducted each month the method is in use.

(3) Ongoing environmental laboratory performance shall be documented by maintaining laboratory quality control charts that meet the following requirements:

(i) For endpoints that are point estimates (ICp, ECp), control charts shall be constructed by plotting the cumulative geometric mean and the limits that consist of the upper and lower 95% confidence limits (+2 standard deviations).

(ii) For endpoints from hypothesis tests (NOEC, NOAEC), control charts shall be constructed by plotting the values directly and the control limits shall consist of one concentration interval above and below the concentration representing central tendency or the mode.

(iii) After 20 data points are collected for a method and species, the control charts shall be maintained by using only the most recent 20 data points.

(iv) Test results that fall outside of control chart limits at a frequency of 5% or less shall be retested and confirmed before reporting and all results shall be documented in the report of the testing and analysis.

(v) The endpoint shall be compared to the acceptance criteria published in the method.

(vi) When there are no established acceptance criteria for the endpoint in the method, the environmental laboratory shall establish internal criteria and document the method used to establish the acceptance limits.

(vii) If the reference toxicant fails to meet acceptance criteria, the results of environmental toxicity tests conducted during the affected period shall be examined for defects and the test repeated using a different batch of organisms or the results shall be reported with appropriate data qualifiers.

(4) Reference toxicant tests conducted for a method and species must use the same reference toxicant, test concentrations, dilution water and data analysis method as the environmental toxicity tests for which the precision is being evaluated unless otherwise specified in the method.

(5) The test duration, dilution or control water, feeding, organism age, age range and density, test volumes, renewal frequency, water quality measurements, number of test concentrations, replicates and organisms per replicate must be the same as the environmental toxicity test. A dilution factor of greater than 0.5 shall be used for both acute and chronic tests.

(f) Sensitivity requirements are as follows:

(1) If the Dunnett's procedure or hypothesis test (NOEC, NOAEC) is used, the statistical minimum significant difference (SMSD) by species shall be calculated according to the formula specified by the method and reported with the test results. The SMSD must be estimated for nonnormal distribution or heterogeneous variances, or both.

(2) Confidence intervals for point estimates (LCp, ICp or ECp) shall be reported as a measure of the precision around the point estimate value.

(g) When required, the data shall be plotted in the form of a curve relating the dose of the chemical or concentration of sample to cumulative percentage of test organisms demonstrating a response, such as death.

(h) At least once every 30 days, an environmental laboratory shall verify and document that the reagent grade water meets the following criteria:

(1) Conductivity must be less than 0.1 $\mu\text{mhos/cm}$ or resistance greater than 17 megohms at 25°C.

(2) pH must be between 5.5 to 7.5.

(3) Total residual chlorine must be nondetectable.

(i) Reagent water used for culturing and testing shall be analyzed for toxic metals and organics whenever the minimum acceptability criteria for control survival, growth or reproduction are not met and no other cause can be identified.

(j) An environmental laboratory shall demonstrate that any analyte at a measured concentration or the reported detection limit does not exceed 1/10 the expected chronic value for the most sensitive species tested or cultured.

(k) Air used for aeration of test solutions, dilution waters and cultures must be free of oil and fumes.

(l) The requirements for test organisms are as follows:

(1) An environmental laboratory shall positively identify test organisms to species on an annual basis. The taxonomic reference (citation and pages) and the names of the taxonomic experts shall be documented. When organisms are obtained from an outside source, an environmental laboratory shall obtain the information from the supplier.

(i) Organisms used for a test must be from the same source. When available, certified seeds shall be used for soil tests.

(ii) Organisms used in tests or as brood stock to produce neonate test organisms must appear healthy, show no signs of stress or disease and exhibit survival of greater than 90% during the 24-hour period immediately preceding use in tests.

(iii) An environmental laboratory shall document the health and culturing conditions of all organisms used for testing. The documentation must include culture conditions and observations of any stress, disease or mortality.

(iv) When organisms are obtained from an outside source, the laboratory shall obtain written documentation of the water quality parameters and biological observations for each lot of organisms received.

(v) An environmental laboratory shall record the water quality parameters and the biological observations when the organisms arrive at the environmental laboratory.

(vi) Supporting information such as hatch dates and times, times of brood releases and metrics

(for example, chironomid head capsule width) shall be documented.

(vii) Organisms obtained from an outside source may not be from different batches.

(viii) The control population of *Ceriodaphnia* in chronic effluent or receiving water tests may not contain more than 10% males.

(ix) Test soils and sediments must be within the geochemical tolerance range of the test organism.

(2) The requirements for feeding of test organisms are as follows:

(i) For each new batch of laboratory-prepared food or lot of commercial food used by the environmental laboratory, the performance of organisms fed with the new food shall be compared with the performance of organisms fed with a food of known quality. The suitability of food used for culturing shall be determined using a measure that evaluates the effect of food quality on survival and growth or reproduction of each of the relevant test species.

(ii) Foods used only in chronic toxicity tests shall be evaluated using the reference toxicant employed in the environmental laboratory quality assurance program, and shall be compared with results of previous tests using a food of known quality.

(iii) In the case of algae, rotifers or other cultured foods, which are collected as a continuous batch, the quality of the food shall be assessed as described in subparagraphs (i) and (ii) each time new nutrient stocks are prepared, a new starter culture is employed or when a significant change in culture conditions occurs.

(iv) The environmental laboratory shall have written procedures for the statistical evaluation of food acceptability.

(v) Food used to culture organisms used in bioaccumulation tests shall be analyzed for the compounds to be measured in the bioaccumulation tests.

(m) Equipment requirements are as follows:

(1) If closed incubators are used, culturing and testing of organisms shall be separated to avoid loss of cultures due to cross-contamination.

(2) Temperature control equipment must be adequate to maintain the required test temperature. The average daily temperature of the test solutions shall be maintained within 1°C of the selected test temperature for the duration of the test. Temperature measurements shall be made at least once per 24-hour period. The test temperature for continuous-flow toxicity tests shall be monitored and recorded continuously.

(3) The test chambers used in a test must be identical.

(4) Materials used for test chambers and any material coming in contact with test samples, solutions, control water, sediment, soil or food must be nontoxic and cleaned according to the method. Materials may not add to nor reduce sample toxicity.

(5) Light intensity shall be maintained as specified in the method. Measurements shall be made and recorded at least once per 12 months.

(6) The photoperiod shall be maintained as specified in the method and be documented at least once every 90 days.

(7) For algal and plant tests, the light intensity shall be measured and recorded at the start of each test.

(n) The requirements for sample holding times and conditions are as follows:

(1) The sample holding time may not exceed 36 hours.

(2) The last use of the sample in renewal tests may not exceed 72 hours unless specifically approved by the Department.

(3) Samples shall be chilled to 4°C during or immediately after collection and held at that temperature until time of analysis.

(o) Chronic tests must have a minimum of four replicates per treatment.

(p) The requirements for testing conditions are as follows:

(1) Dissolved oxygen and pH in aquatic tests must be within acceptable ranges published in the method. When there are no established acceptance criteria in the method, the environmental laboratory shall establish internal criteria and document the method used to establish the acceptance limits.

(2) During aquatic chronic testing, dissolved oxygen and pH shall be measured daily in at least one replicate of each concentration.

(3) In static-renewal tests, dissolved oxygen shall be measured at both the beginning and end of each 24-hour exposure period.

(4) The pH shall be measured at the end of each exposure period after organism transfer.

(5) Minimal aeration may be provided to tests only if acceptable dissolved oxygen concentrations cannot be otherwise maintained or if specified by the method.

§ 252.404. Essential quality control requirement—microbiology.

(a) In addition to the requirements of § 252.401 (relating to basic requirements), environmental laboratories performing testing or analysis in the area of microbiology shall comply with this section.

(b) When the method selected by an environmental laboratory in accordance with § 252.307 (relating to methodology) contains more stringent requirements than the requirements of this section, the environmental laboratory shall follow the more stringent requirements contained in the method.

(c) The following pieces of equipment shall be maintained according to this subsection:

(1) *Autoclave.*

(i) An environmental laboratory shall use autoclaves that meet specified temperature tolerances of the method. Pressure cookers may not be used.

(ii) Prior to first use, an environmental laboratory shall evaluate and document the performance of an autoclave by establishing its functional properties and performance (for example, heat distribution characteristics with respect to typical uses).

(iii) A continuous temperature-recording device or a maximum-temperature-registering thermometer shall be used during each autoclave cycle.

(iv) An environmental laboratory shall verify the sterilization capability of each autoclave by utilizing appropriate biological indicators (for example, spore strips or ampoules) once a month. Records of biological indicator tests shall be maintained in a laboratory notebook and include the autoclave identification, date, incubation time and temperature, results and initials of the responsible individual.

(v) An environmental laboratory shall verify the mechanical timing device, if used, for each autoclave every 3 months. Records of mechanical timer verification shall be maintained in a laboratory notebook and include the autoclave identification, date, mechanical timing device time, actual time and initials of the responsible individual. Correction factors shall be documented and used.

(vi) Autoclaves shall be properly cleaned and maintained. A qualified person shall service autoclaves at least once per year. Servicing must include a pressure check and calibration of temperature devices. Records of annual service shall be maintained and the service date shall be recorded on the autoclave.

(vii) Required times for autoclaving items at 121°C are set forth in this subparagraph. The following items must be at temperature for the required amount of time. Except for membrane filters and pads and carbohydrate-containing media, indicated times are minimum times and may necessitate adjustment depending upon volumes,

containers and loads. For autoclave runs that include membrane filters and pads and media, the total cycle time may not exceed 45 minutes. Autoclaved membrane filters and pads and media shall be removed immediately after completion of the autoclave cycle.

(A) Membrane filters and pads	10 minutes
(B) Carbohydrate-containing media	12-15 minutes
(C) Contaminated test materials	30 minutes
(D) Membrane filtration units	15 minutes
(E) Sample containers	15 minutes
(F) Individual glassware	15 minutes
(G) Dilution water	15 minutes
(H) Rinse water	15-30 minutes

(viii) Records of each autoclave run shall be maintained in a laboratory notebook and include the date, contents, sterilization time and temperature, total cycle time (recorded as time in and time out) and initials of the responsible individual.

(ix) If an autoclave cycle fails to meet any requirement, corrective action shall be documented. Media may not be reautoclaved.

(2) *Hot air oven.*

(i) Prior to first use, an environmental laboratory shall evaluate the performance of each hot air oven by establishing its functional properties and performance (for example, heat distribution characteristics with respect to typical uses).

(ii) An environmental laboratory shall maintain a thermometer, graduated in 10°C increments or less with the bulb placed in sand, in each hot air oven.

(iii) An environmental laboratory shall verify the sterilization capability of each hot air oven by utilizing appropriate biological indicators (for example, spore strips) once a month. Records of biological indicator tests shall be maintained in a laboratory notebook and include the hot air oven identification, date, incubation time and temperature, results and initials of the responsible individual.

(iv) An environmental laboratory shall sterilize items in a hot air oven maintaining a temperature of 170°—180°C for a minimum of 2 hours. Only dry items may be sterilized in a hot air oven.

(v) Records of each hot air oven operation shall be maintained and include the date, contents, sterilization time and temperature, and initials of the responsible individual.

(3) *Optical counting equipment.*

(i) An environmental laboratory shall use appropriate optical counting equipment to view and enumerate colonies.

(ii) A dark field colony counter shall be used to count heterotrophic plate count colonies.

(iii) A 10X to 15X stereomicroscope with a fluorescent light source shall be used to count sheen colonies.

(4) *Inoculating equipment.*

(i) An environmental laboratory shall use appropriate sterile inoculating equipment.

(ii) Metal loops and needles must be made of nickel alloy or platinum.

(iii) Wooden applicator sticks must be sterilized using dry heat.

(iv) For oxidase tests, nickel alloy loops may not be used.

(5) *Membrane filtration equipment.*

(i) Membrane filtration funnels must be stainless steel, glass or autoclaveable plastic. Membrane filtration funnels may not be scratched or corroded and may not leak.

(ii) Membrane filtration units shall be autoclaved before the beginning of a filtration series. A filtration series ends when 30 minutes or longer elapses after a sample is filtered.

(iii) Forceps must be blunt and smooth-tipped without corrugations on the inner sides of tips.

(iv) Membrane filters must meet the following requirements:

(A) Membrane filters must be made of cellulose ester, white, grid marked, 47 mm diameter and 0.45- μ m pore size unless otherwise specified by the method.

(B) Membrane filters must be either purchased presterilized or autoclaved for 10 minutes at 121°C before use. Membrane filters may not be brittle or distorted.

(C) Membrane filters must be approved (based upon manufacturer data from tests for toxicity, recovery, retention and absence of growth-promoting substances) for the specified analysis for which they are to be used.

(v) Records of membrane filters shall be maintained and include the type, lot number, date received and date opened. The manufacturer's specification/certification sheet shall be retained for each lot of membrane filters.

(vi) An environmental laboratory using an ultraviolet sanitation lamp to sanitize filtration funnels between successive filtrations shall test the ultraviolet sanitation lamp every 3 months for effectiveness with an appropriate UV light meter or by plate count agar spread plates. Records of ultraviolet lamp tests shall be maintained and bulbs shall be replaced if output is less than 70% of original for light tests or if count reduction is less than 99% for a plate containing 200 to 300 organisms.

(6) *Culture dishes.*

(i) Culture dishes must be presterilized plastic or sterilizable glass and of appropriate size for the method.

(ii) Stainless steel canisters, aluminum canisters or a wrap of heavy aluminum foil or char-resistant paper, shall be used for autoclave sterilization of glass culture dishes.

(iii) Loose-lid culture dishes shall be incubated in a tight fitting container containing a moistened paper towel.

(iv) Opened packs of disposable culture dishes shall be resealed between use periods.

(7) *Culture tubes and closures.* Culture tubes and containers must be of sufficient size to contain medium and sample without being more than three quarters full. Tube closures must be stainless steel, aluminum, plastic or a screw cap with a nontoxic liner.

(8) *Pipettes.*

(i) Pipettes must have legible markings and may not be chipped or etched.

(ii) Stainless steel canisters, aluminum canisters or a wrap of heavy aluminum foil or char-resistant paper shall be used for autoclave sterilization of pipettes.

(iii) Opened packs of disposable sterile pipettes shall be resealed between use periods.

(9) *Sample containers.*

(i) Sample containers must be sterile plastic bags or wide-mouth plastic or noncorrosive glass bottles with nonleaking ground glass stoppers or caps with nontoxic liners that can withstand repeated sterilization. Sample containers must be capable of holding sufficient volume of sample for all required tests while maintaining adequate air space for mixing.

(ii) Glass stoppers must be covered with aluminum foil or char-resistant paper for sterilization.

(iii) Glass and plastic bottles that have not been presterilized shall be sterilized by autoclaving. Glass bottles may be sterilized by dry heat. Empty containers shall be moistened with several drops of water prior to autoclaving.

(10) *Plastic and glassware washing procedure.*

(i) Prior to the initial use of a lot of detergent or washing procedure, an environmental laboratory shall perform an inhibitory residue test utilizing the method described in the currently approved editions of *Standard Methods for the Examination of Water and Wastewater* (available from American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005). Records of inhibitory residue tests shall be maintained and include the detergent identification, date, calculations, results and initials of responsible individual.

(ii) Washed plastic and glassware shall be tested at least once each month for possible acid or alkaline residue by testing at least one piece of plastic and glassware with a suitable pH indicator such as 0.04% bromothymol blue. Records of pH tests shall be maintained.

(11) *Ultraviolet lamp.* An environmental laboratory shall use a 365-nm, 6-watt ultraviolet lamp in a darkened room to view sample fluorescence.

(12) *Quanti-Tray™ Sealer.*

(i) An environmental laboratory shall perform a sealer check on each Quanti-Tray Sealer once a month by adding a dye to a water sample and performing the sealing procedure.

(ii) Records of the sealer check shall be maintained and include the sealer identification, date, results and initials of responsible individual. If dye is observed outside the wells, the Quanti-Tray Sealer may not be used.

(d) The requirements for reagent water are as follows:

(1) An environmental laboratory shall use reagent water in the preparation of media, solutions and buffers.

(2) An environmental laboratory shall demonstrate that reagent water meets the following criteria on a monthly basis or whenever maintenance is performed on the water treatment system or at startup after a period of nonuse longer than 1 month:

(i) Total chlorine residual must be less than 0.1 mg/L.

(ii) Conductivity must be less than 2.0 μ mhos/cm or resistance greater than 0.5 megohms at 25°C.

(iii) Heterotrophic plate count must be less than 500 CFU/mL.

(3) An environmental laboratory shall demonstrate that reagent water meets the following criteria every 12 months:

(i) The individual concentration of lead, cadmium, chromium, copper, nickel and zinc must be less than 0.05 mg/L.

(ii) The total concentration of lead, cadmium, chromium, copper, nickel and zinc must be less than 0.1 mg/L.

(iii) Except as provided in subsection (c)(6), the bacteriological water quality test ratio must be between 0.8 and 3.0. The bacteriological water quality test shall be performed according to the currently approved editions of *Standard Methods for the Examination of Water and Wastewater* (available from American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005).

(4) The monthly and annual reagent water analyses may only be performed by an environmental laboratory accredited under this chapter for the field of accreditation that includes the analyte.

(5) Results of the monthly and annual reagent water analysis shall be maintained and include the date, type of test, results and initials of responsible individual. Reagent water that does not meet the required criteria may not be used.

(6) The bacteriological water quality test need not be performed if the environmental laboratory can supply documentation to show that their laboratory pure water or reagent water meets the criteria, as specified in the currently approved editions of *Standard Methods for the Examination of Water and Wastewater* (available from American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005), for Type I or Type II reagent water.

(e) The requirements for dilution/rinse water are as follows:

(1) Stock buffer solution or peptone water shall be prepared as specified in the currently approved editions of *Standard Methods for the Examination of Water and Wastewater* (available from American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005).

(2) Stock buffers shall be autoclaved or filter-sterilized. Stock buffer containers shall be labeled and dated. Stock buffers shall be refrigerated. Stored stock buffers must be free from turbidity.

(3) Dilution/rinse water solutions shall be prepared as specified in the currently approved editions of *Standard Methods for the Examination of Water and Wastewater* (available from American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005).

(4) Records of stock buffers and dilution/rinse water preparation shall be maintained and include the date prepared, lot number or laboratory identification of solutions used, amounts measured, final pH and initials of the responsible individual.

(f) The requirements for media are as follows:

(1) An environmental laboratory shall use dehydrated or commercially manufactured prepared media. Dehydrated media shall be stored in a cool, dry location. Caked or discolored dehydrated media shall be discarded.

(2) An environmental laboratory that uses commercially prepared media shall maintain records on each lot received that includes the date received, type of media, lot number and pH verification. Media may not be used after the manufacturer's expiration date.

(3) An environmental laboratory that prepares media from dehydrated stock shall follow method specifications and maintain records of each batch that includes the date of preparation, type of media, lot number, amounts measured, sterilization time and temperature, final pH and initials of the responsible individual.

(4) Media may not be reautoclaved.

(5) After sterilization, prepared media shall be stored and maintained as follows:

(i) Stored away from sources of direct light.

(ii) Prepared plates shall be stored in sealed plastic bags or containers.

(iii) Each bag, container or rack of broth or agar media shall be labeled with the date prepared or expiration date.

(iv) Liquid media stored in a refrigerator shall be incubated overnight at room temperature before use. Media that shows growth or bubbles may not be used.

(v) Prepared liquid media shall be discarded if evaporation exceeds 10% of the original volume.

(vi) Poured agar plates and broth in tubes, bottles or flasks with loose-fitting closures shall be discarded if not used within 2 weeks of sterilization unless otherwise specified by the method.

(vii) Broth in tightly closed screw-cap tubes, bottles or flasks shall be discarded if not used within 3 months of sterilization unless otherwise specified by the method.

(g) An environmental laboratory shall demonstrate that the filtration equipment and filters, sample containers, media and reagents have not been contaminated through improper handling or preparation, inadequate sterilization or environmental exposure as follows:

(1) A sterility blank shall be analyzed for each lot of prepared, ready-to-use medium and for each batch of medium prepared in the laboratory prior to first use of the medium. Records shall be maintained and include media identification, date, results and initials of responsible individual. If sterility blank indicates contamination, the media may not be used.

(2) For each membrane filtration unit used during a filtration series, the laboratory shall prepare at least one sterility blank at the beginning, after every ten samples, and at the end of the series and record the results. If the membrane filtration unit sterility blank indicates contamination, the data from affected samples shall be invalidated and an immediate resampling requested. When a filtration series is interrupted for more than 30 minutes, the filtration funnels shall be resterilized.

(3) For pour plate technique, sterility blanks of the medium shall be made by pouring at least one uninoculated plate for each lot of prepared, ready-to-use media and for each batch of medium prepared in the laboratory. Results shall be recorded. If the sterility check indicates contamination, the data from affected samples shall be invalidated.

(4) Sterility checks on sample containers shall be performed on at least one container for each lot of purchased, presterilized containers with an appropriate nonselective growth media. For containers prepared and sterilized in the laboratory, a sterility check shall be performed on one container per sterilized batch with an appropriate nonselective growth media. Results shall be maintained and include sample container identification, date, results and initials of responsible individual. If sample container

sterility check indicates contamination, the affected sample container may not be used.

(5) A sterility blank shall be performed on each batch of dilution/rinse water prepared in the laboratory and on each batch of preprepared, ready-to-use dilution water with an appropriate non-selective growth media. The concentration of media shall be single strength after addition of dilution water. Results shall be maintained and include dilution/rinse water identification, date, results, and initials of the responsible individual. If dilution/rinse water sterility check indicates contamination, the affected dilution water may not be used.

(6) At least one filter from each new lot of membrane filters shall be checked for sterility with an appropriate nonselective growth media. Results shall be maintained and include membrane filter identification, date, results and initials of the responsible individual. If the membrane filter sterility check indicates contamination, the affected membrane filters may not be used.

(h) The requirements for positive and negative culture control checks are as follows:

(1) Each preprepared, ready-to-use lot of medium and each batch of medium prepared in the laboratory shall be tested with at least one pure culture of a known positive reaction prior to first use of the medium. Records shall be maintained and include the date, media lot or batch number, type of media, positive culture control organism identification, results and initials of responsible individual. If positive culture control checks do not meet expected results, the affected media may not be used.

(2) Each preprepared, ready-to-use lot of selective medium and each batch of selective medium prepared in the laboratory shall be tested with at least one pure culture of a known negative reaction prior to first use of the medium. Records shall be maintained and include the date, media lot or batch number, type of media, negative culture control organism identification, results and initials of the responsible individual. If negative culture control checks do not meet expected results, the affected media may not be used.

(3) An environmental laboratory shall use stock positive and negative culture controls that are known and traceable to a recognized National collection. Documentation of traceability shall be maintained.

(4) Stock positive and negative culture controls shall be discarded upon the manufacturer's expiration date unless it is shown through appropriate biochemical and purity tests that the stock culture control has not been contaminated or altered.

(i) The requirements for test variability/reproducibility are as follows:

(1) For test methods that specify colony counts, duplicate counts shall be performed monthly on one positive sample for each month that the test is performed. If the laboratory has two or more analysts, each analyst shall count typical colonies on the same plate. Counts may not differ by more than 10%. In an environmental laboratory with only one analyst, the analyst shall count the same plate twice. Counts may not differ by more than 5%.

(2) If the protocol for a method does not require a positive culture control during sample analysis, the environmental laboratory shall analyze a positive culture control organism through the entire method on a monthly basis.

(3) If the method determines organism density, a control sample shall be prepared from stock culture to contain 20 to 80 viable organisms per the usual volume analyzed. The positive control shall then be processed through all steps of the method and the density of the positive control determined and recorded.

(4) If the environmental laboratory is using a method for detecting as opposed to counting organisms, a control sample may be inoculated by transferring a portion of the sample from a positive stock culture to 100-mL of reagent or dilution water.

§ 252.405. Essential quality control requirement—radiochemistry.

(a) In addition to the requirements of § 252.401 (relating to basic requirements), laboratories performing testing or analysis of environmental samples in the area of radiochemistry shall comply with this section.

(b) When the method selected by an environmental laboratory in accordance with § 252.307 (relating to methodology) contains more stringent requirements than the requirements of this section, the environmental laboratory shall follow the more stringent requirements contained in the method.

(c) The requirements for initial calibration are as follows:

(1) An environmental laboratory shall follow the initial calibration requirements of the method or regulation.

(2) Initial calibrations shall be performed using calibration standards that have the same general characteristics as the associated environmental samples, for example geometry, homogeneity and density.

(3) The initial calibration must include, when applicable, determination of instrument background, efficiency, mass attenuation and energy calibration.

(4) The results of testing or analysis of environmental samples shall be determined from an initial calibration that is not more than 12 months old and may not be determined from any continuing calibration verification, unless otherwise required by regulation, method or program.

(5) The details of the initial calibration procedures including calculations, integrations, acceptance criteria and associated statistics shall be included or referenced in the laboratory's standard operating procedures.

(6) Raw data records shall be retained to permit reconstruction of the initial calibration.

(d) The requirements for an instrument suitability verification are as follows:

(1) An instrument suitability verification standard shall be analyzed at the beginning of each analysis day, unless a higher frequency is required in the method or regulation.

(2) The instrument suitability verification standard shall be a check source that provides adequate counting statistics for a relatively short count time and is sealed or encapsulated to prevent loss of activity and contamination of the instrument and laboratory personnel.

(3) For alpha and gamma spectroscopy systems, the instrument suitability verification standard must include determination of instrument counting efficiency, energy calibration and peak resolution.

(4) For gas-proportional and liquid scintillation counters, the instrument suitability verification standard must include determination of instrument counting efficiency.

(5) For scintillation counters, the instrument suitability verification standard must include determination of instrument counting efficiency.

(6) Details of the instrument suitability verification procedure including calculations, integrations, acceptance criteria and associated statistics shall be included or referenced in the laboratory's standard operating procedures.

(7) Raw data records shall be retained to permit reconstruction of the instrument suitability verification.

(8) Acceptance criteria for instrument suitability verification standards in the method or regulation shall be followed. When there are no established criteria in the method or regulation, an environmental laboratory shall determine internal criteria and document the procedure used to establish the criteria.

(9) If an instrument suitability verification standard fails the acceptance criteria, an environmental laboratory shall initiate corrective actions.

(10) Environmental samples not bracketed by acceptable instrument suitability verification standards shall be reanalyzed.

(e) The requirements for an instrument background measurement are as follows:

(1) An instrument background check shall be analyzed every analysis day.

(2) Instrument background values shall be subtracted from the total measured activity in the determination of the sample activity.

(3) Each individual background check shall be compared to the acceptance criteria in the method or regulation. When there are no established criteria in the method or regulation, an environmental laboratory shall determine internal criteria and document the procedure used to establish the limits.

(4) Environmental samples associated with an out of control instrument background check shall be reprocessed and reanalyzed from the beginning of the method or the results reported with the appropriate data qualifiers.

(f) The requirements for a method blank are as follows:

(1) A method blank shall be processed along with and under the same conditions as the associated samples including all steps of the preparation and analytical procedure.

(2) A method blank shall be analyzed at a minimum of one per preparation batch. When no separate preparation method is used, such as gamma analysis in water, the batch shall be defined as no more than 20 environmental samples that are analyzed together using the same method, personnel and lots of reagents.

(3) A method blank must consist of a matrix that is similar to the associated environmental samples and is free of the isotopes of interest. When a matrix that is similar to the associated environmental samples that is free of the analytes of interest does not exist and cannot be prepared, reagent water or an artificial or simulated matrix may be used.

(4) When an environmental sample is analyzed by gamma spectrometry by placing the sample matrix into a calibrated counting geometry, the method blank must consist of a similar counting geometry that is filled to a similar volume with reagent water to partially simulate gamma attenuation due to a sample matrix.

(5) The method blank result may not be subtracted from the sample results in the associated preparation or analytical batch unless permitted by the method or regulation.

(6) The method blank shall be prepared with similar aliquot size to that of the routine samples for analysis. The method blank result and acceptance criteria shall be calculated in a manner that compensates for sample results based upon differing aliquot size.

(7) If a contaminant is detected in the method blank, the source of contamination shall be investigated and measures shall be taken to minimize or eliminate the contamination. A method blank is considered contaminated if one of the following applies:

(i) The activity of a target isotope in the method blank is at or above the reporting limit established by the method or by regulation.

(ii) The contamination in the method blank otherwise affects the environmental sample results as described in the method, regulation or in individual project data quality objectives.

(8) Environmental samples associated with a contaminated method blank shall be reprocessed for analysis or the results reported with the appropriate data qualifiers.

(g) The requirements for a laboratory control sample are as follows:

(1) A laboratory control sample must be processed along with and under the same conditions as the associated environmental samples, including all steps of the preparation and analytical procedure.

(2) The laboratory control sample must consist of a defined matrix containing known and verified activities of isotopes. When a matrix that is similar to the associated environmental samples that is free of the analytes of interest is not available, reagent water or an artificial or simulated matrix may be used.

(3) A laboratory control sample must be analyzed at a minimum of one per preparation batch. When no separate preparation method is used, such as gamma analysis in water, the batch shall be defined as no more than 20 environmental samples that are analyzed together with the same method, personnel and lots of reagents.

(4) The activity of the laboratory control sample must be within the calibration range of the method and one of the following:

(i) Two to ten times the detection limit.

(ii) At an activity level comparable to that of the environmental samples being tested or analyzed, if the sample activities are expected to exceed ten times the detection limit.

(5) The standard used to prepare the laboratory control sample must be from a source independent of the standards used for initial calibration.

(6) When a radiochemical method, other than gamma spectroscopy, has more than one reportable isotope, for example, plutonium, Pu 238 and Pu 239, using alpha spectrometry, only one of the isotopes shall be included in the laboratory control sample. When more than one isotope is present above the specified detection limit, each isotope shall be assessed against the acceptance criteria.

(7) When gamma spectrometry is used to identify and quantitate more than one isotope, the laboratory control sample must contain isotopes that represent the low, for example americium-241, medium, for example cesium-

137, and high, for example cobalt-60, energy range of the analyzed gamma spectra. The isotopes need not exactly bracket the calibrated energy range or the range over which isotopes are identified and quantitated.

(8) Each individual laboratory control sample must be compared to the acceptance criteria in the method or regulation. When there are no established criteria in the method or regulation, an environmental laboratory shall determine internal criteria and document the procedure used to establish the limits.

(9) Environmental samples associated with an out of control laboratory control sample shall be reprocessed and reanalyzed from the beginning of the method or the results reported with the appropriate data qualifiers.

(h) The requirements for sample duplicates are as follows:

(1) A sample duplicate shall be analyzed at a minimum of one per preparation batch. When no separate preparation method is used, for example gamma analysis in water, the batch shall be defined as no more than 20 environmental samples that are analyzed together using the same method, personnel and lots of reagents.

(2) An environmental laboratory shall document the calculations used for determining the relative percent difference or other statistical method for evaluation of the sample duplicate pairs.

(3) Each sample duplicate relative percent difference shall be compared to the acceptance criteria in the method or regulation. When there are no established criteria in the method or regulation, an environmental laboratory shall determine internal criteria and document the procedure used to establish the acceptance limits.

(4) For sample duplicate results outside established criteria, corrective action shall be documented and the affected data reported with appropriate data qualifiers.

(i) Tracer requirements are as follows:

(1) For those methods that utilize a tracer or internal standard, each sample result must have an associated tracer or internal standard recovery calculated and reported.

(2) The tracer or internal standard recovery shall be assessed against the acceptance criteria specified in the method or regulation. When there are no established criteria in the method or regulation, an environmental laboratory shall determine internal criteria and document the procedure used to establish the acceptance limits.

(3) For tracer or internal standard recovery outside established criteria, corrective action shall be documented and the data reported with appropriate data qualifiers.

(j) Carrier requirements are as follows:

(1) For those methods that utilize a carrier, each sample must have an associated carrier recovery calculated and reported.

(2) The carrier recovery for each sample shall be assessed against the acceptance criteria specified in the method or regulation. When there are no established criteria in the method or regulation, an environmental laboratory shall determine internal criteria and document the procedure used to establish the acceptance limits.

(3) For carrier recovery outside established criteria, corrective action shall be documented and the data reported with appropriate data qualifiers.

(k) The requirements for detection limits are as follows:

(1) A detection limit shall be determined by the protocol in the method or regulation. If the protocol for determining detection limits is not specified in the method or regulation, the environmental laboratory shall select a procedure that reflects instrument limitations and the intended application of the method.

(2) A detection limit shall be initially determined for the isotopes of interest in each method in a matrix in which neither the target isotope nor interferences are at a concentration that would impact the results. The detection limit shall be determined in the matrix of interest.

(3) A detection limit shall be determined each time there is a change in the method that affects how the test is performed or that affects the sensitivity of the analysis.

(4) The sample processing steps of the method shall be included in the determination of the detection limit.

(5) Supporting data shall be retained to permit reconstruction of the detection limit determination.

(6) An environmental laboratory shall have a written procedure to relate detection limits with quantitation limits.

(7) The method's lower limit of quantitation shall be established and must be above the detection limit.

(l) Each result shall be reported with the associated measurement uncertainty. The procedures for determining the measurement uncertainty shall be documented and be consistent with the method and regulation.

Subchapter E. PROFICIENCY TEST STUDY REQUIREMENTS

Sec.
252.501. Proficiency test study requirements.

§ 252.501. Proficiency test study requirements.

(a) By February 27, 2006, the Department will publish a list in the *Pennsylvania Bulletin* of fields of accreditation for which proficiency test studies are available. The Department may update the list of available fields of accreditation by publishing a revised list of available proficiency test studies.

(b) An environmental laboratory shall participate in proficiency test studies, when available, as specified in subsection (a), for each field of accreditation for which the laboratory seeks to obtain or maintain accreditation.

(c) Within the 12 months prior to applying for initial accreditation under this chapter or during the approval process, an environmental laboratory shall successfully analyze at least one single blind, single concentration proficiency test study, when available, as specified in subsection (a), for each field of accreditation for which it seeks accreditation.

(d) An environmental laboratory accredited under this chapter shall successfully analyze at least one single blind, single concentration proficiency test study for each field of accreditation, when available, as specified in subsection (a), for which the laboratory is accredited at least once every 12 months.

(e) Proficiency test studies shall be purchased at the environmental laboratory's expense directly from suppliers approved by the Department as a proficiency test provider.

(f) An environmental laboratory shall ensure that all proficiency test study samples are managed, analyzed and reported in the same manner as real environmental samples and utilize the same staff, procedures, equipment, facilities, number of replicates and methods for the routine analysis of the analyte.

(g) An environmental laboratory may not send a proficiency test study, or a portion of a proficiency test study, to another laboratory for analysis for a field of accreditation for which it seeks accreditation or is accredited prior to the time the results of the study are released by the proficiency test study provider.

(h) An environmental laboratory may not knowingly analyze a proficiency test study, or a portion of a proficiency test study, for another environmental laboratory for which the sending environmental laboratory seeks accreditation or is accredited prior to the time the results of the study are released by the proficiency test study provider.

(i) An environmental laboratory may not communicate with another environmental laboratory, including other laboratories under common ownership, concerning the proficiency test study prior to the time the results of the study are released by the proficiency test study provider.

(j) An environmental laboratory may not attempt to obtain the prepared value of a proficiency test study from the proficiency test study provider prior to the time the results of the study are released by the proficiency test study provider.

(k) If an environmental laboratory fails to successfully analyze a proficiency test study for an individual field of accreditation, it shall determine the cause for the failure and take any necessary corrective action. The laboratory shall document the investigation and corrective action.

(l) An environmental laboratory shall direct the proficiency test study provider to report the proficiency test study performance results directly to the Department at the same time that the provider reports the results to the environmental laboratory.

(m) An environmental laboratory shall maintain copies of all raw data associated with proficiency test studies for at least 5 years.

Subchapter F. ONSITE ASSESSMENT REQUIREMENTS

Sec.

252.601. Onsite assessment requirements.

§ 252.601. Onsite assessment requirements.

(a) Prior to accrediting an environmental laboratory, the Department will perform an onsite assessment of the laboratory.

(b) Prior to granting accreditation for an additional field of accreditation to an environmental laboratory, the Department may perform an onsite assessment of the laboratory.

(c) The Department may conduct announced or unannounced onsite assessments of an environmental laboratory to ensure compliance with the conditions of accreditation, this chapter or orders issued by the Department.

(d) The Department will provide the environmental laboratory with an onsite assessment report documenting any deficiencies found by the Department.

(e) An environmental laboratory shall submit a corrective action report to the Department within 60 calendar days from receipt of an onsite assessment report from the

Department where the Department has found deficiencies. The corrective action report shall document the corrective action taken by the laboratory to correct each deficiency.

(f) If any portion of the corrective action report is not acceptable, an environmental laboratory shall submit a revised written corrective action report within 30 calendar days from receipt of the Department's response. If the second corrective action report is not acceptable, the Department may revoke accreditation.

(g) Unless otherwise approved by the Department, deficiencies shall be corrected within 120 calendar days of receipt of the onsite assessment report.

(h) The Department may extend the period of implementing corrective actions, for specific deficiencies, for a maximum of 30 calendar days upon receipt of the laboratory's written petition and corrective action report, when the laboratory must take one or more of the following actions:

- (1) Purchase new equipment.
- (2) Revise the quality manual.
- (3) Replace significant laboratory personnel.

Subchapter G. MISCELLANEOUS PROVISIONS

Sec.

252.701. Denial of application.

252.702. Revocation.

252.703. Suspension.

252.704. Voluntary relinquishment.

252.705. Use of accreditation.

252.706. Recordkeeping.

252.707. Subcontracting.

252.708. Reporting and notification requirements.

§ 252.701. Denial of application.

(a) The Department will deny an application for accreditation, transfer of accreditation or application for renewal of accreditation under one or more of the following circumstances:

(1) The environmental laboratory is in continuing violation of or demonstrates an inability or lack of intention to comply with this chapter or other laws administered by the Department.

(2) The Department revoked the environmental laboratory's certificate of accreditation for all fields of accreditation for failure to correct deficiencies identified in an onsite assessment report within the previous 6 months.

(b) The Department may deny an application for accreditation, transfer of accreditation or application for renewal of accreditation for one or more of the following reasons:

- (1) Falsifying analyses.
- (2) Failure to comply with the reporting and notification requirements as specified in § 252.708 (relating to reporting and notification requirements).
- (3) Making misrepresentations to the Department.
- (4) Engaging in unethical or fraudulent practices.
- (5) Analysis of proficiency test studies by personnel other than the analysts associated with the routine analysis of environmental samples in the laboratory.
- (6) Failure to submit a complete application.
- (7) Failure to pay required fees.
- (8) Failure of laboratory staff to meet the personnel qualifications of education, training and experience.

(9) Failure to successfully analyze and report proficiency test studies as required by this chapter.

(10) Failure to respond to an onsite assessment report with a corrective action report within the required timeframes.

(11) Failure to submit an acceptable corrective action report in response to an onsite assessment within the required time frames.

(12) Failure to implement the corrective actions detailed in the environmental laboratory's corrective action report within a time frame approved by the Department.

(13) Failure to implement a quality assurance program.

(14) Denial of entry to the Department during normal business hours for an onsite assessment.

(15) Violation of a statute, this chapter or an order of the Department.

(16) Failure to meet the requirements of this chapter.

§ 252.702. Revocation.

(a) The Department will revoke an environmental laboratory's accreditation for a field of accreditation when, after being suspended due to failure to participate in a required proficiency test study or due to failure to obtain an acceptable result for a proficiency test study, the laboratory's analysis of the next proficiency test study results in a failed proficiency test study for that field of accreditation.

(b) The Department may revoke an environmental laboratory's accreditation, in part or in total, for one or more of the following reasons:

(1) Failure to respond to an onsite assessment report with a corrective action report within the required time frames.

(2) Failure to correct deficiencies identified during an onsite assessment of the environmental laboratory.

(3) Failure to implement corrective action related to violations or deficiencies found during an onsite assessment.

(4) Failure of an environmental laboratory that has been suspended to correct all outstanding violations or deficiencies within 6 months of the effective date of the suspension.

(5) Failure to submit an acceptable corrective action report in response to an onsite assessment report within the required timeframes.

(6) Violation of a condition of accreditation.

(7) Violation of a statute, this chapter or an order of the Department.

(8) Falsifying analyses.

(9) Making misrepresentations to the Department.

(10) Engaging in unethical or fraudulent practices.

(11) Analysis of proficiency test studies by personnel other than the analysts associated with the routine analysis of environmental samples in the laboratory.

(12) Failure to implement a quality assurance program.

(13) Failure to participate in the proficiency test study program as required by this chapter.

(14) Denial of entry to the Department during normal business hours for an onsite assessment.

(15) Failure to comply with the reporting and notification requirements as specified in § 252.708 (relating to reporting and notification requirements).

(16) Failure to employ staff that meets the personnel qualifications for education, training and experience.

(17) Failure to meet the requirements of this chapter.

(c) The environmental laboratory may continue to test or analyze environmental samples for those fields of accreditation not revoked.

(d) Within 72 hours of receiving notice of the revocation of accreditation from the Department, the environmental laboratory shall notify each of its customers affected by the revocation in writing of the revocation on a form approved by the Department.

§ 252.703. Suspension.

(a) Denial of access to the Department during normal business hours will result in immediate suspension of accreditation for all fields of accreditation. Upon notice from the Department, the laboratory shall immediately cease testing or analysis of environmental samples.

(b) The Department will suspend an environmental laboratory's accreditation in total or in part for one or more of the following reasons:

(1) The Department finds that protection of the environment or the public health, safety or welfare requires emergency action.

(2) The environmental laboratory fails to successfully complete a proficiency test study within the previous 12 months.

(3) The environmental laboratory fails two consecutive proficiency test studies for a field of accreditation.

(c) The Department may suspend a laboratory's accreditation in total or in part for one or more of the following reasons:

(1) Failure to comply with the reporting and notification requirements as specified in § 252.708 (relating to reporting and notification requirements).

(2) Failure to implement a quality assurance program.

(3) Failure to employ staff that meets the personnel qualifications for education, training and experience.

(d) A laboratory may continue to test or analyze environmental samples for those fields of accreditation not affected by the suspension.

(e) Within 72 hours of receiving notice of the suspension of accreditation from the Department, the environmental laboratory shall notify each of its customers affected by the suspension in writing of the suspension on a form approved by the Department.

§ 252.704. Voluntary relinquishment.

(a) An environmental laboratory wishing to voluntarily relinquish its certificate of accreditation shall notify the Department in writing.

(b) An environmental laboratory that voluntarily relinquishes its certificate of accreditation shall insure records are maintained in accordance with § 252.706 (relating to recordkeeping).

(c) Within 72 hours of voluntarily relinquishing its certificate of accreditation, the laboratory shall notify each of its customers affected by the voluntary relinquishment in writing of the relinquishment on a form approved by the Department.

§ 252.705. Use of accreditation.

(a) Environmental laboratories accredited by the Department shall:

(1) Post or display their most recent certificate of accreditation for all fields of accreditation in a prominent place in the laboratory.

(2) Make accurate statements concerning their accreditation status.

(3) Not use their certificate of accreditation, accreditation status or the Department's logo to imply endorsement by the Department.

(b) Environmental laboratories using the Department's name, making reference to its accreditation status or using the Department's logo in catalogs, advertising, business solicitations, proposals, quotations, laboratory analytical reports or other materials, shall:

(1) Distinguish between testing for which the laboratory is accredited and testing for which the laboratory is not accredited.

(2) Include the environmental laboratory's accreditation number.

(c) Upon suspension, revocation or voluntary relinquishment of accreditation, a laboratory shall:

(1) Discontinue use of all catalogs, advertising, business solicitations, proposals, quotations, laboratory analytical results or other materials that contain reference to the laboratory's past accreditation status.

(2) Discontinue use or display of the Department's logo.

(3) Return certificates of accreditation to the Department within 48 hours.

(d) NELAP accredited laboratories shall accompany the Department's name or the NELAC/NELAP logo with the phrase "NELAP accredited" and the laboratory's accreditation number when using the Department's name or the NELAC/NELAP logo on general literature such as catalogs, advertising, business solicitations, proposals, quotations, laboratory analytical reports or other materials.

(e) NELAP accredited laboratories may not use their NELAP certificate, NELAP accreditation status or NELAC/NELAP logo to imply endorsement by the Department or NELAC.

§ 252.706. Recordkeeping.

(a) An environmental laboratory shall maintain records in a manner accessible by the Department.

(b) An environmental laboratory shall maintain records, including original handwritten data, that allow reconstruction of all laboratory activities associated with the testing or analysis of environmental samples.

(c) All generated data, except data generated by automated data collection systems, shall be recorded promptly and legibly in permanent ink or in an electronic format. Changes to records shall be made so that the original entry remains visible. The individual making the change shall sign or initial and date the correction. These criteria also shall apply to electronically maintained records.

(d) Records required under this chapter shall be maintained for a minimum of 5 years unless otherwise specified.

(e) An environmental laboratory shall have a written plan that specifies how records will be maintained or transferred if the laboratory transfers ownership or terminates operations.

§ 252.707. Subcontracting.

(a) An environmental laboratory may not subcontract testing or analysis covered under this chapter to an environmental laboratory that is not accredited and in compliance with this chapter.

(b) The subcontracted environmental laboratory shall be indicated on the final report.

§ 252.708. Reporting and notification requirements.

(a) An environmental laboratory conducting testing or analysis of drinking water under Chapter 109 (relating to safe drinking water) shall meet the reporting and notification requirements of that chapter.

(b) An environmental laboratory shall notify the Department, in writing, within 30 calendar days of a change in laboratory supervisor.

(c) An environmental laboratory shall notify the Department, in writing, within 30 calendar days of a change in the legal name of the laboratory.

(d) An environmental laboratory shall notify the Department, in writing, within 30 calendar days of a change in any item contained on the application for accreditation.

(e) An out-of-State environmental laboratory with either primary or secondary accreditation from the Department shall notify, in writing, the Department within 48 hours of any changes in the laboratory's accreditation status from any other primary accrediting authority.

(f) The Department may require additional information or proof of continued capability to perform the testing or analysis for affected fields of accreditation upon receipt of notification under this subsection.

(g) The Department may require an onsite assessment under § 252.601 (relating to onsite assessment requirements) upon receipt of notification under this subsection.

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