

PENNSYLVANIA BULLETIN

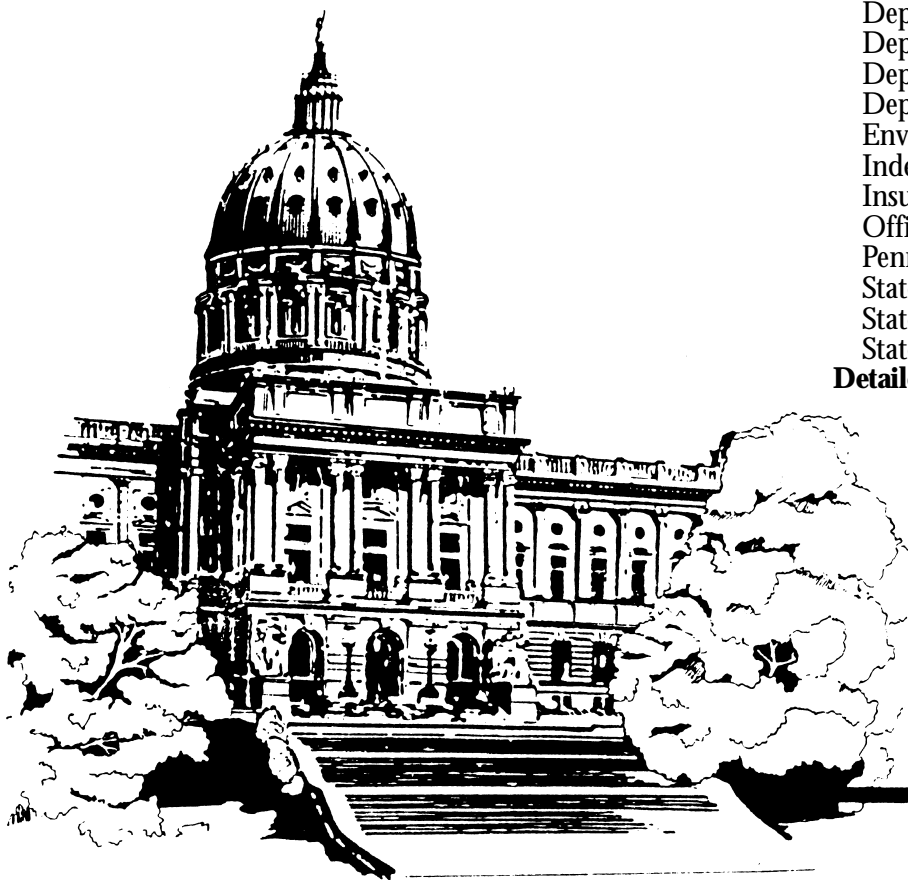
Volume 38
Saturday, August 9, 2008 • Harrisburg, PA
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for the Department of
Public Welfare's Assisted
Living Residences

Part I

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No. 405, August 2008

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 207—JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

[207 PA. CODE CH. 1]

Amendment of the Rules of Procedure of the Court of Judicial Discipline; Doc. No. 1 JD 94

Order

Per Curiam:

And Now, this 23rd day of July, 2008, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having proposed to amend Rule of Procedure No. 121(C), as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments or objections no later than thirty days from the publication of this Order in that *Bulletin*.

WILLIAM H. LAMB,
President Judge

Annex A

TITLE 207. JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 121. Filing; Docketing.

* * * * *

(C) Unless otherwise ordered by the Court, or as otherwise provided by these rules, a filing shall consist of the original and [10] three (3) copies, **except, in the case of pleadings in excess of 20 pages, in which case an original and 10 copies are required.**

[Pa.B. Doc. No. 08-1452. Filed for public inspection August 8, 2008, 9:00 a.m.]

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 51]

Amendment of Rule 15 of the Rules of Conduct for Magisterial District Judges; Magisterial Doc. No. 1; No. 246

Order

Per Curiam:

And Now, this 22nd day of July, 2008, upon recommendation of the Minor Court Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interest of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 15 of the Rules of Conduct for Magisterial District Judges be, and hereby is, amended to read as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

WILLIAM H. LAUB,
President Judge

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

Rule 15. Public Office and Political Activity.

* * * * *

D. With respect to their campaign conduct, magisterial district judges or candidates for such office shall:

* * * * *

(3) not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit [**or appear to commit**] the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent their identity, qualifications, present position, or other fact.

* * * * *

FINAL REPORT

Amendment to Rule 15 of the Rules of Conduct for Magisterial District Judges

On July 22, 2008, effective immediately, upon recommendation of the Minor Court Rules Committee,¹ the Supreme Court of Pennsylvania approved an amendment to Rule 15 of the Rules of Conduct for Magisterial District Judges.²

I. Background

On March 17, 2008, the Supreme Court of Pennsylvania issued an Order amending Canon 7 B(1)(c) of the Code of Judicial Conduct.³ The Order deleted the phrase "or appear to commit" from Canon 7B(1)(c). Pa.R.C.P.M.D.J. No. 15 is modeled, in part, upon Canon 7 of the Code of Judicial Conduct. Therefore, in order to maintain consistency between the Code of Judicial Conduct and the Rules of Conduct for Magisterial District Judges, the Minor Court Rules Committee ("Committee") agreed that an immediate amendment to Rule 15 was advisable.

¹ Minor Court Rules Committee Recommendation 7-2008.

² Supreme Court of Pennsylvania Order No. 246, Magisterial Docket No. 1, (July 22, 2008).

³ Supreme Court of Pennsylvania Order No. 317, Judicial Administration Docket No. 1 (March 17, 2008).

II. Discussion and Approved Rule Change

Although the commentary following M.D.J. No. 15 D(3) cites to *Republican Party of Minnesota v. White*, 122 S.Ct. 2528 (2002), the Committee felt that because of the Pennsylvania Supreme Court's removal of the clause "appear to commit" from Canon 7, similar action was needed in the Rules of Conduct. *Republican Party of Minnesota v. White* was a United States Supreme Court decision that found Minnesota's limits on judicial campaign speech unconstitutional. The commentary including the citation to *White* was added to Rule 15D(3) in November 2002.⁴ At the same time, the Supreme Court of Pennsylvania removed language from Rule 15D(3), replacing it with the current language - "make statements that commit or appear to commit the candidate . . ." ⁵

Despite the fact that the inclusion of a reference to *White* in the Rules of Conduct provides some guidance for magisterial district judges about their ability to comment on issues during political races, the Committee agreed that the language "or appear to commit" must be removed from Rule 15D(3) due to its corresponding removal from Canon 7. Therefore, the Committee recommended removal of that phrase.

[Pa.B. Doc. No. 08-1453. Filed for public inspection August 8, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

WARREN AND FOREST COUNTIES

Rule of Criminal Procedure—Sentencing Judge; Rule 700; No. 56 of 2008; Miscellaneous

Order

And Now, this 24th day of July, 2008, it is hereby Ordered that the Local Rule of Criminal Procedure Rule 700 for the 37th Judicial District composed of Forest and Warren Counties pertaining to the Sentencing Judge be, and the same hereby is, promulgated herewith, to be become effective 30 days after publication in the *Pennsylvania Bulletin*.

The Court Administrator of the 37th Judicial District is directed to:

(1) File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.

⁴ Supreme Court of Pennsylvania Order No. 137, Magisterial Docket No. 1, Book 2 (Nov. 21, 2002).

⁵ The Court removed the phrase "announce his views on disputed legal or political issues." See Order No. 137, Magisterial Docket No. 1, Book 2 (Nov. 21, 2002).

(2) File two (2) certified copies and one disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

(4) File one (1) copy with the Prothonotaries of the Court of the 37th Judicial District.

By The Court

WILLIAM F. MORGAN,
President Judge

Rule 700. Sentencing Judge.

A sentence on a plea of guilty or *nolo contendere* may be imposed by a judge other than the judge who received the plea, if the defendant has been notified of the possibility at the time of entering the plea.

Comment: This rule is not intended to proscribe sentencing by a judge who did not receive the plea when there are extraordinary circumstances which preclude the presence of that judge.

* * *

[Pa.B. Doc. No. 08-1454. Filed for public inspection August 8, 2008, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Hearing

A Petition for Reinstatement to the active practice of law has been filed by Bernard J. McBride, Jr. and will be the subject of a hearing on September 9, 2008, before a hearing committee designated by the Board. Anyone wishing to be heard in reference to this matter should contact the District I Office of the Disciplinary Board of the Supreme Court of Pennsylvania, 16th Floor, Seven Penn Center, 1635 Market Street, Philadelphia, PA 19103, (215) 560-6296, on or before August 29, 2008. In accordance with Board Rule § 89.274(b), since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 08-1455. Filed for public inspection August 8, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 77, 87—89 AND 210]

Mine Opening Blasting

The Environmental Quality Board (Board) amends Chapters 77, 87—89 and 210 to read as set forth in Annex A. This final-form rulemaking addresses a number of issues regarding blasting at a mine site. It clarifies that the use of explosives in connection with the construction of a mine opening for an underground mine is a surface mining activity subject to the applicable requirements in Chapters 77, 87 or 88 (relating to noncoal mining; surface mining of coal; and anthracite coal) and that the person conducting the blasting activity shall possess a blaster's license. This final-form rulemaking increases the flexibility in the scheduling of blasting for constructing openings for coal and industrial mineral underground mines, as well as, the limits for the resulting ground vibrations and airblasts. Also, the requirements for protective measures to be taken when surface coal mine blasting is in proximity to a public highway or an entrance to a mine have been made more flexible. Finally, a category for mine opening blasting is being added to the classifications of blaster's licenses.

This final-form rulemaking was adopted by the Board at its meeting of April 15, 2008.

A. *Effective Date*

These amendments are effective upon publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information, contact Joseph Pizarchik, Director, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5015; or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060.

C. *Statutory Authority*

This final-form rulemaking is promulgated under the authority in section 4.2 of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. § 1396.4b); section 11 of the Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) (52 P. S. § 3311); and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

D. *Background and Purpose*

This final-form rulemaking amends the regulations regarding the use of explosives in connection with the development of an opening for an underground mine to ensure that these regulations protect both the public and miners. This final-form rulemaking clarifies that the use of explosives in connection with the construction of a mine opening for an underground coal or noncoal mine is a surface mining activity or surface mining subject to the applicable requirements in Chapters 77, 87 or 88 and that the person conducting the blasting activity shall possess a blaster's license. A category for mine opening blasting is being added to the classifications of blaster's

licenses. In addition, the scheduling requirements applicable to the use of explosives for constructing openings for coal and industrial mineral underground mines are made more flexible. The requirements for protective measures to be taken when surface coal mine blasting is in proximity to a public highway or an entrance to a mine are also made more flexible.

The SMCRA and the NCSMCRA broadly define "surface mining activities" and "surface mining" respectively, to include activities conducted on the surface that are incidental to the establishment or operation of an underground mine, including, among other things, the construction of the mine opening from the surface to the coal seam or mineral strata being or to be mined. Mine opening construction occurs in proximity to inhabited areas and the Department receives complaints about the affects of the related blasting activity during the construction of the entire opening (to the coal seam or mineral being mined). Applying surface mining blasting regulations to the construction of the entire mine opening is necessary because it limits airblast and ground vibration and prohibits the flyrock that potentially could result from the blasting. Airblast and ground vibration is limited to prevent damage of nearby structures and to prevent blasting that would be a nuisance. Flyrock is prohibited to prevent property damage and to prevent personal injury or death.

Even though the explosives regulations for surface anthracite and bituminous mines require all blasts to be conducted by a blaster licensed under Chapter 210 (relating to licensing of blasters), there has been some confusion as to whether Chapter 210 applies to entry blasting. See §§ 87.134(c), 88.124(c) and 210.12 (relating to use of explosives: general requirements; blasting: general requirements; and to scope). This confusion is related to the fact that blasting for underground mines is also authorized by the Pennsylvania Anthracite Coal Mine Act and the Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 70-101—70-133 and 701-101—701-127) and persons authorized by the Pennsylvania Anthracite Coal Mine Act and the Pennsylvania Bituminous Coal Mine Act are exempt from Chapter 210. It is the Department's position that the requirements of §§ 87.124(d) and 88.134(c), requiring that all surface blasting activities be conducted by a competent blaster licensed in compliance with Chapter 210, apply. Based on the unique issues regarding mine opening blasting, it is necessary to create a separate license classification for this activity that takes into consideration that mine opening blasters are conducting blasting operations below the surface that result in the need to limit that blasting's effect on people and property on the surface.

The requirement that currently limits blasting to daylight hours, when applied to all mine opening blasting, poses a significant risk to mine workers without significantly protecting the rest of the public. A risk of instability in a mine opening under construction exists if that opening passes through sandstone or shale strata because these rocks deteriorate when exposed to air and water. If this situation exists, blasting on an as-needed basis is necessary to enable the expeditious grouting of the mine opening with a ring of cement, sealing off the exposure to air and water. Public protection is provided by applying limits to airblast and ground vibration and prohibiting flyrock.

Barricading and guarding a highway, as required by §§ 87.127 and 88.135 (relating to use of explosives: surface blasting requirements; and blasting: surface blasting requirements) is not always the best method for protecting the public from mine blasting near that highway. In many cases, careful design of blasts protects the public more than barricading roads that are heavily traveled, subjecting the traveling public to the threat of accidents resulting from blocking of the road.

The Mining and Reclamation Advisory Board (MRAB) considered the proposed rulemaking package at the August 15, 2005, October 27, 2005, and January 5, 2006, meetings. While there was general agreement on many sections, the MRAB deadlocked on whether certain changes should be made to affirm mine opening blasting is a surface mining activity. MRAB directed the Department to proceed to the Board and to note the MRAB's position in the proposed rulemaking package.

The notice of proposed rulemaking for the mine opening blasting amendments was published at 36 Pa.B. 5608 (September 2, 2006). There was a 30-day comment period. The Pennsylvania Coal Association (PCA) and the Independent Regulatory Review Commission (IRRC) submitted comments. The Department has considered these comments and has prepared a comment and response document. The comment and response document is available on the Department's web site and from the contact person listed in Section B of this order.

The MRAB considered this final rulemaking package at the January 25, 2007, meeting. The Department's regulatory authority over the blasting associated with the construction of the entire shaft was discussed. The discussion led to a motion that the MRAB not endorse the regulations. The motion not to endorse the regulations carried 4-3 because members of the MRAB hold that mine opening blasting down to the coal seam is not surface mining activity. Although the Department appreciated the advice of the MRAB, the Department moved forward to final-form rulemaking. The Department recommended proceeding to final-form rulemaking because the SMCRA statutory definition of "surface mining activity" includes "strip, auger mining, dredging, quarrying and leaching, and all surface activity connected with surface or underground mining, including, but not limited to, exploration, site preparation, entry, tunnel, drift, slope, shaft and borehole drilling and construction . . ."

E. Summary of Comments and Responses on the Proposed Rulemaking and Changes Made in the Final-Form Rulemaking

The Board approved publication of the proposed rulemaking at its May 17, 2006, meeting, and the notice of proposed rulemaking was published at 36 Pa.B. 5608. The following is a summary of the major comments that the Board received along with the responses:

Statutory authority

The commentators questioned the Department's statutory authority to regulate all blasting in connection with the construction of an underground coal mine opening as surface coal mining blasting.

Both the SMCRA and the NCSMCRA apply to the construction of an opening to a mine from the surface to the coal seam or mineral deposit to be mined. The definition of "surface mining activity" in SMCRA and the definition of "surface mining" in NCSMCRA clearly include the construction of mine openings within the activities covered by these statutes.

Executive Order 1996-1

One commentator contended that this rulemaking establishes regulations that exceed federal standards without complying with Executive Order 1996-1.

The regulation is consistent with Executive Order 1996-1. The Department has received complaints about mine opening blasting. The compelling Pennsylvania interest is that blasting is an ultra-hazardous activity and unregulated blasting presents a risk of injury or death and property damage from flyrock; can be a nuisance to nearby inhabitants, especially if blasting occurs at night; and, can generate ground vibration and airblasts that damage nearby structures.

Blasts

One commentator is concerned that the term "blast" as used in §§ 77.564(b), 87.127(a) and 88.135(a) is vague and should be defined.

The Department agrees. The term "blast" has been defined as "a detonation of explosives." In addition, the term blasting has been defined as "the detonation of explosives."

Requests for unscheduled mine opening blasting

A commentator inquired as to the criteria and process to be used by the Department to determine whether unscheduled blasting is necessary to maintain the mine opening's stability.

Blasting activity in connection with the construction of a mine opening is reviewed and approved as part of the mining permit. The vehicle for this review and approval is the blast plan. See for example, § 87.64 (relating to blasting plan). It is the operator's obligation to establish that blasting after sunset is necessary to maintain the mine opening's stability. A risk of instability in a mine opening under construction exists if that opening passes through sandstone or shale strata because these rocks deteriorate when exposed to air and water. If this situation exists, blasting on an as needed basis is necessary to enable the expeditious grouting of the mine opening with a ring of cement, sealing off the exposure to air and water.

Consent to alternative ground vibration and airblast limitations

A commentator recommended that the regulations indicate what information, including the blaster's strict liability, the building owner and lessee must be given before giving written consent to less stringent vibration limits.

An additional regulation is unnecessary. The regulations provide vibration limits that, if adhered to, ensure that damage will not occur to buildings or other structures. See for example, § 77.564(f) and (i). The written consent of a building owner is a civil agreement between the permittee and the owner of the building, and if applicable, the lessee. Each party is responsible for ensuring that their interests are protected. The Department cannot evaluate the appropriateness of a request for alternative vibration limits unless the consent is clear and specific.

A commentator recommended developing a standard consent form for waivers of peak particle velocity and airblast limits and asked if a homeowner's waiver of regulatory limits negates their insurance coverage.

It is not appropriate to use the regulations to develop forms. The Department is not in a position and does not have the authority to obtain and then analyze a homeowner's insurance policy to determine whether a civil

agreement between a mine operator and a homeowner will affect the homeowner's insurance coverage.

Ground vibration and airblast limits

A commentator observed that the use of the term "vibration limits" was unclear.

The term has been changed to "ground vibration and airblast limits."

Airblast

A commentator questioned why it is no longer necessary to use excessive noise as a basis for placing further restrictions on blasting.

The term "noise" is a misnomer. The effect of blasting is an increase of air pressure above ambient levels which is called "airblast." Noise relates to human hearing. Airblast levels at low frequencies (below 20 Hz), also referred to as concussions, are not audible by persons but may adversely affect buildings or other structures. To avoid confusion and to ensure consistency, the terms noise and sound pressure have been either deleted or replaced with the term "airblast."

Alternative measures

A commentator asked if local governments or residents will be given notice and the opportunity to participate in the Department's decision to approve alternate protective measures.

Local governments and residents will have the same opportunity to participate in the decision on a request for alternative measures as they are given for the other aspects of the permit application.

Blasting Reports

A change has been made to § 88.137(4) to specify that blast records must include the identity of the dwelling or other structure closest to the blasting as well as the distance and direction. The preamble to the notice of proposed rulemaking discussed making this change to §§ 87.129(4) and 88.137(4). However, the proposed amendment to § 88.137(4) was not in the Annex A approved by the Board and published as part of the notice of proposed rulemaking. This oversight has been corrected and the complete language has been included in this final-form rulemaking.

F. Benefits, Cost, and Compliance

Costs

This final-form rulemaking will not increase costs. The existing regulations require all blasting in connection with the construction of a mine opening, from the surface to the coal seam or mineral to be mined, to comply with the applicable surface mining explosives regulations. The final-form rulemaking amends the surface mining explosives regulations to eliminate any ambiguity that the regulations apply to mine opening blasting and to provide greater flexibility to enhance the safety of the workers constructing the mine opening and for the safety of the traveling public when blasting is in proximity to a public road.

Compliance assistance plan

Compliance assistance will be provided by the surface mine inspectors and explosives inspectors.

Paperwork requirements

This final-form rulemaking has no effect on existing paperwork requirements.

G. Sunset Review

This 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 intended goals.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 17, 2006, the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 5608, to the IRRC and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees (Committees).

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 these final-form regulations, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act, on June 18, 2008, these final-form regulations were deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 19, 2008, and approved the final-form regulations.

I. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 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 36 Pa.B. 5608.

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

J. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapters 77, 87—89 and 210, are amended by amending §§ 77.1, 77.564, 87.1, 87.124, 87.126, 87.127, 87.129, 88.1, 88.135, 88.137, 88.493, 89.5, 89.62, 210.11, 210.12 and 210.17 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 submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

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

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

JOSEPH R. POWERS,
Acting Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3726 (July 5, 2008).)

Fiscal Note: Fiscal Note 7-400 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 77. NONCOAL MINING

Subchapter A. GENERAL PROVISIONS

§ 77.1. Definitions.

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

* * * * *

Blast—A detonation of explosives.

Blasting—The detonation of explosives.

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development, from the surface down to the point where the mine opening connects with the mineral strata to be or being extracted.

* * * * *

Subchapter I. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

USE OF EXPLOSIVES

§ 77.564. Surface blasting requirements.

* * * * *

(b) Blasting shall be conducted between sunrise and sunset, at times announced in the blasting schedule, except that mine opening blasting conducted after the second blast, for that mine opening, may be conducted at any time of the day or night as necessary to maintain stability of the mine opening to protect the health and safety of mine workers. For mine opening blasting conducted after the second blast, for that mine opening, the Department may approve ground or airblast vibration limits at a dwelling, public building, school, church or commercial or institutional structure, that are less stringent than those specified in subsections (f) and (i) if consented to, in writing, by the affected building owner and lessee, if leased to another party.

(c) The Department may specify more restrictive time periods, airblast or ground vibration limits, based on public requests or other relevant information, according to the need to adequately protect the public from the adverse affects of ground vibration, airblast or safety hazards.

* * * * *

(f) Airblasts shall be controlled so that they do not exceed 133 dBL at a dwelling, public building, school, church or commercial or institutional structure, unless the structure is owned by the person who conducts the surface mining activities and is not leased to another person. The lessee may sign a waiver relieving the operator from meeting the airblast limitations of this subsection.

(1) *Exceptions.* The Department may specify lower maximum allowable airblast levels than those in this subsection for use in the vicinity of a specific blasting operation, if necessary.

(2) *Monitoring.* The operator shall conduct periodic monitoring to ensure compliance with the airblast standards. The Department may require an airblast measurement of a blast, and may specify the location of the requirements.

* * * * *

CHAPTER 87. SURFACE MINING OF COAL

Subchapter A. GENERAL PROVISIONS

§ 87.1. Definitions.

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

* * * * *

Blast—A detonation of explosives.

Blasting—The detonation of explosives

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development, from the surface down to the point where the mine opening connects with the coal seam to be or being extracted.

* * * * *

Subchapter E. SURFACE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 87.124. Use of explosives: general requirements.

(a) A person who conducts surface mining activities shall comply with this chapter and applicable State and Federal laws in the use of explosives.

(b) Blasts that use more than 5 pounds of explosive or blasting agents shall be conducted according to the schedule required under § 87.126 (relating to use of explosives: public notice of blasting schedule).

(c) Blasting operations shall be conducted by or under the supervision of a competent blaster licensed and operating in compliance with Chapter 210 (relating to blasters' licenses).

(d) Blasting operations shall be conducted in compliance with Chapter 211 (relating to storage, handling and use of explosives).

(e) A person responsible for blasting operations at a blasting site shall be familiar with the blasting plan and site-specific performance standards.

§ 87.126. Use of explosives: public notice of blasting schedule.

(a) Blasting schedule publication.

(1) Each person who conducts surface mining activities shall publish a blasting schedule in a newspaper of general circulation in the locality of the proposed site, at least 10 days, but not more than 30 days, before beginning a blasting program in which blasts that use more than 5 pounds of explosives or blasting agents are detonated.

(2) Copies of the schedule shall be distributed by mail to local governments and public utilities and by mail or delivered to each resident within 1/2 mile of the blasting area. Copies sent to residents shall be accompanied by information advising the owner or resident how to request a preblasting survey.

(3) The person who conducts the surface mining activities shall republish and redistribute the schedule by mail at least every 12 months.

(b) Blasting schedule contents.

(1) A blasting schedule may not be so general as to cover the entire permit area or all working hours, but must identify as accurately as possible the location of the blasting sites and the time periods when blasting will occur.

(2) The blasting schedule must contain at a minimum the following:

(i) Identification of the specific areas in which blasting will take place. Each specific blasting area described must be reasonably compact and not larger than 300 acres (121.4 hectares).

(ii) Dates and time periods when explosives are to be detonated.

(iii) Methods to be used to control access to the blasting area.

(iv) Types of audible warnings and all-clear signals to be used before and after blasting.

(v) A description of possible emergency situations that might prevent blasting at times announced in the blasting schedule, such as rain, lightning, other atmospheric conditions or operator or public safety which may require unscheduled detonation.

(c) Public notice of changes to blasting schedules.

(1) The person who conducts the surface mining activities shall prepare a revised blasting schedule before blasting in areas or at times not in a previous schedule.

(2) The blasting schedule shall be revised, published and distributed in accordance with this section. Advice on requesting a preblast survey need not be provided to those parties advised in the original distribution under subsection (a)(2).

§ 87.127. Use of explosives: surface blasting requirements.

(a) Blasting shall be conducted between sunrise and sunset, at times announced in the blasting schedule, except that mine opening blasting conducted after the second blast, for that mine opening, may be conducted at any time of day or night as necessary to maintain stability of the mine opening to protect the health and safety of mineworkers. For mine opening blasting conducted after the second blast, for that mine opening, the Department may approve ground vibration and airblast limits at a dwelling, public building, school, church or

commercial or institutional structure, that are less stringent than those specified in subsection (e) or (m) if consented to, in writing, by the structure owner and lessee, if leased to another party.

(b) The Department may specify more restrictive time periods, airblast or ground vibration limits, based on public requests or other relevant information, according to the need to adequately protect the public from the adverse affects of ground vibration, airblast or safety hazards.

* * * * *

(e) Airblast shall be controlled so that it does not exceed the level specified in this subsection at a dwelling, public building, school, church or commercial or institutional structure, unless the structure is located on the permit area when the structure owner and lessee, if leased to another party, have each signed a waiver relieving the operator from meeting the airblast limitations of this subsection.

(1) The maximum allowable airblast level is 133 dBL.

* * * * *

(f) Requirements for blasting are as follows:

(1) Public highways and entrances to the operation shall be barricaded and guarded by the operator if the highways and entrances to the operations are located within 800 feet of a point where a blast is about to be fired. The operator may use an alternative measure to this requirement if the operator demonstrates, to the Department's satisfaction, that the alternative measure is at least as effective at protecting persons and property from the adverse affects of a blast. Alternative measures are measures such as:

(i) Slowing or stopping traffic in coordination with appropriate State or local authorities, including local police.

(ii) Using mats to suppress fly rock.

(iii) Designing the blast to prevent damage or injury to persons and property located on the public highways or at the operation's entrances by using design elements such as:

(A) Orienting the blast so that the direction of relief is away from public highways or operation entrances.

(B) Adjusting blast design parameters including:

(I) The diameter of holes.

(II) The number of rows.

(III) The number of holes.

(IV) The amount and type of explosive.

(V) The burden and spacing.

(VI) The amount and type of stemming.

(VII) The powder factor.

* * * * *

(j) When seismographs are not used to monitor peak particle velocity, the maximum weight of explosives to be detonated within an 8 millisecond period may be determined by the formula $W = (D/D_s)^2$ where W equals the maximum weight of explosives, in pounds, that can be detonated in any 8 millisecond period or greater, D equals the distance, in feet, from the blast to the nearest dwelling, school, church, commercial or institutional building and Ds equals the scaled distance factor. The development of a modified scaled-distance factor may be

authorized by the Department on receipt of a written request by the operator, supported by seismographic records of blasting at the minesite. The modified scaled-distance factor shall be determined so that the particle velocity of the predicted ground vibration will not exceed the prescribed maximum allowable peak particle velocity of subsection (m) at a 95% confidence level.

* * * * *

(l) The Department may require a seismograph record of blasts and may specify the location at which the measurements are taken.

(m) The maximum ground vibration may not exceed the following limits at the location of a dwelling, public building, school, church or community or institutional building:

| <i>Distance (D), from the blasting site, in feet</i> | <i>Maximum allowable peak particle velocity (Vmax) for ground vibration, in inches/second¹</i> | <i>Scaled-distance factor to be applied without seismic monitoring (Ds)²</i> |
|--|---|---|
| 0 to 300 | 1.25 | 50 |
| 301 to 5,000 | 1.00 | 55 |
| 5,001 and beyond | .75 | 65 |

¹Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

²Applicable to the scaled-distance equation of subsection (j).

(n) The Department will not permit blasting to be conducted until:

(1) Blasting plans, under § 87.64 (relating to blasting plan), are approved by the Department and the approved blasting plan is returned to the operator.

(2) Notification of completion of requested preblasting surveys, under § 87.125 (relating to use of explosives: preblasting survey), is received by the Department.

(3) Copy of the proof of publication of each blasting schedule, under § 87.126 (relating to use of explosives: public notice of blasting schedule), is received by the Department.

(o) An operator may use Figure 1, the blast level chart, to determine the maximum allowable ground vibration. If Figure 1 is used, the operator shall provide a seismograph record including both the particle velocity time-history (wave form) and the particle velocity and vibration frequency levels for each blast.

* * * * *

(1) The vibration frequency shall be displayed and analyzed over the frequency range of 1 Hz through 100 Hz.

(2) The permittee shall obtain Department approval of the analytical method used to determine the predominant frequency before applying this alternative criterion.

§ 87.129. Use of explosives: records of blasting operations.

A record of each blast shall be retained for at least 3 years and shall be available for inspection by the Department and the public on request. Seismographic reports, if applicable, must be made a part of that record. The record must contain the following data:

- (1) The name of the operator conducting the blast.
- (2) The location, date and time of blast.
- (3) The name, signature and license number of blaster-in-charge.
- (4) The identification of and the direction and distance, in feet, to the nearest dwelling, public building, school, church, commercial or institutional building or other structure.
- (5) Weather conditions, including temperatures, wind direction and approximate velocity.
- (6) The type of material blasted.
- (7) The number of holes, burden and spacing.
- (8) The diameter and depth of holes.
- (9) The types of explosives used.
- (10) The total weight of explosives used.
- (11) The maximum weight of explosives detonated per delay interval.
- (12) The maximum number of holes detonated per delay interval.
- (13) The initiation system.
- (14) The type and length of stemming.
- (15) The mats or other protections used.
- (16) The type of delay detonator and delay periods used.
- (17) A sketch of the blast pattern, including number of holes, burden, spacing, decks and delay pattern.
- (18) The number of persons in the blasting crew.
- (19) Seismographic and airblast records, when required, including the type of instrument, sensitivity and calibration signal of the gain setting or certification of annual calibration and the following:
 - (i) The seismographic or airblast level, or both, reading, including the exact location of seismograph and its distance from the blast.
 - (ii) The name of the person taking the seismograph reading.
 - (iii) The name of person and firm analyzing the seismographic record.
- (20) The reasons and conditions for each unscheduled blast.

CHAPTER 88. ANTHRACITE COAL

Subchapter A. GENERAL PROVISIONS

PRELIMINARY PROVISIONS

§ 88.1. Definitions.

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

* * * * *

Blast—A detonation of explosives.

Blasting—The detonation of explosives.

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development from the surface down to the point where the mine opening connects with the coal seam to be or being extracted.

* * * * *

Subchapter B. SURFACE ANTHRACITE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 88.135. Blasting: surface blasting requirements.

(a) Blasting shall be conducted between sunrise and sunset, except that mine opening blasting conducted after the second blast for that mine opening may be conducted at any time of day or night as necessary to maintain stability of the mine opening to protect the health and safety of mine workers. For mine opening blasting conducted after the second blast, for that mine opening, the Department may approve ground vibration and airblast limits at a dwelling, public building, school, church or commercial or institutional structure, that are less stringent than those specified in subsection (h) if consented to, in writing, by the structure owner and lessee, if leased to another party.

(b) The Department may specify more restrictive time periods, airblast or ground vibration limits, based on public requests or other relevant information, according to the need to adequately protect the public from the adverse affects of ground vibration, airblast or safety hazards.

* * * * *

(f) Blasting operations must meet the following requirements:

(1) Public highways and entrances to the operation shall be barricaded and guarded by the operator if the highways and entrances to the operations are located within 800 feet of a point where a blast is about to be fired. The operator may use an alternative measure to this requirement if the operator demonstrates, to the Department's satisfaction, that the alternative measure is at least as effective at protecting persons and property from the adverse affects of a blast. Alternative measures are measures such as:

(i) Slowing or stopping traffic in coordination with appropriate State or local authorities, including local police.

(ii) Using mats to suppress fly rock.

(iii) Designing the blast to prevent damage or injury to persons and property located on the public highways or at the operation's entrances by using design elements such as:

(A) Orienting the blast so that the direction of relief is away from public highways or operation entrances.

(B) Adjusting blast design parameters including:

(I) The diameter of holes.

(II) The number of rows.

(III) The number of holes.

(IV) The amount and type of explosive.

(V) The burden and spacing.

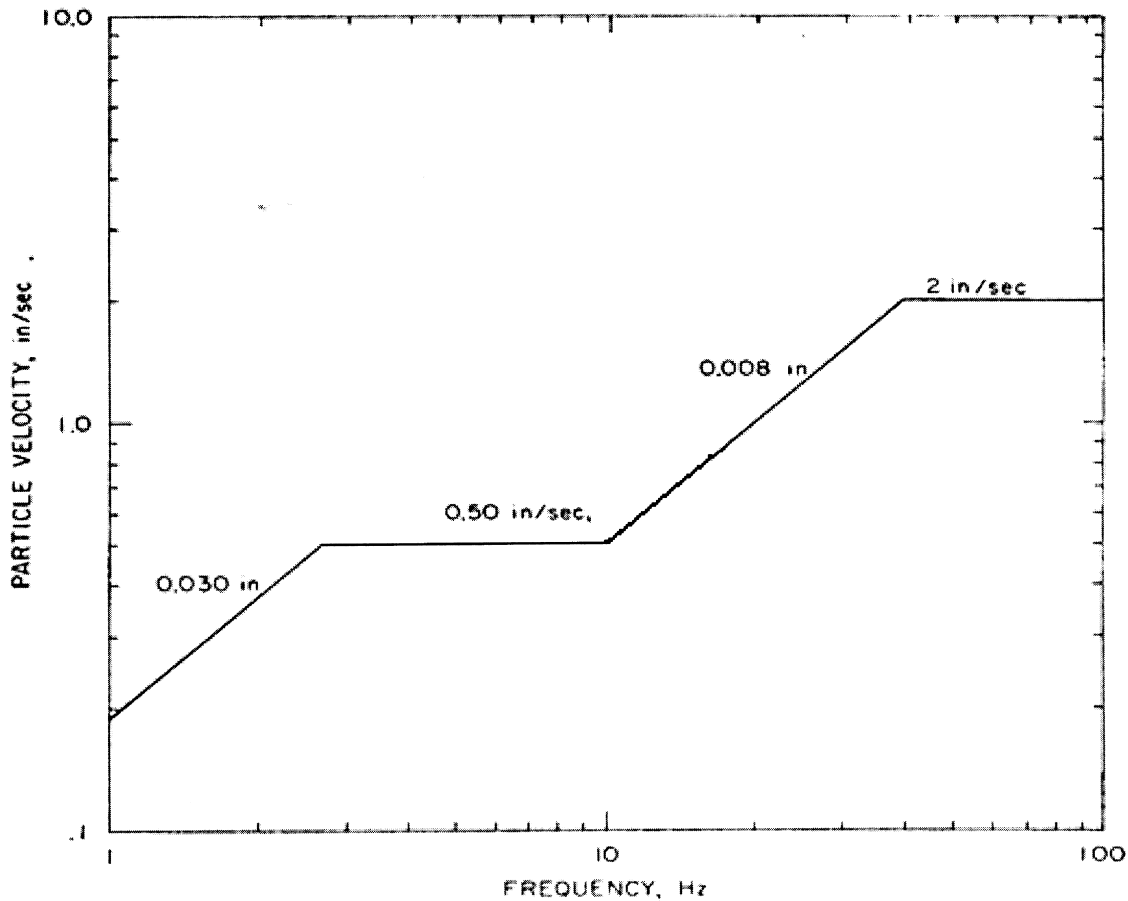
(VI) The amount and type of stemming.

(VII) The powder factor.

* * * * *

(h) In all blasting operations, the blasts shall be designed and conducted in a manner that achieves either a scaled distance of 90 or meets the maximum allowable peak particle velocity as indicated by Figure 1 at the location of any dwelling, public building, school, church or commercial or institutional building. Peak particle velocities shall be recorded in three mutually perpendicular directions—longitudinal, transverse and vertical. The maximum peak particle velocity shall be the largest of any of three measurements. The Department may reduce the maximum peak particle velocity allowed, if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts or other factors. The airblast level may not exceed 133 dBL.

FIGURE 1.



(i) The maximum peak particle velocity and airblast limitations of this section do not apply at the following locations:

(1) At structures owned by the person conducting the mining activity, and not leased to another party.

(2) At structures owned by the person conducting the mining activity, and leased to another party, if a written waiver by the lessee is submitted to the Department prior to the blasting.

(j) Where seismographs are not used to monitor peak velocity, the maximum weight of explosives to be detonated within any 8 millisecond period may be determined by formula $W = (D/50^2)$ where W = the maximum weight of explosives, in pounds, that can be detonated in any 8 millisecond period, or greater and D = the distance, in feet, from the blast to the nearest dwelling, school, church or commercial institutional building.

(k) Where a seismograph is used to monitor the peak particle velocity a seismograph record shall be obtained for each blast.

(l) The Department may require a seismograph record of any blasts and may specify the location at which the measurements are taken.

§ 88.137. Use of explosives: records of blasting operations.

A record of each blast shall be retained for at least 3 years and shall be available for inspection by the Department and the public on request. Seismographic reports, if applicable, must be made a part of that record. The record must contain the following data:

- (1) The name of the operator conducting the blast.
- (2) The location, date and time of blast.
- (3) The name, signature and license number of blaster-in-charge.
- (4) The identification of and the direction and distance, in feet, to the nearest dwelling, school, church or commercial or institutional building if it is one of the following:
 - (i) Not located in the permit area.
 - (ii) Not owned nor leased by the person who conducts the surface mining activities.
- (5) Weather conditions, including temperatures, wind direction and approximate velocity.
- (6) The type of material blasted.
- (7) The number of holes, burdens and spacing.
- (8) The diameter and depth of holes.
- (9) The types of explosives used.

- (10) The scaled distance.
- (11) The total weight of explosives used.
- (12) The maximum weight of explosives detonated per delay interval.
- (13) The maximum number of holes detonated per delay interval.
- (14) The initiation system.
- (15) The type and length of stemming.
- (16) The mats or other protections used.
- (17) The type of delay detonator and delay periods used.
- (18) The arrangement of the delay pattern.
- (19) The seismograph records, when required, including the calibration signal of the gain setting and the following:
 - (i) A seismograph reading, including exact location of seismograph and its distance from the blast.
 - (ii) The name of the person taking the seismograph reading.
 - (iii) The name of the person and firm analyzing the seismographic record.

Subchapter F. ANTHRACITE UNDERGROUND MINES

§ 88.493. Minimum environmental protection performance standards.

A person who conducts underground mining activities shall comply with the performance standards and design requirements of this section. The following performance standards shall be met:

* * * * *

(7) Use of explosives includes:

- (i) A person who conducts surface blasting activities incident to underground mining activities, including, but not limited to, mine opening blasting shall conduct the activities in compliance with §§ 88.45 and 88.134—88.137.
- (ii) A person who conducts underground blasting activities shall comply with this chapter and applicable State and Federal laws and regulations in the use of explosives.

* * * * *

CHAPTER 89. UNDERGROUND MINING OF COAL AND COAL PREPARATION FACILITIES

Subchapter A. EROSION AND SEDIMENTATION CONTROL

GENERAL PROVISIONS

§ 89.5. Definitions.

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

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development, from the surface down to the point where the mine opening connects with the coal seam to be or being extracted.

* * * * *

Subchapter B. OPERATIONS PERFORMANCE STANDARDS

§ 89.62. Use of explosives.

Each person who conducts surface blasting activities incident to underground mining activities, including, but not limited to, mine opening blasting, shall conduct the activities in compliance with Chapter 87 (relating to surface mining of coal).

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 210. BLASTERS' LICENSES

§ 210.11. Definitions.

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

Blaster—A person who is licensed by the Department under this chapter to detonate explosives and supervise blasting activities.

Blaster learner—An individual who is learning to be a blaster and who participates in blasting activities under the direct supervision of a blaster.

Blaster's license—A license to detonate explosives and supervise blasting activities issued by the Department under this chapter.

Demolition and demolition blasting—The act of wrecking or demolishing a structure with explosives.

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development, from the surface down to the point where the mine opening connects with the mineral strata to be or being extracted.

Person—A natural person.

§ 210.12. Scope.

This chapter applies to persons engaging in the detonation of explosives within this Commonwealth. Except for persons engaging in mine opening blasting, this chapter does not apply to persons authorized to detonate explosives or to supervise blasting activities under:

- (1) The Pennsylvania Anthracite Coal Mine Act (52 P. S. §§ 70.101—70.1405).
- (2) The Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 701-101—701-706).

§ 210.17. Issuance and renewal of licenses.

(a) A blaster's license is issued for a specific classification of blasting activities. The classifications will be determined by the Department and may include general blasting (which includes all classifications except demolition, mine opening blasting and underground noncoal mining), trenching and construction, seismic and pole line work, well perforation, surface mining, underground noncoal mining, mine opening blasting, industrial, limited and demolition.

(b) A person may apply to amend the blaster's license for other classifications by meeting the requirements of § 210.14 (relating to eligibility requirements) and by submitting a complete application.

(c) A blaster's license will be issued for 3 years.

(d) A blaster's license is renewable if the blaster can demonstrate that he has had 8 hours of continuing

education in Department-approved courses related to blasting and safety within the 3 year period.

(e) The blaster's license may be renewed for a 3-year term by submitting a renewal application to the Department and a check for \$30, payable to the Commonwealth of Pennsylvania.

(f) A person who intends to be a blaster and whose blaster's license was not renewed within 1 year of its expiration date shall apply for a new license under §§ 210.14—210.16 (relating to eligibility requirements; license application; and examinations).

(g) A person who conducted demolition blasting under a general blaster's license may conduct demolition blasting after July 14, 2001, by applying for and receiving a demolition blaster's license. The Department may waive the examination required by § 210.14 and the application fee if the blaster demonstrates at least 3 years of experience in demolition blasting. The demonstration shall be in the form of a notarized statement from the blaster's employer that describes the blaster's experience.

[Pa.B. Doc. No. 08-1456. Filed for public inspection August 8, 2008, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Stream Redesignations (Big Brook, et al.)

The Environmental Quality Board (Board) by this order amends 25 Pa. Code §§ 93.9b, 93.9f, 93.9g, 93.9n, 93.9o and 93.9r to read as set forth in Annex A.

A. *Effective Date*

These amendments are effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Persons*

For further information, contact Richard H. Shertzer, Chief, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, 400 Market Street, Harrisburg, PA 17105-8467, (717) 787-9637 or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD-users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection (Department) web site www.depweb.state.pa.us.

C. *Statutory and Regulatory Authority*

This final-form rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorizes the Board to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt, and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C. § 1313) sets forth requirements for water quality standards and the Federal regulation at 40 CFR 131.32 (relating to

Pennsylvania) sets forth certain requirements for portions of the Commonwealth's antidegradation program.

D. *Background of the Proposed Amendments*

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department may identify candidates for redesignation during routine waterbody investigations. Requests for consideration may also be initiated by other agencies. Organizations, businesses or individuals may submit a rulemaking petition to the Board.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters and all other designations in its ongoing review of water quality standards. In general, HQ and EV waters must be maintained at their existing quality and permitted activities shall ensure the protection of designated and existing uses.

Existing use protection is provided when the Department determines, based on its evaluation of the best available scientific information, that a surface water attains water uses identified in 25 Pa. Code §§ 93.3 and 93.4 (relating to protected water uses; and Statewide water uses). Examples of water uses protected include the following: Cold Water Fishes (CWF), Warm Water Fishes (WWF), HQ and EV. A final existing use determination is made on a surface water at the time the Department takes a permit or approval action on a request to conduct an activity that may impact surface water. If the determination demonstrates that the existing use is different than the designated use, the water body will immediately receive the best protection identified by either the attained uses or the designated uses. A stream will then be "redesignated" through the rulemaking process to match the existing uses with the designated uses. For example, if the designated use of a stream is listed as protecting WWF but the redesignation evaluation demonstrates that the water attains the use of CWF, the stream would immediately be protected for CWF, prior to a rulemaking. Once the Department determines the water uses attained by a surface water, the Department will recommend to the Board that the existing uses be made "designated" uses, through rulemaking, and be added to the list of uses identified in § 93.9 (relating to designated water uses and water quality criteria).

These streams were evaluated in response to five petitions, as well as requests from the Department's Southeast Regional Office (SERO), Southcentral Regional Office (SCRO) and Bureau of Water Standards and Facility Regulation (BWSFR) as follows:

Big Brook—Petition: (Lebanon Township (Wayne County) Board of Supervisors)
 Mill Creek—BWSFR
 Brooke Evans Creek—Petition: (Larry Piasecki)
 Wissahickon Creek—Petition: (Upper Gwynedd Township; Montgomery County)
 Beaver Creek—SERO
 Stone Creek—SCRO
 Furnace Run—Petition: (students from Conestoga Valley High School, Lancaster County)
 Clarion River—Petition: (Iron Furnace Chapter of Trout Unlimited, the Alliance for Wetlands and Wildlife, the Commissioners of Clarion County, and Reliant Energy Mid-Atlantic Power Holding, LLC)

These regulatory changes were developed as a result of aquatic studies conducted by the BWSFR. The physical, chemical, and biological characteristics and other infor-

mation on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as HQ or EV waters, the Department considers the criteria in § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters). Based upon the data collected in these surveys, the Board has made the designations in Annex A.

E. *Summary of Comments and Responses on the Proposed Rulemaking*

The Board approved the proposed rulemaking for the Big Brook, et al. package at its February 20, 2007, meeting. The proposed rulemaking was published at 37 Pa.B. 2190 (May 12, 2007) with provision for a 45-day public comment period that closed on June 26, 2007. Comments were received from two commentators including the United States Environmental Protection Agency (EPA) Region 3 and the Upper Gwynedd Township.

The EPA Region 3 office supported the package in general, but also requested additional clarification in the stream redesignation evaluation for the Clarion River regarding which of six factors in 40 CFR 131.10(g) (relating to designation of uses) the Department is basing its decision that the CWF use is not attainable for the lower portion of the Clarion River. Subsequent discussions have satisfied the EPA that the Department's position is sufficiently supported by statements provided in the stream redesignation evaluation report which are based on § 93.4(b), which is also equivalent to 40 CFR 131.10(g).

Upper Gwynedd Township (petitioner) commented that there is no justification to maintain the Trout-Stocking (TSF) designation in the head-waters of the Wissahickon Creek where trout do not exist. The Department maintains that although the head-waters of the Wissahickon Creek are currently impaired, the designated use (TSF, MF) can be attained through water quality improvements.

F. *Summary of Changes to the Proposed Rulemaking*

No changes were made to the redesignations recommended in the proposed rulemaking.

G. *Benefits, Costs and Compliance*

1. *Benefits.* Overall, the Commonwealth, its citizens and natural resources will benefit from these changes because they provide the appropriate level of protection to preserve the integrity of existing and designated uses of surface waters in this Commonwealth. Protecting water quality provides economic value to present and future generations in the form of clean water for drinking, recreational opportunities and aquatic life protection. It is important to realize these benefits to ensure opportunity and development continue in a manner that is environmentally, socially and economically sound. Maintenance of water quality ensures its future availability for all uses.

2. *Compliance Costs.* The amendments to Chapter 93 may impose additional compliance costs on the regulated community. These regulatory changes are necessary to improve total pollution control. The expenditures necessary to meet new compliance requirements may exceed that which is required under existing regulations.

Persons conducting or proposing activities or projects must comply with the regulatory requirements relating to designated and existing uses. Persons expanding a discharge or adding a new discharge point to a stream could be adversely affected if they need to provide a higher

level of treatment or best management practices to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating cost for point source discharges. Treatment costs and best management practices are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are redesignated. The initial costs resulting from the installation of technologically advanced wastewater treatment processes and best management practices may be offset by potential savings from and increased value of improved water quality through more cost-effective and efficient treatment over time.

3. *Compliance Assistance Plan.* The regulatory revisions have been developed as part of an established program that has been implemented by the Department since the early 1980s. The revisions are consistent with and based on existing Department regulations. The revisions extend additional protection to selected waterbodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law (35 P. S. §§ 691.1—691.901). All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The redesignations will be implemented through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program bases effluent limitations on the use designation of the stream. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

4. *Paperwork Requirements.* The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions, or the private sector. These regulatory revisions are based on existing Department regulations and simply mirror the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ or EV. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus an individual permit, and its associated paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification may be required for new or expanded discharges to certain HQ Waters, and consideration of nondischarge alternatives is required for all new or expanded discharges to EV and HQ Waters.

H. *Pollution Prevention*

The water quality standards and antidegradation program are major pollution prevention tools because the objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged, and required when environmentally sound and cost effective. Nondischarge alterna-

tives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

I. *Sunset Review*

These amendments 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 April 27, 2007, the Department submitted a copy of the proposed rulemaking published at 37 Pa.B. 2190, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees (Committees) for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department provided IRRC and the Committees with copies of the comments received, as well as other documentation. The Department has considered all public comments in preparing these final-form regulations. No comments were received on the proposed rulemaking from IRRC or the Committees.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 18, 2008, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC, effective on June 18, 2008.

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. 240) (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) These final-form regulations do not enlarge the purpose of the proposal published at 37 Pa.B. 2190.

(4) These final-form regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Order.

(5) These final-form regulations do not contain standards or requirements that exceed requirements of the companion Federal regulations.

L. *Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending §§ 93.9b, 93.9f, 93.9g, 93.9n, 93.9o and 93.9r 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 approval and review as to legality and form, as required by law.

(c) The Chairperson shall submit this order and Annex A to IRRC and the Committees, as required by the Regulatory Review Act.

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

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

JOSEPH R. POWERS,
Acting Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3726 (July 5, 2008).)

Fiscal Note: Fiscal Note 7-410 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 II. WATER RESOURCES
CHAPTER 93. WATER QUALITY STANDARDS

§ 93.9b. **Drainage List B.**

Delaware River Basin in Pennsylvania

Lackawaxen River

| Stream | Zone | County | Water Uses Protected | Exceptions to Specific Criteria |
|-------------------|--|--------|----------------------|---------------------------------|
| | | * * * | | |
| 4—Van Auken Creek | Basin | Wayne | HQ-TSF, MF | None |
| 3—Dyberry Creek | Basin, Source to Big Brook | Wayne | HQ-CWF, MF | None |
| 4—Big Brook | Basin | Wayne | EV, MF | None |
| 3—Dyberry Creek | Basin, Big Brook to Confluence with West Branch Lackawaxen River | Wayne | HQ-CWF, MF | None |

| Stream | Zone | County | Water Uses Protected | Exceptions to Specific Criteria |
|--------------------|--|--------|----------------------|---------------------------------|
| 2—Lackawaxen River | Main Stem, Confluence of West Branch Lackawaxen River and Dyberry Creek to Mouth | Wayne | HQ-TSF, MF | None |
| | | * * * | | |

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania

Schuylkill River

| Stream | Zone | County | Water Uses Protected | Exceptions to Specific Criteria |
|--|----------------------|--------------|----------------------|---------------------------------|
| | | * * * | | |
| 4—Owl Creek | Basin | Lebanon | WWF | None |
| 4—Mill Creek (Stream Code 01936 at RM** 20.30) | Basin | Berks | CWF | None |
| 3—Tulpehocken Creek | Blue Marsh Reservoir | Berks | WWF | None |
| | | * * * | | |
| 3—Gulley Run | Basin | Montgomery | WWF | None |
| 3—Wissahickon Creek | Basin | Philadelphia | TSF, MF | None |

§ 93.9g. Drainage List G.

Delaware River Basin in Pennsylvania

Delaware River

| Stream | Zone | County | Water Uses Protected | Exceptions to Specific Criteria |
|---|--|---------|----------------------|---------------------------------|
| | | * * * | | |
| 5—Unnamed Tributaries to East Branch Brandywine Creek | Basins, in East Brandywine and Uwchlan Townships | Chester | HQ-TSF, MF | None |
| 5—Beaver Creek | Basin | Chester | CWF, MF | None |
| 5—Valley Creek | Basin, Source to Broad Run | Chester | CWF, MF | None |
| | | * * * | | |

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania

Juniata River

| Stream | Zone | County | Water Uses Protected | Exceptions to Specific Criteria |
|--|---|---------|----------------------|---------------------------------|
| | | * * * | | |
| 5—Georges Creek | Basin | Bedford | WWF | None |
| 5—Stone Creek | Basin, Source to Confluence with UNT 14908 at RM 0.34 | Bedford | WWF | None |
| 6—Unnamed Tributary (UNT) 14908 to Stone Creek | Basin | Bedford | CWF | None |
| 5—Stone Creek | Basin, UNT 14908 to Mouth | Bedford | CWF | None |
| 5—Bobs Creek | Basin, Source to Deep Hollow Run | Bedford | HQ-CWF | None |
| | | * * * | | |

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania

Susquehanna River

| Stream | Zone | County | Water Uses Protected | Exceptions to Specific Criteria |
|----------------|----------------------------------|-----------|----------------------|---------------------------------|
| | | * * * * * | | |
| 4—Middle Creek | Basin, Elders Run to Furnace Run | Lancaster | TSF | None |
| 5—Furnace Run | Basin, source to SR 1026 | Lancaster | HQ-CWF | None |
| 5—Furnace Run | Basin, SR 1026 to Segloch Run | Lancaster | TSF | None |
| 6—Segloch Run | Basin | Lancaster | EV | None |
| 5—Furnace Run | Basin, Segloch Run to Mouth | Lancaster | TSF | None |
| 4—Middle Creek | Basin, Furnace Run to Mouth | Lancaster | WWF | None |
| | | * * * * * | | |

§ 93.9r. Drainage List R.

Ohio River Basin in Pennsylvania

Clarion River

| Stream | Zone | County | Water Uses Protected | Exceptions to Specific Criteria |
|--|---|------------------------------|----------------------|---------------------------------|
| | | * * * * * | | |
| 5—Silver Creek | Basin | Elk | HQ-CWF | None |
| 3—Clarion River | Main Stem, Confluence of East and West Branches to Inlet of Piney Lake at RM 37.4 | Clarion | CWF | None |
| 4—Unnamed Tributaries to Clarion River | Basins, Confluence of East and West Branches to Inlet of Piney Lake at RM 37.4 | Elk-Forest-Jefferson-Clarion | CWF | None |
| 4—Johnson Run | Basin | Elk | CWF | None |
| | | * * * * * | | |
| 4—Blyson Run | Basin | Clarion | EV | None |
| 3—Clarion River | Main Stem, Inlet of Piney Lake at RM 37.4 to Mouth | Clarion | WWF | None |
| 4—Unnamed Tributaries to Clarion River | Basins, Inlet of Piney Lake at RM 37.4 to Mouth | Clarion | CWF | None |
| 4—Mill Creek | Main Stem, Source to Little Mill Creek | Clarion | HQ-CWF | None |
| | | * * * * * | | |

[Pa.B. Doc. No. 08-1457. Filed for public inspection August 8, 2008, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHS. 209 AND 209a]
Coal Mines

The Environmental Quality Board (Board) by this order rescinds Chapter 209 (relating to coal mines) and adds Chapter 209a (relating to surface mining). This final-form rulemaking revokes existing, antiquated anthracite and bituminous safety regulations and replaces them with selected Federal safety regulations that are adopted by reference. In addition, selected Federal safety regulations for industrial mineral mines are also adopted by reference.

This order was adopted by the Board at its meeting of April 15, 2008.

A. Effective Date

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

B. Contact Persons

For further information, contact Joseph G. Pizarchik, Director, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103; or Marc Roda, 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) web site at www.depweb.state.pa.us.

C. Statutory Authority

The final-form rulemaking is adopted under the authority of:

1. Section 4.2 of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. § 1396.4b) and section 11(a) of the Noncoal Surface Mining Conservation and Reclamation Act (NSMCRA) (52 P. S. § 3311(a)), which authorize the Department to promulgate regulations for the health and safety of those persons engaged in surface mining and for the protection of the general public.

2. Section 2(f) of the General Safety Law (43 P. S. § 25-2(f)), which requires, among other things, operators of surface industrial mineral mines to adopt measures to protect persons working therein.

3. Sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20), which authorize the Board to adopt regulations to prevent the occurrence of a nuisance and to promulgate rules and regulations necessary for the proper work of the Department.

D. Background and Purpose

The Department's surface mine safety program is implemented by surface mining conservation inspectors. As part of the environmental inspection, the inspector also identifies unsafe conditions and works with the operator to correct those conditions before an accident occurs. The inspector's ability to identify and correct unsafe conditions is hampered by the inadequacy and limited scope of the surface mining safety regulations in Chapter 209. Chapter 209, Subchapter A (relating to general safety in bituminous coal strip mines) is antiquated and differs from safety requirements established by the United States Department of Labor, Mine Safety and Health Administration (MSHA). This difference in standards is a source of confusion and jeopardizes safety at bituminous surface mines. The effectiveness of the Department's safety program at anthracite surface mines is compromised because the existing regulations are limited to blasting. There are no Pennsylvania safety regulations for anthracite surface mines. Furthermore, the Chapter 209, Subchapter B (relating to explosives in anthracite coal strip mines) anthracite surface coal mine blasting regulations are not only out-of-date, but are unneeded. The storage, handling and use of explosives at anthracite surface mines are addressed by Chapters 88 and 211 (relating to anthracite coal; and storage, handling and use of explosives). Finally, Department safety efforts for surface industrial mineral mines are hampered because there are no Pennsylvania safety standards for these mines.

This final-form rulemaking addresses the Rendell Administration's initiative to develop a "world class mine safety program." To implement this initiative, Chapter 209 is rescinded and replaced with new standards for coal and industrial mineral surface mines. For the most part, this final-form rulemaking adopts by reference MSHA safety standards contained in 30 CFR Parts 56 and 77 (relating to safety and health standards—surface metal and nonmetal mines; and mandatory safety standards, surface coal mines and surface work areas of underground coal mines). By adopting the MSHA standards,

the Department's safety standards are modernized and additional costs on operators are minimized. Finally, by eliminating inconsistencies between the Department's standards and the MSHA standards, the possibility for confusion in the field is minimized.

These amendments achieve the Department's goal of providing superior safety at surface mines in this Commonwealth, in the most cost effective and the least intrusive manner possible. The provisions of the MSHA regulations adopted by this final-form rulemaking are: those that address the most significant risk to surface miners in this Commonwealth, provisions that the Department inspection staff have sufficient expertise to implement and provisions that apply to areas where the Department staff would normally go during the environmental and safety inspections they currently conduct. The Board did not adopt the MSHA regulations that would require the Department inspection staff to obtain and be trained in the use of specialized equipment or would require Department inspectors to expand their routine inspection area. In addition, the Board did not adopt the MSHA regulations which contain standards that are addressed by existing Department regulations. This approach allows for improvements in overall safety without increased costs.

The Department will work closely with MSHA and provide training to its inspectors to further minimize differences in the interpretation of all of MSHA's regulations. Additionally, all Pennsylvania Surface Mine Inspectors have routine MSHA safety training. Some of Pennsylvania's Surface Mine Inspectors are "MSHA certified" safety instructors.

The provisions of these regulations that are more stringent than the MSHA regulations are related to auger mining. MSHA regulations apply Nationally and are necessarily broad. To reflect conditions in this Commonwealth's coal mines, these regulations require additional benching of highwalls at mines where augering occurs. These auger mining provisions are more specific than the MSHA requirements.

The Department's accident reporting requirements are less stringent than those of MSHA. During accident investigations, the Department will defer to MSHA's lead and provide assistance. Since the Department's role in these investigations, is secondary to MSHA's, this regulation requires reporting of accidents to the Department in 1 hour. MSHA requires reporting of accidents within 15 minutes. Additionally, the Board has not adopted provisions of the MSHA regulations directly related to incidents that cause occupational illnesses or injuries and will not require reporting of these incidents. The only incidents the Department requires to be reported are those defined in the regulations as accidents.

On many surface mine sites, the Department conducts inspections more frequently than MSHA. Effective safety programs rely on the principle of prevention. Constant reminders of hazards helps prevent complacency that can lead to accidents. With these final-form regulations in place, the higher awareness provided by the Department's inspectors will help prevent accidents and result in a safer work environment at surface mines in this Commonwealth.

At a meeting on January 25, 2007, the Mining and Reclamation Advisory Board (MRAB) considered the proposed rulemaking as it applied to surface coal mining. The MRAB unanimously recommended that the Board move forward with the proposed rulemaking. On January

10, 2008, the MRAB recommended that the Department proceed with the final-form rulemaking with the changes specified as follows.

E. Summary of Changes Made in the Final-Form Rulemaking

§ 209a.10(b) (relating to auger mining)

Throughout the regulation, "Department" has been used instead of "Department of Environmental Protection." For consistency, "Department of Environmental Protection" found in § 209a.10(b) has been changed to "Department." This change was made in response to a comment described as follows.

§ 209a.42(a) (relating to accident reporting)

The definition of "accident" has been modified to specify what constitutes an accident under this regulation. The accident reporting section of the proposed regulation is not an MSHA regulation reference, but uses MSHA regulations as a guideline. The definition of "accident" in the final-form rulemaking is a subset of what constitutes an accident for MSHA. The MSHA accident reporting regulations apply to surface and underground mining. For the purposes of these surface mining regulations, MSHA's definition of an accident is overly broad because it includes events that occur on the surface and underground. In response to a comment described as follows, the definition of "accident" has been modified. The definition of "accident" is now limited to incidents that occur on surface mines that cause death or serious injuries, or have a reasonable potential to do so. In addition, the definition of accident now includes rock bursts.

§ 209a.42(b)

The provisions of the proposed regulation requiring the Department be contacted within an hour of an accident are amended to specify how to contact the Department. Specifically, the final-form rulemaking directs the operator of a mine where an accident occurs to contact the district mining office having jurisdiction over the mine. Additionally, the final rulemaking provides that if contact cannot be made with the district mining office, the operator shall contact the Department's 24 hour emergency telephone number. These changes were made to enhance consistency and clarity.

§ 209a.42(c)

The provisions of the proposed regulation which require that MSHA accident reporting forms be submitted to the Department have been revised. Specifically, the final-form rulemaking directs the operator of a mine where an accident occurs to mail to the Department's district mining office having jurisdiction over the mine all forms submitted to MSHA regarding the accident. The final-form rulemaking has been amended to eliminate the reference to a specific MSHA form. Additionally, it sets a time of 10 days in which the forms must be submitted to the Department. These changes were made for consistency and clarity.

§ 209a.43 (relating to alternative standards)

The proposed rulemaking has been amended to add a subsection addressing pending mine-specific variance requests. This new subsection provides that the Department, for petitions for mine-specific alternative standard requests that are pending with MSHA upon the effective date of this rulemaking, will adopt that modified mine-specific safety and health standard upon the operator's submission of a copy of MSHA's approval of the alterna-

tive standard to the Department. This change was in response to a comment described as follows.

F. Summary of Comments and Responses on the Proposed Rulemaking

Selection of Sections Adopted by Reference

A commentator asked how the Board determined which selected sections of 30 CFR Parts 56 and 77 (relating to safety and health standards—surface metal and non-metal; and mandatory safety standards, surface coal mines and surface work areas of underground coal mines) to adopt, and therefore enforce.

The Board chose to adopt the portions of 30 CFR 56 and 77 that focus on: the activities in which the most serious accidents occurred, provisions that the Department inspection staff have sufficient expertise to regulate and provisions applying to areas where the Department staff normally goes during the environmental and safety inspections they currently conduct. The Federal provisions which require expertise beyond that of the Department's inspection staff were not adopted. Also not adopted were provisions that would require the Department inspection staff to obtain and be trained in the use of specialized equipment, or which would require the inspectors to expand their routine inspection areas. Finally, the Board did not adopt Federal provisions that are already addressed by other Department regulations.

Compliance Assistance

A commentator pointed out that while there is merit in a compliance assistance program to improve safety, the details of a Department inspector's actions were not clearly explained in the preamble of the proposed rulemaking. The commentator questioned how a Department inspector is qualified to determine how MSHA would interpret its Federal regulations where the Board left sole jurisdiction to MSHA. Additionally, the commentator asked what expectations will be placed on an operator offered compliance assistance, what recourse an operator has if the operator disagrees with the Department's interpretation, or what if MSHA's interpretation of the regulation differs from the Department's.

All of this Commonwealth's surface mine inspectors have routine MSHA safety training, and some surface mine inspectors are "MSHA certified" safety instructors. The Department has the statutory authority, and obligation, to improve the safety and safety awareness on mine sites. For example, when an inspector has the expertise to clearly identify noncompliance with an MSHA regulation, he may provide assistance for mine operators in complying with the MSHA regulations that the Department has not adopted. If a Commonwealth inspector is aware of a violation of an MSHA safety regulation that the Commonwealth has not adopted, the inspector will point out the condition and explain to the permittee that it may be a violation of an MSHA regulation. Compliance assistance will be used in identifying potential MSHA compliance issues and letting the permittee take action at its discretion.

Auger Mining

A commentator recommended that for consistency with the rest of this regulation, § 209a.10(b) should use the term "Department," as it is defined in 25 Pa. Code § 1.1 instead of Department of Environmental Protection.

This change has been made to the final-form regulation.

Accident Reporting

Commentators stated that the requirement to report all accidents, including minor accidents and occupational injuries, within 1 hour of their occurrence would be overly burdensome to the mining industry as well as the Department.

The regulations have been amended to require that only accidents that result in death or serious injury, or have the potential to cause death or serious injury, be reported to the Department within 1 hour.

Alternative Standards

A commentator stated that alternative standards for past and future decisions by MSHA are allowed, but pending filings with MSHA are not addressed.

The Board has amended this final-form regulation to provide for adoption of a mine-specific alternative standard that is pending with MSHA and approved after the effective date of this final-form rulemaking. To obtain the Department's approval, the mine operator must submit a copy of the MSHA approval of the mine-specific alternate standard to the Department.

Access to Documents

Commentators expressed that the Department should only have access to the records prepared to comply with the Federal regulations adopted by reference and not have access to all records required by MSHA.

Limiting the Department's access to records that MSHA requires operators to keep may hinder the Department's ability to thoroughly investigate accidents. It is reasonable to require access to any documents relating to mine safety to ensure that thorough investigations are conducted to determine the causes of accidents.

G. *Benefits, Costs and Compliance*

Compliance Costs

This final-form rulemaking will not impose additional compliance costs on the regulated community. Surface mines in this Commonwealth must already comply with these Federal safety regulations. In fact, the implementation of this rulemaking should result in cost savings in that accidents will be prevented. There are no additional costs expected to be incurred by the Commonwealth.

Compliance Assistance Plan

The Department's inspectors will be available to explain the new regulations to each job foreman.

Paperwork Requirements

This final-form rulemaking establishes two paperwork requirements. First, there is a requirement to submit to the Department copies of the application request to, and MSHA's subsequent approval of, a modification of a health and safety standard that has been incorporated by reference into this final-form rulemaking. Second, there is the requirement to submit to the Department the same accident reports submitted to MSHA. The only cost to the operator is the cost of copying and mailing these documents to the Department.

H. *Pollution Prevention*

The final-form rulemaking will not modify the pollution prevention approach by the regulated community and maintains the multimedia pollution prevention approach of existing requirements in 25 Pa. Code (relating to environmental protection).

I. *Sunset Review*

The regulations 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 August 16, 2007, the Department submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 4754 (September 1, 2007), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (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 these final-form regulations, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act, on June 18, 2008, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 19, 2008, and approved the final-form regulations.

K. *Findings of the Board*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 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) These regulations do not enlarge the purpose of the proposal published at 37 Pa.B. 4754.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

L. *Order of the Board*

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

(a) The regulations of the Department are amended by deleting §§ 209.1—209.3, 209.11—209.13, 209.21—209.27, 209.31—209.35, 209.41—209.47, 209.51—209.65, 209.71—209.77, 209.81—209.87, 209.91—209.93, 209.101—209.103, 209.111—209.115, 209.121, 209.122, 209.141—209.145, 209.151—209.154, 209.161—209.172, 209.181—209.187, 209.191—209.193 and 209.201—209.203; and by adding §§ 209a.1—209a.13, 209.21a—209a.33, 209a.41 and 209a.44 to read as set forth in 37 Pa.B. 4754; and by adding §§ 209a.42 and 209a.43 to read as set forth in Annex A.

(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 submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

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

(e) This order shall take effect immediately.

JOSEPH R. POWERS
Acting Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3726 (July 5, 2008).)

Fiscal Note: Fiscal Note 7-414 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 209a. SURFACE MINING

Subchapter C. MISCELLANEOUS PROVISIONS

§ 209a.42. Accident reporting.

(a) Unless the context clearly indicates otherwise, as used in this subchapter, an accident is an incident that results in one or more of the following:

- (1) A death of an individual at a mine.
- (2) Serious bodily injury to an individual at a mine or an injury to an individual at a mine which has a reasonable potential to cause death.
- (3) An entrapment of an individual for more than 30 minutes or which has a reasonable potential to cause death.
- (4) An unplanned inundation of a mine by a liquid or gas.
- (5) An unplanned ignition or explosion of gas or dust.
- (6) An unplanned mine fire not extinguished within 30 minutes of discovery.
- (7) An unplanned ignition or explosion of a blasting agent or an explosive.
- (8) A failure of an impoundment, refuse pile or culm bank; or an unstable condition at an impoundment, refuse pile or culm bank which requires emergency action to prevent failure, or which causes individuals to evacuate an area.
- (9) A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than 1 hour.

(10) An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs.

(b) If an accident occurs, an operator shall contact the Department's district mining office with jurisdiction for the mine within 1 hour of discovery of the accident. If an operator cannot make contact with the appropriate district mining office, it shall contact the Department's 24 hour emergency number within 1 hour of the accident.

(c) The operator of a mine at which an accident occurs shall mail copies of the completed MSHA accident reporting forms to the Department's district mining office with jurisdiction for the mine. These copies are in addition to accident reporting forms sent to MSHA and shall be mailed to the Department within 10 working days after the accident occurs.

§ 209a.43. Alternative standards.

(a) If, as of August 9, 2008, the United States Department of Labor, Mine Safety and Health Administration (MSHA) has adopted a mine specific modification of a safety and health standard incorporated by reference in this chapter for a mine in this Commonwealth, that mine specific modified safety and health standard will be adopted by the Department if the operator submits to the Department's district mining office with jurisdiction for the mine a copy of MSHA's adoption of the modification.

(b) If, as of August 9, 2008, an operator has submitted to MSHA, but MSHA has not yet adopted, a petition for a mine specific modification of a safety and health standard incorporated by reference in this chapter for a mine in this Commonwealth, that mine specific modified safety and health standard will be adopted by the Department if the operator submits to the Department's district mining office with jurisdiction for the mine a copy of MSHA's approval of the modification.

(c) If, after August 9, 2008, an operator submits a petition for a mine specific modification of a safety and health standard incorporated by reference in this chapter for a mine located in this Commonwealth, that mine specific modified safety and health standard will be adopted by the Department upon MSHA's adoption of the modification if the operator:

(1) Provides the Department's district mining office with jurisdiction for the mine with a copy of the petition and a copy of all supporting materials submitted to MSHA, upon submission to MSHA.

(2) Submits to the Department's district mining office with jurisdiction for the mine a copy of MSHA's approval of the modification.

[Pa.B. Doc. No. 08-1458. Filed for public inspection August 8, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

Proposed Amendments to the *Water Code* and *Comprehensive Plan* to Implement a Revised Water Audit Approach to Identify and Control Water Loss

Summary

The Delaware River Basin Commission (Commission) will hold a public hearing to receive comments on proposed amendments to the Commission's *Water Code* and *Comprehensive Plan* to phase in a requirement for water purveyors to follow a revised water audit approach for identifying and controlling water loss.

Dates

The Commission will hold an informational meeting on Wednesday, September 10, 2008, from 4 p.m. to 6 p.m. at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ. Driving directions are available on the Commission's web site at www.drbc.net. Do not rely on Internet mapping services as they may not provide accurate directions to the Commission.

The public hearing will be held on Thursday, September 25, 2008, at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ. The hearing will begin at 1:30 p.m. and will continue until all those who wish to testify are afforded an opportunity to do so. Persons wishing to testify at the hearing are asked to register in advance by phoning Paula Schmitt at (609) 883-9500, Ext. 224.

Written comments will be accepted and must be received by 5 p.m. on Friday, October 3, 2008. Written comments may be submitted as follows: if by email, to paula.schmitt@drbc.state.nj.us; if by fax, to Commission Secretary at (609) 883-9522; if by U.S. Mail, to Commission Secretary, Delaware River Basin Commission, P. O. Box 7360, West Trenton, NJ 08628-0360; or if by overnight mail, to Commission Secretary, Delaware River Basin Commission, 25 State Police Drive, West Trenton, NJ 08628-0360. In all cases, include the commentator's name, address and affiliation, if any, in the comment document and include "Water Audit" in the subject line.

Supplementary Information

An estimated 150 million gallons of treated and pressurized water is physically lost from public water supply distribution systems in the Delaware River Basin per day and current methods to account for, track and reduce this loss are inadequate.

The purpose of the proposed amendments is to phase in a program requiring water purveyors to perform a water audit and report their findings in accordance with a new audit structure established by the American Water Works Association (AWWA) and the International Water Association (IWA). These new methods are widely regarded as superior to the existing approach, which entails tracking "unaccounted for water," which is no longer considered best practice.

The new water audit methodology provides a rational approach that will facilitate more consistent tracking and reporting than the existing approach allows. It will help water managers and regulators, including the Commission, state agencies, and utility managers, target their efforts to improve water supply efficiency, thereby reducing water withdrawals. Improving water accountability will contribute to achieving objective 1.3.C of the *Water Resources Plan for the Delaware River Basin*, which calls for ensuring maximum feasible efficiency of water use across all sectors.

The Commission's Water Management Advisory Committee (WMAC), which has taken primary responsibility for reviewing the proposed audit methodology and developing these amendments, is composed of representatives from a wide range of public and private sector organizations. WMAC membership includes: Ferdows Ali, Environmental Scientist with the New Jersey Department of Agriculture; Janet L. Bowers, Executive Director of the Chester County Water Resources Authority; Gerald Esposito, President of Tidewater Utilities; David Froehlich, of the Wissahickon Valley Watershed Association; David Jostenski, Chief of the Water Use Assessment Section of the Pennsylvania Department of Environmental Protection; Mark Hartle, of the Pennsylvania Fish and Boat Commission, Division of Environmental Services; Stewart Lovell, Supervisor of Water Allocations of the Delaware DNREC; John Mello, of Region II of the United States Environmental Protection Agency; Bruno M. Mercuri, of Mercuri and Associates, Inc.; Dr. Joseph A. Miri, of the New Jersey Department of Environmental Protection, Water Supply Element; Robert Molzahn, of the Water Resources Association of the Delaware River Basin; Howard Neukrug, of the Philadelphia Water Department; Mary Ellen Noble, of the Delaware Riverkeeper Network; Senobar Safafar, of the New York City Department of Environmental Protection, Strategic Services Division, Bureau of Water Supply; Tom Simms, Director of the Institute of Soil and Environmental Quality of the University of Delaware DGS Annex; Ronald A. Sloto, of the United States Geological Survey, Water Resources Division; Edith Stevens, of the League of Women Voters; and Glen Stevens, of the United States Army Corps of Engineers.

On May 25, 2004, the WMAC established a subcommittee to investigate the issue of water loss and water accountability in light of new methods proposed by the AWWA and the IWA. The subcommittee met on four occasions to review the Commission's current policies concerning water loss and water accountability and to discuss the new methods. The Commission's current policies are based on the concept of "unaccounted for water," which is no longer considered best practice. The new methods are based upon more precise definitions and more rational accounting procedures that will result in a clearer understanding on the part of utility managers and regulators of the causes of water loss. The new methods will thus facilitate targeted improvements that reduce system water demands, with region-wide benefits. The Commission staff participated in the development of water audit software based on the new accounting methods, in an effort led by the AWWA Water Loss Control Committee (WLCC).

On March 16, 2005, after listening to a presentation outlining the benefits of the new water accountability methods, the Commissioners asked the Commission staff

and the WMAC to develop a position statement and policy recommendations for the Commission and to engage water purveyors in the Basin in a pilot study of the newly developed water audit software to test the software and solicit feedback.

Six water purveyors from the Delaware River Basin were identified to participate in the nationwide pilot study. The comments and feedback provided to AWWA led to improvements in the software. In March 2006, the software was approved by the AWWA WLCC and was posted on the AWWA web site, where it is available at no charge to all users. Links to the software are posted on the water conservation page of the Commission's web site: www.state.nj.us/drbc/policy.htm.

The WMAC and its subcommittee determined that the IWA/AWWA water audit methodology represents an improvement to the Commission's current practices and can lead to multiple benefits for water utilities and other stakeholders. It is anticipated that adoption of the IWA/AWWA approach will:

- Improve upon the traditional approach for identifying "unaccounted for water," which lacks standardized terminology and a clearly defined water audit structure.
- Provide a rational water audit structure to help identify water losses and improve water supply system efficiency.
- Provide meaningful performance indicators to help identify systems with the greatest losses. These indicators allow water utility managers to make reliable comparisons of performance and to identify best practices to control water loss in an economical way.
- Identify ways to improve water supply efficiency and thereby reduce water withdrawals that have no beneficial end use.
- Help to target efforts to reduce the estimated 150 million gallons per day that is physically lost from public water supply distribution systems in the Basin.
- Enhance utility revenues by enabling utility managers to recover the significant revenue that is otherwise lost due to *apparent losses* such as theft of service, unbilled connections, meter discrepancies and data errors.
- Help utility managers and regulators identify *real losses* (such as leakage) that waste treated and pressurized water and increase operating costs. Significant real losses indicate opportunities for improved asset management that can reduce the vulnerability of utilities to disruptive water main breaks, other service disruptions and water quality upsets.

Because the water audit approach is relatively new in a regulatory context, the proposed amendments call for phased implementation. Until 2011, the Commission will promote the voluntary use of the IWA/AWWA water audit program. During this period, information will be gathered from within the Basin and Nationwide to assist in the establishment of performance indicators for water loss, which ultimately will replace the "unaccounted for water" targets. If approved, the proposed amendments will require water purveyors to perform an annual water audit conforming to the IWA/AWWA methodology, beginning with calendar year 2012.

The proposed amendments also require changes in the way data pertaining to water loss is collected by the state agencies and shared with the Commission.

Further Information, Contacts

Contact Commission Secretary Pamela Bush, (609) 883-9500, Ext. 203 with questions about the proposed rule or the rulemaking process.

PAMELA M. BUSH, ESQ.,
Secretary

Text of Proposed Amendments

It is proposed to amend Comprehensive Plan and Article 2 of the Delaware River Basin Water Code as set forth as follows. Deleted text is denoted by strikethrough and inserted text is denoted by underscore.

§ 2.1.2A.1. e An ongoing water auditing program in accordance with section 2.1.8

§ 2.1.6 A. . . . Such a program shall at a minimum include: periodic surveys to monitor leakage, ~~enumerate unaccounted for water~~, and determine the current status of system infrastructure; recommendations to ~~monitor and control leakage~~; and a schedule for the implementation of such recommendations. Each purveyor's program shall be subject to review and approval by the designated agency in the state where the system is located.

~~"Unaccounted for water" is defined as the difference between the "metered ratio" and 100 percent. The metered ratio is the amount of water delivered through service meters divided by the amount of water entering the distribution system.~~

The designated state agencies are: Delaware Department of Natural Resources and Environmental Control; New Jersey Department of Environmental Protection; New York Department of Health and Pennsylvania Department of Environmental Protection.

B. ~~Each purveyor shall strive to minimize system leakage to levels as guided by IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance. Each purveyor that distributes in excess of one million gallons per day (mgd) shall submit its initial program to monitor and control leakage to the appropriate designated agency within two years and each purveyor that distributes between 100,000 gpd and 1 mgd shall submit its initial program to monitor and control leakage to the appropriate designated agency within five years of the effective date of this regulation or at such earlier date as shall be fixed by the designated state agency. Each purveyor shall prepare and submit a revised and updated program to monitor and control leakage every three years thereafter or at such earlier date as shall be required by the designated state agency. The designated state agency may require more frequent program submission from purveyors with unaccounted for water that is in excess of 15 percent.~~

C. Any project approvals hereafter granted pursuant

§ 2.1.8 Water Auditing (*Resolution No. 2007-xx*).

- A. It shall be the policy of the commission to encourage owners of water supply systems serving the public to implement a standardized water audit methodology to ensure accountability in the management of water resources.
- B. For the period beginning [EFFECTIVE DATE] and ending December 31, 2011, owners of water supply systems serving the public, with sources or service area located in the Delaware River Basin, are encouraged to implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance.
- C. Effective January 1, 2012, the owners of each water supply system serving the public, with sources or service area located in the Delaware River Basin, shall implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance.
- D. Effective January 1, 2013, non-revenue water reported under section 2.50.3.B.1.b.ii. shall be computed in accordance with IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance.

- § 2.50.3B.1.b.ii. - Other metered (Specify)
- Non-revenue water, including unbilled authorized consumption, apparent losses, and real losses computed in accordance with section 2.1.8.D
 - ~~Unaccounted for (defined as the amount of water entering the distribution system minus the amount of water delivered through service meters) **~~
 - Total

~~**Further breakdown of unaccounted for water can be provided. For example, estimated fire hydrant use, other unmetered public uses, and leakage losses.~~

Fiscal Note: 68-52. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIROMENTAL PROTECTION

PART V. DELAWARE RIVER BASIN COMMISSION

CHAPTER 901. GENERAL PROVISIONS

§ 901.2. Comprehensive Plan and water quality.

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A [(2007)] (2008) and the Water Code and Water Quality standards as set forth in 18 CFR

Part 410 [(2007)] (2008) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 08-1459. Filed for public inspection August 8, 2008, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CHS. 471, 473, 477 AND 479]

Air Transportation

The Department of Transportation (Department), under the authority contained in 74 Pa.C.S. Chapters 51—61 proposes to amend Chapters 471, 473, 477 and 479 as set forth in Annex A.

Purpose of Chapters

These proposed amendments set forth criteria for the rating and licensing of airports. The purpose of Chapter 471 (relating to airport rating and licensing) is to set forth the licensing criteria and requirements for aircraft landing facilities; Chapter 473 (relating to aviation development grants) sets forth criteria and requirements for the Aviation Development grant program; Chapter 477 (relating to local real estate tax reimbursement grants) sets forth criteria for the Local Real Estate Tax Reimbursement grant program; and Chapter 479 (relating to obstruction to aircraft) sets forth criteria and instructions for persons who desire to erect, add to or maintain obstructions to aircraft.

Purpose of the Proposed Amendments

The purpose of the amendments to Chapter 471 is to clarify the requirements and provide greater flexibility in the licensing of various categories and types of landing facilities. This includes the establishment of minimum standards based on current Federal aviation standards instead of referencing Federal regulations that can be cumbersome to interpret and apply effectively, especially at small general aviation airports. In addition, the amendments reflect the Department's goal to provide safe operating conditions at public use airports while maintaining a regulatory environment which encourages airports and airport businesses to flourish. Consequently, the amendments include a process for dealing with nonstandard conditions on a case by case basis and provide additional criteria for small privately "family" owned airports instead of "a one size fits all approach." The amendments provide the flexibility to accommodate various levels of airport operations and advances in technology that were not envisioned or available at the time the regulations were originally adopted.

These amendments do not relieve an aircraft's pilot in command of the ultimate responsibility for safety of flight operations. As set forth in applicable Federal aviation regulations, the pilot in command has final responsibility to conduct a safe flight, considering his own skills and ability, weather, the dimensions and condition of the runway and approaches, and the weight and balance, capabilities and condition of the aircraft being used. For private use airports, the owner or manager should be consulted by pilots prior to operating to or from the airport.

The purpose of the amendments to Chapter 473 is to allow for increased flexibility for the Department in providing a higher State share for granted projects and allow for a more efficient use of the aviation development grant funds available.

The purpose of the amendments to Chapters 477 and 479 is to simplify and better organize these chapters in relation to Chapters 471 and 473. There were no substantive changes to these chapters.

These amendments reflect the joint effort of the Department, Bureau of Aviation, the Aviation Advisory Committee, the Aviation Council of Pennsylvania and airport officials throughout this Commonwealth.

Summary of Significant Amendments

Chapter 471

Section 471.2 (relating to definitions)

Section 471.2 has been amended to include the following terms: "grant," "occasional/infrequent operations," "operation," "prepared landing site," "project," "primary surface," "private heliport," "public heliport," "Regional Project Management Team" and the "Waiver Advisory Board." A definition of a "sponsor" has been added to include planning agency, public agency owning airports, public agencies not owning airports and a nonpublic airport owner.

Section 471.3 (relating to airport licensing)

Section 471.3 has been amended to clarify the requirements and procedures for the application of a waiver of a nonstandard condition at an airport or heliport, to allow for the transfer of a license from one owner to another which includes a Department review of the conditions, operations and waivers at the time of the transfer and requires the correction of hazardous conditions that have arisen since the issuance of the original license. The amendment removes the suspension/revocation schedule and defines deficiencies that would necessitate suspension or revocation of a license.

Section 471.4 (relating to licensing fees)

Section 471.4 has been amended to allow the Department to periodically update the license fee schedule which includes the requirement to publish the latest fee schedule in the *Pennsylvania Bulletin*.

Section 471.5 (relating to airport rating—excluding heliports)

Section 471.5 has been amended to update and expand the licensing categories for public use airports. The public business, general service and ultralight categories have been replaced with scheduled service/general aviation, basic utility and sport/ultralight airport categories, respectively. These replacement categories were added to more accurately reflect the types, conditions and operational needs of the public use airports in the State while ensuring that the level of public safety is maintained. The private airport categories have been revised by eliminating the commercial category and allow commercial operations at private airports provided it meets or exceeds the private group category. However, flight instruction to the general public is subject to Department approval. Additional language was also added to this section to clarify allowable uses of a private airport.

Section 471.6 (relating to heliport rating)

Section 471.6 has been amended to eliminate unneeded licensing categories for both public and private use heliports. These amendments are intended to more accu-

ately reflect the types, conditions and operational needs of the public use heliports. Additional language was also added to this section to clarify allowable uses of a private heliport.

Section 471.7 (relating to licensing criteria and requirements)

Section 471.7 was amended to clearly indicate that operation of a public or private airport or heliport is prohibited without first obtaining a license from the Department. This section was also amended to place a time limit for reporting unsafe or hazardous conditions that unexpectedly occur at the airport and to clarify requirements for marking/lighting vehicles operating on airport surfaces to ensure they are clearly visible to aircraft. In addition, § 471.7 was amended to clearly delineate the requirements for Department approval of nonaeronautical uses of the airport and provide a specific time line for the Department to respond to requests. Lastly, § 471.7 was amended to specifically describe the Department's airport inspection process and indicate that the Department may take legal action to prevent or restrain any violation or threatened violation of the licensing requirements.

Section 471.8 (relating to suspension/revocation schedule)

Section 471.8 was amended to remove the suspension/revocation schedule and replace it with provisions that allow for suspension or revocation of a license for any potentially hazardous condition. This change is intended to permit the Department to take immediate action as well as provide for quick resolution of those situations.

Section 471.9 (relating to appeal)

Section 471.9 was amended to include detailed instructions for appeal of a decision of the Bureau to ensure that any aggrieved person would clearly understand the time line, procedure and cost for filing an appeal.

Chapter 473

Section 473.2 (relating to definitions)

Section 473.2 was amended to simply reference the definitions included in Chapter 471.

Section 473.4 (relating to limits of funding)

Section 473.4 was amended to allow the Department to increase the maximum percentage of non-Federal aid projects to 90%. This increase will allow additional financial assistance to be made available to airport sponsors for projects that are critical safety or standard improvements, or both.

Section 473.5 (relating to application procedure)

Section 473.5 was amended to replace the application procedure with the project selection process and criteria that was updated from the previous § 473.8 (relating to grant selection process and criteria) grant selection process and criteria. This revision was done to more clearly explain the project selection process and factors used to develop the aviation development program.

Section 473.6 (relating to deadlines for preapplications and applications)

Deadlines for preapplications and applications were removed and replaced with §§ 473.5b and 473.6a (relating to important dates and notification procedure; and project execution). This was done to more clearly define the necessary actions and time lines for submission of important project information and requirements and to allow the Department greater flexibility for establishing

deadlines for the receipt of project information which will allow a more efficient use of the aviation development funds available.

Section 473.8 (relating to grant selection process and criteria)

Section 473.8 was rescinded and used to create the revised § 473.5.

Section 473.9 (relating to offer and acceptance of an aviation development grant)

Section 473.9 was amended to clarify and streamline the procedures for a sponsor to accept a grant offer.

Chapter 477

Section 477.2 was amended to delete redundant repetition of definitions and simply reference the definitions included in Chapter 471.

Chapter 479

Section 479.2 was amended to delete redundant repetition of definitions and simply reference the definitions included in Chapter 471.

Persons and Entities Affected

These regulations affect all owners/operators of aircraft landing facilities, including airports, heliports, seaplane bases, and the like.

Fiscal Impact

Implementation of these proposed amendments will not require the expenditure of any additional funds by the Commonwealth or local municipalities. While these proposed amendments do allow for fees to be adjusted periodically, any additional cost to the regulated community will be nominal.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees (committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

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

Sunset Provisions

The Department will make these regulations effective upon publication in final-form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required under 74 Pa.C.S. Chapters 51—61. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Brian Gearhart, P. E., Director, Bureau of Aviation, P. O. Box 3457, Harrisburg, PA 17105 within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Brian Gearhart, P. E., Director, Bureau of Aviation, 400 North Street, Harrisburg, PA 17120, (717) 705-1200.

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-409. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 67. TRANSPORTATION
PART I. DEPARTMENT OF TRANSPORTATION
Subpart B. NONVEHICLE CODE PROVISIONS
ARTICLE IV. AIR TRANSPORTATION
CHAPTER 471. AIRPORT RATING AND LICENSING**

§ 471.2. Definitions

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

* * * * *

Airport—

(i) An area of land or water which is used, or intended to be used for the landing and takeoff of aircraft and appurtenant areas which are used or intended to be used, for airport buildings or air navigation facilities or rights of way, together with airport buildings and facilities thereon.

(ii) The term includes heliports [and public airports] unless specifically noted.

Aviation-related areas—

(i) An area of an airport used, or intended to be used, in the direct operation of the airport.

[The] (ii) For the purpose of the Real Estate Tax Rebate Grant Program, the term includes, but is not limited to, a portion of the airport used in the [landing, taking off or] surface maneuvering of an aircraft, including those protected areas that are restricted from other uses.

(iii) The term does not include hangars, terminals and any portion of the airport used for the housing of aircraft or areas dedicated to hotels, motels, shops, restaurants, parking areas, and garages and other for-profit establishments whose purpose is unrelated to the landing and taking off of aircraft.

* * * * *

Based aircraft—An aircraft stored at a specific airport or heliport for more than 30 days.

* * * * *

Commercial operations—Operations of an aircraft for compensation or hire, including, but not limited to, flight instruction, aircraft maintenance, sale of aircraft, parts and fuel.

* * * * *

Grant—An agreement and its accompanying assurances between the Department and a sponsor to provide funding assistance.

* * * * *

Landing area—An area used, or intended to be used, for the landing [,] and taking off [or surface maneuvering] of aircraft.

Operation—An aircraft take-off or landing.

* * * * *

Prepared landing site—An area that has a wind direction indicator or markings or lights or the surface has been improved with the intent to receive aircraft. A prepared landing site requires a license.

Primary surface—The area on the ground centered on a runway, provided to enhance the safety of aircraft operations by having the area free of objects, except for objects that need to be located in the primary surface for air navigation or aircraft ground maneuvering purposes.

* * * * *

Private heliport—A heliport which is privately owned and which is not open or intended to be open to the public.

Project—A compilation of all tasks or activities associated with an approved grant on behalf of an eligible sponsor qualified to receive grant assistance.

* * * * *

Public heliport—A heliport, which is either publicly or privately owned and which is open to the public.

Regional Project Management Team—Bureau staff assigned responsibility for each step of the project completion process.

Sponsor—A person applying for, or having received, an aviation development grant for a public airport. The following are different types of sponsors eligible for funds:

(i) **Planning agency.** An agency designated by the Bureau that is authorized by the laws of the State or political subdivisions concerned to engage in area wide planning for the areas in which the grant assistance is to be used. Typical planning agencies include planning offices, aeronautics commissions and departments of transportation.

(ii) **Public agencies owning airports.** A State, municipality, county, airport authority or other political subdivision, or a tax supported organization or an Indian tribe or pueblo.

(iii) **Public agencies not owning airports.** A public agency as defined in subparagraph (ii) that does not own an airport seeking master planning grants for new airports, acquisition of existing airports and noise program implementing projects which are included in a noise compatibility program prepared by a local airport sponsor and not disapproved by the FAA.

(iv) **Privately owned public use airport owner.** An individual, partnership, corporation, or other legal entity that owns a public use airport

Visual [utility] runway—A runway that is constructed for and [intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and] intended solely for the operation of aircraft using only visual approach procedures.

Waiver Advisory Board—A board established under the Bureau's Waiver Process described in the current Bureau Waiver Policy. Board composition will be as appointed by the Deputy Secretary for Aviation and will include representation from the Aviation Council of Pennsylvania.

§ 471.3 Airport licensing

(a) **Authority.** [No] A person may not establish, maintain or operate an airport, [nor conduct] or permit flight operations at an airport, unless authorized [to do so] by the Bureau. This does not apply to an airport approved or maintained by the government of the United States, [nor] or to infrequent operations by helicopters or aircraft with characteristics permitting operation from sites not specially prepared therefor.

(b) **Written authority required.** [Except in emergency conditions, authority] Authority to establish, maintain or operate an airport will be [given] provided in writing by the Bureau and will indicate [therein] whether the airport is public [or] use, private use, or otherwise restricted. Current licensing criteria and procedures will be provided by the Bureau on request. An airport will be licensed by the ratings under §§ 471.5 and 471.6 (relating to airport rating—excluding heliports; and heliport rating). **Commercial operations shall be limited to public use airfields, or private airports that meet or exceed criteria established for private groups. Private airport operators are prohibited from selling fuel to the general public, and from performing flight instruction to the general public, unless authorized by the Bureau.**

(c) **Temporary licenses.** A temporary license, public or private, may be issued by the Bureau for temporary operations or special occasions [, for a limited period of time]. An inspection fee will be charged for a temporary license in the amount as published annually in the *Pennsylvania Bulletin*.

(d) **Waiver.** The Bureau may [waive, for good cause, compliance with the criteria or requirements, or both, in this chapter if the waiver request is not inconsistent with the code.] issue a waiver for conditions not in compliance with criteria listed in Appendix A if control measures are put in place or if the conditions are deemed to not cause undue hazard to persons or property. Waivers may be temporary or permanent, depending on the situation and circumstances. Any conditions having a current waiver in force will be deemed to be in conditional compliance with this chapter.

(1) Waiver of criteria or requirements will be in accordance with the following procedures established by the Department:

(i) Requests for waivers must be in writing.

(ii) A sponsor shall request a waiver using forms and instructions provided by the Bureau.

(iii) A separate request shall be submitted for each item for which waiver is requested.

(iv) Bureau staff will review each request and provide a recommendation.

(v) Upon a Bureau staff recommendation of denial, the request will be forwarded to the Waiver Advisory Board.

(vi) The Waiver Advisory Board will review and analyze the waiver request and provide a recommendation for disposition to the Bureau Director.

(vii) A denial of a waiver is subject to appeal under the appeal process described in § 471.9 (relating to appeal).

(2) The Bureau will post the waiver procedure on the Department web site.

(3) A nonexhaustive list of conditions for which the Bureau may grant a waiver is included in Appendix B.

(4) Waiver of criteria or requirements may be inconsistent with this chapter.

(e) [*Transfer of license.* A license issued under this chapter is not transferable unless prior written approval is granted by the Bureau. If the Bureau does provide written approvals for the transfer of a license, the new licensee shall pay the initial license and inspection fees, and the landing area shall meet current licensing criteria.] *Change of ownership.* A change of airport ownership requires a new license through the Bureau's licensing process. Upon the change of ownership or status of an airport, a new license which includes prior waivers of nonstandard conditions, modifications of FAA standards or determinations of no hazard, as applicable, will be issued provided that a review by the Bureau verifies that conditions at the airport have not significantly changed since the time the previous license and waivers were issued.

(f) *Existing airport.* An airport presently in existence and [authorized] licensed under preexisting statutes and regulations is considered authorized.

(1) The Bureau may require an existing airport to correct or modify conditions which have arisen or significantly changed since the time any previous license or waiver was issued if they pose a significant threat to aviation safety.

(2) Determination that a condition poses a significant hazard to aviation safety will be based upon staff analysis by the Bureau after consultation with a Waiver Advisory Board.

(g) *Suspension or revocation of license.* The Bureau may revoke or suspend an airport license for reasonable cause, such as, but not limited to, failure to correct airport deficiencies, failure to cease unauthorized activities, [failure to renew license] or [a] any violation of this chapter. See § 471.8 (relating to suspension/revocation schedule).

* * * * *

§ 471.4. Licensing fees (private airports only).

* * * * *

(b) Licensing and inspection fees [are] will be published on an annual basis in the *Pennsylvania Bulletin* and are required as follows:

(1) [One site inspection and one final inspection, \$25 at time of initial licensing.] The fee for both an

initial site inspection and a final inspection shall be paid at the time of the initial application for airport license. Subsequent inspections required to receive a license will be subject to an additional fee.

(2) [An additional site or final inspection, \$25 at time of initial licensing.] A written request and fee are required for additional inspections.

(3) [Licensing fee, \$10 per year.] Licensing fees are payable in 3-year intervals.

(4) Temporary licenses, as required by § 471.3(c) (relating to airport licensing), require an inspection fee.

§ 471.5. Airport rating—excluding heliports.

(a) The following [represents] are rating categories to be used by the Bureau for the issuance of an airport license:

(1) *Public airport.*

(i) *Scheduled service/general aviation.* An airport [with a paved runway, a runway lighting system, a precision instrument landing system and passenger handling facilities] accommodating regularly scheduled air carrier or commuter service or general aviation operations, or both.

(ii) [*Business.* An airport with a paved runway 3,500 feet or greater, a runway lighting system and a precision or nonprecision instrument landing approach.] *Basic utility.* An airport with a visual runway, turf or paved, serving aircraft less than 12,500 pounds max gross weight, without beacon or runway edge lights, authorized for visual flight rules (VFR) use only and not intended for night time operations.

(iii) [*General service.* An airport with a turf or paved runway with or without an instrument approach.

(iv) [*Sport and [Ultralight] ultralight.* A landing area for the use of sport or ultralight aircraft, or both, as those terms are defined by applicable Federal aviation regulations (FARs).

[(v)] (iv) *Seaplane base.* An area of water used as a landing area.

(2) *Private airport.*

* * * * *

(iii) [*Commercial.* A private airport from which the licensee can conduct commercial flight operations, excluding flight instruction but including commercial operations such as maintenance, sale of aircraft or parts.

(iv) [*Sport and [Ultralight] ultralight.* A landing area for the use of sport or ultralight aircraft, or both, as those terms are defined by applicable FARs.

[(v)] (iv) *Seaplane.* An area of water used as a landing area.

(b) *Use of landing areas by another aircraft.* [A private airport licensee may invite another aircraft to use his landing area if the licensee has thoroughly briefed the invitee as to the peculiarities of the

landing area. The invitee's aircraft operational requirements may not exceed the dimensions of the landing area.]

(1) Aircraft operators are authorized to land at public airports within the capabilities of the pilot-in-command and the aircraft. Pertinent information regarding public airports is located in the FAA Airport Facilities Directory and also updated and disseminated by Notice to Airmen (NOTAM).

(2) For private airports, aircraft operators shall receive authorization from the airport owner prior to operating to or from the airport. A private airport owner/licensee may invite an aircraft operator to use his landing area if the owner has thoroughly briefed the invitee on the takeoff and landing data and any peculiarities of the landing area. The invitee's aircraft expected performance values and operational requirements may not exceed the capabilities or dimensions of the landing area.

§ 471.6. Heliport rating.

(a) **Rating categories.** The following represents rating categories to be used by the Bureau for issuance of a heliport license [. The rating includes classifications with a lower numerical description]:

(1) **Public heliport.** A heliport consisting of a landing area that is open to the public.

[(i) **Business.** A heliport consisting of a landing area and offering services such as fueling, maintenance, passenger terminal and the like.

(ii) **General service.** A heliport consisting of a landing area with no support facilities to provide service such as fueling, maintenance, passenger terminals and the like.]

(2) **Private heliport.** A heliport not intended for public use (includes hospital heliports, corporate and privately owned heliports).

[(i) **Individual.** A private heliport used exclusively by the licensee.

(ii) **Group.** A private heliport used exclusively by a partnership, organization or corporation which is restricted to members of that entity.

(iii) **Commercial.** A private heliport from which commercial flight operation, excluding flight instruction but including commercial operations such as maintenance, sale of aircraft or parts, may be conducted.]

(b) **Use of landing area/heliport by another aircraft.** [A private heliport licensee may invite another aircraft to use his landing area if the licensee has thoroughly briefed the invitee as to the peculiarities of the landing area. The invitee's aircraft operational requirements may not exceed the dimensions of the landing area.]

(1) Aircraft operators are authorized to land at public heliports within the capabilities of the pilot-in-command and their aircraft. Pertinent information regarding public heliports is located in the FAA Airport Facilities Directory and also update and disseminated by Notice to Airmen (NOTAM).

(2) For private heliports, aircraft operators shall receive authorization from the heliport owner prior to operating to or from the heliport. A private

heliport owner/licensee may invite an aircraft operator to use his landing area if the owner has thoroughly briefed the invitee on the takeoff and landing data and any peculiarities of the landing area. The invitee's aircraft expected performance values and operational requirements may not exceed the capabilities or dimensions of the landing area.

§ 471.7. Licensing criteria and requirements.

(a) Criteria for licensing of airports and heliports are [set forth] described in Appendix A.

(b) The following are [requirements] applicable to airports and heliports which [shall obtain] have obtained a license:

(1) An owner or operator [, or both,] of an airport shall operate and maintain the airport safely [, carefully and properly] and shall conform to existing statutes and this chapter, or as modified by existing waiver.

(2) An owner or operator [, or both,] of an airport shall give [immediate] prompt written notice to the Bureau, using Bureau Form AV-19, of a proposed physical change in the airport [which affects] that is likely to affect its safety or conformity with the criteria under which the airport was licensed by the Bureau.

(3) An owner or operator [, or both,] of an airport licensed by the Bureau shall immediately report altered, unsafe or hazardous conditions of a nontemporary nature (in excess of 72 hours) to the Bureau. Public airport owners shall also file a Notice to Airmen (NOTAM) with the FAA. Upon elimination of the condition, a report shall be submitted to the Bureau detailing corrective action taken. Information concerning permanent physical changes to the airport shall also be reported to the FAA for inclusion in the Airport Facilities Directory.

(4) An owner or operator [, or both,] of a public airport shall post, in a place visible to the public, written material required to be posted by the Bureau, the Commonwealth or the Federal government.

(5) [No surface] Surface vehicles, such as, but not limited to, automobiles, trucks, mowing machines, graders or rollers may not be operated [upon] in the vicinity of runways or taxiways of a public airport without the airport manager's permission and coordination with the control tower, if existent. [The surface shall] Surface vehicles must be marked with approved flags or flashing amber beacons in accordance with FAA guidelines when operating in air operations areas unless coordinated with the airport manager.

(6) [No] Remote controlled model aircraft may not be operated from a public airport unless permission has been obtained from the airport [owner or operator, or both] manager.

(7) [An owner or operator, or both, of a public airport shall comply with safety criteria in this chapter.] Nonaeronautical uses of a public airport's aviation related area require the airport sponsor to obtain Bureau approval by means of advance written notice. Failure of the Bureau to respond within 30 calendar days shall be deemed

tacit approval. Airport operators shall provide advance notice to the flying public including NOTAM.

(8) An abandoned or [closed] unlicensed airport shall have markers, wind direction indicators and aeronautical signs immediately removed by the owner or operator [, or both].

(9) The Bureau reserves the right to randomly inspect [a landing area] any airport or heliport to determine compliance with the code and this chapter.

(i) Periodic safety inspections will be conducted at all scheduled service, general aviation and basic utility airports. The Bureau will coordinate the inspection date with the airport owner. Following the inspection, the Bureau will provide written report of all inspection findings. Deficiencies identified should be corrected in a timely manner unless waived by the Bureau. The written report containing the inspection findings, as they specifically relate to the code or aviation regulations, will itemize the deficiencies, except conditions having a

current waiver in force. Conditions having a current waiver in force are deemed to be in conditional compliance with this chapter.

(ii) Safety inspections at private use airports will be conducted on a random basis or at the request of the owner.

(iii) Airport sponsors who cannot mitigate air-space obstructions may submit an FAA Form 7460 for FAA evaluation and subsequent consideration for Bureau waiver.

(10) The Department may maintain an action in any court of competent jurisdiction to prevent, restrain or enjoin any violation or threatened violation of this chapter.

§ 471.8. Suspension [/revocation schedule], penalties and revocations.

[(a) *Suspensions*. The Department may impose suspensions on an airport licensee according to the following schedule, when the Department finds upon sufficient evidence that:

| | <i>1st Action</i> | <i>2nd Action</i> | <i>3rd Action</i> | <i>4th Action</i> |
|--|-------------------|-------------------|-------------------|-------------------|
| The licensee has failed to correct deficiencies noted in airport inspection letter. | Written Warning | 30 days | 3 months | Revocation |
| The licensee has permitted unauthorized activities. | Written Warning | 30 Days | 3 months | Revocation |
| The licensee has failed to report change of ownership to Bureau. | Written Warning | 30 days | 3 months | Revocation |
| The licensee has failed to renew license. | Written Warning | 30 Days | 3 months | Revocation |
| The licensee has failed to report physical changes to the Bureau or to maintain airport under licensing requirements. | Written Warning | 30 Days | 3 months | Revocation |
| The licensee has knowingly made a false statement or knowingly concealed a material fact or otherwise committed a fraud to the Bureau. | | 30 days | 6 months | Revocation |

(b) *Second and subsequent violations*. Second and subsequent violations will be determined on the basis of previous violations of the same nature committed within a 3-year period. If a third or subsequent violation occurs within 3 years of the last previous violation, it will be deemed a third or subsequent violation regardless of when other previous violations occurred.

(c) *Multiple violations*. In the case of multiple violations considered at one time, the Department will impose separate penalties for a violation as required by the schedule. The Department may direct that a suspension imposed be served concurrently or consecutively.

(d) *Suspension/revocation authority reserved*. The descriptions of reasons for suspension/revocation in subsection (a) are of a general nature, and should not be deemed to limit the authority of the Department granted by section 5301 of the code (relating to authority of department).]

The Department may suspend or revoke an airport license when the Department finds sufficient evidence that one of the following applies:

(1) A nonconforming condition exists under this chapter that is a potential hazard to the users of the airport and has been brought to the attention of the airport sponsor, by written notice, as requiring remediation under this chapter, and the airport sponsor has not responded or sought a waiver within 90 days or less of the notice as deemed necessary by the Director.

(2) A waiver request by the airport sponsor to waive a nonconforming condition has been finally denied and the airport sponsor refuses to take reasonable steps to remediate the condition to the satisfaction of the Bureau, to file an appeal to the Director of the Bureau, or to file a legal action in a court of competent jurisdiction appealing the denial of the waiver, within 90 days of notice of the waiver denial.

§ 471.9. Appeal

A person aggrieved by a decision of the Bureau to grant, deny or revoke a license may make an appeal under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to [practice and procedure of Commonwealth agencies and judicial review of Commonwealth agency action] Administrative Agency Law) and 1 Pa. Code

Part II (relating to general rules of administrative practice and procedure) [.] in the following manner:

(1) The appeal shall be filed within 60 days of receipt of the Bureau's decision.

(2) The appeal shall be filed with the Administrative Docket Clerk, Office of Chief Counsel, 400 North Street, 9th Floor, Harrisburg, PA 17120-0064, with a \$150 filing fee.

(3) The appeal must provide a detailed description of the decisions being appealed and the reasons for the appeal.

APPENDIX A

| | |
|--|------------------|
| <i>Public Airport</i> | |
| Scheduled Service/ General Aviation | Criteria A |
| [Business | Criteria A |
| General Service | Criteria A] |
| Basic Utility | Criteria B |
| Sport/Ultralight | Criteria [H] C |
| Seaplane | Criteria [F] D |
| <i>Private Airport</i> | |
| [Individual] Group | Criteria [B] E |
| [Group] Individual | Criteria [C] F |
| [Commercial | Criteria A] |
| Sport/Ultralight | Criteria [I] G |
| Seaplane | Criteria [G] H |
| <i>Public Heliport</i> | |
| [Business | Criteria I |
| General Service | Criteria D] |
| <i>Private Heliport</i> | |
| [Individual | Criteria J |
| Group | Criteria E |
| Commercial | Criteria E] |

CRITERIA A

Public Airport—Scheduled Service/General Aviation

(a) The minimum runway length is 2,200 feet plus a 7.0% additional length factor for each 1,000 feet of elevation that the runway is above mean sea level, rounded up to the nearest 5 foot increment. [Note: Figure 4-1, FAA Advisory Circular 150/5300-4B for additional runway length design standards.] Example: An airport at 500 feet above mean sea level would require a minimum length of 2,280 feet.

* * * * *

(c) A paved runway shall have an obstacle free zone, extending 200 feet beyond the end of each visual utility runway, the same width as the primary surface [—250 feet].

(d) A visual [utility] runway end shall have an obstruction free approach surface with a slope of 20 feet

horizontal to 1 foot vertical. The following are approach surface dimensions [for a visual utility runway]:

* * * * *

(3) The approach surface shall begin at the runway end for a turf runway and [at a point] 200 feet beyond the end of a paved runway.

(e) A runway other than visual shall conform to applicable FAR Part 77 Civil Airport Runway Approach Surfaces. The Bureau will acknowledge and consider mitigation factors as determined by the FAA when determining compliance with this criterion.

(f) A runway shall have an obstruction free transitional surface with a slope of 7 [foot] feet horizontal to 1 foot vertical extending from the side of the runway primary surface and the sides of the approach surfaces to an elevation 150 feet above the airport elevation.

(g) Runway thresholds shall be a minimum of 200 feet from airport property line [and 300 feet from the edge of a public road] as measured along the runway extended centerline.

(h) A runway shall be marked.

(1) Turf runway. Turf runway [end] ends and displaced thresholds shall be marked. [Markers] Edge markers shall be placed at intervals not exceeding [400] 200 feet along each side of the runway for its entire length.

(2) Paved runway. A paved runway shall be marked [in accordance with diagram, Figure 1]. For the dimensions and spacing of the markings see the current edition of the FAA Advisory Circular [150/5340-1E] relating to runway markings.

(i) [Principle] For planning purposes, principal runway alignment [shall] for new airports should be in the direction of the prevailing winds. Runway alignment [,] other than into the prevailing winds, may restrict use of the airport during conditions where crosswind velocities exceed the crosswind component of the aircraft.

(j) A wind indicator shall be installed at a location that adequately indicates the surface wind direction and velocity. The wind indicator shall be lighted where night operations are to be conducted.

(k) The runway surface longitudinal and transverse grade may not exceed 2.0%. It is desirable that a line-of-sight standard exist along the entire length of the runway. Runway grade changes should be such that any 2 points 5 feet above the runway centerline [,] will be mutually visible for the entire length of the runway [length].

(l) If night operations are to be conducted at the airport, runway edge lighting shall be installed to define the lateral and longitudinal limits of the usable landing area. Lights shall be installed in accordance with [Figure 2. For location and spacing, see FAA AC 150/5340-24] the current edition of the FAA Advisory Circular related to runway lighting.

(m) A rotating beacon shall be installed for night operations at public airports.

(n) [A telephone] Telephone service shall be available during hours of operation. [A public telephone

shall be available 24 hours a day.] Emergency [and aviation] contact information [telephone numbers] shall be posted near the telephone.

(o) [An adequate] A first aid kit shall be available.

(p) [The] A traffic pattern diagram [and] with altitudes shall be posted and visible to the aviation public.

(q) [Final] A favorable airspace determination by the FAA [may] shall be required prior to final licensing.

(r) The airport license shall be posted and visible to the aviation public.

(s) [Adequate fire] Fire extinguishing equipment shall be available for emergency fire protection. See NFPA [Code 403] Codes and local fire codes for appropriate guidelines.

(t) When public fueling services are provided use NFPA Codes for guidelines for storage and distribution of fuels.

(u) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

(Editor's Note: As part of this proposed rulemaking, the Department is also proposing to delete in their entirety the Figures entitled: FIGURE 1. AIRPORT MARKING and FIGURE 2. RUNWAY AND THRESHOLD LIGHTING CONFIGURATIONS which appear in 67 Pa. Code pages 471-12 and 471-13, serial pages (226970) and (226971).)

CRITERIA B

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria B which appears in 67 Pa. Code pages 471-14 and 471-15, serial pages (226972) and (226973) with the following text which has been printed in regular type to enhance readability.)

Public Airport—Basic Utility

(a) The minimum runway length is 1,600 feet.

(1) The minimum required runway length will be increased where required to accommodate a family of airplanes having similar performance characteristics or a specific airplane needing the longest runway and will be based on the performance data obtained from the aircraft flight manuals.

(2) Runway length will be that length needed for take-off ground run or landing ground run whichever is greater, factored for density altitude (85° F day; runway elevation above sea level); plus a factor for grass. The grass factor may be that required by the manufacturer. If the manufacturer requires no grass factor, a factor of 10% for conventional landing gear or 15% for tricycle landing gear will be used. An additional safety factor of 20% shall also be applied.

(3) If the aircraft performance data is not available from the aircraft flight manual, due to its vintage or modifications, the Bureau may accept a written statement by the applicant-aircraft owner, as to aircraft performance and runway length needed. Performance data may be considered, using less than maximum certificated takeoff weight-down loaded condition, if requested in writing by the applicant, to meet minimum runway length requirements.

(4) Displacement of runway thresholds may be used to reduce or eliminate approach slope obstructions as long as sufficient effective runway length remains.

(b) The minimum runway primary surface width is 180 feet or 90 feet either side of the runway centerline. The landing surface shall be centered within the primary surface. The minimum width of a paved runway is 50 feet. The minimum width of a turf runway is 100 feet. The runway primary surface shall extend 200 feet beyond the end of a paved runway and to the end of a turf runway.

(c) A runway end shall have an obstruction free approach surface with a slope of 20 feet horizontal to 1 foot vertical. The following are approach surface dimensions for a visual runway:

(1) The centerline of this surface shall extend outward and upward 5,000 feet along the runway extended centerline.

(2) The surface shall extend laterally from each edge of the primary surface at the runway approach threshold and increase uniformly in width to 625 feet on each side of the centerline at a point 5,000 feet from the end of the primary surface.

(3) The approach surface shall begin at the runway end for an unpaved runway and at a point 200 feet beyond the end of a paved runway.

(d) A runway shall have an obstruction free transitional surface with a slope of 7 feet horizontal to 1 foot vertical extending from the side of the runway primary surface and the sides of the approach surface to an elevation 150 feet above the airport elevation

(e) Runway landing thresholds shall be a minimum of 200 feet from the airport property line along the runway extended centerline.

(f) A runway shall be marked.

(1) *Turf runways.* Runway ends shall be marked. Edge markers shall be placed at intervals not exceeding 200 feet along each side of the runway for its entire length.

(2) *Paved runway.* Runway numbers shall be marked at each end.

(3) *Marked threshold displacements.* Runway threshold displacements shall be marked.

(g) For planning purposes, principal runway alignment for new airports should be in the direction of the prevailing wind. Runway alignment, other than into the prevailing wind, may restrict use of the airport during conditions where crosswind velocities exceed the crosswind component of the aircraft.

(h) Operations are intended for day, visual meteorological conditions (VMC).

(i) A wind indicator shall be installed at a location that adequately indicates surface wind direction and velocity. The wind indicator shall be lighted if night operations are to be conducted.

(j) The runway longitudinal and transverse gradient should not exceed 4.0%.

(k) Telephone service should be available during hours of operation. Emergency contact information should be posted near the telephone.

(l) Fire extinguishing equipment should be available for emergency fire protection. See National Fire Protection Association (NFPA) Codes and local fire codes for appropriate guidelines.

(m) A traffic pattern diagram with altitudes shall be posted and visible to the aviation public.

(n) A favorable airspace determination from the FAA shall be required prior to license.

(o) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA C

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria C which appears in 67 Pa. Code pages 471-15 and 471-16, serial pages (226973) and (226974) with the following text which has been published in regular type to enhance readability.)

Public Airport—Sport/Ultralight

(a) The minimum runway length shall be 1,000 feet. The runway should be aligned within 40° of the prevailing wind. Longitudinal and transverse gradients should not exceed 4%.

(b) A runway end shall have an obstruction free approach surface with a slope of 15 feet horizontal to 1 foot vertical. The following are approach surface dimensions:

(1) The centerline of this surface shall extend outward and upward 1,000 feet along the extended runway centerline.

(2) The surface shall extend laterally 50 feet on each side of the centerline of the runway approach threshold and increase uniformly in width to 100 feet on each side of the centerline at a point 1,000 feet from the runway end.

(3) The approach surface shall begin at the runway end.

(c) The minimum runway width shall be 100 feet.

(d) A runway shall have an obstruction free transitional surface with a slope of 3 feet horizontal to 1 foot vertical extending from the side of the runway surface and the sides of the approach surface.

(e) Runway landing thresholds shall be a minimum of 200 feet from the airport property line as measured along the extended runway centerline.

(f) Runway ends shall be marked. Edge markers shall be placed at intervals not exceeding 200 feet along each side of the runway for its entire length.

(g) For planning purposes, principal runway alignment for new airports should be in the direction of the prevailing wind. Runway alignment, other than into the prevailing winds may restrict use of the airport during conditions where crosswind velocities exceed the crosswind component of the aircraft.

(h) A wind indicator shall be installed at a location that adequately indicates the surface wind direction and velocity.

(i) Night operations are not authorized.

(j) Telephone service should be available during hours of operation. Emergency contact information should be posted near the telephone.

(k) A traffic pattern diagram with altitudes shall be posted and visible to the aviation public.

(l) The airport license shall be posted and visible to the aviation public.

(m) The airport operator should provide fire extinguishing equipment for emergency fire protection.

(n) A favorable airspace determination from the FAA shall be required prior to final licensing.

(o) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA D

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria D which appears in 67 Pa. Code pages 471-16—471-18, serial pages (226974)—(226976) with the following text which has been published in regular type to enhance readability.)

Public Airport—Seaplane

(a) The minimum landing lane length is 2,500 feet. The length of the landing lane shall be increased by 7% per 1,000 feet of elevation above sea level. The additional length factor is calculated proportionately using a ratio of 7% for each 1,000 feet of elevation that the runway is above mean sea level, rounded up to the nearest 5-foot increment (that is, an airport at 500 feet above mean sea level would require a minimum length of 2,590 feet).

(b) The minimum primary surface width is 200 feet or 100 feet each side of the landing lane centerline. The landing lane minimum width is at least 100 feet and centered within the primary surface.

(c) A minimum water depth of 3 feet is required at all points within the primary surface.

(d) A landing lane shall have an obstruction free approach surface with a slope of 20 feet horizontal to 1 foot vertical. The following are the approach slope dimensions:

(1) The centerline shall extend outward and upward for 5,000 feet along the landing lane extended centerline.

(2) The surface shall extend laterally 100 feet each side of the centerline, beginning at the landing lane threshold and increase uniformly to 625 feet each side of the centerline at a point 5,000 feet from the end of the landing lane.

(e) A wind indicator shall be installed at a location that adequately indicates the surface wind direction and velocity. The wind indicator shall be lighted if night operations are to be conducted.

(f) Documentation of ownership or lease of suitable docking facilities and written authorization or permit to use the waterway shall be submitted with the application.

(g) If night operations are to be conducted at the airport, landing lane edge lighting shall be installed to define the lateral and longitudinal limits of the useable landing area.

(h) A public telephone should be available during airport operating hours. Emergency contact information telephone numbers shall be posted.

(i) The airport license shall be posted and visible to the aviation public.

(j) A traffic pattern diagram with altitudes shall be posted at the docking facility and visible to the aviation public.

(k) A powerboat shall be readily available for emergencies during normal operating hours.

(l) The airport operator should provide fire extinguishing equipment for emergency fire protection.

(m) Final airspace determination by FAA shall be required prior to final licensing.

(n) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA E

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria E which appears in 67 Pa. Code pages 471-18 and 471-19, serial pages (227976) and (227978) with the following text which has been published in regular type to enhance readability.)

Private Airport—Group

(a) The minimum runway length is 1,200 feet.

(1) The minimum required runway length will be adjusted where required to accommodate the aircraft to be operated from the airport and will be based upon the performance data obtained from the aircraft flight manuals.

(2) Runway length will be that length needed for take-off ground run or landing ground run, whichever is greater, factored for density altitude temperature (85° F day); runway elevation above sea level); plus a factor for grass. The grass factor may be that required by the manufacturer. If the manufacturer requires no grass factor, a factor of 10% for conventional landing gear or 15% for tricycle landing gear will be used. An additional safety factor of 20% shall also be applied.

(3) If the aircraft performance data is not available from the aircraft flight manual, due to its vintage, a statement by the applicant/aircraft owner as to aircraft performance and runway needed may be accepted by the Bureau.

(4) Performance data may be considered, using less than gross weight down loaded condition, if requested by the applicant, to meet minimum runway length requirements.

(5) Displacement of runway thresholds may be used to reduce or eliminate approach slope obstructions as long as sufficient effective runway length remains.

(6) The minimum runway primary surface width shall be 180 feet or 90 feet each side of the runway centerline. The landing surface shall be centered within the primary surface. The minimum width of a turf landing surface shall be 100 feet. The minimum width of a paved landing surface shall be 50 feet. A paved runway primary surface shall extend 200 feet beyond the end of a paved runway and to the end of a turf runway.

(b) A runway end shall have an obstruction free approach surface with a slope of 20 feet horizontal to 1 foot vertical. The following are the approach slope dimensions:

(1) The centerline of this surface shall extend outward and upward for 5,000 feet along the runway extended centerline.

(2) The surface shall extend laterally 90 feet on each side of the centerline of the runway approach threshold and shall increase uniformly in width to 625 feet on each side of the centerline at a point 5,000 feet from the end of the primary surface.

(c) Runway thresholds shall be a minimum of 200 feet from airport property line as measured along the runway extended centerline.

(d) A runway shall be marked.

(1) *Turf runways.* Runway ends shall be marked. Markers shall be placed at intervals not exceeding 200 feet along each side of the runway for its entire length.

(2) *Paved runways.* Runway numbers shall be marked at each end.

(3) *Marked threshold displacement.* Runway threshold displacements shall be marked.

(4) *Night operations.* Displacements shall be lighted if night operations are to be conducted.

(e) For planning purposes, principal runway alignment for new airports should be in the direction of the prevailing wind. Runway alignment, other than into the prevailing wind, may restrict use of the airport during conditions where crosswind velocities exceed the crosswind component of the aircraft.

(f) A wind indicator shall be installed at a location that adequately indicates surface wind direction and velocity. It shall be lighted if night operations are to be conducted.

(g) The runway longitudinal and transverse gradient should not exceed 4%.

(h) If night operations are to be conducted at the airport, runway edge lighting shall be installed to define the lateral and longitudinal limits of the useable landing area. Lights will be installed in accordance with current applicable standards.

(i) Fire extinguishing equipment and first aid kits are recommended.

(j) Standard traffic patterns shall be established. Where a nonstandard traffic pattern is necessary, the information shall be made available to those authorized by the owners to use the airport.

(k) A favorable airspace determination from the FAA shall be required prior to license.

(l) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA F

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria F which appears in 67 Pa. Code page 471-20, serial page (226978) with the following text which has been published in regular type to enhance readability.)

Private Airport—Individual

(a) The minimum runway length is 1,200 feet.

(1) The minimum required runway length will be increased where required to accommodate the aircraft to be operated from the airport and will be based upon the performance data obtained from the aircraft flight manuals.

(2) Runway length will be that length needed for take-off ground run or landing ground run, whichever is greater, factored for density altitude (temperature—85° F day; runway elevation above MSL); plus a factor for grass. The grass factor may be that required by the manufacturer. If the manufacturer requires no grass factor, a factor of 10% for conventional gear or 15% for tricycle gear aircraft will be used. An additional safety factor of 20% shall also be applied.

(3) If the aircraft performance data is not available from the aircraft flight manual, due to its vintage or modifications, a statement by the applicant/aircraft owner as to the performance and runway needed may be accepted by the Bureau.

(4) Performance data may be considered, using less than maximum certificated take-off weight down loaded condition, if requested by the applicant, to meet runway length requirements.

(5) Displacement of runway thresholds may be used to reduce or eliminate approach slope obstructions as long as sufficient effective runway minimum length remains.

(b) The minimum primary surface shall be 100 feet or 50 feet either side of the runway centerline. The landing surface shall be centered within the primary surface. The minimum width of a paved landing surface shall be 50 feet. The minimum width of a turf landing surface shall be 100 feet. The runway primary surface shall extend 200 feet beyond the end of a paved runway and to the end of a turf runway.

(c) A runway end shall have an obstruction free approach surface with a slope of 20 feet horizontal to 1 foot vertical. The following are approach surface dimensions for a runway:

(1) The centerline of this surface shall extend outward and upward 1,500 feet along the extended runway centerline.

(2) The surface shall extend laterally 50 feet each side of the centerline at the runway approach threshold and increase uniformly in width to 150 feet on each side of the centerline at a point 1,500 feet from the end of the primary surface.

(3) The approach surface shall begin at the runway end for an unpaved runway and at a point 200 feet beyond the end of a paved runway.

(d) The runway landing thresholds shall be a minimum of 200 feet from airport property line along the runway extended centerline.

(e) A runway shall be marked.

(1) *Turf runways.* Runway ends shall be marked. Edge markers shall be placed at intervals not exceeding 200 feet along each side of the runway for its entire length.

(2) *Paved runways.* Runway numbers shall be marked at each end.

(3) *Marked threshold displacement.* Runway threshold displacements shall be marked.

(f) For planning purposes, principal runway alignment for new airports should be in the direction of the prevailing wind. Runway alignment, other than into the prevailing wind, may restrict use of the airport during conditions where crosswind velocities exceed the crosswind component of the aircraft.

(g) A wind indicator shall be installed at a location that adequately indicates surface wind direction and velocity.

(h) The runway longitudinal and transverse gradient should not exceed 4%.

(j) Operations are intended for day, visual meteorological conditions (VMC).

(k) Fire extinguishing equipment and first aid kits are recommended.

(l) Standard traffic patterns shall be established. Where a nonstandard pattern is necessary, the information shall be made available to those authorized by the owner to use the airport.

(m) A favorable airspace determination from the FAA shall be required prior to license.

(n) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA G

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria G which appears in 67 Pa. Code pages 471-20 and 471-21, serial pages (226978) and (226979) with the following text which has been published in regular type to enhance readability.)

Private Airport—Sport/Ultralight

(a) Minimum runway dimensions of 500 feet in length by 100 feet in width aligned within 40° of the prevailing wind are required. Longitudinal and transverse gradients should not exceed 4.0%.

(b) The minimum runway length will be increased to accommodate sport aircraft where applicable and will be based on the performance data obtained from the aircraft flight manuals. Runway length will be that length needed for take-off ground run or landing ground run, whichever is greater, factored for density altitude (temperature—85° F, runway elevation above MSL), plus a factor for grass. The grass factor may be that required by the manufacturer. If the manufacturer requires no grass factor, a factor of 10% for conventional gear of 15% for tricycle gear will be used. An additional safety factor of 20% shall also be applied.

(c) A runway end shall have an obstruction free approach surface with a slope of 15 feet horizontal to 1 foot vertical. The following are approach surface dimensions:

(1) The centerline of this surface shall extend outward and upward 1,000 feet along the extended runway centerline.

(2) The surface shall extend laterally 50 feet on each side of the centerline of the runway approach threshold and increase uniformly in width to 100 feet on each side of the centerline at a point 1,000 feet from the runway end.

(3) The approach surface shall begin at the runway end.

(c) Runway landing thresholds shall be a minimum of 200 feet from the airport property line as measured along the extended runway centerline.

(d) Runway ends shall be marked. Runway edges shall be marked at intervals necessary to define the lateral runway limits.

(e) For planning purposes, principal runway alignment for new airports should be in the direction of the prevailing wind. Runway alignment, other than into the prevailing winds may restrict use of the airport during conditions where crosswind velocities exceed the crosswind component of the aircraft.

(f) A wind indicator shall be installed at a location that adequately indicates the surface wind direction and velocity.

(g) A favorable airspace determination from the FAA shall be required prior to license.

(h) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA H

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria H which appears in 67 Pa. Code pages 471-21 and 471-22, serial pages (226979) and (226980) with the following text which has been published in regular type to enhance readability.)

Private Airport—Seaplane

(a) The minimum landing lane length is 2,500 feet. Landing lane length may be reduced if performance data is provided which indicates required take-off and landing distances of less than 2,500 feet.

(b) The minimum primary surface and landing lane width is 100 feet or 50 feet each side of the landing lane centerline. The landing lane minimum width is at least 100 feet and centered within the primary surface.

(c) A minimum water depth of 3 feet is required at all points within the primary surface.

(d) A landing lane end shall have an obstruction free approach surface with a slope of 20 feet horizontal to 1 foot vertical. The following are the approach surface dimensions:

(1) The centerline shall extend outward and upward for 1,500 feet along the landing lane extended centerline.

(2) The approach surface shall extend laterally 50 feet on each side of the centerline of the landing area, beginning at the landing lane threshold and increase uniformly in width to 300 feet at 1,500 feet from the end of the landing area.

(e) A wind indicator shall be installed at a location that adequately indicates the surface wind direction and velocity. The wind indicator shall be lighted if night operations are to be conducted.

(f) Documentation of ownership or lease of suitable docking facilities and written authorization or permit to use the waterway shall be submitted with the license application.

(g) If night operations are to be conducted at the airport, landing lane edge lighting shall be installed to define the lateral and longitudinal limits of the useable landing area.

(h) A favorable airspace approval from the FAA shall be required prior to final licensing.

(i) Standard traffic patterns shall be established. Where a nonstandard traffic pattern is necessary, the information shall be made available to those authorized by the owner to use the airport.

(j) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA I

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to replace the text of Criteria I which appears in 67 Pa. Code page 471-22, serial page (226980) with the following text which has been published in regular type to enhance readability.)

Public Heliport—General Aviation

(a) The least dimension (that is, length, width or diameter) of the final approach and take-off area (FATO) shall be at least 1.5 times the overall length of the design helicopter rounded up to the next 5 foot increment, but not less than 60 feet.

(1) Helicopters located on raised platforms, piers, docks or buildings may have outer portions of the FATO extend beyond the platform.

(2) The FATO should be graded to provide a smooth surface. A slope gradient of no more than 2% is allowed for any part of the FATO on which a helicopter is expected to land.

(3) The FATO shall be free of objects.

(b) When the entire FATO is not load bearing, a paved or stabilized touch down and lift off area (TLOF) is recommended. The least dimension of the TLOF is recommended to be not less than the rotor diameter of the design helicopter.

(c) A safety area shall be provided around the FATO.

(1) The width of the safety area shall be 1/3 of the rotor diameter of the design helicopter, but not less than 20 feet.

(2) The safety area shall be free of objects.

(d) The heliport shall have two approach/take-off paths separated by an arc of at least 90° and shall have unobstructed approach/take-off surfaces with a slope of 8 feet horizontal to 1 foot vertical.

(1) The approach/take-off paths may curve to avoid objects or noise sensitive areas, or both, and to use airspace above public lands.

(2) The approach/take-off surface shall begin at the threshold, at the same width as the FATO, and shall extend outward and upward for 4,000 feet where its width is 500 feet.

(3) One approach/take-off path may be acceptable if the approaches and take-offs can be conducted safely and if it is unobstructed and crosswind to the prevailing winds.

(e) Transitional surface shall be unobstructed. Transitional surfaces shall extend outward and upward with a slope of 2 feet horizontal to 1 foot vertical from the edge of the approach/take-off surfaces and the FATO for a distance of 250 feet from the center of the FATO and from the centerline of the approach/departure path.

(f) The FATO shall be marked with FAA standard markings for heliports.

(1) The FATO shall be designated by marking the outer perimeter boundary.

(2) If applicable, the touchdown and liftoff (TLOF) shall also be marked. An H marking will identify the heliport as a public facility as well as mark the intended landing position. The H is oriented on the axis of the dominant approach/take-off path. A bar may be placed under the H when it is necessary to distinguish the preferred approach direction.

(3) In ground or surface markings may be used to define either or both the FATO and TLOF.

(4) For unpaved surfaces, the perimeter of a turf FATO shall be identified with in ground markers that will not catch helicopter skids or create barriers to helicopter maneuvering. If raised markings are used, they shall be located at the outer boundary of the safety area and be no more than 8 inches in height. Markers are placed at the corners, and as needed along the edges of the FATO.

(5) For paved surfaces, a 12-inch dashed white line defines the limits of the FATO when the entire surface is paved.

(6) A 12-inch solid white line is used to define the limits of the TLOF.

(g) A wind indicator shall be installed at a location that adequately indicates the surface wind direction and velocity. The indicator shall be lighted if night operations are to be conducted.

(h) Night operations shall comply with the following:

(1) The perimeter of the FATO and the TLOF shall be defined with lights colored in accordance with the current FAA Advisory Circular pertaining to heliport lighting. The lights may not penetrate the approach or transitional surface slopes.

(2) A minimum of four flush or raised fixtures is required per side of a square or rectangular FATO or TLOF. A light is located at each corner, with additional lights spaced uniformly between the corner lights with a maximum interval of 25 feet between lights.

(3) An even number of lights, at least eight, evenly spaced, is required to define a circular FATO or TLOF, with a maximum interval of 25 feet between lights.

(4) Raised light fixtures, modified to be not more than 8 inches in height, should be located 10 feet out from the FATO edge.

(5) Flush lights may be located on the TLOF edge or within 1 foot of the TLOF edge.

(6) When nonflush lights are used on a raised TLOF, light fixtures modified to no more than 8 inches in height may be used to define the TLOF. They shall be located 10 feet out from the TLOF edge and may not penetrate a horizontal plane at the TLOF's elevation by more than 2 inches.

(7) Flood lighting may also be used in lieu of, or to supplement, perimeter lights. The flood lights shall be installed so they do not interfere with helicopter operations or interfere with pilot vision.

(8) Obstruction lights should be installed on objects near the approach surfaces or where deemed necessary by the Bureau.

(i) A rotating beacon is recommended to be installed for night operations at public heliports.

(j) When the TLOF is on a platform elevated more than 30 inches above its surroundings, a 5-foot wide safety net or shelf shall be provided. The safety net shall have a load carrying capability of at least 25 pounds per square foot. The net or shelf may not project above the level of the TLOF.

(k) Rooftop heliports shall comply with the following:

(1) The size of the FATO and the TLOF for a rooftop or elevated heliport shall be the same as for ground level.

(2) When the TLOF is less than the rotor diameter of the design helicopter, additional nonload bearing surface is required for support of the main rotor downwash ground effect. Load bearing surface size and designed load capacity shall be in accordance with the current edition of the FAA heliport design guide.

(l) Where practicable, wires within 500 feet of the FATO are recommended to be marked.

(m) A telephone shall be available to the public 24 hours a day. Emergency and aviation information telephone numbers shall be posted near the telephone.

(n) A traffic pattern diagram with altitudes shall be posted and visible to the aviation public.

(o) The heliport operator will provide fire extinguishing equipment for emergency fire protection.

(p) A favorable airspace determination from the FAA shall be required prior to final licensing.

(q) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

CRITERIA J

(Editor's Note: The following text is new and has been printed in regular type to enhance readability.)

Private Heliport

(a) The least dimension (that is, length, width or diameter) of the final approach and take-off area (FATO) shall be 1.5 times the overall length of the design helicopter rounded up to the nearest 5 foot increment, but not less than 60 feet.

(1) Helicopters located on raised platforms, piers, docks or buildings may have outer portions of the FATO extend beyond the platform.

(2) The FATO should be graded to provide a smooth surface. A slope gradient of no more than 2% is allowed for any part of the FATO on which a helicopter is expected to land.

(3) The FATO shall be free of objects.

(b) When the entire FATO is not load bearing, a paved or stabilized touchdown and liftoff area (TLOF) is recommended. The least dimension of the TLOF is recommended to be not less than the rotor diameter of the design helicopter.

(c) A safety area will be provided around the FATO as follows:

(1) The width of the safety area shall be 1/3 of the rotor diameter of the design helicopter, but at least 10 feet.

(2) The safety area shall be free of objects.

(d) The heliport shall have two approach/take-off paths separated by an arc of at least 90° and shall have unobstructed approach/take off surfaces with a slope of 8 feet horizontal to 1 foot vertical.

(1) Approach/take-off paths may curve to avoid objects or noise sensitive areas, or both, and to use airspace above public lands. Approach surface requirements are applicable for the entire route.

(2) The approach/take-off surface shall begin at the threshold, at the same width as the FATO and shall extend upward and outward for a distance of 1,000 feet where its width is 200 feet.

(3) One approach/take-off path may be acceptable if approaches can be conducted safely and if it is unobstructed and crosswind to the prevailing winds.

(e) The FATO shall be marked with FAA standard markings for heliports.

(1) The FATO shall be designated by marking the outer perimeter boundary.

(2) If applicable, the TLOF shall also be marked.

(3) The FATO or TLOF may be marked with company logo or name.

(4) A hospital heliport shall be identified by a red capital H centered on a white cross. The dimensions of the cross and H are described in the current edition of the FAA Heliport Design Advisory Circular.

(5) In ground or surface markings may be used to define either or both the FATO and TLOF.

(6) The perimeter of a turf FATO shall be identified with in ground markers that will not catch helicopter skids or create barriers to helicopter maneuvering. If

raised markings are used, they shall be located at the outer boundary of the safety area and be no more than 8 inches in height.

(7) A 12-inch dashed white line defines the limits of the FATO when the entire surface is paved.

(8) A 12-inch solid white line is used to define the limits of the TLOF.

(f) A wind indicator shall be installed at a location that adequately indicates the surface wind direction and velocity. The wind indicator shall be lighted if night operations are to be conducted.

(g) Night operations shall comply with the following:

(1) The perimeter of the FATO or the TLOF (but not both) shall be defined with lights colored in accordance with the current FAA Advisory Circular pertaining to heliport lighting.

(2) At least 8 evenly spaced lights are required to define a circular FATO or TLOF, with a maximum interval of 25 feet between lights.

(3) A minimum of three flush or raised fixtures is required per side of a square or rectangular FATO or TLOF. A light is located at each corner, with additional lights spaced uniformly between the corner lights with a maximum interval of 25 feet between lights.

(4) Raised light fixtures, modified to be not more than 8 inches in height, should be located 10 feet out from the FATO edge.

(5) Flush lights may be located on the TLOF edge or within 1 foot of the TLOF edge.

(6) When nonflush lights are used on a raised TLOF, light fixtures modified to no more than 8 inches in height may be used to define the TLOF. They must be located no more than 10 feet out from the TLOF edge and may not penetrate a horizontal plane at the TLOF's elevation by more than 2 inches.

(7) Flood lighting may also be used in lieu of, or to supplement, perimeter lights. The flood lights shall be installed so as not to interfere with helicopter operations or interfere with pilot vision.

(8) Obstruction lights should be installed on objects near the approach surfaces or where deemed necessary by the Bureau.

(h) When the TLOF is on a platform elevated more than 30 inches above its surroundings, a 5-foot wide safety net or shelf shall be provided. The safety net shall have a load carrying capability of at least 25 pounds per square foot. The net or shelf may not project above the level of the TLOF.

(i) Rooftop heliports shall comply with the following:

(1) The size of the FATO and TLOF for a rooftop or elevated heliport shall be the same as for ground level.

(2) When the TLOF is less than the rotor diameter of the design helicopter, additional nonload bearing surface is required for support of the main rotor downwash ground effect. Load bearing surface size and designed load capacity shall be in accordance with the current edition of the FAA heliport design guide.

(j) When practicable, wires within 500 feet of the FATO are recommended to be marked.

(k) The heliport operator shall provide fire extinguishing equipment for emergency fire protection.

(l) A favorable airspace determination from the FAA shall be required prior to final licensing.

(m) Issuance of a license does not preempt other State, Federal or local zoning or permitting requirements.

APPENDIX B

(Editor's Note: The following text is new and has been printed in regular type to enhance readability.)

(a) Section 471.3(d) (relating to airport licensing) allows the Bureau to waive, for "good cause," compliance with the licensing criteria and related requirements. It must be understood, however, that no waivers will be granted for conditions which are inconsistent with FAA Grant Assurance obligations or other applicable FAA regulation unless permission is granted by the FAA.

(b) The following is a nonexhaustive illustrative list of potential waivable conditions:

- (1) Runway length.
- (2) Runway width.
- (3) Runway obstacle free zone.
- (4) Approach surface penetrations.
- (5) Runway markings.
- (6) Runway alignment.
- (7) Longitudinal and transverse grades.
- (8) Telephone requirements.

(c) When evaluating any nonstandard condition for a waiver, the following will be considered in determining "good cause:"

- (1) Type and performance characteristics of the critical aircraft operating at the facility.
- (2) History of incidents attributable to the nonstandard conditions as determined by the FAA or National Transportation Safety Board (NTSB).
- (3) Operational limitations, such as Visual Flight Rules (VFR)-day only.
- (4) Physical constraints.
- (5) Financial feasibility of undertaking improvements to meet airport licensing criteria.
- (6) How similar issues have been handled with respect to other airports.
- (7) Facility preservation.
- (8) Availability of visual guidance systems.

CHAPTER 473. AVIATION DEVELOPMENT GRANTS

§ 473.2. Definitions.

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

Aircraft—A contrivance, except an unpowered hang-glider or parachute, used for manned ascent into or flight through the air.

Airport—An area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and an appurtenant area which is used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with airport buildings and facilities thereon. Unless indicated otherwise, the term includes heliports and public airports.

Aviation-related areas—An area of an airport used, or intended to be used, in the direct opera-

tion of the airport. The term includes, but is not limited to, a portion of the airport used in the landing, taking off or surface maneuvering of an aircraft. The term does not include hangers, terminals and a portion of the airport used for the housing of aircraft or areas dedicated to hotels, motels, shops, restaurants, parking areas and garages and other for-profit establishments whose purpose is unrelated to the landing and taking off of aircraft.

Aviation restricted account—The account into which revenues generated from the sources in section 5103(b) of the code (relating to aviation restricted account) are deposited.

Bureau—The Bureau of Aviation of the Department.

Code—74 Pa.C.S. §§ 5101—6169 (relating to the Aviation Code).

Department—The Department of Transportation of the Commonwealth.

Director—The Director of the Bureau of Aviation.

Grant—An offer of funding assistance from the Department to a sponsor for a project in this chapter.

Landing area—An area used, or intended to be used, for the landing, taking off or surface maneuvering of aircraft.

Person—A corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, the Commonwealth and its political subdivisions, agencies or instrumentalities.

Private airport—An airport which is privately owned and which is not open or intended to be open to the public.

Public airport—An airport which is either publicly or privately owned and which is open to the public.

Sponsor—A person applying for, or having received, an aviation development grant for a public airport.]

Words and terms used in this chapter have the same meaning as they are given in § 471.2 (relating to definitions), unless the context clearly indicates otherwise.

§ 473.3. Eligibility requirements and criteria.

(a) The minimum requirements and criteria for eligibility to apply for an aviation development grant is that the facility shall be an appropriately licensed public airport located in this Commonwealth and the applicant shall be an eligible sponsor.

(b) The following are projects eligible for consideration of an offer of an aviation development grant.

* * * * *

(6) Runway, taxiway and apron marking and lighting.

* * * * *

(11) [Obstruction removal] Removal, lighting and marking of [airports] obstructions.

(12) Airport safety[/] and security fencing.

* * * * *

(14) Acquisition of land or easements for airport development.

(15) Equipment [or] and buildings, [or both,] dedicated to aircraft [crash/fire/] rescue and firefighting purposes.

* * * * *

(19) Necessary [airport engineering/] project/planning/environmental studies/engineering plans, specifications and cost estimates.

(20) Airport [master] planning, including, but not limited to, master plans, noise and land use studies.

* * * * *

(23) [Another project] Other projects which, in the discretion of the Department, should be considered.

§ 473.4. Limits of funding.

* * * * *

(b) *Non-Federal aid projects.* [The maximum grant to a sponsor may be up to 75% of the eligible amount of the project.] The maximum grant to a sponsor for State and local participation projects will be flexible. In no case, will State participation exceed 90% of the total project cost. Projects that may be funded at the 90% level will be those projects at non-Federally eligible airports that the Bureau requires be accomplished. The Bureau will work in good faith with airport sponsors to develop feasible and practicable plans for funding any mandated project.

§ 473.5. [Application procedure] (Reserved).

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind § 473.5 which appears in 67 Pa. Code pages 473-4 and 473-5, serial pages (254118) and (254119).)

§ 473.5a. Project selection process and criteria.

(a) *Project selection.* Aviation development grants for projects on the 12-year plans and Airport Capital Improvement Programs (ACIPs) on file with and agreed to by the Bureau will be selected for consideration on an annual basis upon written request from sponsors.

(b) *Consideration.* Following the published closing date identified in § 473.5b (relating to important dates and notification procedure) for the receipt of applicable documentation, projects will be considered for funding for future fiscal years.

(c) *Incomplete documentation.* The Department reserves the right to consider documentation for aviation development grants which may be technically incomplete on the deadline identified in § 473.5b, but which will be made complete in a timely fashion. The decision to consider documentation which may be determined incomplete on the documentation deadline is made at the sole discretion of the Bureau.

(d) *Review process.* In evaluating the documentation, the Department may establish internal review procedures, review committees or other administrative mechanisms sufficient to handle the responsibilities of these programs. The Department will maintain an ongoing record of the specific review

mechanisms used for the consideration of the documentation and to make available to applicants an outline of the current applicable internal review procedures.

(e) *Review by Bureau.* The Bureau will review and evaluate submitted documentation with respect to applicable criteria for project funding, available funds, current priorities for development of the airport and significant environmental or economic factors.

(f) *Criteria used in review.* In considering submitted documentation, the Bureau will give weight and consideration to the following criteria:

(1) Improvement of the safety of airport operations.

(2) The effects of the project on both the overall airport system and the local airport.

(3) The impact of the project on the area surrounding the airport.

(4) Availability of local funds for airport development.

(5) The capture of Federal funds for airport development.

(6) Current policy of the Commonwealth on transportation improvements and economic development.

(7) Current and future demand for passenger service, based or itinerant aircraft and freight services.

(8) Assurance that there is a viable network and reasonable distribution of services and safe facilities throughout this Commonwealth.

(9) The extent to which the project would contribute to the welfare of the citizens of this Commonwealth.

(10) Other criteria as may be considered from time to time.

(g) *Discretion in evaluation.* In consideration of the various criteria applicable to the review of submitted documentation, the Bureau reserves the right to evaluate criteria in a manner which may take into account unique or special factors at any airport and emergency situations. Factors making an airport unique from others may include the character of the market it serves, the type and use of based aircraft, the current or future role of the airport, nearby facilities offering similar services or other significant elements contributing to the character or utilization of the facility.

§ 473.5b. Important dates and notification procedure.

(a) The Bureau will publish annual critical dates for the upcoming calendar year in the first publication of the *Pennsylvania Bulletin* of the calendar year preceding the upcoming fiscal year. Additionally, the Bureau will provide direct notification to current sponsors.

(b) Documentation for aviation development grants is considered on an annual basis. From the completed planning documents on file for a given fiscal year, July 1 to June 30, projects will be selected for grants.

(c) Documents on file, but incomplete, may be excluded from consideration for grants in that fiscal year. The deadlines for submission of aviation development grant related documentation for a given fiscal year is the close of business of the published date (4:30 pm Eastern Time).

(d) The sponsor will receive a letter of intent for projects selected as described in § 473.9 (relating to offer and acceptance of an aviation development grant), which will authorize the sponsor to proceed with project formulation described in § 473.6a (relating to project execution).

(e) The Department will send a written conditional offer for a grant to a sponsor for a selected project in accordance with § 473.9.

§ 473.6. [Deadlines for preapplications and applications] (Reserved).

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind § 473.6 which appears in 67 Pa. Code page 473-5, serial page (254119).)

§ 473.6a Project execution.

(a) Upon receipt of a letter of intent in accordance with § 473.9 (relating to offer and acceptance of an aviation development grant), a sponsor may proceed with project formulation and the applicable plans, specifications, procurement of the necessary contracting services and other work necessary pursuant to the future phases of the project.

(1) If the intended project is an airport master planning, environmental planning or related planning study, or both, the applicant shall:

(i) Engage a professional planner or an engineer, or both, with appropriate experience in the particular planning area to accomplish the planning study and related work items as required.

(ii) Provide required documentation including, but not limited to, the scope of services, objectives, work schedule, detailed cost schedule and contract documents required for Department review and approval prior to granting of funds.

(2) If the intended project is land acquisition or interest therein, or both, the applicant shall:

(i) Engage a professional engineer or surveyor registered in this Commonwealth to prepare a property map and provide legal descriptions prior to negotiations.

(ii) Provide other necessary maps, reports, environmental documentation and cost estimates as may be required for Department review and approval prior to the granting of funds.

(3) If the intended project is construction or facility modification, the applicant shall:

(i) Engage a professional engineer registered in this Commonwealth to prepare detailed construction plans and specifications and to provide construction engineering, inspection and material testing as required.

(ii) Provide certified maps, reports, detailed construction plans, specifications and contract documents as may be required for Department review and approval prior to granting of funds.

(4) If the intended project is an equipment procurement—ARFF or Snow Removal—the applicant shall:

(i) Prepare detailed procurement specifications.

(ii) Provide reports, detailed procurement specifications, contract documents and cost estimates as may be required for Department review and approval prior to granting funds.

(b) At the request of the Bureau, the sponsor shall submit:

(1) The estimated cost—by item quantity and unit cost item extended to total cost.

(2) A copy of approved airport layout plan—if requested.

(3) A copy of environmental finding—if requested.

(4) A copy of airspace determination—if requested.

(5) A copy of the sponsor's certification—if required or requested by the Bureau.

(6) Other materials or information, or both, deemed necessary by the Department.

§ 473.7. Public records.

[**A preapplication or**] An application [, or both,] for an aviation development grant made under this chapter is considered a document of public record at the time of filing, and will be made available to persons for inspection.

§ 473.8. [Grant selection process and criteria] (Reserved).

(Editor Note: As part of this proposed rulemaking, the Department is proposing to rescind the text of § 473.8 which appears in 67 Pa. Code pages 473-6 and 473-7, serial pages (254120) and (284985).)

§ 473.9. Offer and acceptance of an aviation development grant.

(a) [**Conditional offer.**] The Department will send a written conditional offer to a sponsor whose application has been approved. The Department's conditional offer may completely fund an eligible project as proposed, or a portion of an eligible project.

(b) [**Application required.** Upon receipt of a conditional offer from the Department, a sponsor shall, within the time set forth in the conditional offer, submit an application under § 473.5 (relating to application procedure).] Upon receipt of a conditional offer from the Department, a sponsor shall, within the time set forth in the conditional offer execute and submit the grant agreement.

(1) Failure of a sponsor to indicate acceptance of the terms of the grant agreement within the specified response period, will be considered as a rejection of the final offer.

(2) Acceptance of the grant agreement is not binding on a sponsor or the Department until the documents are fully executed between the Department and the sponsor.

(c) [**Final offer.** If the Department decides to make a final offer to a sponsor, it will notify the sponsor in writing and include a grant agreement as apart of the final offer.

(d) **Acceptance.** A sponsor who has received a final offer has 30 days to indicate by registered mail, acceptance of final order.

(1) Acceptance of a final offer is not binding on a sponsor until the execution of the grant agreement between the Department and the sponsor.

(2) Failure of a sponsor to indicate acceptance of the terms of a final offer within the 30 day response period, will be considered as a rejection of the final offer and termination of the application.

(e) **Review process.** In evaluating preapplications and applications, the Department may establish internal review procedures, review committees or other administrative mechanisms sufficient to handle the responsibilities of these programs. The Department will maintain an ongoing record of the specific review mechanisms used for the consideration of preapplications and applications and to make available to applicants an outline of the current applicable internal review procedures.

(f) **Discretion of Department.**] Unless otherwise restricted by statute, the Department has absolute discretion in the selection of projects and in the determination of funding levels, priorities, critical project selection criteria, project phasing, project design and specifications and performance criteria.

[(g) **Amendments to projects.**] (d) In the consideration of [**a preapplication or an application,**] the documentation provided, the Department may determine that a proposed project should be amended to accommodate available funding, applicable airport design criteria, anticipated use or to better accommodate potential user needs. The Department may offer an aviation development grant for a project whose specifications, terms or scope have been modified by the Department.

[(h) **Consultation does not insure offer.**] (e) In the event that the Department confers with a sponsor to amend a proposed project, the sponsor understands that consultation and amendment does not insure that an offer will be made.

§ 473.13. Payment procedures.

Unless otherwise specified by the Department, the following general procedures are to be used for funds from an aviation development grant:

* * * * *

(4) Payment requests shall be limited to monthly submissions. The Bureau reserves the right to request additional submissions to facilitate the end of year and grant closeout requirements.

CHAPTER 477. LOCAL REAL ESTATE TAX REIMBURSEMENT GRANTS

§ 477.2. Definitions.

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

Aircraft—A contrivance, except an unpowered hang-glider or parachute, used for manned ascent into or flight through the air.

Airport—An area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with airport buildings and facilities thereon. Unless indicated otherwise, airport includes heliports and public airports.

Aviation-related areas—An area of an airport used, or intended to be used, in the direct operation of the airport. The term includes, but is not limited to, a portion of the airport used in the landing, taking off or surface maneuvering of an aircraft. The term does not include hangars, terminals and a portion of the airport used for the housing of aircraft or areas dedicated to hotels, motels, shops, restaurants, parking areas and garages and other for-profit establishments whose purpose is unrelated to the landing and taking off of aircraft.

Aviation restricted account—The account into which revenues generated from sources set forth in section 5103(b) of the code (relating to aviation restricted account) are deposited.

Bureau—The Bureau of Aviation of the Department.

Code—74 Pa.C.S. §§ 5101—6169 (relating to the Aviation Code).

Department—The Department of Transportation of the Commonwealth.

Director—The Director of the Bureau.

Grant—An offer of funding assistance from the Department to the owner of a public airport for a local real estate tax reimbursement grant.

Landing area—An area used, or intended to be used, for the landing, taking off or surface maneuvering of aircraft.

Owner—The person holding legal or equitable title to an airport.

Person—A corporation, company, association, society, firm, partnership or joint stock company. The term includes an individual, the Commonwealth and all political subdivisions of the Commonwealth or agencies or instrumentalities.

Private airport—An airport which is privately owned and which is not open or intended to be open to the public.

Public airport—An airport which is either publicly or privately owned and which is open to the public.]

Words and terms used in this chapter have the same meaning as they are given in § 471.2 (relating of definitions), unless the context clearly indicates otherwise.

CHAPTER 479. OBSTRUCTION TO AIRCRAFT

§ 479.2. Definitions.

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

Aircraft—A contrivance used for manned ascent into or flight through the air. The term does not include an unpowered hang-glider or parachute.

Airport—An area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with airport buildings and facilities thereon. The term includes heliports and public airports.

Approach area—The area lying within and above an inclined plane starting at each end of each runway of a public airport, as described by guidelines or regulations adopted by the Federal Aviation Administration.

Bureau—The Bureau of Aviation of the Department.

Code—74 Pa.C.S. §§ 5101—6169 (relating to the Aviation Code).

Department—The Department of Transportation of the Commonwealth.

Director—The Director of the Bureau.

Person—A corporation, company, association, society, firm, partnership or joint stock company. The term includes an individual, the Commonwealth and all political subdivisions of the Commonwealth or agencies or instrumentalities.

Public airport—An airport which is either publicly or privately owned and which is open to the public.]

Words and terms used in this chapter have the same meaning as they are given in § 471.2 (relating of definitions), unless the context clearly indicates otherwise.

[Pa.B. Doc. No. 08-1460. Filed for public inspection August 8, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Advance Notice of Proposed Rulemaking Order

Public Meeting held
July 17, 2008

Commissioners Present: James H. Cawley, Vice Chairperson; Robert F. Powelson; Tyrone J. Christy; Kim Pizzigrilli; Wayne E. Gardner; Absent

Advance Notice of Proposed Rulemaking for Revision of 52 Pa. Code Chapter 57 pertaining to adding Neutral Connection Inspection and Maintenance Standards for the Electric Distribution Companies; Doc. No. L-2008-2044821

By the Commission:

On May 22, 2008, the Commission entered a Final Rulemaking Order at L-00040167 which promulgated regulations at 52 Pa. Code § 57.198, establishing inspection, maintenance, repair and replacement standards for electric distribution companies (EDCs). The Final Rulemaking Order improved the Commission's ability to monitor EDC service reliability and safety. Specifically, the Commission will receive biennial inspection, maintenance, repair and replacement plans that should conform to minimum standard intervals set forth at § 57.198(n).

Based on more recent experience and information, the Commission also determined that the issue of whether EDCs should be subject to specific inspection and maintenance standards regarding neutral connections should be evaluated. Specifically, the Commission approved Commissioner Tyrone J. Christy's Motion to consider addi-

tional standards for the inspection, maintenance and repair of neutral connections by opening a new rule-making proceeding.

On December 20, 2007, in *Strickhouser v. Metropolitan Edison Company*, Docket No. C-20077273, Order entered Dec. 20, 2007, this Commission ruled on whether EDCs should be required to inspect, maintain, repair and replace damaged neutral connections. Michael Strickhouser filed his claim against Metropolitan Edison Company ("Met Ed" or "the utility") after a power surge caused damage to his home and some appliances inside the home.¹ The power surge resulted from a failed neutral connection,² and Mr. Strickhouser contended that the neutral connection would not have failed but for Met Ed's negligence in failing to properly monitor, inspect, repair and replace its neutral connections. Met Ed denied liability, arguing that it was not industry practice to routinely inspect neutral connections. Met Ed stated that because neutral connection failures are uncommon, it is neither practical nor feasible to physically inspect the multiple connections existing on each of Met Ed's approximately 157,000 overhead service lines, and the cost of conducting routine inspections on a million neutral connections by linesman using a bucket to ascend up the poles to the connections far outweighs the benefit because the failures are so infrequent. According to Met Ed's witness, Brian Lechman, a Met Ed regional manager with an electrical engineering degree, current practice is to check a neutral connection typically after a customer telephones the company and complains about voltage problems, i.e. flickering lights, or bright lights, or some other symptom that would indicate a neutral connection failure. *Strickhouser*, Transcript of May 30, 2007, pp. 49-50. Mr. Lechman further testified that it was not reasonable for the Company to have performed regular inspections and maintenance on thousands of neutral connections in its territory, given the small number of annual failures and that industry standards do not provide for such inspections. *Initial Decision of ALJ Melillo*, Docket No. C-20077273, at 10.

Administrative Law Judge Kandace F. Melillo dismissed Mr. Strickhouser's claim, but ALJ Melillo required Met Ed to "commence monitoring the failure rate of its neutral connections, in connection with the age and location of these connections, to ascertain whether implementation of an inspection and replacement program is necessary to assure reasonably continuous service and avoid appliance damage." *Strickhouser*, Docket No. C-20077273, Initial Decision entered July 16, 2007. ALJ Melillo stated that while the number of connections could make periodic inspections of all such connections cost prohibitive, inspections specifically targeted to connections of a particular age and location would not be as burdensome. *Id.* at 12. Met Ed filed Exceptions to the Initial Decision, specifically challenging the neutral connection monitoring requirements.

The Commission upheld the ALJ's initial decision to dismiss Mr. Strickhouser's claim because there was no record evidence for "industry standards for neutral connection inspections and that such inspections have not been shown to be warranted to date." *Strickhouser*,

¹ A similar claim was made in *Kelley v. PA Electric Co.*, Docket No. C-20066673, Initial Decision on Remand entered November 7, 2007. In that case, Administrative Law Judge Robert P. Meehan dismissed Mr. Kelley's claim against PA Electric Company for failing to satisfy his burden of proof.

² A neutral connection is a wire that provides a return path to complete the flow of electricity so that all appliances can operate. *Strickhouser*, Docket No. C-20077273, Initial Decision entered July 16, 2007. A damaged neutral connection can cause an uneven flow of electricity that results in voltage fluctuations. *Id.* A bad neutral connection can be caused by weather related oxidation. *Luke Kelley v. PA Electric Co.* Docket No. C-20066673, Transcript dated September 6, 2007, p. 9.

Docket No. C-2006673, Order Entered Dec. 20, 2007. The Commission also affirmed the ALJ's ruling requiring Met Ed to monitor the failure rate of its neutral connections and to file annual reports for the years 2008-2010 based on those findings because of "the amount of harm and expense that such failures can cause." *Strickhouser*, Docket No. C-20066673, Order Entered Dec. 20, 2007. The Commission modified the ALJ's initial decision, however, by eliminating the requirement to collect data on neutral connection age when it is not available because of the small number of failures and the expense involved in making that determination.

In *Luke Kelley v. Pennsylvania Electric Company*, Docket No. C-2006673, Luke Kelley testified that in June 2006, whenever he turned on an appliance that required a large amount of amperage, such as a dryer or air conditioner, the lights in his home would brighten. Transcript February 7, 2007, pp. 13-14. At one point, when Mr. Kelley turned on his radio, his stereo system began to emit smoke. Transcript February 7, 2007, p. 15. Mr. Kelley had a failed neutral at the time.

In both the *Strickhouser* and *Kelley* cases, the EDCs argued that: neutral connection failure is a natural and foreseeable occurrence caused by corrosion; that 20 years is a reasonable amount of time for a neutral connection to last; that a bad neutral connection would not be discovered during the EDC's routine maintenance on a circuit because such connections are not visible to the naked eye; that the failure of a neutral connection is identified only after a trouble call is received from a customer; and that it is not practical or feasible for the company to inspect every neutral connection due to the large number of connections on each line. Instead of routinely inspecting and/or replacing neutral connections, the two EDCs relied on customer complaints to identify failed neutral connections.

We question whether these practices regarding neutral connection failures are adequate and reasonable.

The Public Utility Code at 66 Pa.C.S. § 2802(20) provides:

(20) Since continuing and ensuring the reliability of electric service depends on adequate generation and on conscientious inspection and maintenance of transmission and distribution systems, the independent system operator or its functional equivalent should set, and the Commission shall set through regulations, inspection, maintenance, repair and replacement standards and enforce those standards.

Additionally, the National Electrical and Safety Code at Section 214.A³ provides:

A. When in service

1. Initial compliance with rules

Lines and equipment shall comply with these safety rules when placed in service.

2. Inspection

Lines and equipment shall be inspected at such intervals as experience has shown to be necessary.

NOTE: It is recognized that inspections may be performed in a separate operation or while performing other duties, as desired.

³ 66 Pa.C.S. § 2804(1)(ii) requires EDCs to comply with the National Electrical and Safety Code regarding the installation and maintenance of transmission and distribution facilities.

3. Tests

When considered necessary, lines and equipment shall be subjected to practical tests to determine required maintenance.

4. Record of defects

Any defects affecting compliance with this Code revealed by inspection or tests, if not promptly corrected, shall be recorded; such records shall be maintained until the defects are corrected.

5. Remedying defects

Lines and equipment with recorded defects that could reasonably be expected to endanger life or property shall be promptly repaired, disconnected, or isolated.

The Electric Power Research Institute (EPRI) is conducting a Program entitled, *128 Distribution Systems* and is investigating how EDCs can best improve reliability and system performance while dealing with the challenge of an aging infrastructure and increasing customer demands for higher reliability and power quality. The EPRI is studying, among other things, inspection and assessment of overhead distribution systems. The project aims to build a component reliability dataset by addressing components on an individual basis each year.

In view of Section 2802(20) and the two recent cases addressed by the Commission regarding neutral connections, and since the National Electrical Safety Code stresses the importance of the inspection and maintenance of lines and equipment, a rulemaking proceeding is hereby initiated at this docket to consider revising 52 Pa. Code, Chapter 57, relating to electric distribution reliability.

The Commission will be considering the establishment of inspection, maintenance, repair and replacement standards regarding neutral connections under Chapter 57 of the Pennsylvania Code. This advance notice solicits comments from electric distribution companies and other parties of interest.

Comments are requested on the following topics:

1. Whether standards should be established by the Commission for inspection, maintenance, repair, and replacement of neutral connections so as to avoid unreasonable appliance and other household or business damage to consumers and to assure reasonably continuous electric service. Comments are requested on what, if any, those standards should be.

2. What electric distribution companies' internal inspection and maintenance procedures were in 1995, 2000, and 2007 regarding monitoring the failure rates of their neutral connections, inspecting, maintaining, replacing and repairing those neutral connections.

3. What were the EDCs' internal practices in 1995, 2000, and 2007 regarding the systematic replacement of neutral connections before they failed?

4. Whether a bad neutral connection is visible to the naked eye from the ground as part of a visual inspection. If not, what steps would the EDC have to take to properly inspect a neutral connection?

5. Are there limitations to the physical inspection of a neutral connection? If so, what are they?

6. How lengthy and complicated is a proper neutral connection inspection?

7. What incremental costs would the EDCs incur if required to comply with a neutral connection inspection and maintenance program interval of no less than once every five years for every neutral connection in their service territory?

8. What additional costs would be incurred?

9. What costs would the EDCs incur if required to systematically replace a portion of their neutral connections every year, such that all neutral connections would be replaced on a rolling basis (perhaps every 20 years)?

10. If a systematic replacement program were required, what would be the optimal replacement schedule and why?

11. How many neutral connection failures have the EDCs had per year in their service territories since 1995? What percentage of their overall customer base does this represent?

12. What have the EDCs paid over the past five years annually in compensatory and/or punitive damages to customers who have had property damage and/or personal injury due to failed neutral connections?

13. Whether standards should be placed in the regulations which are specific to each individual EDC, or whether all EDCs should be held to the same standard, and how this would be monitored and regulated.

14. Whether there should be automatic civil penalties written into the regulations for failure to meet standards.

15. Can smart metering/AMI systems provide a means of identifying potential bad or failing neutral connections? If so, what capabilities, specifications and communication channels would be needed to incorporate such diagnostic systems and at what incremental cost, if available?

Due to the comprehensive nature of a rulemaking and the fact that there are no pre-existing inspection and maintenance or repair standards, interested parties will be given 60 days from the date of publication of the Advance Notice of Proposed Rulemaking in the *Pennsylvania Bulletin* for the submission of an original and 15 copies of comments and 90 days from the date of publication to submit an original and 15 copies of reply comments. Since the comment periods are ample, no extensions will be granted for the filing of comments. An electronic copy of all comments should be electronically mailed to Elizabeth Barnes at ebarnes@state.pa.us.

This is an advance notice of proposed rulemaking and is in addition to the normal rulemaking procedures for publication and comment established under the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law. *Therefore,*

It Is Ordered That,

1. A rulemaking proceeding is hereby initiated at this docket to consider the revision of the regulations appearing in 52 Pa. Code, Chapter 57, relating to neutral connection inspection and maintenance standards for electric distribution companies.

2. An Advance Notice of Proposed Rulemaking regarding revision of regulations appearing in 52 Pa. Code, Chapter 57, be published in the *Pennsylvania Bulletin*.

3. Interested parties shall have 60 days from the date of publication in the *Pennsylvania Bulletin* of the Advance Notice of Proposed Rulemaking to file written comments and 90 days from the date of publication to file reply comments.

4. Comments should, where appropriate, address the 15 issues identified in this order and should include, where applicable, a numerical reference to the existing regulation(s) which the comment(s) address, proposed language for revision, and a clear explanation for the recommendation.

5. Interested parties should file an original plus 15 copies of each comment to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

6. An electronic copy of the comments should be electronically mailed to Elizabeth Barnes, Assistant Counsel, at ebarnes@state.pa.us, and these comments in turn will be placed on the Commission's website for public viewing at www.puc.state.pa.us.

7. The contact persons for this rulemaking are Darren Gill (Bureau of Conservation, Economics and Energy Planning, (717) 783-5244 (technical) and Elizabeth Barnes, Law Bureau, (717) 772-5408 (legal).

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1461. Filed for public inspection August 8, 2008, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

[4 PA. CODE CH. 247]

Death Benefits

The State Employees' Retirement Board (Board) proposes to amend 4 Pa. Code, Chapter 247 (relating to benefits) by adding language to § 247.7(a) (relating to death benefits) pertaining to the priority of death benefit payments in the event the payments cannot be made to a designated beneficiary or the member's estate.

A. Effective Date

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

B. Contact Person

For further information contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (717) 787-9657 or Salvatore A. Darigo, Jr., Counsel, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (717) 783-7317. Information regarding submitting comments on this proposal appears in Section H of this preamble.

C. Statutory Authority

This proposed amendment is being promulgated under the authority of 71 Pa.C.S. §§ 5902(h) and 5953 (relating to administrative duties of the board; and taxation, attachment and assignment of funds) of the State Employees' Retirement Code (Retirement Code).

D. Background and Purpose

This proposed amendment clarifies the priority for payment of a member's death benefit in the event that payment of the benefits cannot be made to a member's designated beneficiary or estate. The amendment would enable consistent application of the statute and could avoid litigation of priority issues.

E. Benefits, Costs and Compliance

Benefits

The proposed amendment is intended to alleviate confusion and prevent possible disputes with regard to conflicting demands on members' death benefits.

Costs

There are no costs to the Commonwealth, its citizens or State employees associated with this proposal.

Compliance Costs

The proposed amendment is not expected to impose any additional compliance costs on State employees.

F. Sunset Review

A sunset review is not applicable.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on July 25, 2008, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Finance Committee and the House State Government Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the 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 act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

H. Public Comments

Written Comments. Interested persons are invited to submit comments regarding the proposed amendment to Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716. Comments submitted by facsimile will not be accepted. The Board must receive comments, suggestions or objections within 30 days of publication in the *Pennsylvania Bulletin*.

Electronic Comments. Comments may be submitted electronically to the Board at rgentzel@state.pa.us and must be received by the Board within 30 days of publication in the *Pennsylvania Bulletin*. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

NICHOLAS J. MAIALE,
Chairperson

Fiscal Note: 31-12. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 4. ADMINISTRATION
PART X. STATE EMPLOYEES' RETIREMENT BOARD
CHAPTER 247. BENEFITS

§ 247.7. Death benefits.

(a) *Manner of payments.* In the event [no living] the member does not designate a beneficiary before death or the designation is not valid for any reason or no validly designated beneficiary survives the member by 30 days under 71 Pa.C.S. § 5709(c) (relating to the payment of benefits) to receive any of the death benefits provided in [section 5707 of] the code [(relating to death benefits)], [such] the benefits shall be payable to the estate of the member [or to the next of kin under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors)].

(1) If the estate of the member is entitled to receive the member's death benefits but does not file a claim for the benefits within 60 days of the date SERS mails notice of the benefits to the estate

of the member, the entire amount of the death benefit shall be payable in the following sequential priority:

- (i) To the appointed executor or administrator of the deceased member.
- (ii) To the surviving spouse of the member.
- (iii) To any child of the member.
- (iv) To the father or mother of the member.
- (v) To any sister or brother of the member.

(2) Payments made under paragraph (i)(iii), (iv) or (v) shall be made to only one person and not divided among members of the classes identified in those subparagraphs. Upon payment of a death benefit under this section, the System shall be discharged from any further liability for the payment of the death benefits to any other person. A person to whom payment is made under this paragraph shall be answerable therefor to anyone prejudiced by the payment.

* * * * *

[Pa.B. Doc. No. 08-1462. Filed for public inspection August 8, 2008, 9:00 a.m.]

NOTICES

CAPITOL PRESERVATION COMMITTEE

Request for Proposal

CPC 08.112: Lawrie Bronze Door investigation.

The scope of work includes disassembly, repair, cleaning, reglazing of one set of art bronze doors, hardware, frame and transom. The work also includes the modification of existing bronze sill and installation of new door closers and pivot sets, with the provision for temporary wood doors, frame, transom and hardware. Complete documentation (comprehensive text narration augmented with supporting documentation and photographs) of the dis-

sembly, repair, cleaning, modification and finishing processes is required. A \$100 deposit is required for issuance of project documents. Issue date of proposal will be August 6, 2008, at 2 p.m. Mandatory preproposal conference and walk through will be held on August 14, 2008, at 10 a.m., convene in Room 630, Main Capitol. Proposal receipt date is September 4, 2008, at 2 p.m. prevailing time. Project documents may be obtained in Room 630, Main Capitol Building, Harrisburg, PA or by contacting Tara Pyle (717) 783-6484.

RUTHANN HUBBERT-KEMPER,
Executive Director

[Pa.B. Doc. No. 08-1463. Filed for public inspection August 8, 2008, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), 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 July 29, 2008.

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|--|---|-----------------|---------------|
| 7-25-2008 | Embassy Bank for the Lehigh Valley, Bethlehem, and Embassy Interim Bank, Bethlehem Surviving Institution: Embassy Interim Bank, Bethlehem, with name change to "Embassy Bank for the Lehigh Valley" | Bethlehem | Filed |
| Application filed in conjunction with the reorganization of Embassy Bank for the Lehigh Valley, Bethlehem, into a bank holding company form of business whereby Embassy Bank for the Lehigh Valley will become the wholly-owned subsidiary of Embassy Bancorp, Inc., a new holding company in formation. | | | |

Branch Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|---|---------------|
| 7-22-2008 | ESB Bank Ellwood City Lawrence County | 831 Evans City Road Connoquenessing Township Renfrew Butler County | Filed |
| 7-22-2008 | Northwest Savings Bank Warren Warren County | 5835 Forbes Avenue Pittsburgh Allegheny County | Opened |
| 7-24-2008 | Fidelity Savings Bank Pittsburgh Allegheny County | 5000 Centre Avenue Pittsburgh Allegheny County | Approved |
| 7-24-2008 | First Commonwealth Bank Indiana Indiana County | Grant Street and Oliver Avenue Pittsburgh Allegheny County | Approved |
| 7-24-2008 | PeoplesBank, A Codorus Valley Company York York County | 124 North Main Street Bel Air Harford County, MD | Approved |

Branch Relocations

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 7-24-2008 | First Commonwealth Bank Indiana Indiana County | <i>To:</i> 3045 US Route 30 West Latrobe Westmoreland County <i>From:</i> 3954 US Route 30 West Latrobe Westmoreland County | Approved |
| 7-24-2008 | First Commonwealth Bank Indiana Indiana County | <i>To:</i> 8291 SR 22 New Alexandria Westmoreland County <i>From:</i> 412 West Main Street New Alexandria Westmoreland County | Approved |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|---|---------------|
| 7-24-2008 | Graystone Bank Lancaster Lancaster County | 37 North Market Street Frederick Frederick County, MD | Approved |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 08-1464. Filed for public inspection August 8, 2008, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Fiscal Year 2008-09 Grant Program for Destination Marketing Organizations

The Department of Community and Economic Development announces the availability of guidelines for the Fiscal Year 2008-09 Grant Program for Destination Marketing Organizations. This program administered by the Pennsylvania Tourism Office provides grants to support tourism promotion and marketing for eligible Tourism Promotion Agencies and other Tourism Destination Marketing Organizations. These supported activities will encourage the prosperous development of Pennsylvania business, industry and commerce, to expand markets and promote and develop new markets for Pennsylvania tourism, encouraging the location and development of new business, industry and commerce within the Common-

wealth, to aid in restoring employment in communities affected by unemployment, and to assist persons, firms, associations, political subdivisions, corporations, cooperative associations and other organizations to assist various public safety, recreation, senior citizens or other community service organizations.

Assistance from the Pennsylvania Tourism Office is in the form of grants from the Commonwealth to eligible applicants for projects which conform to the eligibility criteria detailed in the program guidelines.

Applications and requests for guidelines should be directed to Department of Community and Economic Development, Customer Service Center, Commonwealth Keystone Building, 400 North Street, Fourth Floor, Harrisburg, PA 17120-0225, (800) 379-7448, ra-dcedcs@state.pa.us.

DENNIS YABLONSKY,
Secretary

[Pa.B. Doc. No. 08-1465. Filed for public inspection August 8, 2008, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

Unless indicated otherwise, the Environmental Protection Agency (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> |
|------------------------------|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA-0061611 (Minor Sewage) | Municipal Authority of Westfall Township P. O. Box 235 Montrose, PA 18336 | Westfall Township Pike County | Delaware River 1D | Y |

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| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA-0061204 Renewal | Kidder Township Split Rock WWTP State Road 1003 P. O. Box 576 Lake Harmony, PA 18624 | Carbon County Kidder Township | Shingle Mill Run HQ-CWF 2A | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--|--------------------------------------|-----------------------------|
| PA0008435 (IW) | PPL Holtwood, LLC Holtwood Hydroelectric Station 482 Old Holtwood Road Holtwood, PA 17532-9720 | Lancaster County Martic Township | Susquehanna River 7K | Y |
| PA0084174 (Sew) | Covance Research Products, Inc. 310 Swampbridge Road Denver, PA 17517 | Lancaster County West Cocalico Township | UNT Cocalico Creek 7J | 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> |
|-----------------------------|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA0209267 | Stotzlufus Farms, Inc. Small Flow Treatment Facility 2620 Egypt Road Norristown, PA 19403 | Shippen Township Tioga County | UNT to Stowell Run 9A | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--|---|-----------------------------|
| PA0239089 | Joshua S. Wendel 1237 East Eschbach Road St. Marys, PA 15857 | City of St. Marys Elk County | UNT to Trout Run 17-A | Y |
| PA0210803 | Star Route Estates MHP 2182 Beulah Road Pittsburgh, PA 15235-5023 | East Mead Township Crawford County | UNT to Little Sugar Creek 16-D | Y |
| PA0222810 | E. Kay Cumberledge P. O. Box 404 Evans City, PA 16033 | Connoquenessing Township Butler County | Little Connoquenessing Creek 20-C | Y |
| PA0103551 | Historical and Museum Commission Drake Well Museum 202 Museum Lane Titusville, PA 16364 | Cherrytree Township Venango County | Oil Creek 16-E | Y |
| PA0210781 | Hamlin Township P. O. Box 235 Hazel Hurst, PA 16733-0235 | Hamlin Township McKean County | Marvin Creek 16-C | Y |
| PA0222607 | David Q. Steele 3462 Glen Hazel Road Wilcox, PA 15870 | Wilcox Township Elk County | UNT to the East Branch Clarion River 17-A | Y |
| PA0222585 | Brokenstraw Valley Area Authority 770 Rouse Avenue Youngsville, PA 16371 | Pleasant Township Warren County | Allegheny River 16-B | Y |
| PA0090590 | Port O'Call Recreational Club, Inc. 108 Bay Street Butler, PA 16002-4012 | Penn Township Butler County | UNT to Glade Run 20-C | 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.

PA0050776, Sewage, SIC 6515, **Coventry Terrace MHP, LLC**, 10006 Hammock Bend, Chapel Hill, NC 27517. This proposed facility is located in East Coventry Township, **Chester County**.

Description of Proposed Activity: Renewal of existing NPDES Permit to discharge 31,500 gpd treated sewage to Pigeon Creek.

The receiving stream, Pigeon Creek, is in the State Water Plan Watershed 3D and is classified for: HQ-TSF.

The proposed effluent limits for Outfall 001 are based on a design flow of 31,500 gpd.

| Parameters | Concentration (mg/l) | | |
|-------------------------|----------------------|---------------|------------------------------|
| | Average Monthly | Maximum Daily | Instantaneous Maximum (mg/l) |
| CBOD ₅ | | | |
| (5-1 to 10-31) | 15 | | 30 |
| (11-1 to 4-30) | 25 | | 50 |
| Total Suspended Solids | 30 | | 60 |
| Ammonia as N | | | |
| (5-1 to 10-31) | 3.0 | | 6.0 |
| (11-1 to 4-30) | 9.0 | | 18.0 |
| Dissolved Oxygen | 2.0 minimum | | |
| Fecal Coliform | 200 #/100 ml | | 1,000 #/100 ml |
| pH (Standard Units) | 6.0 minimum | | 9.0 |
| Total Residual Chlorine | 0.1 | | 0.3 |

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

1. Abandon STP.
2. Remedial Measure if Public Nuisance.
3. No Stormwater.
4. Necessary Property Rights.
5. Change in Ownership.
6. Minimize Cl₂.
7. Proper Sludge Disposal.
8. 2/Month Monitoring.
9. Laboratory Certification.

PA0050474, Sewage, SIC 4952, **Warwick Drainage Company**, 3441 Saint Peters Road, Saint Peters, PA 19470. This proposed facility is located in Warwick Township, **Chester County**.

Description of Proposed Activity: Renewal of an existing NPDES permit to discharge treated sewage from a sewage treatment plant.

The receiving stream, French Creek, is in the State Water Plan Watershed 3D and is classified for: exceptional value.

The proposed effluent limits for Outfall 001 are based on a design flow of 13,500 gpd.

| Parameters | Concentration (mg/l) | | |
|-------------------------|----------------------|---|------------------------------|
| | Average Monthly | Maximum Daily | Instantaneous Maximum (mg/l) |
| CBOD ₅ | 20 | | 40 |
| Total Suspended Solids | 25 | | 50 |
| Ammonia as N | 20 | | 40 |
| Dissolved Oxygen | 3.0 minimum | | |
| Total Residual Chlorine | Non Detect | | Non Detect |
| Fecal Coliform | | 200 colonies/100 ml as a Geometric Mean | |
| pH | | Within 6.0 to 9.0 Standard Units | |

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

1. Abandon STP When Municipal Sewers Available.
2. Remedial Measures if Public Nuisance.
3. Non Detectable Chlorine.

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

PA-0062341, Sewage, **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This existing facility is located in Lackawaxen Township, **Pike County**.

Description of Proposed Activity: Renewal of NPDES permit for the discharge of treated sewage, with addition of effluent limits for Total Phosphorus.

The receiving stream, Teedyuskung Creek, is in the State Water Plan Watershed No. 01B and is classified for: HQ, CWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Stroudsburg/East Stroudsburg is located on the Delaware River.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.15 mgd.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|--|---|---|
| CBOD ₅ | 15.0 | 30.0 |
| Total Suspended Solids | 30.0 | 60.0 |
| NH ₃ -N | | |
| (5-1 to 10-31) | 3.0 | 6.0 |
| (11-1 to 4-30) | 9.0 | 18.0 |
| Total Phosphorus | 2.0 | 4.0 |
| Dissolved Oxygen | A minimum of 7.0 mg/l at all times. | |
| Fecal Coliform | 200/100 ml as a Geometric Mean | |
| (5-1 to 9-30) | 2,000/100 ml as a Geometric Mean | |
| (10-1 to 4-30) | 6.0 to 9.0 Standard Units at all times. | |
| pH | | |
| Total Residual Chlorine | 0.20 | 0.46 |
| NO ₂ + NO ₃ as N | 14.0 | 28.0 |

The EPA waiver is in effect.

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

Application No. PA 0070190, Sewage, **Allegheny East Conference**, P. O. Box 266, Pine Forge, PA 19548. This facility is located in Douglass Township, **Berks County**.

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

The receiving stream, Maxatawny Creek, is in Watershed 3-D, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water System is located on the Schuylkill River, approximately 23 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0342 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-------------------------------------|---|
| CBOD ₅ | 25 | 50 |
| Total Suspended Solids | 30 | 60 |
| NH ₃ -N | 20 | 40 |
| Total Residual Chlorine | 0.5 | 1.6 |
| Dissolved Oxygen | Minimum of 5.0 at all times | |
| pH | From 6.0 to 9.0 inclusive | |
| Fecal Coliform | 200/100 ml as a Geometric Average | |
| (5-1 to 9-30) | 2,000/100 ml as a Geometric Average | |
| (10-1 to 4-30) | | |

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

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.

PA0228966, SIC 4952, **Keith Bonin**, R. R. 1, Rome, PA 18837. This proposed facility will be located in Orwell Township, **Bradford County**.

Description of Proposed Activity: The applicant proposes a new wastewater treatment system to serve the 292 unit Lake Bonin Campground recreational vehicle park.

The receiving stream, UNT to Jerome Creek, is in the State Water Plan Watershed 4D and is classified for: CWF. The nearest downstream public water supply intake, for the Danville Borough Municipal Authority, is located on the Susquehanna River and is 139 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.07 mgd.

| <i>Discharge Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|----------------------------------|--|---|
| pH | 6.0 to 9.0 at all times | |
| Fecal Coliforms (5-1 to 9-30) | 200/100 ml as a Geometric Mean and not greater than 1,000/100 ml in more than 10% of the samples tested | |
| (10-1 to 4-30) | 2,000/100ml as a Geometric Mean | |
| CBOD ₅ | 25 | 50 |
| Total Suspended Solids | 30 | 60 |
| Total Residual Chlorine | 0.5 | 1.6 |
| Ammonia-N (5-1 to 10-31) | 10 | 20 |
| (11-1 to 4-30) | 25 | 50 |
| Dissolved Oxygen | 3.0 as a minimum | |

PA#0233561, SIC 4952, **Pine Air Mobile Home Park**, 9455 Old Erie Pike, Clearfield, PA 16930. This proposed action is for issuance of an NPDES permit for discharge of treated sewage to a UNT to Morgan Run in Boggs Township, **Clearfield County**.

The receiving stream is in Watershed 8C Clearfield and is classified for the following uses: CWF and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply considered during the evaluation is Reliant Energy located at Shawville.

Outfall 001: The proposed effluent limits, based on a design flow of 0.003 mgd.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---------------------------------|---|---|
| CBOD ₅ | 25 | 50 |
| Suspended Solids | 30 | 60 |
| Total Chlorine Residual | 1.0 | 2.3 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a Geometric Average | |
| (10-1 to 4-30) | 2,000/100 ml as a Geometric Average | |
| pH | 6.0 to 9.0 Standard Units at all times. | |

The EPA waiver is in effect.

NPDES Public Notice

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

PA0216216, Sewage, **Burgettstown Smith Township Joint Sewage Authority**, 100 Plaza Drive, Suite 103, Atlasburg, PA 15004. This application is for renewal of an NPDES permit to discharge treated sewage from Raccoon Creek Wastewater Treatment Plant in Smith Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Raccoon Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Water Authority located on the Ohio River.

Outfall 001: existing discharge, design flow of 0.8 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 | 25 | 37.5 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen (6-1 to 10-31) | 3.0 | 4.5 | | 6.0 |
| (11-1 to 5-31) | 7.0 | 10.5 | | 14.0 |
| 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 | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0217361, Sewage, **East Huntingdon Township**, 1494 Route 981, Alverton, PA 15612-0009. This application is for renewal of an NPDES permit to discharge treated sewage from Iron Bridge Wastewater Treatment Plant in East Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Jacobs Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority.

Outfall 001: existing discharge, design flow of 0.25 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 (5-1 to 10-31) | 15 | | | 30 |
| (11-1 to 4-30) | 30 | | | 60 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 6 | | | 12 |
| (11-1 to 4-30) | 18 | | | 36 |
| 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 | 0.5 | | | 1.6 |
| 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.

PA0218006, Sewage, **Conemaugh Township Municipal Water and Sewer Authority**, 16980 Route 286 Highway West, Saltsburg, PA 15681-8023. This application is for renewal of an NPDES permit to discharge treated sewage from Blacklegs Sewage Treatment Plant in Conemaugh Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Blacklegs 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 Buffalo Township Municipal Authority—Freeport.

Outfall 001: existing discharge, design flow of 0.08755 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 | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 15.0 | | | 30.0 |
| 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 | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0219142, Sewage, **Municipal Sewage Authority of the Township of Sewickley**, P. O. Box 46, Herminie, PA 15637. This application is for renewal of an NPDES permit to discharge treated sewage from Sewickley Township Municipal Sewage Authority STP in Sewickley Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Little Sewickley Creek, 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 Westmoreland County Municipal Authority, McKeesport Plant, on the Youghiogheny River.

Outfall 001: existing discharge, design flow of 0.44 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 (5-1 to 10-31) | 20 | 30 | | 40 |
| (11-1 to 4-30) | 25 | 37.5 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 5.0 | 7.5 | | 10.0 |
| (11-1 to 4-30) | 15.0 | 22.5 | | 30.0 |

| Parameter | Concentration (mg/l) | | | |
|---------------------------------|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| 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 3.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0252441, Sewage, **AMFIRE Mining Company, LLC**, One Energy Place, Latrobe, PA 15650-9628. This application is for renewal of an NPDES permit to discharge treated sewage from Ondo Deep Mine STP in Brush Valley Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ferrier Run Via Culvert Under Township Road, 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 Central Indiana County Water Authority on Yellow Creek.

Outfall 001: existing discharge, design flow of 0.001925 mgd.

| Parameter | Concentration (mg/l) | | | |
|---------------------------------|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a Geometric Mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a Geometric Mean | | | |
| Total Residual Chlorine | Monitor and Report | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

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

PA0240206, Sewage, **Ronald L. Cokain**, 34789 Tryonville Road, Townville, PA 16360. This proposed facility is located in Steuben Township, **Crawford County**.

Description of Proposed Activity: New NPDES permit for a discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Cambridge Springs Borough is located on French Creek and is approximately 20.0 miles below point of discharge.

The receiving stream, the UNT to Muddy Creek, is in Watershed 16-A and classified for: HQ, CWF, aquatic life, water supply and recreation.

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

| Parameter | Concentrations | | |
|---------------------------------|--|-----------------------|------------------------------|
| | Average Monthly (mg/l) | Average Weekly (mg/l) | Instantaneous Maximum (mg/l) |
| Flow | XX | | |
| CBOD ₅ | 10 | | 20 |
| Total Suspended Solids | 20 | | 40 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a Geometric Average | | |
| pH | 6.0 to 9.0 Standard Units at all times | | |

XX—Monitor and Report on monthly DMRs.

The EPA waiver is in effect.

PA0240176, Sewage, **Karen and Roger D. Summerlin**, 641 Clermont Road, Mt. Jewett, PA 16740-2213. This proposed facility is located in Hamlin Township, **McKean County**.

Description of Proposed Activity: permit for a new treated nonmunicipal sewage discharge from a single-residence.

The receiving water is the Warner Brook. The receiving stream is in State Water Plan 16-C and is classified for the following uses: HQ-CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, PA/NY border, is located approximately 37.22 miles below the point of discharge.

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

| Parameter | Concentrations | | |
|------------------------|---------------------------|--|---------------------------------|
| | Average Monthly (mg/l) | Average Weekly (mg/l) | Instantaneous Maximum (mg/l) |
| Flow | XX | | |
| CBOD ₅ | 10 | | 20 |
| Total Suspended Solids | 10 | | 20 |
| Fecal Coliform | | 200/100 ml as a Geometric Average | |
| Ultraviolet Light | XX | | |
| pH | | 6.0 to 9.0 Standard Units at all times | |

XX—Monitor and Report.

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)

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

WQM Permit No. 3908403, Sewerage, **Lehigh County Authority**, 1053 Spruce Street, Allentown, PA 18106-0348. This proposed facility is located in Weisenberg Township, **Lehigh County**.

Description of Proposed Action/Activity: This project involves the upgrade of the existing wastewater treatment plant to increase capacity from 12,000 gpd to 40,000 gpd. The upgraded WWTP will treat wastewater flows from existing Arcadia West Industrial Park, the proposed West Hill Business Center and the Bandit Truck Stop.

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

WQM Permit No. 3608202, Industrial Waste, **PPL Holtwood, LLC, Holtwood Electric Plant**, 2 North 9th Street, Allentown, PA 18101. This proposed facility is located in Martic Township, **Lancaster County**.

Description of Proposed Action/Activity: Relocation of Incidental Waste Treatment basin (temporary and permanent) due to expansion of hydroelectric generating project (new power station).

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

WQM Permit No. 0808401, Sewerage, SIC 4952, **Keith Bonin**, R. R. 1, Rome, PA 18837. This proposed facility will be located in Orwell Township, **Bradford County**.

Description of Proposed Action/Activity: The applicant proposes a new wastewater treatment system to serve the 292 unit Lake Bonin Campground recreational vehicle park. The system will consist of the existing 19 septic tanks, the existing collection system, the existing equalization basin, a proposed dosing chamber, a proposed surface sand filter, proposed erosion chlorination and a proposed chlorine contact tank.

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

WQM Permit No. 4208404, Sewerage, **USDA Forest Service, Allegheny National Forest**, P. O. Box 847, 222 Liberty Street, Warren, PA 16365. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: This project documents the existing wastewater collection and treatment facilities known as the North Central Lagoon, for the purpose of obtaining a Pennsylvania Water Quality Management Permit (Part II Permit). The North Central Lagoon was constructed in 1976 to serve two purposes: To treat sewage pumped from vault toilets and holding tanks at National Forest recreation areas around the Allegheny Reservoir and to treat wastewater from the adjacent Bradford Ranger Station.

WQM Permit No. 2008401, Sewerage, **Ronald L. Cokain**, 34789 Tryonville Road, Townville, PA 16360. This proposed facility is located in Steuben Township, **Crawford County**.

Description of Proposed Action/Activity: The proposed project is the construction of a Single-Residence Sewage Treatment Plant, to replace a malfunctioning in-ground septic system.

WQM Permit No. 2408401, Sewerage, **USDA Forest Service, Allegheny National Forest**, P. O. Box 847, 222 Liberty Street, Warren, PA 16365. This proposed facility is located in Jones Township, **Elk County**.

Description of Proposed Action/Activity: The treatment system and spray irrigation field are located on a hilltop adjacent to the Twin Lakes Recreation Area, and encompass about 2/5 acres. Twin Lakes Recreation Area covers about 60 acres and includes 51 campsites, trailer dump station, two group camping areas, a picnic area, swimming beach and hiking trails. The wastewater system includes gravity and pressure sewage collection systems and an aerated lagoon treatment system with spray irrigation disposal.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)****VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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

Luzerne County Conservation District: Smith Pond Road, Lehman, PA 18627-0250, (570) 674-7991.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI024008001 | Aqua Pennsylvania, Inc. Attn: Roswell McMullen 4 South Fourth Street P. O. Box 32 Reading, PA 19603 | Luzerne | Bear Creek Township | Mud Run HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|------------------------------|
| PAI025208010 | Nickles Realty, Inc. 104 Bennet Plaza Suite 1A Milford, PA 18337 | Pike | Dingman Township | Raymondskill Creek HQ-CWF |

Lehigh County Conservation District: Lehigh Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI023908017 | Ralph Handwerk 2717 North Lane Orefield, PA 18069 | Lehigh | Lowhill Township | Hassen Creek HQ-CWF, MF |

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

Butler County Conservation District: 122 McCune Drive, Butler, PA 16001-6501, (724) 284-5270.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI061008001 | Forward Development Services, LLC 3910 Route 8 Allison Park, PA 15101 | Butler | Lancaster Township | UNT Scholars Run WWF |

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

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

CAFO Notices of Intent Received

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

WQM Permit No. 2008201, CAFO Operation, SIC 0241, **Bortnick Dairy, LLC**, 21820 Palmer Road, Conneautville, PA 16406. This proposed facility is located in Beaver Township, **Crawford County**.

Description of Proposed Action/Activity: Bortnick Dairy, an existing dairy farm, applied for of a Water Quality Management permit for the construction and operation of an anaerobic digester to produce methane, which will be used as fuel in an electrical generator for the purpose of powering farm operations. The digester will consist of two 625,000 gallon reinforced concrete tanks.

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.

Application No. 1508507, Public Water Supply.

Applicant **Water Water Works, Inc.**
 Township Warwick
 County **Chester**
 Responsible Official Richard Orlow
 1345 Hares Hill Road
 Phoenixville, PA 19460
 Type of Facility PWS
 Consulting Engineer Earth Companies
 1345 Hill Road
 Phoenixville, PA 19460
 Application Received Date May 9, 2008
 Description of Action The construction of a 153,00 gallon storage tank.

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

Application No. 4508502, Public Water Supply.

Applicant **CB H2O, LP**
 Pocono Township
Monroe County
 Responsible Official Arthur Berry III, Manager
 CB H2O, LP
 P. O. Box 168
 Tannersville, PA 18372
 Type of Facility Public Water System
 Consulting Engineer RKR Hess Associates, Inc.
 112 North Courtland Street
 East Stroudsburg, PA
 Application Received Date July 15, 2008

Description of Action The addition of wells Nos. 2 and 3, disinfection, and a 0.3 million gallon storage tank to serve a new hotel and waterpark.

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

Permit No. 0608505, Public Water Supply.

Applicant **Borough of Bally**
 Municipality Bally Borough
 County **Berks**
 Responsible Official Leo Mutter
 Borough Council President
 425 Chestnut Street
 Bally, PA 19503
 Type of Facility Public Water Supply
 Consulting Engineer Michael F. Bedard, P. E.
 ARCADIS U.S., Inc.
 6 Terry Drive
 Newtown, PA 18940

Application Received May 8, 2008
 Description of Action Permit for new Well source No. 4 and associated treatment facilities.

Application No. 2808505, Minor Amendment, Public Water Supply.

Applicant **Trickling Springs Creamery**
 Municipality Guilford Township
 County **Franklin**
 Responsible Official Fred D. Rodes
 General Manager
 2330 Molly Pitcher Highway,
 South
 Chambersburg, PA 17201
 Type of Facility Public Water Supply
 Consulting Engineer Janet R. McNally, P. E.
 William F. Hill & Assoc., Inc.
 207 Baltimore Street
 Gettysburg, PA 17325
 Application Received July 7, 2008
 Description of Action Installation of a 1 micron filter and disinfection.

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

Permit No. 5608503A1, Public Water Supply.

Applicant **Borough of Somerset**
 340 West Union Street
 Somerset, PA 15501
 Township or Borough Somerset Borough
 Responsible Official Benedict Vinzani
 Borough of Somerset
 340 West Union Street
 Somerset, PA 15501
 Type of Facility Water treatment plant
 Consulting Engineer The EADS Group, Inc.
 1126 Eighth Avenue
 Altoona, PA 16602

Application Received July 9, 2008
Date

Description of Action Amendment to construction permit number 5608503. Addition of chlorination disinfection facilities at their proposed chemical feed building.

MINOR AMENDMENT

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

Application, Minor Amendment, Public Water Supply.

Applicant **Edward A. Freeman, II**
Tunkhannock Township
Wyoming County

Responsible Official Edward A. Freeman, II
R. R. 1
Box 160-37
Dallas, PA 18612
(570) 836-1437

Type of Facility Community Water System

Consulting Engineer NA

Application Received July 1, 2008
Date

Description of Action Application for transfer of ownership of the community water system serving Mount Airy Estates.

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.

Haven Peniel Senior Citizen Residence, City of Philadelphia, **Philadelphia County**. William G. Murray, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Faye Wilson, Haven Penile Development Corporation, 2301 West Oxford Street, Philadelphia, PA 19121 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of lead, PAH. The intended use of the property is residential.

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

John F. Lengel, Inc., Lower Heidelberg Township, **Berks County**. Liberty Environmental, Inc., 10 North Fifth Street, Suite 200, Reading, PA 19601, on behalf of John F. Lengel, Inc., 6841 Penn Avenue, Wernersville, PA 19565, submitted a Notice of Intent to Remediate site soils contaminated by a release of No. 2 fuel oil. The property is a fuel oil dealer and will remain so in the future. The applicant is seeking to remediate to the Statewide Health Standard.

Mount Union Creosote Site AOC-1, Mount Union Borough, **Huntingdon County**. Environmental Alliance, Inc., 1812 Newport Gap Pike, Wilmington, DE 19808, on behalf of Mount Union School Area School District, 28 West Market Street, Mount Union, PA 17066, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with PAHs. Future use of the site will be for recreational activities. The site will be remediated to the Site-Specific Standard.

**OPERATE WASTE PROCESSING OR DISPOSAL
AREA OR SITE**

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

Northcentral Region: Regional Solid Waste Manager, 208 West 3rd Street, Suite 101, Williamsport, PA 17701-6448.

Permit Application No. 100963. County of Lycoming, 48 West Third Street, Williamsport, PA 17701. The application for the expansion of the Lycoming County Landfill in Brady Township, **Lycoming County**, was deemed administratively complete on July 23, 2008, by the Williamsport Regional Office. A Local Municipal Involvement Process (LMIP) meeting was held on July 2, 2008, and at that time an alternate review timeline of 510 days was negotiated between the applicant, the host county, and the Department. The host township was not represented at the LMIP meeting and was not a party to the timeline negotiations.

Comments concerning the application should be directed to David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the general permit application may contact the Williamsport Regional Office, (570) 327-3740. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

32-00397: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) on July 15, 2008, to install a coal processing facility at their Heilwood Mine, in Pine Township, **Indiana County**.

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

25-095G: Lord Corporation—Erie Plant (1635 West 12th Street, Erie, PA 16514) for installation of a new 18,000 cfm baghouse to replace an existing baghouse (C06) that controls emissions from silicone mixer (152), silicone mills (153 and 154), compound storage weigh station (155) and lampblack weigh station (114) in Erie City, **Erie County**. This is a State-only facility.

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

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

66-315-052: Proctor & Gamble Paper Products, Co. (P. O. Box 32, Mehoopany, PA 18629-0032) for modification of a paper converting line at their facility in Washington Township, **Wyoming County**. This facility is a Title V facility. The modification of the converting operation will add two new converting lines to the current paper converting operation. This additional equipment will result in an increase of 34.5 tpy of VOCs. This modification of the converting line is subject to Subpart KK of the National Emission Standards for HAPs: National Emission Standards for the Printing and Publishing Industry, 40 CFR 63.820—63.839 and Subpart JJJJ of

National Emission Standards for HAPs: Paper and Other Web Coating, 40 CFR 63.3280—63.3420. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements and will be incorporated into the Title V Operating Permit through an Administrative Amendment in accordance with 25 Pa. Code § 127.450.

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

19-318-020A: Patriot Metal Products, Inc. (1005 North Vine Street, Berwick, PA 18603) submitted an application to the Department of Environmental Protection (Department) for plan approval to construct and operate a surface coating operation (one paint booth and associated panel filters and a 1.5 mmBtu/hr natural gas fired curing oven) at their facility located in Berwick Borough, **Columbia County**.

The Department's review of the information submitted by Patriot Metal Products indicates that the proposed surface coating operation will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the PM emission limitation of 25 Pa. Code § 123.13 and the surface coating requirements of 25 Pa. Code § 129.52. The surface coating operation has the potential to emit 8.00 tons of VOCs and 0.75 ton of HAPs in any 12-consecutive month period. Additionally, if the Department determines that the surface coating operation is in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into a State-only operating permit by means an administrative amendment under 25 Pa. Code § 127.450.

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

1. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID P105 is a Col-Med model ESD-26SB paint spray booth. Source ID P105 shall be equipped with spray booth filters and the resultant PM concentration in the exhaust shall not exceed 0.01 grain per dry standard cubic foot.

2. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the paint spray booth shall be equipped with instrumentation to continuously monitor the differential pressure across the filters.

3. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall maintain an adequate supply of spare paint booth filters in order to change any filter in need of replacement.

4. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of VOCs and total HAPs from Source ID P105 shall not exceed 8.00 tons and 0.75 ton, respectively, in any 12-consecutive month period.

5. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, acetone shall be the only cleaning solvent used in the spray paint booth and spray guns approved herein, unless prior authorization has been obtained from the Department to use an alternate solvent considered by the Department to be equivalent to acetone. The total combined amount of acetone and any alternate

solvent determined by the Department to be equivalent to acetone shall not exceed 150 gallons in any 12-consecutive month period.

6. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, all coatings shall be applied by High Volume, Low Pressure (HVLP) spray technology. The pressure at the cap of the spray gun shall not exceed 10 psi.

7. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall test the pressure at the cap of the HVLP guns at least once per week and record the reading in a logbook to verify compliance with the pressure requirement. These records shall be retained for a minimum of 5 years and be presented to the Department upon request.

8. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, all coatings, additives and cleaning solvents shall be kept in closed containers when not in actual use.

9. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, spray equipment, lines, and the like shall be cleaned either by flushing/spraying a solid liquid stream into an appropriate recovery receptacle or by soaking equipment in closed containers. Under no circumstances shall solvent be atomized while flushing/spraying. The use of solvent-laden rags to wipe down equipment is acceptable as long as the rags are stored in closed containers after use, until properly disposed of. Under no circumstances shall waste solvent or other materials or solvent-laden rags be treated in a manner that would intentionally promote the evaporative loss of solvent.

10. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID P108 is a Col-Met Powder cure batch oven rated at 1.5 mmBtu/hr. Additionally, Source ID P108 shall only be fired on natural gas.

11. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12 and 25 Pa. Code § 129.52, the VOC content of the as applied coatings shall not exceed the following levels:

- a) 10.34 lbs VOC/lb coating solids for clear coatings.
- b) 6.67 lbs VOC/lb coating solids for topcoats.
- c) 6.67 lbs VOC/lb coating solids for air-dried coatings.
- d) 6.67 lbs VOC/lb coating solids for extreme performance coatings.
- e) 5.06 lbs VOC/lb coating solids for all other coatings.

12. The permittee shall maintain daily records of all coatings, and cleaning solvents used in, or associated with the use of the surface coating operation. The respective records shall include the following:

- a. the identity of each material used;
- b. the mix ratio;
- c. the density or specific gravity;
- d. an up-to-date Certified Product Data Sheet for each material used;
- e. the amount in gallons or pounds of each coating used each month;
- f. the density of each material as-applied in pounds per gallon;
- g. the VOC content of each material as-applied;
- h. the HAP content of each material as-applied (% by weight); and

Records generated under this condition shall be retained onsite for a period of at least 5 years from the date of generation and shall be provided to the Department upon request.

13. The permittee shall keep records of the VOC and HAP emissions on a monthly basis from Source ID P105 and the corresponding 12-consecutive month total. These records shall be retained for a minimum of 5 years and be provided to the Department upon request.

14. The permittee shall submit quarterly records to the Department of the following:

- a. the identity and amount of each coating used each month and the corresponding 12-consecutive month total;
- b. the VOC and HAP emissions each month and the corresponding 12-consecutive month total;
- c. the amount acetone used each month and the corresponding 12-consecutive month total.

The reports are due 60 days after the end of the respective calendar quarter.

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

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

24-012H: C/G Electrodes LLC—St. Marys Plant (800 Theresia Street, St. Marys, PA 15857-1898) for exhausting an existing source (metallurgical coke screening operations venting through a dust collector indoors) to the outdoors in St. Marys City, **Elk County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

- Emissions shall with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions respectively.
- No person may permit the emission into the outdoor atmosphere of PM in a manner that the concentration of PM in the effluent gas exceeds 0.02 grain per dry standard cubic foot.
- Conduct stack testing for PM compliance.
- The permittee shall record the following operational data from the control devices (these records may be done with strip charts recorders, data acquisition systems or manual log entries):
- Pressure drop across control device—daily as defined as at least once every calendar day.

- The permittee shall perform a daily operational inspection of the control device.

- Control device operating parameters, including pressure drop, shall be operated in a range defined by the manufacturer or in a range developed during compliant stack testing. The operating range shall be determined within 90 days after startup of the control device and shall be indicated to the Department in writing prior to administratively amending into the facility operating permit. The operating range shall be made part of the facility operating permit.

- The permittee shall operate the control device at all times that the source is operation.

- The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 08149: Pearl Pressman Liberty (5th and Poplar Streets, Philadelphia, PA 19123) for installation of a Mitsubishi D3000 LX 6 color sheetfed lithographic nonheatset press. The potential emission from the new press is 5.01 tons of VOCs per year and 1.20 tons of HAPs per year. The plan approval will contain operating and recordkeeping requirements to ensure the press is operated within all applicable requirements.

OPERATING PERMITS

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00124: Fairless Energy, LLC (50 Sinter Road, Fairless Hills, PA 19030) for operation of an electric generating station in Falls Township, **Bucks County**. The permit is for a Title V facility. The facility is considered a major source of NO_x, CO, VOCs and PM emissions, with maximum potential emissions of 424.7 tpy, 360.5 tpy, 88.4 tpy and 387.6 tpy, respectively. Fairless Energy, LLC is a subsidiary of Dominion Resources, Inc. It owns and operates four natural gas-fired combined-cycle electric generation units. Each unit is equipped with an inlet air cooling system, duct burners, a heat recovery steam generator and selective catalytic reduction system. The plant is exclusively run on natural gas. Other sources include two natural gas preheaters, one auxiliary boiler and four cooling towers. The combustion turbines and duct burners are subject to 40 CFR Part 60, New Source Performance Standards, Subpart GG and Subpart Da, respectively. The auxiliary boiler and natural gas preheaters are subject to 40 CFR Part 60, New Source Performance Standards, Subpart Dc. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

V06-015: Rohm and Haas Co. (5000 Richmond Street, Philadelphia, PA 19137) for operation of a chemical manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources

include two 48.4 mmBtu/hr boilers, one emergency river pump, one fire water pump, a UB process, a GOAL process, an ambersorb process, wastewater treatment, and groundwater remediation, and storage tanks. Control devices include scrubbers, cyclone collectors and dust collectors.

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

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

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

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

29-03004: Mellott Co.—formerly Mellott Enterprise—Warfordsburg Manufacturing Facility (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267-8555) for coating operations in Bethel Township, **Fulton County**. The annual emissions of the VOC from the sources are about 11 tpy. This is a renewal of the natural minor operating permit issued in January 2004.

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

19-00019: Dillon Floral Corp. (933 Columbia Boulevard, Bloomsburg, PA 17815-8844) for their greenhouse located in the Town of Bloomsburg, **Columbia County**. The facility's main sources include one multifuel (No. 4 and No. 6 fuel oil, WDLF and natural gas) boiler, one wood-fired boiler, one propane-fired engine and three fuel storage tanks. The facility has the potential to emit PM₁₀, NO_x, CO, VOCs and combined and individual HAPs emissions below the major thresholds. The facility has taken a synthetic minor restriction to limit the SO_x emissions below the major threshold. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35

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

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

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

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

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

Coal Applications Received

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

| <i>Parameter</i> | <i>30-Day Average</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
|--|---------------------------|---------------------------------|----------------------------------|
| Iron (total) | 3.0 mg/l | 6.0 mg/l | 7.0 mg/l |
| Manganese (total) | 2.0 mg/l | 4.0 mg/l | 5.0 mg/l |
| Suspended solids | 35 mg/l | 70 mg/l | 90 mg/l |
| pH ¹ | | greater than 6.0; less than 9.0 | |
| Alkalinity greater than acidity ¹ | | | |

¹The parameter is applicable at all times.

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

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

Permit Number 30020701 and NPDES Permit No. PA0235482, Consol Pennsylvania Coal Company, (1800 Washington Road, Pittsburgh, PA 15241), to renew the permit for the Bailey Central Mine Complex CRDA No. 3 and No. 4 in Richhill and Gray Townships, **Greene County** and related NPDES Permit. No additional discharges. Application received May 21, 2008.

Permit Number 30841314 and NPDES Permit No. PA0215368, Dana Mining Company of Pennsylvania, LLC, (308 Dents Run Road, Morgantown, WV 26501), to renew the permit and related NPDES permit and revise the permit for the Titus Mine in Dunkard Township, **Greene County** to add acreage to the permit and subsidence plan for development mining. Underground Acres Proposed 991.38, Subsidence Control Plan Acres Proposed 991.38. No additional discharges. Application received July 14, 2008.

Permit Number 30841316 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company, (1800 Washington Road, Pittsburgh, PA 15241), to revise the permit for the Bailey Mine and Prep Plant in Richhill and Morris Townships, **Greene County** to add acreage for development mining of the upper east corridor area. Underground Acres Proposed 330.14, Subsidence Control Plan Acres Proposed 4,448.05. No additional discharges. Application received June 25, 2008.

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

56910201 and NPDES No. PA0599271. AMFIRE Mining Company, LLC, One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface mine in Paint Township, **Somerset County**, affecting 31.0 acres. Receiving stream: Paint Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 11, 2008.

32813007 and NPDES No. PA0125458. Cloe Mining Company, Inc., P. O. Box J, Grampian, PA 16838, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Rayne and East Mahoning Townships, **Indiana County**, affecting 323.7 acres. Receiving streams: UNTs to/and Pine Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is ICMSA Crooked Creek. Application received July 17, 2008.

56930106 and NPDES No. PA0212458. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for reclamation only of a bituminous surface mine in Black Township, **Somerset County**, affecting 192.2 acres. Receiving streams: UNTs to/and Casselman River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 22, 2008.

56930112 and NPDES No. PA0212636. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for reclamation only of a bituminous surface mine in Black Township, **Somerset County**, affecting 316 acres. Receiving streams: UNTs to/and Rhodes Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 22, 2008.

32030110. Fossil Fuel, Inc., 690 Weaver Road, Marion Center, PA 15759, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in East Mahoning and Grant Townships, **Indiana County**, affecting 43.0 acres. Receiving streams: UNTs to Crooked Run to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 23, 2008.

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

16080106 and NPDES Permit No. PA0258601. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Commencement, operation and restoration of a bituminous surface strip operation in Toby and Licking Townships, **Clarion County** affecting 85.5 acres. Receiving streams: UNTs to Cherry Run and Cherry Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application to include a land-use change from forestland to pastureland/land occasionally cut for hay. Application received July 17, 2008.

33020107 and NPDES Permit No. PA0242233. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 16373). Renewal of an existing bituminous surface strip and auger operation in Oliver Township, **Jefferson County** affecting 138.7 acres. Receiving streams: Hadden Run to Little Sandy Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received July 21, 2008.

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* pH* | | greater than 6.0; less than 9.0 | |

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 mg/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. 50960801. Roy E. and Scott D. Hall, 1013 Sandy Hollow Road, New Bloomfield, PA 17068, bond release on a small noncoal (industrial minerals) operation in Carroll Township, **Perry County**, affecting 2.0 acres. Receiving stream: UNT to Perry Furnace Run. Application received July 16, 2008.

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

8274SM4A2C9. Rohrer's Quarry, Inc., (70 Lititz Road, Lititz, PA 17543), boundary correction to an existing quarry operation to increase the acreage from 171.8 acres to 190.3 acres in Penn and Warwick Townships, **Lancaster County**, receiving stream: UNT to Little Conestoga Creek. Application received July 17, 2008.

36990801. David M. Wise, (5028 Walnut Lane, Mohnton, PA 19540), Stage I and II bond release on a quarry operation in West Cocalico Township, **Lancaster County** affecting 3.0 acres on property owned by John Hoover. Application received July 18, 2008.

39880301A1C8 and NPDES Permit No. PA0594199. Eastern Industries, Inc., (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in North Whitehall Township, **Lehigh County**, receiving stream: Coplay Creek, classified for the following use: CWF. Application received July 22, 2008.

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 Floodplain Management Act (32 P. S. § 679.302) and requests for certification under Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E51-232. Fairmount Park Commission, One Parkway Building, 1515 Arch Street, 11th Floor, Philadelphia, PA 19102-1501, Philadelphia City, **Philadelphia County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the stabilization of an eroding streambank along the Wissahickon Creek (TSF) located at the base of the Colony Castle—Philadelphia Canoe Club:

1. To remove an existing 100-foot long gabion wall along the Wissahickon Creek, and to construct and maintain, in its place, a 250-foot long precast concrete retaining wall.
2. To place approximately 600 cubic yards of fill within the floodway of the Wissahickon Creek associated with the proposed site grading activities.
3. To install and maintain approximately 20 linear feet of rip-rap streambank protection at the upstream transition of the proposed retaining wall.

This project is located approximately 200 feet from 4900 Ridge Avenue (Germantown, PA USGS Quadrangle N: 2.5 inches; W: 11.5 inches).

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

E67-857: Mummert Enterprises, Inc., Morningstar Development, Attn.: Tim Mummert, 1945 Hanover Pike, Littlestown, PA 17340, Penn Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To fill 0.036 acre of emergent wetland located in the Oil Creek (WWF) Watershed. The project is located on the southeast quadrant at the intersection of Lexington Drive and Timber Lane (Hanover, PA Quadrangle N: 7.3 inches; W: 10.9 inches, Latitude: 39° 47' 24"; Longitude: 76° 57' 11") in Penn Township, York County. The project proposes wetland replacement of 0.037 acre.

E07-423: Grace Baptist Church, Dan Albright, 1553 Columbia Avenue, Tyrone, PA 16686, Tyrone Borough, **Blair County**, United States Army Corps of Engineers, Baltimore District.

To fill in a 0.0057 acre of de minimis wetland along the watershed of Bald Eagle Creek (TSF) to construct a new worship center located along Adams Avenue about 900 feet southwest of the Decker Run culvert (Tyrone, PA Quadrangle N: 11.25 inches; W: 15.70 inches, Latitude: 40° 41' 13"; Longitude: 78° 14' 18") in Tyrone Borough, Blair County.

E67-825: Robert Barclay, Windy Brae Manor Mobile Home Park, 14871 Mount Olivet Road, Stewartstown, PA 17363, North Hopewell Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 36-inch concrete pipe culvert 16-feet long and two 6-inch water lines in a UNT to the East Branch Codorus Creek (HQ-CWF) and in associated wetlands (Glen Rock, PA Quadrangle Latitude: 76° 38' 8"; Longitude: 39° 47' 34", N: 7.7 inches; W: 1.5 inches) in North Hopewell Township, York County. The project will permanently impact 0.016 acre of Exceptional Value palustrine emergent wetlands. As the wetland impact is considered de minimis, no mitigation is required.

E28-345: Kabro of Majestic Ridge, LLC, Robert Miller, 24 Buckingham Way, Freehold, NJ 07728, Majestic Ridge Residential Development, Hamilton Township, **Franklin County**, United States Army Corps of Engineers, Baltimore District.

The applicant proposes to: 1) install and maintain 2,500.0 cubic yards of fill in order to fill/abandon approximately 0.1 acre of an existing offline irrigation pond to provide the appropriate protection for a proposed private well (Chambersburg, PA Quadrangle N: 14.6 inches; W: 11.5 inches, Latitude: 39° 57' 18.0"; Longitude: 77° 42' 21.3"); 2) install and maintain a clay liner in the remaining 0.73 acre of the existing irrigation pond (Chambersburg, PA Quadrangle N: 14.6 inches; W: 11.4 inches, Latitude: 39° 57' 16.7"; Longitude: 77° 42' 20.6"); 3) install and maintain an 18.0-inch HDPE culvert in a UNT to Back Creek (TSF) impacting 73.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 14.5 inches; W: 11.7 inches, Latitude: 39° 57' 18.9"; Longitude: 77° 42' 27.9"); 4) install and maintain an 18.0-inch HDPE culvert in a UNT to Back Creek (TSF) impacting 55.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 13.2 inches; W: 11.4 inches, Latitude: 39° 57' 10.6"; Longitude: 77° 42' 20.9"); 5) restore and maintain approximately 700.0 linear feet of a UNT to Back Creek (TSF) in order to remove an existing 0.43 acre online irrigation pond (Chambersburg, PA Quadrangle N: 13.3 inches; W: 11.55 inches, Latitude: 39° 57' 12.9"; Longitude: 77° 42' 25.6"); 6) install and maintain 245.0 linear feet of erosion control matting in a UNT to Back Creek

(TSF) (Chambersburg, PA Quadrangle N: 14.1 inches; W: 10.6 inches, Latitude: 39° 57' 8.7"; Longitude: 77° 42' 1.6"); 7) install and maintain an 18.0-inch HDPE culvert in a UNT to Back Creek (TSF) permanently impacting 100.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 13.2 inches; W: 11.5 inches, Latitude: 39° 57' 12"; Longitude: 77° 42' 24.3"); 8) install and maintain an 18.0-inch HDPE culvert in a UNT to Back Creek (TSF) permanently impacting 108.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 13.2 inches; W: 11.6 inches, Latitude: 39° 57' 13.0"; Longitude: 77° 42' 26.8"); 9) install and maintain a 30.0-inch HDPE culvert in a UNT to Back Creek (TSF) permanently impacting 33.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 13.4 inches; W: 11.7 inches, Latitude: 39° 57' 14.8"; Longitude: 77° 42' 30.3"); 10) install and maintain an outfall structure to an existing onsite pond (Chambersburg, PA Quadrangle N: 13.9 inches; W: 10.8 inches, Latitude: 39° 57' 5.6"; Longitude: 77° 42' 5.6"); 11) install and maintain an 18.0-inch HDPE culvert in a UNT to Back Creek (TSF) permanently impacting 181.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 14.0 inches; W: 10.6 inches, Latitude: 39° 57' 7.1"; Longitude: 77° 42' 1.6"); 12) install and maintain an 8.0-inch PVC sanitary sewer line in a UNT to Back Creek (TSF) temporarily impacting 35.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 14.2 inches; W: 10.6 inches, Latitude: 39° 57' 10.6"; Longitude: 77° 42' 0.5"); and 13) install and maintain a 30.0-inch RCP culvert in a UNT to Back Creek (TSF) permanently impacting 202.0 linear feet of stream channel (Chambersburg, PA Quadrangle N: 14.0 inches; W: 12.2 inches, Latitude: 39° 57' 8.3"; Longitude: 77° 42' 43.0"). Impacts are associated with the construction of 95 townhouses, 74 duplexes and 84 single-family homes known as the Majestic Ridge Residential Development. The project is located at the Majestic Ridge Golf Resort just west of Sollenberger Road and north of Brechbill Road in Hamilton Township, Franklin County.

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

E10-448, Joseph M. Landis, 414 Freeport Street, Saxonburg, PA 16056. Joseph Landis Single-Residence Sewage Treatment Facility, in Clinton Township, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Curtisville, PA Quadrangle N: 40° 43' 47.98"; W: 79° 48' 3.45").

The applicant proposes to construct and maintain a 500 gpd Small Flow Treatment Facility at 414 Freeport Street, Clinton Township, Butler County, approximately 1 mile south of the Borough of Saxonburg. The construction includes an outfall structure along the east bank of a tributary to Sarver Run. Sarver Run is a perennial stream classified as a HQ-TSF.

ENVIRONMENTAL ASSESSMENTS

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

D49-019EA. Pennsylvania American Water Company, 800 West Hersheypark Drive, Hershey, PA 17033. Point Township, **Northumberland County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Geise's Dam across Lithia Spring Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 100 feet of stream channel. The dam is

located approximately 500 feet north of the intersection of SR 1024 (Ridge Road) and SR 1037 (Spruce Hollow Road) (Northumberland, PA Quadrangle Latitude: 40° 55' 48"; Longitude: 76° 45' 54").

WATER QUALITY CERTIFICATIONS REQUESTS

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

Requests for Certification under Section 401 of the Federal Water Pollution Control Act

The following requests have been made to the Department of Environmental Protection (Department) for certification under § 401(a) of the 1972 amendments to the Federal Water Pollution Control Act (33 U.S.C. § 1341(a)), that there is reasonable assurance that the construction herein described will not violate applicable Federal and State Water Quality Standards.

Prior to final approval of the proposed certification, consideration will be given to any comments, suggestions and objections, which are submitted in writing 30 days from the date of this notice. Comments should be submitted to the Department at the address indicated previously each of the following requests for certification. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are

addressed and a concise statement of comments, objections and suggestions in sufficient detail to inform the Department of the exact basis of the proposal and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given comments if deemed necessary to resolve conflicts. Each individual will be notified in writing of the time and place of any scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are available for inspection and review at the address indicated above each request for certification between 8 a.m. and 4 p.m. on each working day.

Certification Request Initiated By: Sunoco, Inc. (R & M), 1735 Market Street, Philadelphia, PA 19103.

Project Description/Location: This project involves the discharge of supernatant from the Army Corps of Engineers Fort Mifflin Confined Disposal Facility (CDF) to the Delaware River. Maintenance dredging is proposed at the Sunoco Fort Mifflin Terminal dock areas located on the Delaware River in Tinicum Township, Delaware County. Approximately 40,000 cubic yards of sediment will be removed and placed in the Fort Mifflin CDF located in the City of Philadelphia. Sediment will settle out in the basin and the supernatant will be returned to the Delaware Estuary.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of

practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

I. NPDES Renewal Permit Actions

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|------------------------------|---|--------------------------------------|--------------------------------------|-----------------------------|
| PA-0029416 | Camp Weequahic, Inc. R. R. 1 Box 1096 Lakewood, PA 18439 | Preston Township Wayne County | UNT to Sly Lake | Y |
| PA-0032859 (Minor Sewage) | Department of Transportation Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060 | Monroe County Pocono Township | Pocono Creek 01E | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--------------------------------------|--------------------------------------|-----------------------------|
| PA0024961 (Sew) | Oley Township Municipal Authority P. O. Box 19 Oley, PA 19547 | Berks County Oley Township | Manatawny Creek 3-B | Y |
| PA0087866 (GWCU) | Texas Eastern Transmission— Entriiken Compressor Station 5400 Westheimer Court Houston, TX 77056 | Huntingdon County Todd Township | UNT Great Trough Creek 11-D | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--|---|-----------------------------|
| PA0032549 | Department of Conservation and Natural Resources Bureau of State Parks Tom Ridge Environmental Center 301 Peninsula Drive Suite 1 Erie, PA 16505 | Presques Isle State Park Erie County | Presque Isle Bay of Lake Erie 15-PI | N |
| PA0103047 | Jerome M. Laughlin Laughlin Builders 8333 Edinboro Road Erie, PA 16509-4265 | McKean Township Erie County | UNT to Elk Creek 15EC | Y |
| PA0239046 | Ridgway Powdered Metals, Inc. P. O. Box 398 Ridgway, PA 15853 | Ridgway Township Elk County | Elk Creek 17-A | Y |

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

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

NPDES Permit No. PA0261149, CAFO, **Richard Hoffman**, 72 Scull Hill Loop Road, Bernville, PA 19506. This proposed facility is located in Penn Township, **Berks County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 405-AEU beef and poultry operation located in Watershed 3-C.

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

NPDES Permit No. PA0240141, Sewage, **Stephen Sherk**, 20 Yohe Road, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: This is a Single-Residence Sewage Treatment Plant discharging to a UNT to Willow Creek in Watershed 16-B.

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

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

WQM Permit No. WQG01670803, Sewage, **Bruce and Pamela Wagaman**, 1340 Mill Creek Road, York, PA 17404. This proposed facility is located in Manchester Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of a sewage treatment plant to serve their single-family residence.

WQM Permit No. 2807407, Sewage, **Cumberland Franklin Joint Municipal Authority**, 725 Municipal Drive, Shippensburg, PA 17257. This proposed facility is located in Letterkenny/Southampton Townships, **Franklin County**.

Description of Proposed Action/Activity: Construction/Operation of sewerage facilities consisting of: a grinder pump system serving Upper Strasburg and Pleasant Hall with a 2" to 8" diameter force main.

WQM Permit No. 2170410, Amendment 08-1, Sewage, **Lower Allen Township Authority**, 120 Limekiln Road, New Cumberland, PA 17070. This proposed facility is located in Lower Allen Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of sewerage facilities consisting of: replacement of manually cleaned bar screen with self-cleaning screen, replacement of biosolids system with an Autothermal Thermophilic Aerobic Digester and a Storage, Nitrification Denitrification Reactor, centrifuge dewatering system, biofilter odor control and future lime feed equipment.

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

WQM Permit No. WQG018633, Sewerage, **William R. Turner**, 6332 Meadowrue Lane, Erie, PA 16505-1026. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018637, Sewerage, **William E. Allison**, 6910 Orangeville Road, Sharpsville, PA 16150. This proposed facility is located in south Pymatuning Township, **Mercer County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

WQM Permit No. 2508403, Sewerage, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506-2509. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project involves the construction of a sanitary sewer 8" PVC gravity main line, 1 1/4" HDPE low pressure forcemain, service laterals, pump station and 4" PVC forcemain. Construction is anticipated to begin in Spring 2008.

WQM Permit No. WQG018635, Sewerage, **Ronald H. Morse**, 874 Bartlett Road, Harborcreek, PA 16421. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018634, Sewerage, **Coralie J. Kartesz**, 6464 East Lake Road, Harborcreek, PA 16421. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG028315, Sewerage, **Farmington Township**, P. O. Box 148, 32691 Route 66, Leeper, PA 16233. This proposed facility is located in Farmington Township, **Clarion County**.

Description of Proposed Action/Activity: Water and Sewer Extension Project Phase IV.

WQM Permit No. 4208401, Sewerage, **Stephen Sherk**, 20 Yohe Road, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

Northeast Region: Watershed 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> |
|-------------------------|---|---------------|-------------------------------|--|
| PAI024807014 | Traditions of America, LP 1 Saucon View Drive Bethlehem, PA 18017 | Northampton | Hanover Township | Monocacy Creek HQ-CWF |
| PAI021308001 | Blue Mountain Ski Area Land Development P. O. Box 216 Palmerton, PA 18071-0216 | Carbon | Lower Towamensing Township | Aquashicola Creek HQ-CWF, MF |
| PAI025205006 | Forest Glen Estates 826 Broadway 11th Floor New York, NY 10003 | Pike | Delaware Township | Dingman's Creek HQ-CWF Adams Creek EV |
| PAI023908007 | Miller Road Farms, LLC 8730 Claussville Road Fogelsville, PA 18051 | Lehigh | Lynn Township | School Creek EV |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|---------------------------------|
| PAI030603003-R | Edward J. Swoyer 19 North 6th Street Suite 200 Reading, PA 19608-8621 | Berks | City of Reading | Schuylkill River WWF |
| PAI030507003 | Department of Transportation Engineering District 9-0 1620 North Juniata Street Hollidaysburg, PA 16648 | Bedford | Hopewell Township | Bank Run-Yellow Creek HQ-CWF |

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

Cambria County Conservation District, 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|----------------------------|
| PAI051105003 (1) | Fiberblade, LLC 100 Commerce Drive Ebensburg, PA 15931 | Cambria | Cambria Township | Stewarts Run HQ-CWF |

Somerset County Conservation District, Somerset County AG Center, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814) 445-4652.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|---|
| PAI055608001 | The Buncher Company 5600 Forward Avenue Pittsburgh, PA 15217 | Somerset | Jefferson Township | Kooser Run/Laurel Hill Creek HQ-CWF |

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|----------------------------|--|
| PAI056308001 | Department of Transportation 825 Gallatin Avenue Uniontown, PA 15401 | Washington | South Strabane Township | UNT to Little Chartiers Creek HQ-WWF |

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 Small Flow Treatment Facilities |

| | |
|-------------|--|
| PAG-5 | General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems |
| PAG-6 | General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO) |
| 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 | Concentrated Animal Feeding Operations (CAFOs) |
| PAG-13 | Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) |

*General Permit Type—PAG-2**Facility Location:*

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|----------------------------------|--|
| Mayfield Borough Lackawanna County | PAG2003508006(1) | Phyllis Jaskowiec Mayfield Borough 739 Penn Avenue Mayfield, PA 18433 | Hosie Creek CWF | Lackawanna County Conservation District (570) 281-9495 |
| West Hanover Township Dauphin County | PAG2002208022 | Lee Frey Classic Communities Corp. 2151 Linglestown Road Harrisburg, PA 17112 | Manada Creek WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| Lower Swatara Township Dauphin County | PAR10I217R | John A. Kerschner Greenwood Hills Partnership 7300 Derry Street Harrisburg, PA 17111 | Susquehanna River WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| South Hanover Township Dauphin County | PAG2002208021 | David H. Hogg Central PA Equities 10, LLC 146 Pine Grove Circle Suite 100 York, PA 17403 | Swatara Creek WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| North Woodbury Township Blair County | PAG2000708013 | Blair County Airport Authority 2 Airport Drive Martinsburg, PA 16662 | Plum Creek WWF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |
| Springettsbury Township York County | PAG2006708038 | James O'Polka Whiteford Investments, LLC 1885 Whiteford Road York, PA 17402 | Mill Creek—Codus Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| York Haven Borough Newberry Township York County | PAS10Y070R-1 | PPI Corp. 2 North 9th Street Allentown, PA 18101 | Susquehanna River WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Howe Township Perry County | PAG2035008007 | HAMM Equities 2520 Renaissance Boulevard King of Prussia, PA 19406 | UNT to Juniata River WWF | Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068 (717) 582-5119 |

NOTICES

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| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|--|---|
| Manheim Township York County | PAG2006707088 | Cynthia and Steven Yingling 4464 Glenville Road Glen Rock, PA 17327 | Gun Powder Falls WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Dover Township York County | PAG2006705051 | Brenda Nestor Fox Run Creek Estates, LP 1250 East Hallendale Beach Boulevard Suite 300 Hallendale, FL 33009 | UNT to Fox Run TSF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Monaghan Township York County | PAG2006708016 | JVH Properties, LLC 700 Ayers Avenue Lemoyne, PA 17043 | Fishers Run CWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Springettsbury Township York County | PAG2006703095-R | Michael J. Weaver Judd Builders Developers 1750 Walton Road P. O. Box 1650 Blue Bell, PA 19422 | UNT to Codorus Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Hellam Township York County | PAG2006707060-1 | Ashton Investment Group 336 West King Street Lancaster, PA 17603 | Kreutz Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Hanover Borough York County | PAG2006708015 | ACTS 617 Group 10 Clover Lane Downingtown, PA 19335 | South Branch Conewago Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| East Cocalico Township Lancaster County | PAG2003608023 | Reamstown Church of God 57 East Church Street Reamstown, PA 17567 | Cocalico Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| East Cocalico Township Lancaster County | PAG2003608024 | E & J Development, LLC 109 Springville Road Kinzers, PA 17535 | Cocalico Creek—Conestoga River WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Clay Township Lancaster County | PAG2003608025 | Eugene K. Martin 2000 West Route 897 Denver, PA 17517 | Middle Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| East Donegal Township Lancaster County | PAG2003608027 | Edie Enterprises, LLC P. O. Box 586 Columbia, PA 17512 | Susquehanna River WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| New Holland Borough Lancaster County | PAG2003608035 | Geoffrey H. Class 508 West Main Street New Holland, PA 17551 | UNT to Mill Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|--|--|
| Ephrata Township Lancaster County | PAG2003608036 | Luke R. Zimmerman 750 Gristmill Road Ephrata, PA 17522 | Muddy Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| West Lampeter Township Lancaster County | PAG2003608037 | David Charles 26 Millersville Road Lancaster, PA 17603 | Big Spring Run WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| West Lampeter Township Lancaster County | PAG2003608039 | Pete Kingsley 22 Eagle Drive Lancaster, PA 17602 | UNT to Big Spring Run WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Clay Township Lancaster County | PAG2003608040 | Clay Township Supervisors 870 Durlach Road Stevens, PA 17578 | UNT to Middle Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Manheim Township Lancaster County | PAG2003608041 | Manheim Township School District 2933 Lititz Pike Lititz, PA 17543 | UNT to Little Conestoga Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| East Hempfield Township Lancaster County | PAG2003608043 | Kline Family Partnership 5 Holland Street Salunga, PA 17538 | Chickies Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| East Lampeter Township Lancaster County | PAG2003608044 | High Real Estate Group 1893 William Penn Way Lancaster, PA 17605 | UNT to Conestoga River WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Ephrata Township Lancaster County | PAG2003608045 | Gerry Horst 120 North Pointe Boulevard Lancaster, PA 17601 | Cocalico Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Ephrata Township Lancaster County | PAG2003608046 | Richard Bomberger 350 Lititz Road Manheim, PA 17545 | Cocalico Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Ruscombmanor Township Berks County | PAG2000603048R | Andrew Martin M & A Excavating, LLC 1523 Memorial Highway Oley, PA 19547 | Furnace Creek—Schuylkill River TSF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |

NOTICES

4425

*Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*Amity Township
Berks County

PAG2000607083

Amity Township
Berks CountyUNT to Schuylkill River
WWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Tilden Township
Berks County

PAR10C444-2

Tilden Township
Berks CountySchuylkill River
WWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Amity Township
Berks County

PAG2000608025

James Hollenbach
Hollenbach Elliott
Development Group, LLC
P. O. Box 507
Boyertown, PA 19512Schuylkill River
WWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201Cumberland
Township
Adams County

PAG000108001

Donald Yingling
D & L Enterprises
3574 Taneytown Road
Gettysburg, PA 17325UNT to Plum Run
WWFAdams County
Conservation District
670 Old Harrisburg Road
Suite 201
Gettysburg, PA 17325
(717) 334-0636Hamilton Township
Adams County

PAG2000108008

Michelle Dawson
Jeffrey Corporation
84 C Thomas Johnson
Court
Frederick, MD 21702South Branch Conewago
Creek
WWFAdams County
Conservation District
670 Old Harrisburg Road
Suite 201
Gettysburg, PA 17325
(717) 334-0636Highland Township
Adams County

PAG2000107014

Paul V. Davis
75 Knoxlyn-Orrtanna
Road
Gettysburg, PA 17325Marsh Creek
CWFAdams County
Conservation District
670 Old Harrisburg Road
Suite 201
Gettysburg, PA 17325
(717) 334-0636Conewago Township
Adams County

PAG2000108017

Larry Redding
234 Grant Drive
Hanover, PA 17331Plum Creek
WWFAdams County
Conservation District
670 Old Harrisburg Road
Suite 201
Gettysburg, PA 17325
(717) 334-0636East Berlin
Borough
Adams County

PAG2000108012

T. Michael Thomas
East Berlin Area Joint
Authority
128 Water Street
East Berlin, PA 17316UNT to West Conewago
Creek
WWFAdams County
Conservation District
670 Old Harrisburg Road
Suite 201
Gettysburg, PA 17325
(717) 334-0636Tuscarora Township
Juniata County

PAG2033408003

Department of
Transportation
Engineering District 2-0
P. O. Box 342
Clearfield, PA 16830Laurel Run
CWFJuniata County
Conservation District
R. R. 5
Box 35
Stoney Creek Drive
Mifflintown, PA 17059
(717) 436-8953, Ext. 5

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|--|---|
| Manheim Township York County | PAG2006708026 | Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103 | UNT to Codorus Creek TSF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| East Manchester Township | PAG2006705092 | Snyder Hardware, Inc. 119 West Lancaster Avenue Shillington, PA 19607 | Musser Run WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Fayette County North Union Township | PAG2002608017 | Tom Beckowitz Walsh Construction 225 Pittsburgh Street Uniontown, PA 15401 | UNT to Redstone Creek (WWF) | Fayette County Conservation District (724) 438-4497 |
| Washington County Union Township | PAG2006305027-1 | W. G. Tomko Incorporated 2559 Route 88 Finleyville, PA 15332 | UNT to Peters Creek (WWF) | Washington County Conservation District (724) 228-6774 |
| Washington County Cecil Township | PAG2006308008 | Bayard Crossing 2100 Corporate Drive Suite 250 Wexford, PA 15090 | UNT to Chartiers Creek WWF | Washington County Conservation District (724) 228-6774 |
| Butler County Middlesex Township | PAG2001008012 | Martin Olenic, Ibis Tek 912 Pittsburgh Road Butler, PA 16002 | UNT to Glade Run WWF | Butler County Conservation District (724) 284-5270 |
| Butler County Cranberry Township | PAG2-0010-08-017 | Professional Office Building and Thorn Hill Industrial Park Parcel 537 Terrance Pegula East Resources, Inc. 301 Brush Creek Road Warrendale, PA 15086 | UNT to Brush Creek WWF | Butler County Conservation District (724) 284-5270 |
| Crawford County City of Meadville | PAG2002008005 | Meadville Medical Center 751 Liberty Street Meadville, PA 16360 | French Creek WWF | Crawford County Conservation District (814) 763-5269 |
| Elk County Benezette Township | PAG2002408001 | Rocky Mountain Elk Foundation 178 Dogwood Road Weedville, PA 15868 | UNT Trout Run CWF Bennett Branch Sinnemahoning Creek WWF | Elk County Conservation District (814) 776-5373 |
| Erie County Millcreek Township | PAG2002508010 | SR 832 Section A04/ SR 20 Section A04 Department of Transportation 255 Elm Street P. O. Box 398 Oil City, PA 16301 | Lake Erie Municipal Storm Sewer | Erie County Conservation District (814) 825-6403 |
| Erie County Millcreek Township | PAG200250811 | SR 832 Section A03/ SR 5 Section A03 Department of Transportation 255 Elm Street P. O. Box 398 Oil City, PA 16301 | Lake Erie Municipal Storm Sewer | Erie County Conservation District (814) 825-6403 |

*Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|--|---|
| Erie County Union Township | PAG2002508013 | Eastern Reservoir Services Universal Well Services, Inc. 16450 Route 8 Union City, PA 16438 | UNT South Branch of French Creek CWF | Erie County Conservation District (814) 825-6403 |
| Erie County Northeast Township | PAG2002508018 | Mercyhurst Northeast Freshman Dormitory Mercyhurst North East 10300 West Main Road P. O. Box 249 Northeast, PA 16428 | Sixteen Mile Creek WWF; CF | Erie County Conservation District (814) 825-6403 |
| McKean County Liberty Township | PAG2064206001 | Sections A02 and A03 Department of Transportation 1924 Daisy Street Extension P. O. Box 342 Clearfield, PA 16830 | Allegheny River CWF | DEP 230 Chestnut Street Meadville, PA 16335 (814) 332-6945 |

*General Permit Type—PAG-3**Facility Location &
Municipality*

| <i>Facility Location & Municipality</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------------|--|---|---|
| Berks County Windsor Township | PAR203607 (transfer) | Engineered Materials Solutions, LLC 600 Valley Road Hamburg, PA 19526 | UNT Schuylkill River WWF 3-B | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Harborcreek Township Erie County | PAR238334 | Port Erie Plastics, Inc. 909 Troupe Road Harborcreek, PA 16421 | Municipal stormwater sewers to Seven Mile Creek and Lake Erie | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

*General Permit Type—PAG-4**Facility Location &
Municipality*

| <i>Facility Location & Municipality</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|-------------------------------------|---|
| Perry County Rye Township | PAG043711 | Camille Otto 100 Reed Drive Marysville, PA 17053 | UNT Fishing Creek CWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| York County Manchester Township | PAG043878 | Bruce and Pamela Wegaman 1340 Mill Creek Road York, PA 17404 | UNT Little Conewago Creek TSF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Harborcreek Township Erie County | PAG048918 | Eric S. Peterseim 140 Kraus Drive Erie, PA 16511-1624 | UNT to Lake Erie 15 | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Fairview Township Erie County | PAG049444 | William R. Turner 6332 Meadowrue Lane Erie, PA 16505-1027 | UNT to Trout Run 15-TR | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Ashland Township Clarion County | PAG048561 | Russell J. Lander, Jr. 1347 Golf Course Road Cranberry, PA 16319 | UNT to Cogley Run 16-G | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

| <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> |
|---|-------------------|--|---------------------------------|---|
| South Pymatuning Township Mercer County | PAG049448 | William E. Allison 6910 Orangeville Road Sharpsville, PA 16150 | UNT to Pymatuning Creek 20-A | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Harborcreek Township Erie County | PAG049446 | Ronald H. Morse 874 Bartlett Road Harborcreek, PA 16421 | UNT to Elliotts Run 15 | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Harborcreek Township Erie County | PAG049445 | Coralie J. Kartesz 6464 East Lake Road Harborcreek, PA 16421 | UNT to Lake Erie 15 | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

General Permit Type—PAG-8

| <i>Facility Location & County/Municipality</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Site Name & Location</i> | <i>Contact Office & Phone No.</i> |
|--|-------------------|---|---|---|
| Conewago Township York County | PAG083825 | Dover Township 2480 West Canal Road Dover, PA 17315 | Dover Township WWTF 2480 West Canal Road Dover, PA 17315 | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707 |

General Permit Type—PAG-13

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> | <i>DEP Protocol (Y/N)</i> |
|-------------------------|--|---------------|----------------------|--|---------------------------|
| PAG133708 | Upper Allen Township 100 Gettysburg Pike Mechanicsburg, PA 17055 | Cumberland | Upper Allen Township | Watershed 7-E Trindle Spring Run CWF Cedar Run CWF Yellow Breeches Creek CWF | Y |

PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

| | |
|--|--------------------------------|
| Permit No. 0607504 , Public Water Supply. | |
| Applicant | Greth Development Group |
| Municipality | Robeson Township |
| County | Berks |

Type of Facility Construction of a new water system to serve the proposed Stone Ridge Subdivision. The system will consist of two groundwater sources, disinfection, finished water storage and booster pumping facilities.

Consulting Engineer Scott M. Rights, P. E.
Steckbeck Engineering Associates
279 North Zinns Mill Road
Lebanon, PA 17042

Permit to Construct Issued July 24, 2008

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

Permit No. 1108501, Public Water Supply.

Applicant **East Taylor Municipal Authority**
403 Donruth Lane
Johnstown, PA 15909

Borough or Township East Taylor Township

County **Cambria**

Type of Facility Booster pump station

Consulting Engineer The EADS Group, Inc.
450 Aberdeen Drive
Somerset, PA 15501

Permit to Construct Issued July 21, 2008

Permit No. 6593510A1, Public Water Supply.

Applicant **Highridge Water Authority**
17 Maple Avenue
Blairsville, PA 15717

Borough or Township Buffington and Center Townships

County **Indiana**

Type of Facility Pump station, water storage tank and waterlines

Consulting Engineer Gibson-Thomas Engineering Co., Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Construct Issued July 24, 2008

Operations Permit issued to **Gray Area Water Authority**, P. O. Box 118, Gray, PA 15544, (PWSID No. 4560036) Jenner Township, **Somerset County** on July 24, 2008, for the operation of facilities approved under Construction Permit No. 5694502A1.

Operations Permit issued to **Hidden Valley Utility Service, LP**, 1 Craighead Drive, Hidden Valley, PA 15502, (PWSID No. 4560049) Jefferson Township, **Somerset County** on July 24, 2008, for the operation of facilities approved under Construction Permit No. 5608502.

Permit No. 3208501MA, Minor Amendment, Public Water Supply.

Applicant **Indiana County Municipal Services Authority**
602 Kolter Drive
Indiana, PA 15701

Borough or Township

County **Indiana**

Type of Facility Transmission main

Consulting Engineer Gibson-Thomas Engineering Co., Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Construct Issued July 24, 2008

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

Permit No. 2007503, Public Water Supply.

Applicant **Mitchell Lake Mobile Home Park**

Township or Borough Cambridge Township

County **Crawford County**

Type of Facility Public Water Supply

Consulting Engineer Dennis A. DeSilvey, P. E.
211 Gearhart Road
Pulaski, PA 16143

Permit to Construct Issued July 23, 2008

Operations Permit issued to **Country Acres Mobile Home Park, Robert L. and Wanda S. Braymer, Owners**, PWSID No. 6200023, East Mead Township, **Crawford County**. Operations Permit, issued July 28, 2008, for the newly constructed greensand filtration system, according to specifications approved by construction permit 2007506, issued November 30, 2007.

Operations Permit issued to **Conneautville Borough**, PWSID No. 6200019, Conneautville Borough, **Crawford County**. Operations Permit, issued July 28, 2008, for a 300,000 gallon finished water elevated storage tank and replacement of approximately 6,200 lineal feet of water line, according to specifications approved by construction permit 2074501-MA2, issued May 25, 2006.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Allegheny Township | 3131 Old 6th Avenue N Duncansville, PA 16635 | Blair County |

Plan Description: The approved plan provides for construction of a Small Flow Treatment Facility for the Michael Civil's property. The proposed sewage flows are 400 gpd with a discharge to a UNT of Sugar Run. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any

significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Jackson Township | 439 Roths Church Road Spring Grove, PA 17362 | York County |

Plan Description: Project Independence, A3-67931-244-3: The approved plan provides for a one lot commercial development on 230 acres with total estimated sewage flows of 50,000 gpd tributary to the Jackson Township Wastewater Treatment Plant. The proposed development is located on the northern side of the intersection of Hidden Lane and Commerce Drive in Jackson Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------|------------------|
| East Cocalico Township | 100 Hill Road Denver, PA 17517 | Lancaster County |

Plan Description: The approved plan provides for extension of sewer service to the Lakeside, Smokestown and Pinewood areas and replacement of the Stevens Pump Station with a new pump station. The plan approval also requires use of preliminary hydrogeologic studies under a Component 2 module for all proposed subdivisions proposing onlot disposal. The ID number for this plan update is F1-36924-ACT and the APS number is 631804. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|------------------|
| West Lampeter Township | 852 Village Road P. O. Box 237 Lampeter, PA 17537 | Lancaster County |

Plan Description: The approved plan provides a proposed subdivision of mixed density residential development to include 349 EDUs generating 122,120 gpd in sewage flows tributary to a proposed pump station and force main to be dedicated to the Suburban Lancaster Sewer Authority. Sewage will then be tributary to Suburban Lancaster Sewer Authority collection lines and the City of Lancaster's Stevens Avenue and Conestoga Gardens pump stations and the City of Lancaster's Wastewater Treatment Facility. The ID number for this revision is A3-36961-258-3 and the APS number is 648662. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Corydon Township | 2474 West Washington Street Bradford, PA 16701 | McKean County |

Plan Description: The approved plan provides for documenting the existing sewerage system serving the USDA Bradford District Ranger Station in the Allegheny National Forest. The existing facilities consist of gravity and pressure sewers and an aerated lagoon sewage treatment system with spray irrigation disposal. The sewerage system serves 4.25 EDUs. The proposed renovation and replacement of administrative facilities at the site and future growth is expected to add an additional .95 EDUs.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|------------------|
| Sadsbury Township | 7182 White Oak Road Christiana, PA 17509 | Lancaster County |

Plan Description: The plan for Amos E. Stoltzfus subdivision, A3-36949-218-2, APS 647336, was disapproved because the preliminary Hydrogeologic study, which accompanies the module, was prepared using water sample data that was collected in September and November of 2006. The Department of Environmental Protection will not accept a study that uses water sample data that is over 1 year old. New water samples must be taken to document current groundwater conditions. The preliminary hydrogeologic study may have to be updated to reflect any documented changes in the groundwater nitrate-nitrogen levels.

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 nonresiden-

tial 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.

Boiler Erection & Repair Company, Inc., Amble Borough, **Montgomery County**, Jason Hanna, Langan Engineering and Environmental Services, 2700 Kelly Road, Suite 200, Warrington, PA 18976, Nick DeRose Langan Engineering and Environmental Services, 2700 Kelly Road, Suite 200, Warrington, PA 18976 on behalf of John Carey, Industrial Management Associates, Inc., 200 Main Street, Ambler, PA 19002, William Bonenberger, Tenisci Acquisition, LP, 404 Sunnyside Pike, North Wales, PA 19454 has submitted a Final Report concerning remediation of site groundwater contaminated with PAH's. The report is intended to document remediation of the site to meet the Site-Specific Standard.

GE Elmwood Avenue Facility, City of Philadelphia, **Philadelphia County**, Kristien Rolison, P. E., MHW Americas, Inc., 335 Phoenixville Pike, Malvern, PA 19355, on behalf of General Electric Co., Hal Heckman, 6901 Elmwood Avenue, Philadelphia, PA 19142 has submitted a Risk Assessment Report concerning remediation of site soils and groundwater contaminated with No. 6 fuel oil, inorganic, lead and pcb. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Kardon Park, Borough of Downingtown and East Caln Township, **Chester County**, Paul Stratman, P. E., P. G., Advance GeoService Corporation, 1055 Andrew Drive, Suite A, West Chester, PA 19380 on behalf of Steve Sullins, Borough of Downingtown, 6 West Lancaster Avenue, Downingtown, PA 19335 has submitted a Risk Assessment Report/Remedial Investigation Report and Cleanup Plan concerning remediation of site groundwater and soil contaminated with inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

John F. Lengel, Inc., Wernersville Facility, Lower Heidelberg Township, **Berks County**, Liberty Environmental, Inc., 10 North 5th Street, Suite 200, Reading, PA 19601, on behalf of John F. Lengel, Inc., 6841 Penn Avenue, Wernersville, PA 19565, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health Standard.

Ames True Temper, Harrisburg City, **Dauphin County**, BB & J, LLC, 1641 Saw Mill Run Boulevard, Pittsburgh, PA 15210-3433, on behalf of Ames True Temper, 465 Railroad Avenue, Camp Hill, PA 17001, submitted a combined remedial investigation and Final Report concerning remediation of site soils contaminated with fuel oil released during removal of underground storage tanks. The report is intended to document remediation of the site to the Site-Specific Standard.

Turkey Hill Store No. 126, Borough of Leesport, **Berks County**, Liberty Environmental, Inc., 10 North Fifth Street, Suite 800, Reading, PA 19601, on behalf of Turkey Hill Minit Markets, 257 Centerville Road, Lancaster, PA 17603, submitted a Final Report concerning remediation of site soils contaminated with unleaded gasoline. The report was submitted within 90 days of the release and is intended to document remediation of the site to the Statewide Health Standard.

Strube, Inc., Marietta Borough, **Lancaster County**, Gemchem, Inc., 53 North Cedar Street, Lititz, PA 17543, on behalf of Strube, Inc., 629 West Market Street, Marietta, PA 17547, submitted a Final Report concerning remediation of site soils contaminated with mineral oil from two buried drums. The report is intended to document remediation of the site to the Statewide Health Standard.

Bryan Horetsky Residence, Taylor Township, **Blair County**, Groundwater and Environmental Services, Inc., 6 Sheraton Drive, Suite 2, Altoona, PA 16601, on behalf of Bryan Horetsky, 131 Brumbaugh Road, Roaring Spring, PA 16673, submitted a Final Report concerning site soils and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health Standard.

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

ACP Manufacturing, Lawrenceville Borough, **Tioga County**, Teeter Environmental, R. R. 1, Box 124B, Sayre, PA 1840 on behalf of ACP Manufacturing, 115 Gulick Street, Blossburg, PA 16912 has submitted a Final Report concerning remediation of site groundwater contaminated with propylene glycol. The report is intended to document remediation of the site to meet the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Stan-

dards 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.

Unitog Rental Services Facility, Bristol Borough **Bucks County**. Peter Milionis, ARCADIS US, Inc., 6 Terry Drive, Suite 300, Newtown, PA 18940 on behalf of Craig Eckstein, Lester Block, LLC, 420 Howell Street, Bristol, PA 19007 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvent. The Final Report did not demonstrate attainment of the Site-Specific Standard and was placed on hold by the Department of Environmental Protection on July 24, 2008.

Smith Property, Bensalem Township, **Bucks County**. Jason Free, PT Consultants, Inc., 1200 North Delsea Drive, Westville, NJ 08093 on behalf of Michael Smith, the GST Group, 2201 Bristol Pike, Bensalem, PA 19020 has submitted a Final Report concerning the remediation of site soil contaminated with benzene, naphthalene. The

Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 10, 2008.

Bryn Mawr Hospital, Lower Merion Township, **Montgomery County**. Robert Terfenko, Center Point Service, Inc., 526 Benjamin Franklin Highway, Douglassville, PA 19518 on behalf of Al Leone, Bryn Mawr Hospital, 130 South Bryn Mawr Avenue, Bryn Mawr, PA 19010 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 21, 2008.

Miller & Son Paving, Warminster Township, **Bucks County**. Joseph LaPann, Keith Valley Environmental Inc., 151 Keith Valley Road, Horsham, PA 19044 on behalf of John McGrath, Five Pond, LP, 1262 Wood Lane, Suite 207, Langhorne, PA 19047 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 25, 2008.

Yamamoto Farm, Newtown Township, **Bucks County**. Scott Alderfer, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Lawrence Dugan, Orleans Homebuilders, Inc., 3333 Street Road, Bensalem, PA 19020 has submitted a Final Report concerning the remediation of site soil contaminated with no 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 21, 2008.

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Nicholson Steam Trap, City of Wilkes-Barre, **Luzerne County**. Richard Kranes, Goldman Environmental Consultants, 60 Brooks Drive, Braintree, MA 02184 submitted a Final Report (on behalf of his client, CIRCOR International, Inc., 25 Corporate Drive, Suite 130, Burlington, MA 01803), concerning the remediation of site groundwater found to have been impacted by volatile organics and inorganics. The report demonstrated attainment of the Site-Specific Standard, using pathway elimination and was approved on July 23, 2008.

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

Former Grace Mine Facility/Bryne Eyre, New Morgan Borough, **Berks County**. Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, on behalf of Morgantown Properties, 502 Gordon Drive, Exton, PA 19341, submitted a risk assessment, remedial investigation and Final Report concerning remediation of site soils, groundwater, surface water and sediment contaminated with petroleum compounds and metals. The reports demonstrated attainment of a combination of the Nonresidential Statewide Health and Site-Specific Standards and were approved by the Department of Environmental Protection on July 14, 2008.

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

Proposed Rite Aid—Clearfield, Clearfield Borough, **Clearfield County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801 on behalf of Clearfield Commercial Properties, LP, 1 Atlantic Avenue,

Pittsburgh, PA 15202 has submitted a Remedial Investigation Report and a Risk Assessment Report concerning remediation of site soil and groundwater contaminated with petroleum constituents and chlorinated compounds. The Remedial Investigation Report and Risk Assessment Report were approved by the Department of Environmental Protection on July 24, 2008.

Morgan Advanced Materials and Testing, Inc.—Pure Carbon Facility, Eulalia Township, **Potter County**, ATC Associates, Inc., 103 North Meadows Drive, Suite 215, Wexford, PA on behalf of Advanced Materials and Testing, Inc., 411 Hall Avenue, St. Mary's, PA 15857 has submitted a Final Report concerning remediation of site groundwater contaminated with dissolved-phased antimony. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 15, 2008.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

PAD085690592. Republic Environmental Systems of Pennsylvania, LLC, 2869 Sandstone Drive, Hatfield, PA, Hatfield Township, **Montgomery County**. This permit modification is for the transfer of ownership reflecting a business reorganization from a corporation (Republic Environmental Systems of Pennsylvania, Inc.) to a limited liability company (Republic Environmental Systems of Pennsylvania, LLC). Permit modified by the Southeast Regional Office effective July 17, 2008.

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.

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

40-302-170GP1: Valley Crest Nursing Home (1551 East End Boulevard, Wilkes-Barre, PA 18711) on July 23, 2008, to operate two boilers at their site in Plains Township, **Luzerne County**.

40-310-077GP3: Haines & Kibblehouse (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on July 23, 2008, to construct and operate a Portable Crushing Operation with water sprays at their site in Foster Township, **Luzerne County**.

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

GP4-36-03176: Thermal Solutions Products, LLC (1175 Manheim Pike, Lancaster, PA 17604) on July 24, 2008, for Burn Off Ovens under GP4 in the City of Lancaster, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-26-00577: Atlas Pipeline Pennsylvania, LLC (P. O. Box 611, Moon Township, PA 15108) on July 28, 2008, received authorization to use GP-5 to install and operate one Caterpillar G3516LE lean-burn natural gas-fired engine rated at 1,340 bhp and one NATCO dehydrator rated at 750,000 Btu/hr, at the Howser Compressor Station in Franklin Township, **Fayette County**.

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

GP-42-197A: Atlas Pipeline McKean, LLC—Irishtown Compressor Station (309 Sand Road, Lewis Run, PA 16738) on July 24, 2008, for a natural gas fired compressor engine (BAQ-GPA/GP-5) in Lafayette Township, **McKean County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

46-0269: Yellow Book USA, Inc. (2560 Renaissance Boulevard, King of Prussia, PA) on July 24, 2008, to install two diesel fuel-fired emergency generators to provide backup power at a data processing center in Upper Merion Township, **Montgomery County**. As a result of potential emissions of NOx, the facility is a State-only facility. 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, Ray Kempa, New Source Review Chief, (570) 826-2531.

48-309-130: Hercules Cement Co. (501 Hercules Drive, P. O. Box 69, Stockertown, PA 18083) on July 28, 2008, to install a selective noncatalytic reduction (SNCR) system for the No. 1 cement kiln and the previously installed SNCR system for the No. 3 cement kiln in the Borough of Stockertown, **Northampton County**.

52-310-012: Springbrook Enterprises, Inc. (504 Well Road, Hawley, PA 18428) on July 16, 2008, to install a crushing operation with water sprays at their facility in Blooming Grove Township, **Wyoming County**.

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

21-05064D: Atlas Roofing Corp. (817 Spangler Road, Camp Hill, PA 17011-5823) on July 22, 2008, for alternate chemical formulation in addition to the currently permitted formulation in the foam manufacturing process at the polyisocyanurate foam manufacturing facility in Camp Hill Borough, **Cumberland 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, Sachin Shankar, New Source Review Chief, (484) 250-5920.

09-0176A: Metal Improvement Co., Inc. (3434 State Road, Bensalem, PA 19020) on July 23, 2008, to operate a chromium plating in Bensalem Township, **Bucks County**.

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

36-05142A: Mars Snackfoods—US (295 Brown Street, Elizabethtown, PA 17022-2127) on July 30, 2008, to install a new roasting system at their candy manufacturing facility in Elizabethtown Borough, **Lancaster County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

04-00699F: NGC Industries, Inc.—d/b/a/ National Gypsum Co. (2001 Rexford Road, Charlotte, NC 28211) on July 21, to increase the lbs/hr and tpy for two pollutants (PM-10 and VOC) for the cage mill and also change the VOC facility-wide tpy limitation at their Shippingport facility in Shippingport Borough, **Beaver County**. Also the Department of Environmental Protection is issuing a plan approval extension that will expire on November 16, 2008, for plan approval 04-00699F.

65-00837B: Dominion Transmission, Inc. (D.L. Clark Building, Suite 400, 501 Martindale Street, Pittsburgh, PA 15212) on July 14, 2008, for Plan Approval Modification and Extension at their Oakford Compressor Station in Salem Township, **Westmoreland County**. The purpose of this modification is to allow the installation of four oxidation catalysts (engines No. 2—4 and 8) at the previously referenced facility. The plan approval has also been extended.

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

24-083G: Carbone of America—Graphite Materials Div. (1032 Trout Run Road, St. Marys, PA 15857) on July 31, 2008, to construct a CBH Kiln in Benzinger Township, **Elk County**.

24-083I: Carbone of America—Graphite Materials Div. (1032 Trout Run Road, St. Marys, PA 15857) on July 31, 2008, for Scrubber A emission limits in Benzinger Township, **Elk County**.

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

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

43-00272: Tennessee Gas Pipeline Co.—Station No. 219—Mercer Plant (1211 Greenville-Mercer Road, Mercer, PA 16137) on July 22, 2008, to re-issue a Title V Permit to operate a natural gas compressor station in Jefferson Township, **Mercer County**. The facility's major emission sources include 14 natural gas-fueled compressors, three natural gas electric generators, fugitive miscellaneous natural gas leakage, miscellaneous natural gas usage and one parts washing machine. The facility is a major facility due to its potential to emit of VOCs, NOx and CO.

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.

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

21-03078: Carlisle Coating & Waterproofing, Inc. (1275 Ritner Highway, Carlisle, PA 17013-9381) on July 28, 2008, to install a rubberized asphalt sheeting line in the renovated Kinney Shoe building in Carlisle Borough, **Cumberland County**.

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

24-00132: Elk County Heat Treaters, Inc. (316 Battery Street, St. Marys, PA 15857-1439) on July 22, 2008, to re-issue a Natural Minor Operating Permit to their facility in the Borough of St. Marys, **Elk County**. The facility's primary emissions are from the seven small Boilers used to provide process steam and from the eight Heat Treater Furnaces.

37-00241: Laurel School District—Laurel High School (R. R. 4, Box 30, New Castle, PA 16101) on July 22, 2008, to re-issue a Natural Minor Operating Permit for their facility in Hickory Township, **Lawrence County**. The facility's primary emissions are two Boilers used to provide heat and hot water to the facility.

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.

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

62-00012: Reliant Energy Mid-Atlantic Power Holdings, LLC—Warren Station (121 Champion Way, Suite 200, Canonsburg, PA 15317) on July 16, 2008, for an administrative amendment to the Title V Operating Permit to operate a combustion turbine in Conewango Township, **Warren County**. This amendment was for a change of Responsible Official and minor administrative modifications. The responsible official was changed from James V. Locher to Matt E. Greek. A list of additional responsible officials provided by Reliant Energy was added to Section G of the permit.

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

Permit Number 32021301 and NPDES Permit No. PA0235458, TJS Mining, Inc., (2340 Smith Road, Shelocta, PA 15774), to renew the permit for the Rossmoyne No. 1 Deep Mine in South Mahoning Township, **Indiana County** and related NPDES permit. No additional discharges. Application received August 14, 2007. Permit issued July 23, 2008

Permit Number 30841312 and NPDES Permit No. PA0013790, Consolidation Coal Company, (1 Bridge Street, Monongah, WV 26554), to renew the permit and related NPDES permit and to revise the permit for the Blacksville Mine No. 2 in Wayne, Jackson and Gilmore Townships, **Greene County** to delete 5,970 subsidence control plan area acres. No additional discharges. Application received August 30, 2005. Permit issued July 23, 2008.

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

56010106 and NPDES No. PA0249076. Marquise Mining Corporation, P. O. Box 338, Blairsville, PA 15717, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Shade Township, **Somerset County**, affecting 325.0 acres. Receiving streams: Dixie Run and Fallentimber Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Stonycreek SWI. Application received May 5, 2008. Permit issued July 21, 2008.

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

GFCC No. 02-08-01 and NPDES Permit No. PA0251330. Quality Aggregates, Inc. (200 Neville Road, Pittsburgh, PA 15225). Government Financed Construction Contract issued for reclamation of approximately 30 acres of abandoned mine lands located in Findlay Township, **Allegheny County**. Receiving streams: UNT to Potato Garden Run. Application received February 28, 2008. Contract issued July 24, 2008.

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

16050109 and NPDES Permit No. PA0257966. RFI Energy, Inc. (P. O. Box 162, Sligo, PA 16255) Revision to a bituminous strip operation to change the land use from forestland and pastureland to unmanaged natural habitat on the C & K Coal Company property in Perry Township, **Clarion County**. Revision also includes the addition of beneficial use of coal ash as a soil additive. Receiving streams: Two UNTs to the Clarion River. Application received May 20, 2008. Permit issued July 22, 2008.

33070106 and NPDES Permit No. PA0258385. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a bituminous strip operation in Winslow Township, **Jefferson County** affecting 138.0 acres. Receiving streams: UNTs to Panther Run. Application received August 15, 2007. Permit issued July 24, 2008.

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

17980104 and NPDES No. PA0237922. Swisher Contracting, Inc. (P. O. Box 1223, Clearfield, PA 16830), permit renewal for reclamation only of a bituminous surface mine in Lawrence Township, **Clearfield County**, affecting 84.0 acres. Receiving streams: UNT to Moose Creek, Moose Creek and Orr's Run to the West Branch of the Susquehanna River. There are no potable water supply intakes within 10 miles downstream. Application received July 10, 2008. Permit issued July 14, 2008.

Noncoal Permits Actions

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

4274SM11 and NPDES No. PA0212512. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, revision of an existing limestone and dolostone quarry to allow the deepening of mining for 13.3 acres on Phase 2A from the current 1,050' elevation to 850' elevation. A request was also approved to add 37.1 acres to the northeast side of the permit for the purpose of support only. A variance and a Chapter 105 encroachment were approved to disturb within 100 feet of Halter Creek but no closer than 25 feet. The variance and encroachment begins 1,300 feet downstream from Halter Creek's uppermost crossing of SR 0036 and extends for 700 feet on the east side of the stream. The mining activity will consist of support activities and overburden removal to within 25 feet of the stream. The site is located in Taylor Township, **Blair County**, affecting 467.1 acres. Receiving streams: Halter and Plum Creeks. The section of Halter Creek that receives the quarry discharge currently has an existing use classification of CWF; Halter Creek downstream from its confluence with Plum Creek has an existing use classification of HQ-CWF. Plum Creek from its confluence with Halter Creek upstream to the SR 164 bridge has an existing use of HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 23, 2007. Permit issued: July 21, 2008.

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

37930302. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225) Renewal of NPDES Permit No. PA0211583 in Slippery Rock Township, **Lawrence County**. Receiving streams: UNT to Slippery Rock Creek. Application received June 20, 2008. Permit issued July 23, 2008.

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

58080808. Cathy Seamans, (R. R. 1, Box 40, Uniondale, PA 18470), commencement, operation and restoration of a quarry operation in Clifford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received January 30, 2008. Permit issued July 23, 2008.

58080817. Mark G. Walworth, (R. R. 1, Box 1339, Hallstead, PA 18822), commencement, operation and restoration of a quarry operation in Great Bend Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received February 27, 2008. Permit issued July 24, 2008.

46082801. Wissahickon Stone, Quarry, LLC, (1-A Waverly Road, Glenside, PA 19038), commencement, operation and restoration of a quarry operation in Cheltenham Township, **Montgomery County** affecting 4.94 acres, receiving stream: none. Application received June 12, 2008. Permit issued July 28, 2008.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P. S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). 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.

Blasting Permits Actions

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

21084141. Warrens Excavating & Drilling, Inc., P. O. Box 1022, Honey Brook, PA 19344-0902, blasting activity permit issued for residential development in East Pennsboro Township, **Cumberland County**. Blasting activity permit end date is July 1, 2009. Permit issued July 14, 2008.

21084142. Abel Construction Company, Inc., P. O. Box 476, Mountville, PA 17554-0476, blasting activity permit issued for residential development in Southampton and Shippensburg Townships, **Cumberland County**. Blasting activity permit end date is August 17, 2009. Permit issued July 16, 2008.

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

03084002. Demtech, Inc. (65 Bold Mountain Road, Dubois, WY 82513). Blasting activity permit for demolition of the SR 58 Foxburg Bridge, located in Hovey Township, **Armstrong County** with an expected duration of 60 days. Permit issued July 21, 2008.

02084009. Kevin A. Klass (2739 Merryman's Mill Road, Phoenix, MD 21131). Blasting activity permit for demolition of the Auburn Towers, located in the City of Pittsburgh, **Allegheny County**. Demolition is schedule for July 28, 2008. Permit issued July 23, 2008.

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

14084009. Wampum Hardware Co. (175 Prugh Road, Shelocta, PA 15774), blasting for Dave Myer Foundation, 301 Ernest Lane, State College, PA, **Centre County**. Permit expires December 31, 2008. Permit issued July 22, 2008.

17084003. Wampum Hardware Co. (175 Prugh Road, Shelocta, PA 15774), blasting for the Riverhill Power Plant Project located in Karthaus Township, **Clearfield County**. Permit expires December 31, 2009. Permit issued July 22, 2008.

17084004. Waroquier Coal Co. (P. O. Box 128, Clearfield, PA 16830), blasting on the Durandetta GFCC No. 17-07-03 located in Knox Township, **Clearfield County**. Permit expires August 31, 2010. Permit issued July 23, 2008.

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

39084116. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Applecross Airport Center in Hanover Township, **Lehigh County** with an expiration date of July 30, 2009. Permit issued July 21, 2008.

36084186. Gerlach's Drilling & Blasting, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Longwood Square in East Donegal Township, **Lancaster County** with an expiration date of July 20, 2009. Permit issued July 24, 2008.

36084187. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Lancaster General Women & Babies Hospital in East Hempfield Township, **Lancaster County** with an expiration date of July 1, 2009. Permit issued July 24, 2008.

36084188. Abel Construction Co., Inc., (P. O. Box 476, Mountville, PA 17554), construction blasting for Southern Village, Route 741, Wabank Road in Lancaster Township and City of Lancaster in **Lancaster County** with an expiration date of July 24, 2009. Permit issued July 24, 2008.

38084121. Abel Construction Co., Inc., (P. O. Box 476, Mountville, PA 17554), construction blasting for Arbor Greene in North and South Londonderry Townships, **Lebanon County** with an expiration date of October 26, 2009. Permit issued July 24, 2008.

45084132. American Rock Mechanics, Inc., (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Sciota Properties, LLC in Hamilton Township, **Monroe County** with an expiration date of July 21, 2009. Permit issued July 24, 2008.

46084118. American Rock Mechanics, Inc., (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Heritage at Limerick in Limerick Township, **Montgomery County** with an expiration date of July 17, 2009. Permit issued July 24, 2008.

52084115. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for a single dwelling in Dingman Township, **Pike County** with an expiration date of July 24, 2009. Permit issued July 24, 2008.

67084003. Explosives Experts, Inc., (P. O. Box 879, Sparks, MD 21152), construction blasting for Stapleton Residential Housing in Windsor Township, **York County** with an expiration date of December 30, 2008. Permit issued July 28, 2008.

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

E09-909. Turnpike Commission, P.O. Box 67676, Harrisburg, PA 17106-7676, Bensalem Township, **Bucks County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following activities associated with the proposed northeast Slip Ramps at Street Road:

1. To place fill in 0.36 acre of wetland (PFO, PEM). This work includes a proposal to create 0.92 acre of replacement wetlands onsite.

2. To construct and maintain a 48-inch diameter twin cell enclosure associated with the relocation of approximately 575 linear feet of the UNT to Poquessing Creek (WWF).

3. To modify the existing 42-inch diameter culvert, carrying TPK over UNT to Poquessing Creek by replacing the existing inlet with a manhole.

4. To modify the existing 18-inch diameter pipe carrying TPK over UNT to Neshaminy Creek (WWF, MF, Tur1) associated with stormwater management facilities.

This site is located approximately 1,500 feet northeast of the intersection of Lincoln Highway (SR 0001) and Street Road (SR 0132) (Langhorne, PA USGS Quadrangle N: 0.7 inch; W: 12.2 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)).

E46-1024. Hatfield Quality Meats, Inc., 2700 Clemens Road, P.O. Box 902, Hatfield, PA 19440, Hatfield Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 340-foot-long extension to an existing 54-inch-diameter RCP stream enclosure at the upstream end across a UNT to Skippack Creek (TSF) associated with the proposed building addition and the access roadway. This work also includes the modification and maintenance of an existing enclosure associated with the proposed access drive and the construction and maintenance of two outfall structures. The project is located along Clemens Road and southwest of the intersection of Fairgrounds and Clemens Roads (Telford, PA Quadrangle N: 4.0 inches; W: 9.5 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)).

Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E35-417. Department of Transportation Engineering District 4-0, 55 Keystone Industrial Park, Dumore, PA 18512. Roaring Brook Township, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 275 foot long, 42-inch diameter, corrugated stream enclosure in a tributary to Roaring Brook (CWF). The project also includes the in-kind replacement of a 117 foot long, 48 inch half-round, corrugated pipe. The project is located at SR 0084, Segment 0024, Offset 1911 (Olyphant, PA Quadrangle Latitude: N: 41° 23' 37"; Longitude: W: 75° 34' 16").

E58-277. Frank Holtmaster, R.R. 1, Box 91H, Thompson, PA 18465. Lenox Township, **Susquehanna County**, United States Army Corps of Engineers, Baltimore District.

To maintain a 216 foot long, 24 inch diameter pipe stream enclosure and to construct and maintain a 133 foot long, 12 inch diameter pipe stream enclosure of a tributary to Tunkhannock Creek (CWF). The project is located 0.36 mile north and 0.07 mile east of the intersection of SR 0092 and SR 0081 (Lenoxville, PA Quadrangle Latitude: 41° 43' 9"; Longitude: 75° 39' 56"). (Subbasin: 04F)

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

E22-536: James R. Gingrich, Farr's Pump Station, Lower Swatara Municipal Authority, James R. Gingrich, 1499 Spring Garden Drive, Middletown, PA 17057, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To install and maintain a vault structure for a grinder pump and to permit operator access to influent sewer flow and to expand an existing concrete wet well support platform located in the floodplain of the Swatara Creek (WWF). The project is located at 1301 Swatara Park Drive (Middletown, PA Quadrangle N: 15.9 inches; W: 13.7 inches, Latitude: 40° 12' 46"; Longitude: 76° 43' 20") in Swatara Township, Dauphin County. The purpose of the project is to upgrade the existing Farr's pump station.

E05-344: Department of Transportation Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648, Hopewell Township, **Bedford County**, United States Army Corps of Engineers, Baltimore District.

To remove a single span reinforced concrete T-beam bridge having a clear span of 24.0 feet and an underclearance of 4.0 feet carrying SR 0026 over Bank Run (HQ-CWF) (Hopewell, PA Quadrangle Latitude: 40° 9' 27"; Longitude: 78° 18' 17", N: 5.9 inches; W: 7.7 inches) in and to construct and maintain a 64-foot long by 24-foot wide and 5-foot underclearance precast concrete box culvert, to construct and maintain a temporary road crossing of Bank Run (HQ-CWF) (Hopewell, PA Quadrangle Latitude: 40° 9' 27"; Longitude: 78° 18' 17", N: 5.9 inches; W: 7.7 inches) using three 36-inch diameter by 51.5-foot long pipes, to construct and maintain a temporary road crossing of a PEM wetland using an 18-inch diameter pipe and to temporarily divert Bank Run (HQ-CWF) (Hopewell, PA Quadrangle Latitude: 40° 9' 27"; Longitude: 78° 18' 17", N: 5.9 inches; W: 7.7 inches) using a 36-inch diameter by 195-foot long pipe. The project will permanently impact 0.5 acre PEM wetlands and 92.5 feet of perennial stream and will temporarily impact 0.05 acre PEM wetlands and 195.0 feet of perennial stream in Hopewell Township, Bedford County. Compensatory mitigation for permanent wetland impacts will be provided at the Huntingdon Advanced Wetland Compensation Site.

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

E14-504. Jonas S. Miller, 6771 Brush Valley Road, Rebersburg, PA 16872. Miller Pond, in Miles Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (Woodward, PA Quadrangle Latitude: N: 40° 58' 26.16"; Longitude: W: 77° 20' 15.12").

To construct and maintain: 1) an earthen berm located 6 to 8 feet away from the adjacent stream; 2) keyed-in rip-rap bank protection on the left stream bank and outer pond embankment; 3) between the lower end of the pond and SR 192: A) regrade and vegetate the unstable streambank sections to a more stable slope with a minimum slope of 4 horizontal to 1 vertical, B) install stream bank fencing and two stable agricultural stream crossings; 4) a 6-inch diameter pond outfall pipe, the following three items are buried in either the UNT streambed or its riparian floodway; 5) 350-foot long 4-inch diameter PVC pipe with the associated perforated

screened inlet covers; 6) 30-foot long 6-inch diameter PVC pipe with the associated perforated screened inlet covers, attached to; and 7) 320-foot long 4-inch diameter PVC pipe, all of which are in or under a UNT of Elk Creek located 150 yards north of the driveway entrance at 6771 Brush Valley Road. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes section 401 Water Quality Certification.

E18-423. Texas Keystone, Inc., P. O. 130 Raymond Drive, Indiana, PA 15701. Agenostelli-Mase Tangascootack Creek Road Crossing Project, in Beech Creek Township, **Clinton County**, United States Army Corps of Engineers, Baltimore District (Howard NW, PA Quadrangle Latitude: 41° 08' 20.14"; Longitude: 77° 38' 45.30").

The applicant proposes to construct, operate and maintain a: (1) commercial road crossing Tangascootack Creek; (2) commercial road crossing a UNT to Tangascootack Creek; and (3) 4-inch gas transmission line beneath Tangascootack Creek and associated wetlands for exploration and development of the Agenostelli-Mase Natural Gas Project. The road crossing Tangascootack Creek shall be constructed and maintained with a single metal arch culvert pipe having a minimum span of 6-feet, rise of 4-feet and length of 40-feet. The road crossing the UNT shall be constructed and maintained with a single plastic culvert pipe having a minimum diameter of 30-inches. The Tangascootack road crossings shall be constructed with the culvert pipe being depressed a minimum of 1-foot beneath the streambed, whereas the culvert in the UNT shall be depressed 0.5-feet. The gas transmission line shall be installed by boring beneath the stream and wetlands to provide a minimum depth of 3-feet between the streambed and top of pipe. The project is located along the eastern right-of-way of Beech Creek Road approximately 2.1-miles east of Peacock and Beech Creek Roads intersection. This permit also authorizes 75-feet of stream restoration of the UNT to Tangascootack Creek to hydraulically reconnect the stream to its original channel and flow path.

E60-193. Sandy K. and Michael A. Murafka, 279 Shady Lane, Williamsport, PA 17701-8419. Murafka Cabin Addition, in Hartley Township, **Union County**, United States Army Corps of Engineers, Baltimore District (Beavertown, PA Quadrangle Latitude: 40° 51' 41"; Longitude: 77° 14' 36").

To: 1) remove an attached, enclosed three-season 10-foot by 24-foot room/porch from the west end of the existing house; 2) construct and maintain a three-course high new cement block wall with louvered flood vents to elevate the first floor of the 24-foot by 36-foot existing house and a 30-foot by 22-foot house addition next to the west end of the existing house so that the new combined floor will be at an elevation of 653 feet, which is 2.45 feet higher than the predicted 100-year flood elevation. This project is located in the left floodway of Penns Creek 0.4 mile down Zechman Lane from its intersection with Creek Road (Beavertown, PA Quadrangle Latitude 40° 51' 41"; Longitude 77° 14' 36") in Hartley Township, Union County. This permit was issued under section 105.13(e) "Small Projects."

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

E02-1573. Premier Marine Salvage, LLC, 1290 Maple Street, Crescent, PA 15046. To operate and maintain the existing barge mooring facility in Neville Town-

ship, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Emsworth, PA Quadrangle N: 2.1 inches; W: 16.6 inches, Latitude: 40° 30' 42"; Longitude: 80° 07' 10"). To operate and maintain the existing barge mooring facility approximately 900 feet in length and 130 feet wide and the existing ramp in the channel and along the left bank of the Ohio River (WWF) located approximately 8,800.0 feet downstream from the Emsworth Dam.

E11-330. Department of Transportation, District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648. To replace the existing bridge in Johnstown and West Taylor Township, **Cambria County**, United States Army Corps of Engineers, Pittsburgh District (Johnstown, PA Quadrangle N: 18.0 inches; W: 9.1 inches, Latitude: 39° 51' 44"; Longitude: 79° 03' 29"). To remove the existing SR 0403, two lane, 50 ft. wide, three span, bridge having a total length of 270 ft. and having maximum underclearance of 31 ft. and to construct and maintain 110 ft. upstream and to the south a 55 ft. total width, two lane, three span, replacement bridge having a sidewalk, a total length of 273 ft. and maximum underclearance of 31 ft. over the Conemaugh River (WWF). In addition, construct and maintain a 368 ft. total length 20 ft. wide by 9.0 ft. underclearance arch culvert replacement and extension to the existing 165 ft. long, 14 ft. by 9 ft. limiting dimension culvert on the adjoining St. Clair Run (CWF) to accommodate the relocation of the western approach road; for construction of the replacement bridge and removal of the existing bridge install a temporary causeway; and construct and maintain associated replacement stormwater outfalls to the Conemaugh River (WWF). Stream impact mitigation is provided in Beaverdam Creek and Bank Run. The bridge improvement and relocation project is located between the northern side of Johnstown and West Taylor Township and is within the Johnstown Flood Control Project.

E63-607. Department of Transportation, District 12-0, 825 North Gallatin Avenue, Uniontown, PA 15401. To construct a 52 foot long extension to an existing box culvert in South Strabane Township, **Washington County**, United States Army Corps of Engineers, Pittsburgh District (Washington East, PA Quadrangle N: 7.5 inches; W: 6.5 inches, Latitude: 40° 9' 57"; Longitude: 80° 10' 13"). To construct and maintain a 52 ft. long extension to an existing 6 ft by 6 ft concrete box culvert in Little Chartiers Creek (HQ-WWF) with a drainage area of 0.22 square mile and fill and maintain 0.002 acre of PEM wetland to facilitate widening and other improvements to SR 70.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

E10-441, Mystic Ridge Subdivision, LLC, P. O. Box 221, Warrendale, PA 15086. Mystic Ridge Plan of Lots, in Cranberry Township, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Mars, PA Quadrangle N: 40° 44' 12.5"; W: 80° 05' 15.6").

To conduct the following activities associated with the development of Mystic Ridge Plan of Lots, a residential subdivision along Garvin Road approximately 0.5 mile west of Franklin Road.

1. Construct and maintain a 124-foot-long, 48-inch-diameter reinforced concrete pipe stream enclosure in a tributary to Wolfe Run (WWF) having a drainage area less than 100 acres and impacting 0.086 acre of adjoining wetland (PEM) for construction of Woodbrook Drive approximately 550 feet south of Garvin Road.

2. Construct and maintain a 126-foot-long, 72-inch-diameter reinforced concrete pipe stream enclosure in a tributary to Wolfe Run (WWF) and impacting 0.087 acre of adjoining wetland (PEM) for construction of Woodbrook Drive approximately 950 feet south of Garvin Road.

3. Install and maintain two sanitary sewer line crossings of a tributary to Wolfe Run (WWF) and a sanitary sewer line crossing of Wolfe Run (WWF).

Project proposes construction of 0.174 acre of replacement wetland adjacent to a tributary to Wolfe Run on the project site.

E20-569, Gary Baker, Meadville Medical Center, 751 Liberty Street, Meadville, PA 16335. Ambulatory Surgery Facility Addition, in the City of Meadville, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Meadville, PA Quadrangle N: 41° 38' 1"; W: 80° 8' 2").

To construct and maintain a 14,000 square foot ambulatory surgery addition to the Meadville Medical Center Grove Street facility over the existing concrete box stream enclosure in Neason Run on the Meadville Medical Center property having a section with 4.5-foot wide by 5-foot high waterway opening and having a section with a 6.7-foot wide by 3-foot high waterway opening located adjacent to the intersection of Grove and Poplar Streets (Meadville, PA Quadrangle N: 41° 38' 1"; W: 80° 8' 2") in the City of Meadville, Crawford County. Project includes maintenance of the existing stream enclosure (430 feet within the permittee's property) and construction and maintenance of parking areas, a riparian restoration enhancement area, utilities and stormwater management facilities including a 1.5-foot diameter RCP stormwater outfall to Neason Run. Neason Run is a perennial stream classified as a WWF.

SPECIAL NOTICES

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

EGS No. 11004. Clearfield Creek Watershed Association, 216 Beldin Hollow Road, Ashville, PA 16613. Rehabilitation of an abandoned mine treatment system located on land owned by J. H. Hommer Family in Reade Township, **Cambria County**. Project received July 22, 2008.

[Pa.B. Doc. No. 08-1466. Filed for public inspection August 8, 2008, 9:00 a.m.]

Municipal Recycling Program Performance Grant Applications under Act 101, Section 904 of The Municipal Waste Planning, Recycling and Waste Reduction Act of 1988

Application Period for Calendar Year 2007

The Department of Environmental Protection (Department) announces a request for applications from municipalities for recycling performance grant assistance for recycling programs under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, Section 904. Municipalities include counties, cities, boroughs, incorporated towns,

townships, home rule municipalities, their authorities, councils of governments, consortiums or similar entities established by two or more municipalities under 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation). This application period is for eligible materials recycled and marketed in calendar year 2007.

Municipal Recycling Program Performance Grant funds will be awarded to municipalities based upon the weight of source separated recyclable materials identified in § 1501(c)(1)(i) of Act 101 recovered by municipal recycling programs, and the population of the municipality as determined by the most recent decennial census. Municipalities will be eligible to receive an award based on a formula of \$5 for each Department approved ton of eligible recyclable materials recycled or marketed and \$1 per approved ton for each percentage of municipal waste calculated by the Department to be diverted from disposal. The weight of eligible materials allowable from nonresidential (commercial, institutional and municipal) sources under the preceding formula will be limited to no more than the weight of approved eligible materials from residential sources. Any Department approved materials from nonresidential sources not factored into the preceding formula will be awarded a bonus of \$10 per ton. The Department will not award grants calculated to be less than \$10.

Applicants that have failed to comply with the conditions set forth in previously awarded grants, the recycling program performance requirements contained in Act 140 of 2006, the grant requirements of Act 101, or the regulations of the Act may not be awarded funds under this grant program. Applicants must ensure that they are in compliance with § 272.314(b)(2) (relating to the submittal of the annual recycling report).

Eligible materials include post-consumer: clear glass, colored glass, aluminum cans, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper, other marketable grades of paper and plastics. Grants will be awarded only for properly documented, eligible materials that were actually marketed on or after January 1, 2007, to and including, December 31, 2007. Grant funds will not be awarded for residues, materials not listed as eligible including, but not limited to, leaf and yard wastes, or any materials which cannot be documented as being recycled into a new product or use. In particular, recovered glass that is being stockpiled or used as daily cover at a landfill will not be considered as recycled. Applicants must be able to document the amount of residue attributable to their recycling program.

Documentation to support all claims that eligible recyclable materials were generated within the municipality and marketed must be made available for auditing by the Department, the Office of the Auditor General, the Office of the Treasurer or agents of those offices for 4 years. The Department will not require applicants to retain hauler customer lists; however, the lists may be required to be examined in the event of an audit. It will be the applicant's responsibility to arrange for hauler customer lists to be provided, or for haulers to be present with their customer lists, during a grant audit. Supporting documentation is not required to be submitted with the application. Any tonnages not properly documented at the time of an audit will not be credited toward the applicant's Performance Grant award.

Acceptable Supporting Documentation: Weight slips or receipts verifying that the materials were recycled or marketed are required as supporting documentation for the grant application. The documentation must include:

- 1) the date the materials were recycled/marketed; 2) the type of material recycled/marketed; 3) the name of the municipality where the material was generated; 4) weight, stated in pounds or tons, of the material recycled/marketed; and 5) the name of the entity that collected, weighed and/or processed the material. Documentation supporting materials source separated from municipal waste by commercial/institutional establishments and recycled/marketed must bear the name of the establishment and the municipality where the establishment is located.

Acceptable documentation must be provided in one of the following formats: 1) a dated weight/market receipt identifying the generator of the recyclable materials and the market; 2) a dated report submitted by the hauler or market on company letterhead clearly indicating the name of the company generating the recyclable materials; or 3) a dated report submitted by the generator, which is signed by the hauler or market vendor that received the materials. Reports may be submitted on annual, monthly, weekly or other time period format. All information must be legible.

Estimates of weight will not be accepted except in cases where: 1) the material is packaged in uniform bales and the average weight of a bale can be demonstrated and supported by weight receipts and a record of the number of bales was provided by the market vendors; or when, 2) multiple generators contribute to a known quantity of marketed material, and the hauler or market estimates the quantities attributable to any individual establishment or municipality, and verifies the estimate with a signature.

Although the supporting documentation is not required to be submitted with the grant application, any documentation provided must conform to the above requirements or the materials claimed will not be credited toward the grant award. Potential applicants should review the Department's booklet, "Documentation Requirements and Examples" (www.depweb.state.pa.us, Keyword: "Recycling Grants"), prior to completing the grant application.

Grant applications must be on forms provided by the Department for calendar year 2007. Grant applications must be delivered by 4 p.m., September 30, 2008, or postmarked on or before that day. Applications received by the Department after the deadline will be returned to the applicant. Grant awards are predicated on the receipt of recycling fees required by Sections 701 and 702 of Act 101, and the availability of moneys in the Recycling Fund.

Municipalities wishing to file an application should contact their County Recycling Coordinator or the Department at the address that follows. Applications may also be obtained from the Department's web site at www.depweb.state.pa.us (Keyword: "Recycling Grants"). Inquiries concerning this notice should be directed to Mark Vottero, Bureau of Waste Management, Department of Environmental Protection, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472 or mvottero@state.pa.us.

JOSEPH R. POWERS,
Acting Secretary

[Pa.B. Doc. No. 08-1467. Filed for public inspection August 8, 2008, 9:00 a.m.]

Statewide Water Resources Committee Meeting

The Statewide Water Resources Committee will meet on August 22, 2008, at 9:30 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The purpose of the meeting is to discuss the development of the State Water Plan.

Questions concerning this meeting should be directed to Susan Weaver at (717) 783-8055 or suweaver@state.pa.us. An agenda for the August 22, 2008, meeting, as well as notices of meeting changes will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Susan Weaver at (717) 783-8055 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOSEPH R. POWERS,
Acting Secretary

[Pa.B. Doc. No. 08-1468. Filed for public inspection August 8, 2008, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Real Estate for Sale
Montgomery County

The Department of General Services (Department) will accept bids for the purchase of .29-acre of land and building formerly known as the Pottstown National Guard Armory located at 261 King Street, Borough of

Pottstown, Montgomery County. Bids are due Thursday, October 16, 2008. Interested parties wishing to receive a copy of Solicitation No. 94227 should view the Department's web site at www.dgs.state.pa.us or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,
Secretary

[Pa.B. Doc. No. 08-1469. Filed for public inspection August 8, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Pennsylvania Cancer Control, Prevention and Research Advisory Board Meeting

The Pennsylvania Cancer Control, Prevention and Research Advisory Board, established under the Pennsylvania Cancer Control, Prevention and Research Act (35 P. S. § 5633), will hold a meeting on Wednesday, September 24, 2008, from 9 a.m. to 2 p.m., at the Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110.

For additional information, contact Kathleen A. Zitka, Chief, Department of Health, Comprehensive Cancer Control Section, Room 1011, Health and Welfare Building, Harrisburg, PA at (717) 787-5251.

Persons with disabilities who wish to attend the meeting and requiring an auxiliary aid, service or other accommodation should contact Kathleen A. Zitka at (717) 787-5251 or for speech and/or hearing impaired persons at V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1470. Filed for public inspection August 8, 2008, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Income Limits and Co-payments for the Subsidized Child Care Program

The purpose of this notice is to increase the income limits codified at 55 Pa. Code Chapter 3041, Appendix B (relating to co-payment chart family co-payment scale (based on the 2008 FPIGs)) under 55 Pa. Code § 3041.107(b) (relating to availability and use of the Federal Poverty Income Guidelines). This increase is effective May 5, 2008.

Section 3041.107(b) requires the Department of Public Welfare to update the co-payment schedule in 55 Pa. Code Chapter 3041, Appendix B to reflect changes in the Federal Poverty Income Guidelines (FPIG). Effective May 5, 2008, the income guidelines for the subsidized child care program are increased due to increases in the FPIG. The co-payment schedule is adjusted to reflect the increases. Chapter 3041, Appendix B also establishes the family co-payment levels according to the family's computed annual income and lists the weekly family co-payment based on the annual family income.

ESTELLE B. RICHMAN,
Secretary

**Co-Payment Chart
Family Co-Payment Scale**

(Based on the 2008 Federal Poverty Income Guidelines)

| <i>Weekly Co-pay</i> | <i>Family Size: 1</i> | | <i>Family Size: 2</i> | | <i>Family Size: 3</i> | |
|--------------------------|-----------------------|----------|-----------------------|----------|-----------------------|----------|
| | <i>Annual Income</i> | | <i>Annual Income</i> | | <i>Annual Income</i> | |
| \$5.00 | Less than: | \$8,400 | Less than: | \$12,000 | Less than: | \$13,600 |
| \$10.00 | \$8,400.01 | \$10,400 | \$12,000.01 | \$14,000 | \$13,600.01 | \$15,600 |
| \$15.00 | \$10,400.01 | \$12,400 | \$14,000.01 | \$16,000 | \$15,600.01 | \$17,600 |
| \$20.00 | \$12,400.01 | \$14,400 | \$16,000.01 | \$18,000 | \$17,600.01 | \$19,600 |
| \$25.00 | \$14,400.01 | \$16,400 | \$18,000.01 | \$20,000 | \$19,600.01 | \$21,600 |
| \$30.00 | \$16,400.01 | \$18,400 | \$20,000.01 | \$22,000 | \$21,600.01 | \$23,600 |
| \$35.00 | \$18,400.01 | \$20,400 | \$22,000.01 | \$24,000 | \$23,600.01 | \$25,600 |
| \$40.00 | \$20,400.01 | \$22,400 | \$24,000.01 | \$26,000 | \$25,600.01 | \$27,600 |
| \$45.00 | \$22,400.01 | \$24,400 | \$26,000.01 | \$28,000 | \$27,600.01 | \$29,600 |
| \$50.00 | \$24,400.01 | \$24,440 | \$28,000.01 | \$30,000 | \$29,600.01 | \$31,600 |
| \$55.00 | | | \$30,000.01 | \$32,000 | \$31,600.01 | \$33,600 |
| \$60.00 | | | \$32,000.01 | \$32,900 | \$33,600.01 | \$35,600 |
| \$65.00 | | | | | \$35,600.01 | \$37,600 |
| \$70.00 | | | | | \$37,600.01 | \$39,600 |
| \$75.00 | | | | | \$39,600.01 | \$41,360 |
| | 200% FPIG | \$20,800 | 200% FPIG | \$28,000 | 200% FPIG | \$35,200 |

| <i>Weekly Co-pay</i> | <i>Family Size: 4</i> | | <i>Family Size: 5</i> | | <i>Family Size: 6</i> | |
|--------------------------|-----------------------|----------|-----------------------|----------|-----------------------|----------|
| | <i>Annual Income</i> | | <i>Annual Income</i> | | <i>Annual Income</i> | |
| \$5.00 | Less than: | \$15,200 | Less than: | \$16,800 | Less than: | \$18,400 |
| \$10.00 | \$15,200.01 | \$17,200 | \$16,800.01 | \$18,800 | \$18,400.01 | \$20,400 |
| \$15.00 | \$17,200.01 | \$19,200 | \$18,800.01 | \$20,800 | \$20,400.01 | \$22,400 |
| \$20.00 | \$19,200.01 | \$21,200 | \$20,800.01 | \$22,800 | \$22,400.01 | \$24,400 |
| \$25.00 | \$21,200.01 | \$23,200 | \$22,800.01 | \$24,800 | \$24,400.01 | \$26,400 |
| \$30.00 | \$23,200.01 | \$25,200 | \$24,800.01 | \$26,800 | \$26,400.01 | \$28,400 |
| \$35.00 | \$25,200.01 | \$27,200 | \$26,800.01 | \$28,800 | \$28,400.01 | \$30,400 |
| \$40.00 | \$27,200.01 | \$29,200 | \$28,800.01 | \$30,800 | \$30,400.01 | \$32,400 |
| \$45.00 | \$29,200.01 | \$31,200 | \$30,800.01 | \$32,800 | \$32,400.01 | \$34,400 |
| \$50.00 | \$31,200.01 | \$33,200 | \$32,800.01 | \$34,800 | \$34,400.01 | \$36,400 |
| \$55.00 | \$33,200.01 | \$35,200 | \$34,800.01 | \$36,800 | \$36,400.01 | \$38,400 |
| \$60.00 | \$35,200.01 | \$37,200 | \$36,800.01 | \$38,800 | \$38,400.01 | \$40,400 |
| \$65.00 | \$37,200.01 | \$39,200 | \$38,800.01 | \$40,800 | \$40,400.01 | \$42,400 |
| \$70.00 | \$39,200.01 | \$41,200 | \$40,800.01 | \$42,800 | \$42,400.01 | \$44,400 |
| \$75.00 | \$41,200.01 | \$43,200 | \$42,800.01 | \$44,800 | \$44,400.01 | \$46,400 |
| \$80.00 | \$43,200.01 | \$45,200 | \$44,800.01 | \$46,800 | \$46,400.01 | \$48,400 |
| \$85.00 | \$45,200.01 | \$47,200 | \$46,800.01 | \$48,800 | \$48,400.01 | \$50,400 |
| \$90.00 | \$47,200.01 | \$49,200 | \$48,800.01 | \$50,800 | \$50,400.01 | \$52,400 |
| \$95.00 | \$49,200.01 | \$49,820 | \$50,800.01 | \$52,800 | \$52,400.01 | \$54,400 |
| \$100.00 | | | \$52,800.01 | \$54,800 | \$54,400.01 | \$56,400 |
| \$105.00 | | | \$54,800.01 | \$56,800 | \$56,400.01 | \$58,400 |
| \$110.00 | | | \$56,800.01 | \$58,280 | \$58,400.01 | \$60,400 |
| \$115.00 | | | | | \$60,400.01 | \$62,400 |
| \$120.00 | | | | | \$62,400.01 | \$64,400 |

NOTICES

4443

| Weekly Co-pay | Family Size: 4 | | Family Size: 5 | | Family Size: 6 | |
|------------------|----------------|----------|----------------|----------|----------------|----------|
| | Annual Income | | Annual Income | | Annual Income | |
| \$125.00 | | | | | \$64,400.01 | \$66,400 |
| \$130.00 | | | | | \$66,400.01 | \$66,740 |
| | 200% FPIG | \$42,400 | 200% FPIG | \$49,600 | 200% FPIG | \$56,800 |

| Weekly Co-pay | Family Size: 7 | | Family Size: 8 | | Family Size: 9 | |
|------------------|----------------|----------|----------------|----------|----------------|----------|
| | Annual Income | | Annual Income | | Annual Income | |
| \$5.00 | Less than: | \$20,000 | Less than: | \$21,600 | Less than: | \$23,200 |
| \$10.00 | \$20,000.01 | \$22,000 | \$21,600.01 | \$23,600 | \$23,200.01 | \$25,200 |
| \$15.00 | \$22,000.01 | \$24,000 | \$23,600.01 | \$25,600 | \$25,200.01 | \$27,200 |
| \$20.00 | \$24,000.01 | \$26,000 | \$25,600.01 | \$27,600 | \$27,200.01 | \$29,200 |
| \$25.00 | \$26,000.01 | \$28,000 | \$27,600.01 | \$29,600 | \$29,200.01 | \$31,200 |
| \$30.00 | \$28,000.01 | \$30,000 | \$29,600.01 | \$31,600 | \$31,200.01 | \$33,200 |
| \$35.00 | \$30,000.01 | \$32,000 | \$31,600.01 | \$33,600 | \$33,200.01 | \$35,200 |
| \$40.00 | \$32,000.01 | \$34,000 | \$33,600.01 | \$35,600 | \$35,200.01 | \$37,200 |
| \$45.00 | \$34,000.01 | \$36,000 | \$35,600.01 | \$37,600 | \$37,200.01 | \$39,200 |
| \$50.00 | \$36,000.01 | \$38,000 | \$37,600.01 | \$39,600 | \$39,200.01 | \$41,200 |
| \$55.00 | \$38,000.01 | \$40,000 | \$39,600.01 | \$41,600 | \$41,200.01 | \$43,200 |
| \$60.00 | \$40,000.01 | \$42,000 | \$41,600.01 | \$43,600 | \$43,200.01 | \$45,200 |
| \$65.00 | \$42,000.01 | \$44,000 | \$43,600.01 | \$45,600 | \$45,200.01 | \$47,200 |
| \$70.00 | \$44,000.01 | \$46,000 | \$45,600.01 | \$47,600 | \$47,200.01 | \$49,200 |
| \$75.00 | \$46,000.01 | \$48,000 | \$47,600.01 | \$49,600 | \$49,200.01 | \$51,200 |
| \$80.00 | \$48,000.01 | \$50,000 | \$49,600.01 | \$51,600 | \$51,200.01 | \$53,200 |
| \$85.00 | \$50,000.01 | \$52,000 | \$51,600.01 | \$53,600 | \$53,200.01 | \$55,200 |
| \$90.00 | \$52,000.01 | \$54,000 | \$53,600.01 | \$55,600 | \$55,200.01 | \$57,200 |
| \$95.00 | \$54,000.01 | \$56,000 | \$55,600.01 | \$57,600 | \$57,200.01 | \$59,200 |
| \$100.00 | \$56,000.01 | \$58,000 | \$57,600.01 | \$59,600 | \$59,200.01 | \$61,200 |
| \$105.00 | \$58,000.01 | \$60,000 | \$59,600.01 | \$61,600 | \$61,200.01 | \$63,200 |
| \$110.00 | \$60,000.01 | \$62,000 | \$61,600.01 | \$63,600 | \$63,200.01 | \$65,200 |
| \$115.00 | \$62,000.01 | \$64,000 | \$63,600.01 | \$65,600 | \$65,200.01 | \$67,200 |
| \$120.00 | \$64,000.01 | \$66,000 | \$65,600.01 | \$67,600 | \$67,200.01 | \$69,200 |
| \$125.00 | \$66,000.01 | \$68,000 | \$67,600.01 | \$69,600 | \$69,200.01 | \$71,200 |
| \$130.00 | \$68,000.01 | \$70,000 | \$69,600.01 | \$71,600 | \$71,200.01 | \$73,200 |
| \$135.00 | \$70,000.01 | \$72,000 | \$71,600.01 | \$73,600 | \$73,200.01 | \$75,200 |
| \$140.00 | \$72,000.01 | \$74,000 | \$73,600.01 | \$75,600 | \$75,200.01 | \$77,200 |
| \$145.00 | \$74,000.01 | \$75,200 | \$75,600.01 | \$77,600 | \$77,200.01 | \$79,200 |
| \$150.00 | | | \$77,600.01 | \$79,600 | \$79,200.01 | \$81,200 |
| \$155.00 | | | \$79,600.01 | \$81,600 | \$81,200.01 | \$83,200 |
| \$160.00 | | | \$81,600.01 | \$83,600 | \$83,200.01 | \$85,200 |
| \$165.00 | | | \$83,600.01 | \$83,660 | \$85,200.01 | \$87,200 |
| \$170.00 | | | | | \$87,200.01 | \$89,200 |
| \$175.00 | | | | | \$89,200.01 | \$91,200 |
| \$180.00 | | | | | \$91,200.01 | \$92,120 |
| | 200% FPIG | \$64,000 | 200% FPIG | \$71,200 | 200% FPIG | \$78,400 |

| <i>Weekly Co-pay</i> | <i>Family Size: 10 Annual Income</i> | | <i>Family Size: 11 Annual Income</i> | | <i>Family Size: 12 Annual Income</i> | |
|--------------------------|--|-----------|--|-----------|--|-----------|
| \$5.00 | Less than: | \$24,800 | Less than: | \$26,400 | Less than: | \$28,000 |
| \$10.00 | \$24,800.01 | \$26,800 | \$26,400.01 | \$28,400 | \$28,000.01 | \$30,000 |
| \$15.00 | \$26,800.01 | \$28,800 | \$28,400.01 | \$30,400 | \$30,000.01 | \$32,000 |
| \$20.00 | \$28,800.01 | \$30,800 | \$30,400.01 | \$32,400 | \$32,000.01 | \$34,000 |
| \$25.00 | \$30,800.01 | \$32,800 | \$32,400.01 | \$34,400 | \$34,000.01 | \$36,000 |
| \$30.00 | \$32,800.01 | \$34,800 | \$34,400.01 | \$36,400 | \$36,000.01 | \$38,000 |
| \$35.00 | \$34,800.01 | \$36,800 | \$36,400.01 | \$38,400 | \$38,000.01 | \$40,000 |
| \$40.00 | \$36,800.01 | \$38,800 | \$38,400.01 | \$40,400 | \$40,000.01 | \$42,000 |
| \$45.00 | \$38,800.01 | \$40,800 | \$40,400.01 | \$42,400 | \$42,000.01 | \$44,000 |
| \$50.00 | \$40,800.01 | \$42,800 | \$42,400.01 | \$44,400 | \$44,000.01 | \$46,000 |
| \$55.00 | \$42,800.01 | \$44,800 | \$44,400.01 | \$46,400 | \$46,000.01 | \$48,000 |
| \$60.00 | \$44,800.01 | \$46,800 | \$46,400.01 | \$48,400 | \$48,000.01 | \$50,000 |
| \$65.00 | \$46,800.01 | \$48,800 | \$48,400.01 | \$50,400 | \$50,000.01 | \$52,000 |
| \$70.00 | \$48,800.01 | \$50,800 | \$50,400.01 | \$52,400 | \$52,000.01 | \$54,000 |
| \$75.00 | \$50,800.01 | \$52,800 | \$52,400.01 | \$54,400 | \$54,000.01 | \$56,000 |
| \$80.00 | \$52,800.01 | \$54,800 | \$54,400.01 | \$56,400 | \$56,000.01 | \$58,000 |
| \$85.00 | \$54,800.01 | \$56,800 | \$56,400.01 | \$58,400 | \$58,000.01 | \$60,000 |
| \$90.00 | \$56,800.01 | \$58,800 | \$58,400.01 | \$60,400 | \$60,000.01 | \$62,000 |
| \$95.00 | \$58,800.01 | \$60,800 | \$60,400.01 | \$62,400 | \$62,000.01 | \$64,000 |
| \$100.00 | \$60,800.01 | \$62,800 | \$62,400.01 | \$64,400 | \$64,000.01 | \$66,000 |
| \$105.00 | \$62,800.01 | \$64,800 | \$64,400.01 | \$66,400 | \$66,000.01 | \$68,000 |
| \$110.00 | \$64,800.01 | \$66,800 | \$66,400.01 | \$68,400 | \$68,000.01 | \$70,000 |
| \$115.00 | \$66,800.01 | \$68,800 | \$68,400.01 | \$70,400 | \$70,000.01 | \$72,000 |
| \$120.00 | \$68,800.01 | \$70,800 | \$70,400.01 | \$72,400 | \$72,000.01 | \$74,000 |
| \$125.00 | \$70,800.01 | \$72,800 | \$72,400.01 | \$74,400 | \$74,000.01 | \$76,000 |
| \$130.00 | \$72,800.01 | \$74,800 | \$74,400.01 | \$76,400 | \$76,000.01 | \$78,000 |
| \$135.00 | \$74,800.01 | \$76,800 | \$76,400.01 | \$78,400 | \$78,000.01 | \$80,000 |
| \$140.00 | \$76,800.01 | \$78,800 | \$78,400.01 | \$80,400 | \$80,000.01 | \$82,000 |
| \$145.00 | \$78,800.01 | \$80,800 | \$80,400.01 | \$82,400 | \$82,000.01 | \$84,000 |
| \$150.00 | \$80,800.01 | \$82,800 | \$82,400.01 | \$84,400 | \$84,000.01 | \$86,000 |
| \$155.00 | \$82,800.01 | \$84,800 | \$84,400.01 | \$86,400 | \$86,000.01 | \$88,000 |
| \$160.00 | \$84,800.01 | \$86,800 | \$86,400.01 | \$88,400 | \$88,000.01 | \$90,000 |
| \$165.00 | \$86,800.01 | \$88,800 | \$88,400.01 | \$90,400 | \$90,000.01 | \$92,000 |
| \$170.00 | \$88,800.01 | \$90,800 | \$90,400.01 | \$92,400 | \$92,000.01 | \$94,000 |
| \$175.00 | \$90,800.01 | \$92,800 | \$92,400.01 | \$94,400 | \$94,000.01 | \$96,000 |
| \$180.00 | \$92,800.01 | \$94,800 | \$94,400.01 | \$96,400 | \$96,000.01 | \$98,000 |
| \$185.00 | \$94,800.01 | \$96,800 | \$96,400.01 | \$98,400 | \$98,000.01 | \$100,000 |
| \$190.00 | \$96,800.01 | \$98,800 | \$98,400.01 | \$100,400 | \$100,000.01 | \$102,000 |
| \$195.00 | \$98,800.01 | \$100,580 | \$100,400.01 | \$102,400 | \$102,000.01 | \$104,000 |
| \$200.00 | | | \$102,400.01 | \$104,400 | \$104,000.01 | \$106,000 |
| \$205.00 | | | \$104,400.01 | \$106,400 | \$106,000.01 | \$108,000 |
| \$210.00 | | | \$106,400.01 | \$108,400 | \$108,000.01 | \$110,000 |
| \$215.00 | | | \$108,400.01 | \$109,040 | \$110,000.01 | \$112,000 |
| \$220.00 | | | | | \$112,000.01 | \$114,000 |

NOTICES

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| Weekly Co-pay | Family Size: 10 Annual Income | | Family Size: 11 Annual Income | | Family Size: 12 Annual Income | |
|------------------|----------------------------------|----------|----------------------------------|----------|----------------------------------|--------------|
| | \$225.00 | | | | | \$114,000.01 |
| \$230.00 | | | | | \$116,000.01 | \$117,500 |
| | 200% FPIG | \$85,600 | 200% FPIG | \$92,800 | 200% FPIG | \$100,000 |

| Weekly Co-pay | Family Size: 13 Annual Income | | Family Size: 14 Annual Income | | Family Size: 15 Annual Income | |
|------------------|----------------------------------|------------|----------------------------------|------------|----------------------------------|------------|
| | \$5.00 | Less than: | \$29,600 | Less than: | \$31,200 | Less than: |
| \$10.00 | \$29,600.01 | \$31,600 | \$31,200.01 | \$33,200 | \$32,800.01 | \$34,800 |
| \$15.00 | \$31,600.01 | \$33,600 | \$33,200.01 | \$35,200 | \$34,800.01 | \$36,800 |
| \$20.00 | \$33,600.01 | \$35,600 | \$35,200.01 | \$37,200 | \$36,800.01 | \$38,800 |
| \$25.00 | \$35,600.01 | \$37,600 | \$37,200.01 | \$39,200 | \$38,800.01 | \$40,800 |
| \$30.00 | \$37,600.01 | \$39,600 | \$39,200.01 | \$41,200 | \$40,800.01 | \$42,800 |
| \$35.00 | \$39,600.01 | \$41,600 | \$41,200.01 | \$43,200 | \$42,800.01 | \$44,800 |
| \$40.00 | \$41,600.01 | \$43,600 | \$43,200.01 | \$45,200 | \$44,800.01 | \$46,800 |
| \$45.00 | \$43,600.01 | \$45,600 | \$45,200.01 | \$47,200 | \$46,800.01 | \$48,800 |
| \$50.00 | \$45,600.01 | \$47,600 | \$47,200.01 | \$49,200 | \$48,800.01 | \$50,800 |
| \$55.00 | \$47,600.01 | \$49,600 | \$49,200.01 | \$51,200 | \$50,800.01 | \$52,800 |
| \$60.00 | \$49,600.01 | \$51,600 | \$51,200.01 | \$53,200 | \$52,800.01 | \$54,800 |
| \$65.00 | \$51,600.01 | \$53,600 | \$53,200.01 | \$55,200 | \$54,800.01 | \$56,800 |
| \$70.00 | \$53,600.01 | \$55,600 | \$55,200.01 | \$57,200 | \$56,800.01 | \$58,800 |
| \$75.00 | \$55,600.01 | \$57,600 | \$57,200.01 | \$59,200 | \$58,800.01 | \$60,800 |
| \$80.00 | \$57,600.01 | \$59,600 | \$59,200.01 | \$61,200 | \$60,800.01 | \$62,800 |
| \$85.00 | \$59,600.01 | \$61,600 | \$61,200.01 | \$63,200 | \$62,800.01 | \$64,800 |
| \$90.00 | \$61,600.01 | \$63,600 | \$63,200.01 | \$65,200 | \$64,800.01 | \$66,800 |
| \$95.00 | \$63,600.01 | \$65,600 | \$65,200.01 | \$67,200 | \$66,800.01 | \$68,800 |
| \$100.00 | \$65,600.01 | \$67,600 | \$67,200.01 | \$69,200 | \$68,800.01 | \$70,800 |
| \$105.00 | \$67,600.01 | \$69,600 | \$69,200.01 | \$71,200 | \$70,800.01 | \$72,800 |
| \$110.00 | \$69,600.01 | \$71,600 | \$71,200.01 | \$73,200 | \$72,800.01 | \$74,800 |
| \$115.00 | \$71,600.01 | \$73,600 | \$73,200.01 | \$75,200 | \$74,800.01 | \$76,800 |
| \$120.00 | \$73,600.01 | \$75,600 | \$75,200.01 | \$77,200 | \$76,800.01 | \$78,800 |
| \$125.00 | \$75,600.01 | \$77,600 | \$77,200.01 | \$79,200 | \$78,800.01 | \$80,800 |
| \$130.00 | \$77,600.01 | \$79,600 | \$79,200.01 | \$81,200 | \$80,800.01 | \$82,800 |
| \$135.00 | \$79,600.01 | \$81,600 | \$81,200.01 | \$83,200 | \$82,800.01 | \$84,800 |
| \$140.00 | \$81,600.01 | \$83,600 | \$83,200.01 | \$85,200 | \$84,800.01 | \$86,800 |
| \$145.00 | \$83,600.01 | \$85,600 | \$85,200.01 | \$87,200 | \$86,800.01 | \$88,800 |
| \$150.00 | \$85,600.01 | \$87,600 | \$87,200.01 | \$89,200 | \$88,800.01 | \$90,800 |
| \$155.00 | \$87,600.01 | \$89,600 | \$89,200.01 | \$91,200 | \$90,800.01 | \$92,800 |
| \$160.00 | \$89,600.01 | \$91,600 | \$91,200.01 | \$93,200 | \$92,800.01 | \$94,800 |
| \$165.00 | \$91,600.01 | \$93,600 | \$93,200.01 | \$95,200 | \$94,800.01 | \$96,800 |
| \$170.00 | \$93,600.01 | \$95,600 | \$95,200.01 | \$97,200 | \$96,800.01 | \$98,800 |
| \$175.00 | \$95,600.01 | \$97,600 | \$97,200.01 | \$99,200 | \$98,800.01 | \$100,800 |
| \$180.00 | \$97,600.01 | \$99,600 | \$99,200.01 | \$101,200 | \$100,800.01 | \$102,800 |
| \$185.00 | \$99,600.01 | \$101,600 | \$101,200.01 | \$103,200 | \$102,800.01 | \$104,800 |
| \$190.00 | \$101,600.01 | \$103,600 | \$103,200.01 | \$105,200 | \$104,800.01 | \$106,800 |
| \$195.00 | \$103,600.01 | \$105,600 | \$105,200.01 | \$107,200 | \$106,800.01 | \$108,800 |
| \$200.00 | \$105,600.01 | \$107,600 | \$107,200.01 | \$109,200 | \$108,800.01 | \$110,800 |

NOTICES

| Weekly Co-pay | Family Size: 13 | | Family Size: 14 | | Family Size: 15 | |
|------------------|-----------------|-----------|-----------------|-----------|-----------------|-----------|
| | Annual Income | | Annual Income | | Annual Income | |
| \$205.00 | \$107,600.01 | \$109,600 | \$109,200.01 | \$111,200 | \$110,800.01 | \$112,800 |
| \$210.00 | \$109,600.01 | \$111,600 | \$111,200.01 | \$113,200 | \$112,800.01 | \$114,800 |
| \$215.00 | \$111,600.01 | \$113,600 | \$113,200.01 | \$115,200 | \$114,800.01 | \$116,800 |
| \$220.00 | \$113,600.01 | \$115,600 | \$115,200.01 | \$117,200 | \$116,800.01 | \$118,800 |
| \$225.00 | \$115,600.01 | \$117,600 | \$117,200.01 | \$119,200 | \$118,800.01 | \$120,800 |
| \$230.00 | \$117,600.01 | \$119,600 | \$119,200.01 | \$121,200 | \$120,800.01 | \$122,800 |
| \$235.00 | \$119,600.01 | \$121,600 | \$121,200.01 | \$123,200 | \$122,800.01 | \$124,800 |
| \$240.00 | \$121,600.01 | \$123,600 | \$123,200.01 | \$125,200 | \$124,800.01 | \$126,800 |
| \$245.00 | \$123,600.01 | \$125,600 | \$125,200.01 | \$127,200 | \$126,800.01 | \$128,800 |
| \$250.00 | \$125,600.01 | \$125,960 | \$127,200.01 | \$129,200 | \$128,800.01 | \$130,800 |
| \$255.00 | | | \$129,200.01 | \$131,200 | \$130,800.01 | \$132,800 |
| \$260.00 | | | \$131,200.01 | \$133,200 | \$132,800.01 | \$134,800 |
| \$265.00 | | | \$133,200.01 | \$134,420 | \$134,800.01 | \$136,800 |
| \$270.00 | | | | | \$136,800.01 | \$138,800 |
| \$275.00 | | | | | \$138,800.01 | \$140,800 |
| \$280.00 | | | | | \$140,800.01 | \$142,800 |
| \$285.00 | | | | | \$142,800.01 | \$142,880 |
| | 200% FPIG | \$107,200 | 200% FPIG | \$114,400 | 200% FPIG | \$121,600 |

| Weekly Co-pay | Family Size: 16 | | Family Size: 17 | | Family Size: 18 | |
|------------------|-----------------|----------|-----------------|----------|-----------------|----------|
| | Annual Income | | Annual Income | | Annual Income | |
| \$5.00 | Less than: | \$36,400 | Less than: | \$38,000 | Less than: | \$39,600 |
| \$10.00 | \$36,400.01 | \$38,400 | \$38,000.01 | \$40,000 | \$39,600.01 | \$41,600 |
| \$15.00 | \$38,400.01 | \$40,400 | \$40,000.01 | \$42,000 | \$41,600.01 | \$43,600 |
| \$20.00 | \$40,400.01 | \$42,400 | \$42,000.01 | \$44,000 | \$43,600.01 | \$45,600 |
| \$25.00 | \$42,400.01 | \$44,400 | \$44,000.01 | \$46,000 | \$45,600.01 | \$47,600 |
| \$30.00 | \$44,400.01 | \$46,400 | \$46,000.01 | \$48,000 | \$47,600.01 | \$49,600 |
| \$35.00 | \$46,400.01 | \$48,400 | \$48,000.01 | \$50,000 | \$49,600.01 | \$51,600 |
| \$40.00 | \$48,400.01 | \$50,400 | \$50,000.01 | \$52,000 | \$51,600.01 | \$53,600 |
| \$45.00 | \$50,400.01 | \$52,400 | \$52,000.01 | \$54,000 | \$53,600.01 | \$55,600 |
| \$50.00 | \$52,400.01 | \$54,400 | \$54,000.01 | \$56,000 | \$55,600.01 | \$57,600 |
| \$55.00 | \$54,400.01 | \$56,400 | \$56,000.01 | \$58,000 | \$57,600.01 | \$59,600 |
| \$60.00 | \$56,400.01 | \$58,400 | \$58,000.01 | \$60,000 | \$59,600.01 | \$61,600 |
| \$65.00 | \$58,400.01 | \$60,400 | \$60,000.01 | \$62,000 | \$61,600.01 | \$63,600 |
| \$70.00 | \$60,400.01 | \$62,400 | \$62,000.01 | \$64,000 | \$63,600.01 | \$65,600 |
| \$75.00 | \$62,400.01 | \$64,400 | \$64,000.01 | \$66,000 | \$65,600.01 | \$67,600 |
| \$80.00 | \$64,400.01 | \$66,400 | \$66,000.01 | \$68,000 | \$67,600.01 | \$69,600 |
| \$85.00 | \$66,400.01 | \$68,400 | \$68,000.01 | \$70,000 | \$69,600.01 | \$71,600 |
| \$90.00 | \$68,400.01 | \$70,400 | \$70,000.01 | \$72,000 | \$71,600.01 | \$73,600 |
| \$95.00 | \$70,400.01 | \$72,400 | \$72,000.01 | \$74,000 | \$73,600.01 | \$75,600 |
| \$100.00 | \$72,400.01 | \$74,400 | \$74,000.01 | \$76,000 | \$75,600.01 | \$77,600 |
| \$105.00 | \$74,400.01 | \$76,400 | \$76,000.01 | \$78,000 | \$77,600.01 | \$79,600 |
| \$110.00 | \$76,400.01 | \$78,400 | \$78,000.01 | \$80,000 | \$79,600.01 | \$81,600 |
| \$115.00 | \$78,400.01 | \$80,400 | \$80,000.01 | \$82,000 | \$81,600.01 | \$83,600 |
| \$120.00 | \$80,400.01 | \$82,400 | \$82,000.01 | \$84,000 | \$83,600.01 | \$85,600 |
| \$125.00 | \$82,400.01 | \$84,400 | \$84,000.01 | \$86,000 | \$85,600.01 | \$87,600 |

NOTICES

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| <i>Weekly Co-pay</i> | <i>Family Size: 16 Annual Income</i> | | <i>Family Size: 17 Annual Income</i> | | <i>Family Size: 18 Annual Income</i> | |
|--------------------------|--|-----------|--|-----------|--|-----------|
| \$130.00 | \$84,400.01 | \$86,400 | \$86,000.01 | \$88,000 | \$87,600.01 | \$89,600 |
| \$135.00 | \$86,400.01 | \$88,400 | \$88,000.01 | \$90,000 | \$89,600.01 | \$91,600 |
| \$140.00 | \$88,400.01 | \$90,400 | \$90,000.01 | \$92,000 | \$91,600.01 | \$93,600 |
| \$145.00 | \$90,400.01 | \$92,400 | \$92,000.01 | \$94,000 | \$93,600.01 | \$95,600 |
| \$150.00 | \$92,400.01 | \$94,400 | \$94,000.01 | \$96,000 | \$95,600.01 | \$97,600 |
| \$155.00 | \$94,400.01 | \$96,400 | \$96,000.01 | \$98,000 | \$97,600.01 | \$99,600 |
| \$160.00 | \$96,400.01 | \$98,400 | \$98,000.01 | \$100,000 | \$99,600.01 | \$101,600 |
| \$165.00 | \$98,400.01 | \$100,400 | \$100,000.01 | \$102,000 | \$101,600.01 | \$103,600 |
| \$170.00 | \$100,400.01 | \$102,400 | \$102,000.01 | \$104,000 | \$103,600.01 | \$105,600 |
| \$175.00 | \$102,400.01 | \$104,400 | \$104,000.01 | \$106,000 | \$105,600.01 | \$107,600 |
| \$180.00 | \$104,400.01 | \$106,400 | \$106,000.01 | \$108,000 | \$107,600.01 | \$109,600 |
| \$185.00 | \$106,400.01 | \$108,400 | \$108,000.01 | \$110,000 | \$109,600.01 | \$111,600 |
| \$190.00 | \$108,400.01 | \$110,400 | \$110,000.01 | \$112,000 | \$111,600.01 | \$113,600 |
| \$195.00 | \$110,400.01 | \$112,400 | \$112,000.01 | \$114,000 | \$113,600.01 | \$115,600 |
| \$200.00 | \$112,400.01 | \$114,400 | \$114,000.01 | \$116,000 | \$115,600.01 | \$117,600 |
| \$205.00 | \$114,400.01 | \$116,400 | \$116,000.01 | \$118,000 | \$117,600.01 | \$119,600 |
| \$210.00 | \$116,400.01 | \$118,400 | \$118,000.01 | \$120,000 | \$119,600.01 | \$121,600 |
| \$215.00 | \$118,400.01 | \$120,400 | \$120,000.01 | \$122,000 | \$121,600.01 | \$123,600 |
| \$220.00 | \$120,400.01 | \$122,400 | \$122,000.01 | \$124,000 | \$123,600.01 | \$125,600 |
| \$225.00 | \$122,400.01 | \$124,400 | \$124,000.01 | \$126,000 | \$125,600.01 | \$127,600 |
| \$230.00 | \$124,400.01 | \$126,400 | \$126,000.01 | \$128,000 | \$127,600.01 | \$129,600 |
| \$235.00 | \$126,400.01 | \$128,400 | \$128,000.01 | \$130,000 | \$129,600.01 | \$131,600 |
| \$240.00 | \$128,400.01 | \$130,400 | \$130,000.01 | \$132,000 | \$131,600.01 | \$133,600 |
| \$245.00 | \$130,400.01 | \$132,400 | \$132,000.01 | \$134,000 | \$133,600.01 | \$135,600 |
| \$250.00 | \$132,400.01 | \$134,400 | \$134,000.01 | \$136,000 | \$135,600.01 | \$137,600 |
| \$255.00 | \$134,400.01 | \$136,400 | \$136,000.01 | \$138,000 | \$137,600.01 | \$139,600 |
| \$260.00 | \$136,400.01 | \$138,400 | \$138,000.01 | \$140,000 | \$139,600.01 | \$141,600 |
| \$265.00 | \$138,400.01 | \$140,400 | \$140,000.01 | \$142,000 | \$141,600.01 | \$143,600 |
| \$270.00 | \$140,400.01 | \$142,400 | \$142,000.01 | \$144,000 | \$143,600.01 | \$145,600 |
| \$275.00 | \$142,400.01 | \$144,400 | \$144,000.01 | \$146,000 | \$145,600.01 | \$147,600 |
| \$280.00 | \$144,400.01 | \$146,400 | \$146,000.01 | \$148,000 | \$147,600.01 | \$149,600 |
| \$285.00 | \$146,400.01 | \$148,400 | \$148,000.01 | \$150,000 | \$149,600.01 | \$151,600 |
| \$290.00 | \$148,400.01 | \$150,400 | \$150,000.01 | \$152,000 | \$151,600.01 | \$153,600 |
| \$295.00 | \$150,400.01 | \$151,340 | \$152,000.01 | \$154,000 | \$153,600.01 | \$155,600 |
| \$300.00 | | | \$154,000.01 | \$156,000 | \$155,600.01 | \$157,600 |
| \$305.00 | | | \$156,000.01 | \$158,000 | \$157,600.01 | \$159,600 |
| \$310.00 | | | \$158,000.01 | \$159,800 | \$159,600.01 | \$161,600 |
| \$315.00 | | | | | \$161,600.01 | \$163,600 |
| \$320.00 | | | | | \$163,600.01 | \$165,600 |
| \$325.00 | | | | | \$165,600.01 | \$167,600 |
| \$330.00 | | | | | \$167,600.01 | \$168,260 |
| | 200% FPIG | \$128,800 | 200% FPIG | \$136,000 | 200% FPIG | \$143,200 |

| <i>Weekly Co-pay</i> | <i>Family Size: 19 Annual Income</i> | | <i>Family Size: 20 Annual Income</i> | | <i>Family Size: 21 Annual Income</i> | |
|--------------------------|--|-----------|--|-----------|--|-----------|
| \$5.00 | Less than: | \$41,200 | Less than: | \$42,800 | Less than: | \$44,400 |
| \$10.00 | \$41,200.01 | \$43,200 | \$42,800.01 | \$44,800 | \$44,400.01 | \$46,400 |
| \$15.00 | \$43,200.01 | \$45,200 | \$44,800.01 | \$46,800 | \$46,400.01 | \$48,400 |
| \$20.00 | \$45,200.01 | \$47,200 | \$46,800.01 | \$48,800 | \$48,400.01 | \$50,400 |
| \$25.00 | \$47,200.01 | \$49,200 | \$48,800.01 | \$50,800 | \$50,400.01 | \$52,400 |
| \$30.00 | \$49,200.01 | \$51,200 | \$50,800.01 | \$52,800 | \$52,400.01 | \$54,400 |
| \$35.00 | \$51,200.01 | \$53,200 | \$52,800.01 | \$54,800 | \$54,400.01 | \$56,400 |
| \$40.00 | \$53,200.01 | \$55,200 | \$54,800.01 | \$56,800 | \$56,400.01 | \$58,400 |
| \$45.00 | \$55,200.01 | \$57,200 | \$56,800.01 | \$58,800 | \$58,400.01 | \$60,400 |
| \$50.00 | \$57,200.01 | \$59,200 | \$58,800.01 | \$60,800 | \$60,400.01 | \$62,400 |
| \$55.00 | \$59,200.01 | \$61,200 | \$60,800.01 | \$62,800 | \$62,400.01 | \$64,400 |
| \$60.00 | \$61,200.01 | \$63,200 | \$62,800.01 | \$64,800 | \$64,400.01 | \$66,400 |
| \$65.00 | \$63,200.01 | \$65,200 | \$64,800.01 | \$66,800 | \$66,400.01 | \$68,400 |
| \$70.00 | \$65,200.01 | \$67,200 | \$66,800.01 | \$68,800 | \$68,400.01 | \$70,400 |
| \$75.00 | \$67,200.01 | \$69,200 | \$68,800.01 | \$70,800 | \$70,400.01 | \$72,400 |
| \$80.00 | \$69,200.01 | \$71,200 | \$70,800.01 | \$72,800 | \$72,400.01 | \$74,400 |
| \$85.00 | \$71,200.01 | \$73,200 | \$72,800.01 | \$74,800 | \$74,400.01 | \$76,400 |
| \$90.00 | \$73,200.01 | \$75,200 | \$74,800.01 | \$76,800 | \$76,400.01 | \$78,400 |
| \$95.00 | \$75,200.01 | \$77,200 | \$76,800.01 | \$78,800 | \$78,400.01 | \$80,400 |
| \$100.00 | \$77,200.01 | \$79,200 | \$78,800.01 | \$80,800 | \$80,400.01 | \$82,400 |
| \$105.00 | \$79,200.01 | \$81,200 | \$80,800.01 | \$82,800 | \$82,400.01 | \$84,400 |
| \$110.00 | \$81,200.01 | \$83,200 | \$82,800.01 | \$84,800 | \$84,400.01 | \$86,400 |
| \$115.00 | \$83,200.01 | \$85,200 | \$84,800.01 | \$86,800 | \$86,400.01 | \$88,400 |
| \$120.00 | \$85,200.01 | \$87,200 | \$86,800.01 | \$88,800 | \$88,400.01 | \$90,400 |
| \$125.00 | \$87,200.01 | \$89,200 | \$88,800.01 | \$90,800 | \$90,400.01 | \$92,400 |
| \$130.00 | \$89,200.01 | \$91,200 | \$90,800.01 | \$92,800 | \$92,400.01 | \$94,400 |
| \$135.00 | \$91,200.01 | \$93,200 | \$92,800.01 | \$94,800 | \$94,400.01 | \$96,400 |
| \$140.00 | \$93,200.01 | \$95,200 | \$94,800.01 | \$96,800 | \$96,400.01 | \$98,400 |
| \$145.00 | \$95,200.01 | \$97,200 | \$96,800.01 | \$98,800 | \$98,400.01 | \$100,400 |
| \$150.00 | \$97,200.01 | \$99,200 | \$98,800.01 | \$100,800 | \$100,400.01 | \$102,400 |
| \$155.00 | \$99,200.01 | \$101,200 | \$100,800.01 | \$102,800 | \$102,400.01 | \$104,400 |
| \$160.00 | \$101,200.01 | \$103,200 | \$102,800.01 | \$104,800 | \$104,400.01 | \$106,400 |
| \$165.00 | \$103,200.01 | \$105,200 | \$104,800.01 | \$106,800 | \$106,400.01 | \$108,400 |
| \$170.00 | \$105,200.01 | \$107,200 | \$106,800.01 | \$108,800 | \$108,400.01 | \$110,400 |
| \$175.00 | \$107,200.01 | \$109,200 | \$108,800.01 | \$110,800 | \$110,400.01 | \$112,400 |
| \$180.00 | \$109,200.01 | \$111,200 | \$110,800.01 | \$112,800 | \$112,400.01 | \$114,400 |
| \$185.00 | \$111,200.01 | \$113,200 | \$112,800.01 | \$114,800 | \$114,400.01 | \$116,400 |
| \$190.00 | \$113,200.01 | \$115,200 | \$114,800.01 | \$116,800 | \$116,400.01 | \$118,400 |
| \$195.00 | \$115,200.01 | \$117,200 | \$116,800.01 | \$118,800 | \$118,400.01 | \$120,400 |
| \$200.00 | \$117,200.01 | \$119,200 | \$118,800.01 | \$120,800 | \$120,400.01 | \$122,400 |
| \$205.00 | \$119,200.01 | \$121,200 | \$120,800.01 | \$122,800 | \$122,400.01 | \$124,400 |
| \$210.00 | \$121,200.01 | \$123,200 | \$122,800.01 | \$124,800 | \$124,400.01 | \$126,400 |
| \$215.00 | \$123,200.01 | \$125,200 | \$124,800.01 | \$126,800 | \$126,400.01 | \$128,400 |
| \$220.00 | \$125,200.01 | \$127,200 | \$126,800.01 | \$128,800 | \$128,400.01 | \$130,400 |
| \$225.00 | \$127,200.01 | \$129,200 | \$128,800.01 | \$130,800 | \$130,400.01 | \$132,400 |
| \$230.00 | \$129,200.01 | \$131,200 | \$130,800.01 | \$132,800 | \$132,400.01 | \$134,400 |

| <i>Weekly Co-pay</i> | <i>Family Size: 19 Annual Income</i> | | <i>Family Size: 20 Annual Income</i> | | <i>Family Size: 21 Annual Income</i> | |
|--------------------------|--|-----------|--|-----------|--|-----------|
| \$235.00 | \$131,200.01 | \$133,200 | \$132,800.01 | \$134,800 | \$134,400.01 | \$136,400 |
| \$240.00 | \$133,200.01 | \$135,200 | \$134,800.01 | \$136,800 | \$136,400.01 | \$138,400 |
| \$245.00 | \$135,200.01 | \$137,200 | \$136,800.01 | \$138,800 | \$138,400.01 | \$140,400 |
| \$250.00 | \$137,200.01 | \$139,200 | \$138,800.01 | \$140,800 | \$140,400.01 | \$142,400 |
| \$255.00 | \$139,200.01 | \$141,200 | \$140,800.01 | \$142,800 | \$142,400.01 | \$144,400 |
| \$260.00 | \$141,200.01 | \$143,200 | \$142,800.01 | \$144,800 | \$144,400.01 | \$146,400 |
| \$265.00 | \$143,200.01 | \$145,200 | \$144,800.01 | \$146,800 | \$146,400.01 | \$148,400 |
| \$270.00 | \$145,200.01 | \$147,200 | \$146,800.01 | \$148,800 | \$148,400.01 | \$150,400 |
| \$275.00 | \$147,200.01 | \$149,200 | \$148,800.01 | \$150,800 | \$150,400.01 | \$152,400 |
| \$280.00 | \$149,200.01 | \$151,200 | \$150,800.01 | \$152,800 | \$152,400.01 | \$154,400 |
| \$285.00 | \$151,200.01 | \$153,200 | \$152,800.01 | \$154,800 | \$154,400.01 | \$156,400 |
| \$290.00 | \$153,200.01 | \$155,200 | \$154,800.01 | \$156,800 | \$156,400.01 | \$158,400 |
| \$295.00 | \$155,200.01 | \$157,200 | \$156,800.01 | \$158,800 | \$158,400.01 | \$160,400 |
| \$300.00 | \$157,200.01 | \$159,200 | \$158,800.01 | \$160,800 | \$160,400.01 | \$162,400 |
| \$305.00 | \$159,200.01 | \$161,200 | \$160,800.01 | \$162,800 | \$162,400.01 | \$164,400 |
| \$310.00 | \$161,200.01 | \$163,200 | \$162,800.01 | \$164,800 | \$164,400.01 | \$166,400 |
| \$315.00 | \$163,200.01 | \$165,200 | \$164,800.01 | \$166,800 | \$166,400.01 | \$168,400 |
| \$320.00 | \$165,200.01 | \$167,200 | \$166,800.01 | \$168,800 | \$168,400.01 | \$170,400 |
| \$325.00 | \$167,200.01 | \$169,200 | \$168,800.01 | \$170,800 | \$170,400.01 | \$172,400 |
| \$330.00 | \$169,200.01 | \$171,200 | \$170,800.01 | \$172,800 | \$172,400.01 | \$174,400 |
| \$335.00 | \$171,200.01 | \$173,200 | \$172,800.01 | \$174,800 | \$174,400.01 | \$176,400 |
| \$340.00 | \$173,200.01 | \$175,200 | \$174,800.01 | \$176,800 | \$176,400.01 | \$178,400 |
| \$345.00 | \$175,200.01 | \$176,720 | \$176,800.01 | \$178,800 | \$178,400.01 | \$180,400 |
| \$350.00 | | | \$178,800.01 | \$180,800 | \$180,400.01 | \$182,400 |
| \$355.00 | | | \$180,800.01 | \$182,800 | \$182,400.01 | \$184,400 |
| \$360.00 | | | \$182,800.01 | \$184,800 | \$184,400.01 | \$186,400 |
| \$365.00 | | | \$184,800.01 | \$185,180 | \$186,400.01 | \$188,400 |
| \$370.00 | | | | | \$188,400.01 | \$190,400 |
| \$375.00 | | | | | \$190,400.01 | \$192,400 |
| \$380.00 | | | | | \$192,400.01 | \$193,640 |
| | 200% FPIG | \$150,400 | 200% FPIG | \$157,600 | 200% FPIG | \$164,800 |

Fiscal Note: 14-NOT-561. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 08-1471. Filed for public inspection August 8, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, July 24, 2008, and announced the following:

Regulation Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective July 23, 2008:

Department of Public Welfare #14-508: Clinical Laboratory Improvement Amendments (amends 55 Pa. Code Chapters 1150 and 1243)

Action Taken—Regulations Approved:

State Architects Licensure Board #16A-419: Requirements for Examination Eligibility (amends 49 Pa. Code Chapter 9)

State Board of Pharmacy #16A-5415: Supplies and Equipment (amends 49 Pa. Code Chapter 27)

Approval Order

Public Meeting held
July 24, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson;
Nancy Sabol Frantz, Esq.; Karen A. Miller

*State Architects Licensure Board—
Requirements for Examination Eligibility;
Regulation No. 16A-419 (#2629)*

On August 15, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Architects Licensure Board (Board). This rulemaking amends 49 Pa. Code Chapter 9. The proposed regulation was published in the August 25, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 13, 2008.

This regulation will require the candidates who do not pass the entire Architect Registration Examination within five years to retake any division of the examination that is more than five years old, instead of having to retake all divisions within a new five-year period.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 34.6(a) and (d)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
July 24, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Nancy Sabol Frantz, Esq., Abstained; Karen A. Miller; John F. Mizner, Esq., by Phone

*State Board of Pharmacy—
Supplies and Equipment;
Regulation No. 16A-5415 (#2593)*

On February 21, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Pharmacy (Board). This rulemaking amends 49 Pa. Code Chapter 27. The proposed regulation was published in the March 3, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 13, 2008.

This regulation deletes outdated and repetitive provisions and adds language that permits pharmacies to maintain supplies and equipment necessary for that particular pharmacy's area of practice.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 390-4(j) and 390-6(k)(1) and (9)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1472. Filed for public inspection August 8, 2008, 9:00 a.m.]

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> | <i>Public Meeting</i> |
|-----------------|---|-----------------|-----------------------|
| 19-9 | Department of Corrections State Intermediate Punishment | 7/25/08 | 9/4/08 |

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1473. Filed for public inspection August 8, 2008, 9:00 a.m.]

INSURANCE DEPARTEMENT

Liberty Mutual Fire Insurance Company; Liberty Insurance Corporation and The First Liberty Insurance Corporation; Private Passenger Automobile; Rate and Rule Revisions; Rate Filing

On July 18, 2008, the Insurance Department (Department) received from Liberty Mutual Fire Insurance Company, Liberty Insurance Corporation and The First Liberty Insurance Corporation a filing for rate level changes for private passenger automobile insurance.

The company requests an overall 3.3% increase amounting to \$8.3 million annually, to be effective October 20, 2008, for new business and November 24, 2008, for renewals.

Unless formal administrative action is taken prior to September 16, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional office.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1474. Filed for public inspection August 8, 2008, 9:00 a.m.]

William Roberts, M. D.; Prehearing**Appeal of William Roberts, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM08-06-016**

On or before July 31, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 14, 2008, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for August 28, 2008, at 2 p.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 25, 2008. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before August 14, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before August 25, 2008.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1475. Filed for public inspection August 8, 2008, 9:00 a.m.]

Dennis Winkelman, D. O.; Prehearing**Appeal of Dennis Winkelman, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM08-06-017**

On or before July 31, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's May 20, 2008, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for August 28, 2008, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 25, 2008. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before August 14, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before August 25, 2008.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require

an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1476. Filed for public inspection August 8, 2008, 9:00 a.m.]

OFFICE OF ATTORNEY GENERAL**Public Meeting**

A meeting of the Lobbying Disclosure Regulation Committee (Committee) established under act of November 1, 2006 (P. L. 1213, No. 134) (Act 134). The meeting will be held on Thursday, August 14, 2008, at 9:30 a.m. in Hearing Room 3, North Office Building, Harrisburg, PA.

The purpose of the meeting will be for the Committee to consider regulations under Act 134 of 2006 and to receive public comments. Visit www.attorneygeneral.gov for more information and to view a copy of the complete agenda.

THOMAS CORBETT,
Attorney General

[Pa.B. Doc. No. 08-1477. Filed for public inspection August 8, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION**Service of Notice of Motor Carrier Applications**

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by August 25, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-2008-2046396. Donald D. Henry (111 Eagletown Road, Honeybrook, Chester County, PA 19344), for the right to begin to transport persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Chester County, to points in Pennsylvania, and return.

A-2008-2046476. Brink's Bus Service, LLC (626 South State Street, North Warren, Warren County, PA 16365)—a limited liability company of the Commonwealth, to begin to transport, as a common carrier, by motor vehicle, persons, in scheduled route service, from Sheffield, Warren County to Bollinger Enterprises and the Warren State Hospital, located in Warren County, over the following route: Beginning at Jones Street, Clarendon, Warren County, thence east on Jones Street; thence right onto Mead Boulevard; thence left onto Pine Street; thence right onto Grand Army of the Republic Highway (US Route 6); thence southeast on West Main Street; thence right onto South Main Street (Pa. Route 666/David Zeisberger Highway); thence northwest to Horton Avenue; thence left onto West Main Street/Grand Army of the Republic Highway (US Route 6); thence right onto Pennsylvania Avenue; thence right onto Locust Street; thence right onto Park Avenue, (Park Avenue becomes Cobham Park Road); thence right onto Warren Boulevard; thence left onto Leslie Boulevard; thence north on Leslie Boulevard; thence right onto Warren Boulevard; thence left onto Cobham Park Road, (Cobham Park Road becomes Park Avenue); thence right onto Madison Avenue; thence right onto Malvina Street; thence southwest on Malvina Street; thence right onto Park Avenue; thence right onto Pennsylvania Avenue; thence left onto Oak Street; thence right onto Lexington Avenue; thence northwest on Lexington Avenue, (Lexington Avenue becomes Conewango Avenue); thence right onto Pennsylvania Avenue; thence left onto Buchanan Street; thence right onto Madison Avenue; thence northwest on Madison Avenue; thence right onto Franklin Street; thence left onto Conewango Place; thence right onto Conewango Avenue; thence right onto Pamela Drive; thence northwest on Pamela Drive; thence left onto Conewango Avenue; thence right onto East 5th Avenue; thence right onto Market Street (US Route 62 North); thence left onto Jackson Run Road (Pa. Route 69); thence east on Jackson Run Road, (Jackson Run Road becomes Jackson Street); thence left onto North State Street; thence returning to the point of origin.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Waslin, Mark R., t/a Keystone Motor X-Press; Doc. No. A-00123536C0701

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Waslin, Mark R. (respondent) is under suspension effective 09/12/2007 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at Waslin, Mark R., t/a Keystone Motor X-Press, 276 Overbrook Road, Dallas, PA 18612.
3. That respondent was issued a Certificate of Public Convenience by this Commission on 04/04/2007, at Application Docket No. A-00123536.

4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance and cargo insurance on file with this Commission.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-65

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regula-

tion, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **UNACCEPTABLE** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Robin J. Reimold, t/a Funways Travel; Doc. No. C-2008-1200322

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Robin J. Reimold (respondent) is under suspension effective 10/12/2007 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at Robin J. Reimold, t/a Funways Travel, 733 Hamburg Road, Fredonia, PA 16124.

3. That respondent was issued a Certificate of Public Convenience by this Commission on 11/02/2004, at Application Docket No. A-00114887.

4. That respondent has failed to maintain evidence of Bond insurance on file with this Commission.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S.

§ 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **UNACCEPTABLE** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Brian K. Lowery Transport, Inc.; Doc. No. C-2008-1206910

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Lobianco Trucking Co. (respondent) is under suspension effective July 9, 2007 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at Brian K. Lowery Transport, Inc., 1100 3rd Street, Nescopeck, PA 18635-9502.

3. That respondent was issued a Certificate of Public Convenience by this Commission on May 19, 2000 at Application Docket No. A-00116619.

4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance and cargo insurance on file with this Commission.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining

the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **UNACCEPTABLE** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1478. Filed for public inspection August 8, 2008, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v.
 Fredrick Corduff, II; Doc. No. 1168-56-2008**

On June 19, 2008, Fredrick Corduff, II, license no. RS-293214, of Philadelphia, Philadelphia County, was suspended under the Order of the Court of Common Pleas of Philadelphia County dated June 6, 2008, which the Court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses) The suspension is effective immediately.

Persons may obtain a copy of the order by writing to Gerald S. Smith, Senior Counsel in Charge, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 08-1479. Filed for public inspection August 8, 2008, 9:00 a.m.]

STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v.
 Diane Finnegan; Doc. No. 2383-51-2007**

On June 19, 2008, Dianne Finnegan, of Collingdale, Delaware County, had her license to practice nursing suspended for a period of 3 years with 1 year of active suspension, retroactive to November 30, 2007, and the remainder to be stayed in favor of probation, based on her violation of her participation in the Voluntary Recovery Program of the Professional Health Monitoring Program.

Individuals may obtain a copy of the final order by writing to Beth Michlovitz, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

MARY E. BOWEN, R. N., CRNP,
Chairperson

[Pa.B. Doc. No. 08-1480. Filed for public inspection August 8, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 2800]
Assisted Living Residences

Statutory Authority

The Department of Public Welfare (Department) under the authority of sections 211, 213 and Article X of the Public Welfare Code (62 P. S. §§ 211 and 213 and 1001—1087), intends to adopt the regulation set forth in Annex A.

Purpose of Regulation

The purpose of these proposed regulations is to adopt the minimum standards for building, equipment, operation, resident care, program and services, staffing qualifications and training, and for the issuance of licenses for assisted living residences operated in this Commonwealth.

Background

Act 2007-56 (Act 56) was enacted in this Commonwealth on July 25, 2007. Prior to that time, there was no legal definition for assisted living in this Commonwealth. Act 56 directed the Department to adopt regulations establishing minimum licensing standards for assisted living residences which “meet or exceed” standards established for personal care homes under Chapter 2600 (relating to personal care homes). See 62 P. S. § 1021(a)(2)(i).

Act 56 was intended to recognize that assisted living residences are a significant long-term care alternative Nationwide. Assisted living residences are a combination of housing and supportive services, as needed. They are designed to allow people to age in place, maintain their independence and exercise decision-making and personal choice. In enacting Act 56, the General Assembly found that it is in the best interests of all Pennsylvanians that a system of licensure and regulation be established for assisted living residences to ensure accountability and a balance of availability between institutional and home-based and community-based long-term care for adults who need the care.

Under Act 56, the Department was directed to develop regulations in consultation with industry stakeholders, consumers and other interested parties. See 62 P. S. § 1021(d). To accomplish this legislative directive, the Department commenced a series of nine stakeholder meetings beginning in October 2007 and ending in April 2008. Over 35 stakeholders were invited to participate, including disability advocates, advocates for older adults, consumers, union representatives, an elder law attorney, public housing agencies, trade associations for profit and nonprofit long-term care nursing facilities and many other interested parties. The work group advised the Department on many of the novel features of Act 56 related to assisted living residences and also provided varied and diverse perspectives on how the regulations should be crafted. The Department has incorporated many of their recommendations into this proposed rulemaking.

Requirements

The proposed regulations incorporate the new definitions in Act 56 that are unique to assisted living residences. These include:

- Age in place or aging in place
- Assisted living residence
- Assisted living residence administrator
- Cognitive support services
- Informed consent agreement
- Special care designation and
- Supplemental health care services

In addition, the proposed regulations establish requirements for individual living units within the assisted living residence, including square footage and kitchen capacity requirements. Requirements for special care units for individuals with cognitive impairments such as Alzheimer's disease or dementia are also included in this proposed rulemaking.

The proposed regulations also require that individuals, prior to admission, or within 24 hours after admission to the assisted living residence, be provided with a written contract containing full disclosure of services, admission and discharge criteria, change in condition policies, services, special programming, costs and fees.

To further ensure that individuals residing in assisted living residences are allowed to age in place, the proposed regulations also establish requirements for assisted living residence services including core services and supplemental health care services.

New requirements related to informed consent agreements are also proposed to allow individuals and providers to manage risks that may result from consumers who wish to direct their own care while residing in the assisted living residence. The proposed rulemaking also creates standards for transfer and discharge.

Act 56 also directed the Department to set fees for application for assisted living licensure as well as license renewal. These new fees are included in the proposed rulemaking. Act 56 also provides for an abbreviated annual licensure visit when the residence has a history of exemplary compliance. A proposed regulation defines “exemplary compliance.” Preadmission screening, resident assessments and support plans as well as enhanced administrator and staff qualifications and training are also covered in the proposed rulemaking. A proposed regulation also provides for certain medical conditions that would exclude an individual from being admitted or retained in an assisted living residence; however, the regulation also provides for exceptions to be granted in certain instances.

Affected Individuals and Organizations

Individuals who choose to live in an assisted living residence are affected by the proposed rulemaking. Providers of assisted living residences are also affected.

Accomplishments and Benefits

This proposed rulemaking establishes the minimum standards for licensure of assisted living residences to allow individuals to age in place. The proposed rulemaking protects consumers' health and safety, privacy

and autonomy while at the same time balancing providers' concerns related to liability and individual choice.

Fiscal Impact

The Department estimates administrative costs to implement this change at \$0.651 million State funds in Fiscal Year (FY) 2008-2009 and decreasing to \$0.103 million State funds in FY 2009-2010 as a result of revenues collected from assessment of the licensure fee to the regulated community.

The Department estimates that the costs incurred by the regulated community beginning in FY 2009-2010 will range from \$0.008 million to \$0.365 million per assisted living residence based on a 75-bed assisted living residence. At a minimum, all assisted living residences would be required to pay a licensure fee amounting to the \$0.008 million on average. This cost assumes a flat application or renewal fee of \$500 per home and an additional fee of \$105 per bed. Additional costs may be incurred, which when added to the licensing fee brings the total potential cost up to the maximum estimated average cost of \$0.365 million in the first year. These costs may or may not be incurred depending upon each facility's current status in relation to potential new costs imposed by the regulation. The majority of the costs relate to additional personnel expense in administering medication, enhanced reporting and additional administrative costs for resident care. It is assumed that those facilities that choose to apply for assisted living residence licensure will already comply with the facility structural requirements of the proposed regulations, so no costs are assumed for structural modifications. It is assumed that 100 assisted living residences will incur these costs in FY 2009-2010.

Paperwork Requirements

This proposed rulemaking contains the paperwork requirements for the Commonwealth and for providers who apply for licensure as assisted living residences. The following forms will be required:

Preadmission screening

Within 30 days prior to admission, a preadmission screening form must be completed for all potential residents to assess whether the individual's service needs can be met by an assisted living residence.

Assessment

An assisted living residence will be required to complete a written initial assessment form within 15 days of admission of an individual. Additional assessments must be completed at least annually or upon significant change in the resident's condition.

Incident Reporting

An assisted living residence will be required to submit written reports to the Department in instances such as the death of a resident, attempted suicide, an injury, illness or trauma suffered by a resident that requires treatment at a hospital or medical facility, violations of a resident's rights, misuse of a resident's funds by the residence's staff or legal entity, outbreak of serious communicable diseases, and other incidents relating to the resident's well-being.

Excludable Conditions

An assisted living residence will also be required to submit a form to the Department in instances when a residence wants to admit or retain an individual whose medical condition would otherwise prevent the admission or continued stay in the residence. These are referred to as "excludable conditions."

Support Plans

An assisted living residence is also required to develop and implement a support plan within 30 days of a resident's admission that documents the resident's medical, dental, vision, hearing, mental health or other behavioral care services that will be made available to the resident, or referrals for the resident to outside services. In addition, the assisted living residence is required to review each resident's support plan quarterly and revise the support plan as the resident's needs change.

Waivers

An assisted living residence will also be required to submit a written request to the Department for a waiver of a specific requirement contained in the regulations.

Training Institution Registration

An educational institution, association, professional society or organization must submit an application to the Department for registration as an institution and for approval of a course of study for the purpose of qualifying applicants for certification as assisted living residence administrators.

Application for Licensure

In addition, assisted living residences will be required to complete an application for licensure, resident-residence contract and informed consent agreements.

Effective Date

The proposed effective date for the regulation is July 1, 2009.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Gail Weidman, Office of Long-Term Care Living, within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-514 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 28, 2008 the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IIRC has any comments, recommendations or objections to any portion of the proposed regulations, it may notify the Department and the Committees within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final public publication of the regulation.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-514. (1) General Fund; (2) Implementing Year 2007-08 is 0; (3) 1st Succeeding Year 2008-09 is \$651,000; 2nd Succeeding Year 2009-10 is \$103,000; 3rd Succeeding Year 2010-11 is (\$78,000); 4th Succeeding Year 2011-12 is \$56,000; 5th Succeeding Year 2012-13 is (\$139,000); (4) 2006-07 Program—\$33,780,000; 2005-06 Program—\$41,588,000; 2004-05 Program—\$34,257,000; (7) County Administration Statewide; (8) recommends adoption. Funds have been included in the budget to cover this increase.

CHAPTER 2800. ASSISTED LIVING RESIDENCES

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GENERAL PROVISIONS

§ 2800.1. Purpose.

(a) The purpose of this chapter is to protect the health, safety and well-being of assisted living residents.

(b) Assisted living residences are a significant long-term care alternative to allow individuals to age in place. Residents who live in assisted living residences that meet the requirements in this chapter will receive the assistance they need to age in place and develop and maintain maximum independence, self-determination and personal choice.

§ 2800.2. Scope.

(a) This chapter applies to assisted living residences as defined in this chapter, and contains the minimum requirements that shall be met to obtain a license to operate an assisted living residence.

(b) This chapter does not apply to personal care homes, domiciliary care homes, independent living communities or commercial boarding residences.

§ 2800.3. Inspections and licenses.

(a) The Department will annually conduct at least one onsite unannounced inspection of each assisted living residence.

(b) Additional announced or unannounced inspections may be conducted at the Department's discretion.

(c) The Department may conduct an abbreviated annual licensure visit if the assisted living residence has established a history of exemplary compliance.

(d) A license will be issued to the legal entity by the Department if, after an investigation by an authorized agent of the Department, the requirements for a license are met.

(e) The assisted living residence shall post the current license, a copy of the current license inspection summary issued by the Department and a copy of this chapter in a conspicuous and public place in the assisted living residence.

§ 2800.4. Definitions.

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

ADL—Activities of daily living—The term includes eating, drinking, ambulating, transferring in and out of a bed or chair, toileting, bladder and bowel management, personal hygiene, securing health care, managing health care, self-administering medication and proper turning and positioning in a bed or chair.

Abuse—The occurrence of one or more of the following acts:

(i) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(ii) The willful deprivation by the assisted living residence or its staff persons of goods or services which are necessary to maintain physical or mental health.

(iii) Sexual harassment, rape or abuse, as defined in 23 Pa.C.S. Chapter 61 (relating to protection from abuse).

(iv) Exploitation by an act or a course of conduct, including misrepresentation or failure to obtain informed consent which results in monetary, personal or other benefit, gain or profit for the perpetrator, or monetary or personal loss to the resident.

(v) Neglect of the resident, which results in physical harm, pain or mental anguish.

(vi) Abandonment or desertion by the assisted living residence or its staff persons.

Adult—An individual who is 18 years of age or older.

Ancillary staff person—An individual who provides services for the residents other than activities of daily living.

Age in place or aging in place—Receiving care and services at a licensed assisted living residence to accommodate a resident's changing needs and preferences in order to allow the resident to remain in the assisted living residence.

Area agency on aging—The local agency designated by the Department of Aging as defined in section 2202-A of The Administrative Code of 1929 (71 P. S. § 581-2).

Assisted living residence or residence—Any premises in which food, shelter, personal care, assistance or supervision and supplemental health care services are provided for a period exceeding 24-hours for four or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration.

Assisted living residence administrator—An individual who is charged with the general administration of an assisted living residence, whether or not the individual has an ownership interest in the residence or his function and duties are shared with other individuals.

Agent—An individual authorized by the Department to enter, visit, inspect or conduct an investigation of an assisted living residence.

Appropriate assessment agency—An organization serving adults who are older or adults with disabilities, such as a county mental health/mental retardation agency, a drug and alcohol agency, an area agency on aging or another human service agency or an individual in an

occupation maintaining contact with adults who are older and adults with disabilities, such as medicine, nursing or rehabilitative therapies.

*CAM—Complementary and alternative medications—*Practices, substances and ideas used to prevent or treat illness or promote health and well-being outside the realm of modern conventional medicine. Alternative medicine is used alone or instead of conventional medicine. Complementary medicine is used along with or in addition to conventional medicine.

CPR—Cardiopulmonary resuscitation.

Cognitive support services—

(i) Services provided to an individual who has memory impairments and other cognitive problems which significantly interfere with his ability to carry out ADLs without assistance and who requires that supervision, monitoring and programming be available 24 hours per day, 7 days per week, in order to reside safely in the setting of his choice.

(ii) The term includes assessment, health support services and a full range of dementia-capable activity programming and crisis management.

*Commercial boarding residence—*A type of residential living facility providing only food and shelter, or other services normally provided by a hotel, for payment, for individuals who require no services beyond food, shelter and other services usually found in hotel or apartment rental.

*Complaint—*A written or oral criticism, dispute or objection presented by or on behalf of a resident to the Department regarding the care, operations or management of an assisted living residence.

*Day—*Calendar day.

*Dementia—*A clinical syndrome characterized by a decline of long duration in mental function in an alert individual. Symptoms of dementia may include memory loss, personality change, chronic wandering and the loss or diminishing of other cognitive abilities, such as learning ability, judgment, comprehension, attention and orientation to time and place and to oneself.

*Department—*The Department of Public Welfare of the Commonwealth.

*Designated person—*An individual who may be chosen by the resident and documented in the resident's record, to be notified in case of an emergency, termination of service, assisted living residence closure or other situations as indicated by the resident or as required by this chapter. A designated person may be the resident's legal representative or an advocate.

*Designee—*A staff person authorized in writing to act in the administrator's absence.

*Direct care staff person—*A staff person who directly assists residents with activities of daily living, and instrumental activities of daily living and provides services or is otherwise responsible for the health, safety and well-being of the residents.

*Discharge—*Termination of an individual's residency in an assisted living residence.

*Emergency medical plan—*A plan that ensures immediate and direct access to medical care and treatment for serious injury or illness, or both.

*Exemplary compliance—*Three consecutive years of deficiency-free inspections.

Financial management—

(i) A personal care service requested or required by the resident in accordance with his support plan, which includes taking responsibility for or assisting with paying bills, budgeting, maintaining accurate records of income and disbursements, safekeeping funds and making funds available to the resident upon request.

(ii) The term does not include solely storing funds in a safe place as a convenience for a resident.

*Fire safety expert—*A member of a local fire department, fire protection engineer, Commonwealth-certified fire protection instructor, college instructor in fire science, county or Commonwealth fire school, volunteer trained and certified by a county or Commonwealth fire school, an insurance company loss control representative, Department of Labor and Industry building code inspector or construction code official.

*Health care or human services field—*Includes the following:

- (i) Child welfare services.
- (ii) Adult services.
- (iii) Older adult services.
- (iv) Mental health/mental retardation services.
- (v) Drug and alcohol services.
- (vi) Services for individuals with disabilities.
- (vii) Medicine.
- (viii) Nursing.
- (ix) Rehabilitative services.
- (x) Any other human service or occupation that maintains contact with adults who are older or adults and children with disabilities.

*Housekeeping—*The cleaning of the living unit and common areas. Cleaning of the living unit includes at least weekly dusting, sweeping, vacuuming, mopping, emptying trash, and cleaning of bathroom, counters, refrigerator and microwave oven. Housekeeping for common areas means keeping them in clean sanitary condition.

*IADL—Instrumental activities of daily living—*The term includes the following activities when done on behalf of a resident:

- (i) Doing laundry.
- (ii) Shopping.
- (iii) Securing and using transportation.
- (iv) Financial management.
- (v) Using a telephone.
- (vi) Making and keeping appointments.
- (vii) Caring for personal possessions.
- (viii) Writing correspondence.
- (ix) Engaging in social and leisure activities.
- (x) Using a prosthetic device.
- (xi) Obtaining and keeping clean, seasonal clothing.
- (xii) Housekeeping.

*Informed consent agreement—*A formal, mutually agreed upon, written understanding which:

(i) Results after thorough discussion among the assisted living residence staff, the resident and any individuals the resident wants to be involved.

(ii) Identifies how to balance the assisted living residence's responsibilities to the individuals it serves with a resident's choices and capabilities with the possibility that those choices will place the resident or other residents at risk of harm.

(iii) Documents the resident's choice to accept or refuse a service offered by or at the residence.

Legal entity—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of an assisted living residence.

Legal representative—An individual who holds a power of attorney, a court-appointed guardian or other person authorized to act for the resident.

License—A certificate of compliance issued by the Department permitting the operation of an assisted living residence, at a given location, for a specific period of time, for a specified capacity, according to Chapter 20 (relating to licensure or approval of facilities and agencies).

Licensee—A person legally responsible for the operations of an assisted living residence licensed in accordance with this chapter.

Long-term care ombudsman—A representative of the Office of the State Long-Term Care Ombudsman in the Department of Aging who investigates and seeks to resolve complaints made by or on behalf of individuals who are 60 years of age or older who are consumers of long-term care services. These complaints may relate to action, inaction or decisions of providers of long-term care services, of public agencies, of social service agencies or their representatives, which may adversely affect the health, safety, well-being or rights of these consumers.

Mobile resident—

(i) A resident who is physically and mentally capable of vacating the assisted living residence on the resident's own power or with limited physical or oral assistance in the case of an emergency, including the capability to ascend or descend stairs if present on the exit path.

(A) Physical assistance means assistance in getting to one's feet or into a wheelchair, walker or prosthetic device.

(B) Oral assistance means giving instructions to assist the resident in vacating the assisted living residence.

(ii) The term includes an individual who is able to effectively operate an ambulation device required for moving from one place to another, and able to understand and carry out instructions for vacating the assisted living residence.

Neglect—The failure of an assisted living residence or its staff persons to provide goods or services essential to avoid a clear and serious threat to the physical or mental health of a resident. The failure or omission to provide the care, supervision and services that the assisted living residence has voluntarily, or by contract, agreed to provide and that are necessary to maintain the resident's health, safety and well-being, including personal care services, food, clothing, medicine, shelter, supervision and medical services. Neglect may be repeated conduct or a single incident.

OTC—Over-the-counter or nonprescription.

Personal care services—Assistance or supervision in ADL or IADL, or both.

Premises—The grounds and buildings on the same grounds, used for providing services required by residents.

Protective services unit—The local area agency on aging unit designated by the Department of Aging to investigate allegations of abuse of adults who are 60 years of age or older and assess the need for protective interventions.

Referral agent—An agency or individual who arranges for or assists, or both, with placement of a resident into an assisted living residence.

Relative—A spouse, parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece or nephew.

Resident—An individual, unrelated to the legal entity, who resides in an assisted living residence, and who may require personal care services or supplemental health care services, or both.

Resident with mobility needs—An individual who is unable to move from one location to another, has difficulty in understanding and carrying out instructions without the continued full assistance of other individuals or is incapable of independently operating an ambulation device, such as a wheelchair, prosthesis, walker or cane to exit a building.

Restraint—A manual, chemical or mechanical device used to limit or restrict the movement or normal function of an individual or a portion of the individual's body.

SSI—Supplemental Security Income.

Secretary—The Secretary of the Department.

Special care designation—A licensed assisted living residence or a distinct part of the residence which is specifically designated by the Department as capable of providing cognitive support services to residents with severe cognitive impairments, including dementia or Alzheimer's disease, in the least restrictive manner to ensure the safety of the resident and others in the residence while maintaining the resident's ability to age in place.

Staff person—An individual who works for the assisted living residence for compensation either on payroll or under contract.

Supplemental health care services—The provision by an assisted living residence of any type of health care service that allows residents to age in place, either directly or through contractors, subcontractors, agents or designated providers, except for any service that is required by law to be provided by a health care facility under the Health Care Facilities Act (35 P. S. §§ 448.101—448.901).

Support plan—A written document that describes for each resident the resident's care, service or treatment needs based on the assessment of the resident, and when the care, service or treatment will be provided, and by whom.

Transfer—Movement of a resident within the assisted living residence or to a temporary placement outside the assisted living residence.

Volunteer—

(i) An individual who, of his own free will, and without monetary compensation, provides direct care services for residents in the assisted living residence.

(ii) The term does not include visitors or individuals who provide nondirect services or entertainment on an occasional basis.

§ 2800.5. Access.

(a) The administrator or a designee shall provide, upon request, immediate access to the residence, the residents and records to:

- (1) Agents of the Department.
- (2) Representatives of the area agency on aging.
- (3) Representatives of the Long-Term Care Ombudsman Program.
- (4) Representatives of the protection and advocacy system for individuals with disabilities designated under the Protection and Advocacy for Individual Rights Program of the Vocational Rehabilitation and Rehabilitation Services Act (29 U.S.C.A. § 794e), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C.A. §§ 10801—10851) and the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. §§ 15041—15043).

(b) The administrator or a designee shall permit community service organizations and representatives of legal services programs to have access to the residence during visitation hours or by appointment for the purpose of assisting or informing the residents of the availability of services and assistance. A resident or a resident's designated person if so authorized may decline the services of the community service organization or the legal service program.

GENERAL REQUIREMENTS**§ 2800.11. Procedural requirements for licensure or approval of assisted living residences.**

(a) Except for § 20.32 (relating to announced inspections), the requirements in Chapter 20 (relating to licensure or approval of facilities and agencies) apply to assisted living residences.

(b) Before a residence is initially licensed and permitted to open, operate or admit residents, it will be inspected by the Department and found to be in compliance with applicable laws and regulations including this chapter. The Department will reinspect newly licensed residences within 3 months of the date of initial licensure.

(c) After the Department determines that a residence meets the requirements for a license, the Department's issuance or renewal of a license to a residence is contingent upon receipt by the Department of the following fees based on the number of beds in the residence, as follows:

- (1) A \$500 license application or renewal fee.
- (2) A \$105 per bed fee that may be adjusted by the Department annually at a rate not to exceed the Consumer Price Index. The Department will publish a notice in the *Pennsylvania Bulletin* when the per bed fee is increased.
- (d) A person, organization or program may not use the term "assisted living" in any name or written material, except as a licensee in accordance with this chapter. Corporate entities which own subsidiaries that are licensed as assisted living residences may not use the term "assisted living" in any written material to market programs that are not licensed in accordance with this chapter.

§ 2800.12. Appeals.

(a) Appeals related to the licensure or approval of the assisted living residence shall be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure (GRAPP)).

(b) Appeals related to the licensure or approval of the assisted living residence shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

§ 2800.13. Maximum capacity.

(a) The maximum capacity is the total number of residents who are permitted to reside in the residence at any time. A request to increase the capacity shall be submitted to the Department and other applicable authorities and approved prior to the admission of additional residents. The maximum capacity is limited by physical plant space and other applicable laws and regulations.

(b) The maximum capacity specified on the license may not be exceeded.

§ 2800.14. Fire safety approval.

(a) Prior to issuance of a license, a written fire safety approval from the Department of Labor and Industry, the Department of Health or the appropriate local building authority under the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103) is required.

(b) If the fire safety approval is withdrawn or restricted, the residence shall notify the Department orally immediately, and in writing, within 48 hours of the withdrawal or restriction.

(c) If a building is structurally renovated or altered after the initial fire safety approval is issued, the residence shall submit the new fire safety approval, or written certification that a new fire safety approval is not required, from the appropriate fire safety authority. This documentation shall be submitted to the Department within 15 days of the completion of the renovation or alteration.

(d) The Department will request additional fire safety inspections by the appropriate agency if possible fire safety violations are observed during an inspection by the Department.

(e) Fire safety approval must be renewed at least every 3 years, or more frequently, if requested by the Department.

§ 2800.15. Abuse reporting covered by law.

(a) The residence shall immediately report suspected abuse of a resident served in the residence in accordance with the Older Adult Protective Services Act (35 P. S. §§ 10225.701—10225.707) and 6 Pa. Code §§ 15.21—15.27 (relating to reporting suspected abuse, neglect, abandonment or exploitation) and comply with the requirements regarding restrictions on staff persons.

(b) If there is an allegation of abuse of a resident involving a residence's staff person, the residence shall immediately develop and implement a plan of supervision or suspend the staff person involved in the alleged incident.

(c) The residence shall immediately submit to the Department's assisted living residence office a plan of supervision or notice of suspension of the affected staff person.

(d) The residence shall immediately notify the resident and the resident's designated person of a report of suspected abuse or neglect involving the resident.

§ 2800.16. Reportable incidents and conditions.

(a) A reportable incident or condition includes the following:

- (1) The death of a resident.
 - (2) A physical act by a resident to commit suicide.
 - (3) An injury, illness or trauma requiring treatment at a hospital or medical facility. This does not include minor injuries such as sprains or minor cuts.
 - (4) A violation of a resident's rights in §§ 2800.41—2800.44 (relating to resident rights).
 - (5) An unexplained absence of a resident for 24 hours or more, or when the support plan so provides, a period of less than 24 hours, or an absence of a resident from a special care unit.
 - (6) Misuse of a resident's funds by the residence's staff persons or legal entity.
 - (7) An outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions).
 - (8) Food poisoning of residents.
 - (9) A physical or sexual assault by or against a resident.
 - (10) Fire or structural damage to the residence.
 - (11) An incident requiring the services of an emergency management agency, fire department or law enforcement agency, except for false alarms.
 - (12) A complaint of resident abuse, suspected resident abuse or referral of a complaint of resident abuse to a local authority.
 - (13) A prescription medication error as defined in § 2800.188 (relating to medication errors).
 - (14) An emergency in which the procedures under § 2800.107 (relating to emergency preparedness) are implemented.
 - (15) An unscheduled closure of the residence or the relocation of the residents.
 - (16) Bankruptcy filed by the legal entity.
 - (17) A criminal conviction against the legal entity, administrator or staff that is subsequent to the reporting on the criminal history checks under § 2800.51 (relating to criminal history checks).
 - (18) A termination notice from a utility.
 - (19) A violation of the health and safety laws under § 2800.18 (relating to applicable laws).
 - (20) An absence of staff or inadequate staff to supervise residents.
- (b) The residence shall develop and implement written policies and procedures on the prevention, reporting, notification, investigation and management of reportable incidents and conditions.
- (c) The residence shall report the incident or condition to the Department's assisted living residence office or the assisted living residence complaint hotline within 24 hours in a manner designated by the Department. Abuse reporting must also follow the guidelines in § 2800.15 (relating to abuse reporting covered by law).
- (d) The residence shall submit a final report, on a form prescribed by the Department, to the Department's assisted living residence office immediately following the conclusion of the investigation.

(e) If the residence's final report validates the occurrence of the alleged incident or condition, the affected resident and other residents who could potentially be harmed or his designated person shall also be informed immediately following the conclusion of the investigation.

(f) The residence shall keep a copy of the report of the reportable incident or condition.

§ 2800.17. Confidentiality of records.

Resident records shall be confidential, and, except in emergencies, may not be accessible to anyone other than the resident, the resident's designated person if any, staff persons for the purpose of providing services to the resident, agents of the Department and the long-term care ombudsman without the written consent of the resident, an individual holding the resident's power of attorney for health care or health care proxy or a resident's designated person, or if a court orders disclosure.

§ 2800.18. Applicable laws.

A residence shall comply with applicable Federal, State and local laws, ordinances and regulations.

§ 2800.19. Waivers.

(a) A residence may submit a written request for a waiver of a specific requirement contained in this chapter. The waiver request must be on a form prescribed by the Department. The Secretary, or the Secretary's appointee, may grant a waiver of a specific requirement of this chapter if the following conditions are met:

- (1) There is no jeopardy to the residents.
 - (2) There is an alternative for providing an equivalent level of health, safety and well-being protection of the residents.
 - (3) Residents will benefit from the waiver of the requirement.
- (b) The scope, definitions, applicability or residents' rights, assisted living service delivery requirements, special care designation requirements, disclosure requirements, complaint rights or procedures, notice requirements to residents or family, contract requirements, reporting requirements, fire safety requirements, assessment, support plan or service delivery requirements under this chapter may not be waived.

(c) At least 30 days prior to the submission of the completed written waiver request to the Department, the residence shall provide a copy of the completed written waiver request to the affected resident and designated person to provide the opportunity to submit comments to the Department. The residence shall provide the affected resident and designated person with the name, address and telephone number of the Department staff person to submit comments.

(d) The residence shall discuss the waiver request with the affected resident and designated person upon the request of the resident or designated person.

(e) The residence shall notify the affected resident and designated person of the approval or denial of the waiver. A copy of the waiver request and the Department's written decision shall be posted in a conspicuous and public place within the residence.

(f) The Department will review waivers annually to determine compliance with the conditions required by the waiver. The Department may revoke the waiver if the conditions required by the waiver are not met.

§ 2800.20. Financial management.

(a) A resident may manage his personal finances unless he has a guardian of his estate.

(b) If the residence provides assistance with financial management or holds resident funds, the following requirements apply:

(1) The residence shall keep a record of financial transactions with the resident, including the dates, amounts of deposits, amounts of withdrawals and the current balance.

(2) Resident funds shall be disbursed during normal business hours within 24 hours of the resident's request.

(3) The residence shall obtain a written receipt from the resident for cash disbursements at the time of disbursement.

(4) Resident funds and property shall only be used for the resident's benefit.

(5) Commingling of resident funds and residence funds is prohibited.

(6) If a residence is holding more than \$200 for a resident for more than 2 consecutive months, the administrator shall notify the resident and offer assistance in establishing an interest-bearing account in the resident's name at a local Federally-insured financial institution. This does not include security deposits.

(7) The legal entity, administrator and staff persons of the residence are prohibited from being assigned power of attorney or guardianship of a resident or a resident's estate.

(8) The residence shall give the resident and the resident's designated person, an itemized account of financial transactions made on the resident's behalf on a quarterly basis.

(9) A copy of the itemized account shall be kept in the resident's record.

(10) The residence shall provide the resident the opportunity to review his own financial record upon request during normal business hours.

§ 2800.21. Offsite services.

If services or activities are provided by the residence at a location other than the premises, the residence shall ensure that the residents' support plans are followed and that the resident's health and safety needs are met.

§ 2800.22. Application and admission.

(a) The following admission documents shall be completed for each resident:

(1) Preadmission screening completed prior to admission on a form specified by the Department.

(2) Medical evaluation completed 60 days prior to or 15 days after admission on a form specified by the Department.

(3) Assisted living resident assessment completed within 15 days after admission on a form specified by the Department.

(4) Support plan developed and implemented within 30 days after admission.

(5) Resident-residence contract completed prior to admission or within 24 hours after admission.

(b) Upon application for residency and prior to admission to the residence, the licensee shall provide each potential resident or potential resident's designated person with written disclosures that include:

(1) A list of the nonwaivable resident rights.

(2) A copy of the agreement the resident will be asked to sign.

(3) A copy of residence rules and resident handbook. The resident handbook shall be approved by the Department.

(4) Specific information about:

(i) What services are offered by the residence.

(ii) The cost of those services to the potential resident.

(iii) The contact information for the Department.

(iv) The licensing status of the most recent inspection reports and instructions for access to the Department's public website for information on the residence's most recent inspection reports.

(v) Disclosure of any waivers that have been approved for the residence and are still in effect.

§ 2800.23. Activities.

(a) A residence shall provide each resident with assistance with ADLs as indicated in the resident's assessment and support plan.

(b) A residence shall provide each resident with assistance with IADLs as indicated in the resident's assessment and support plan.

§ 2800.24. Personal hygiene.

A residence shall provide the resident with assistance with personal hygiene as indicated in the resident's assessment and support plan. Personal hygiene includes one or more of the following:

(1) Bathing.

(2) Oral hygiene.

(3) Hair grooming and shampooing.

(4) Dressing, undressing and care of clothes.

(5) Shaving.

(6) Nail care.

(7) Foot care.

(8) Skin care.

§ 2800.25. Resident-residence contract.

(a) Prior to admission, or within 24 hours after admission, a written resident-residence contract between the resident and the residence must be in place. The administrator or a designee shall complete this contract and review and explain its contents to the resident and the resident's designated person if any, prior to signature.

(b) The contract shall be signed by the administrator or a designee, the resident and the payer, if different from the resident, and cosigned by the resident's designated person if any, if the resident agrees. The contract must run month-to-month with automatic renewal unless terminated by the resident with 14 days' notice or by the residence with 30 days' notice in accordance with § 2800.228 (relating to transfer and discharge).

(c) At a minimum, the contract must specify the following:

(1) Each resident shall retain, at a minimum, the current personal needs allowance as the resident's own funds for personal expenditure. A contract to the contrary is not valid. A personal needs allowance is the amount that a resident shall be permitted to keep for his personal use.

(2) A fee schedule that lists the actual amount of charges for the residence's core assisted living services that the individual is purchasing, including:

(i) Assistance with unscheduled ADLs and supplemental health care services.

(ii) Three meals a day and snacks as provided in § 2800.161 (relating to nutritional adequacy).

(iii) Laundry services as provided in § 2800.105 (relating to laundry).

(iv) Housekeeping as defined in § 2800.4 (relating to definitions).

(v) Transportation in accordance with § 2800.171 (relating to transportation).

(vi) Medication management or administration as provided in §§ 2800.181 and 2800.182 (relating to self-administration; and medication administration).

(vii) Daily planned social activities and socialization as provided in § 2800.221 (relating to activities program).

(3) An explanation of the annual assessment, medical evaluation and support plan requirements and procedures, which shall be followed if either the assessment or the medical evaluation indicates the need for another and more appropriate level of care.

(4) The party responsible for payment.

(5) The method for payment of charges for long distance telephone calls.

(6) The conditions under which refunds will be made, including the refund of admission fees and refunds upon a resident's death.

(7) The financial arrangements if assistance with financial management is to be provided.

(8) The residence's rules related to residence services, including whether the residence permits smoking.

(9) The conditions under which the resident-residence contract may be terminated including residence closure as specified in § 2800.228 (relating to transfer and discharge).

(10) A statement that the resident is entitled to at least 30 days' advance notice, in writing, of the residence's request to change the contract.

(11) A list of personal care services or supplemental health care services, or both, to be provided to the resident based on the outcome of the resident's support plan, a list of the actual rates that the resident will be periodically charged for food, shelter and services and how, when and by whom payment is to be made.

(12) Charges to the resident for holding a bed during hospitalization or other extended absence from the residence.

(13) Written information on the resident's rights and complaint procedures as specified in § 2800.41 (relating to notification of rights and complaint procedures).

(d) A residence may not seek or accept payments from a non-SSI resident of any funds received by the resident under the Senior Citizens Rebate and Assistance Act (72 P. S. §§ 4751-1—4751-12). If the residence will be assist-

ing the resident to manage a portion of the rent rebate, the requirements of § 2800.20 (relating to financial management) may apply. There may be no charge for filling out this paperwork.

(e) The resident, or a designated person, has the right to rescind the contract for up to 72 hours after the initial dated signature of the contract or upon receipt of the initial support plan. The resident shall pay only for the services received. Rescission of the contract must be in writing addressed to the residence.

(f) The residence may not require or permit a resident to assign assets to the residence in return for a life care contract/guarantee. A life care contract/guarantee is an agreement between the legal entity and the resident that the legal entity will provide care to the resident for the duration of the resident's life. Continuing care communities that have obtained a Certificate of Authority from the Insurance Department and have provided a copy of the certificate to the Department are exempt from this requirement.

(g) A copy of the signed resident-residence contract shall be given to the resident and a copy shall be filed in the resident's record.

(h) The service needs addressed in the resident's support plan shall be available to the resident every day of the year.

(i) The assisted living services included in the package the individual is purchasing shall be the contract price. Supplemental health care services must be packaged, contracted and priced separately from the resident-residence contract. Services other than supplemental health care services must be priced separately from the service package in the resident-residence contract.

§ 2800.26. Quality management.

(a) The residence shall establish and implement a quality management plan.

(b) The quality management plan must address the periodic review and evaluation of the following:

(1) The reportable incident and condition reporting procedures.

(2) Complaint procedures.

(3) Staff person training.

(4) Licensing violations and plans of correction, if applicable.

(5) Resident or family councils, or both, if applicable.

(c) The quality management plan must include the development and implementation of measures to address the areas needing improvement that are identified during the periodic review and evaluation.

§ 2800.27. SSI recipients.

(a) If a residence agrees to admit a resident eligible for SSI benefits, the residence's charges for actual rent and other services may not exceed the SSI resident's actual current monthly income reduced by the current personal needs allowance.

(b) The administrator or staff persons may not include funds received as lump sum awards, gifts or inheritances, gains from the sale of property or retroactive government benefits when calculating payment of rent for an SSI recipient or for a resident eligible for SSI benefits.

(c) The administrator or staff persons may not seek or accept any payments from funds received as retroactive awards of SSI benefits, but may seek and accept the payments only to the extent that the retroactive awards cover periods of time during which the resident actually resided in the residence and for which full payment has not been received.

(d) The administrator shall provide each resident who is a recipient of SSI, at no charge beyond the amount determined in subsection (a), the following items or services as needed:

(1) Necessary personal hygiene items, such as a comb, toothbrush, toothpaste, soap and shampoo. Cosmetic items are not included.

(2) Laundry services for personal laundry, bed linens and towels, but not including dry cleaning or other specialized services.

(3) Personal care services.

(e) Third-party payments made on behalf of an SSI recipient and paid directly to the residence are permitted. These payments may not be used for food, clothing or shelter because to do so would reduce SSI payments. See 20 CFR 416.1100 and 416.1102 (relating to income and SSI eligibility; and what is income). These payments may be used to purchase items or services for the resident that are not food, clothing or shelter.

§ 2800.28. Refunds.

(a) If, after the residence gives notice of transfer or discharge in accordance with § 2800.228(b) (relating to transfer and discharge), and the resident moves out of the residence before the 30 days are over, the residence shall give the resident a refund equal to the previously paid charges for rent, personal care services and supplemental health care services, if applicable, for the remainder of the 30-day time period. The refund shall be issued within 30-days of transfer or discharge. The resident's personal needs allowance shall be refunded within 2 business days of transfer or discharge.

(b) After a resident gives notice of the intent to leave in accordance with § 2800.25(b) (relating to resident-residence contract) and if the resident moves out of the residence before the expiration of the required 14 days, the resident owes the residence the charges for rent and personal care services and supplemental health care services, or both, for the entire length of the 14-day time period for which payment has not been made.

(c) If no notice is required, as set forth in subsection (d), the resident shall be required to pay only for the nights spent in the residence.

(d) If the residence does not require a written notice prior to a resident's departure, the administrator shall refund the remainder of previously paid charges to the resident within 30 days of the date the resident moved from the residence.

(e) In the event of the death of a resident under 60 years of age, the administrator shall refund the remainder of previously paid charges to the resident's estate within 30 days from the date the living unit is cleared of the resident's personal property. In the event of the death of a resident 60 years of age and older, the residence shall provide a refund in accordance with the Elder Care Payment Restitution Act (35 P. S. §§ 10226.101—10226.107). The residence shall keep documentation of the refund in the resident's record.

(f) Within 30 days of either the termination of service by the residence or the resident's leaving the residence, the resident shall receive an itemized written account of the resident's funds, including notification of funds still owed the residence by the resident or a refund owed the resident by the residence. Refunds shall be made within 30 days of discharge.

(g) Upon discharge of the resident or transfer of the resident, the administrator shall return the resident's funds being managed or stored by the residence to the resident within 2 business days from the date the living unit is cleared of the resident's personal property.

§ 2800.29. Hospice care and services.

Hospice care and services that are licensed by the Department of Health as a hospice may be provided in an assisted living residence.

§ 2800.30. Informed consent process.

(a) *Initiation of process.*

(1) When a licensee determines that a resident's decision, behavior or action creates a dangerous situation and places the resident, other residents or staff members at imminent risk of substantial harm by the resident's wish to exercise independence in directing the manner in which they receive care, the licensee may initiate an informed consent process to address the identified risk and to reach a mutually agreed-upon plan of action with the resident or the resident's designated person. The initiation of an informed consent process does not guarantee that an informed consent agreement, which is agreeable to all parties, will be reached and executed.

(2) When a resident wishes to exercise independence in directing the manner in which the resident receives care, the resident may initiate an informed consent process to modify the support plan and attempt to reach a mutually agreed upon plan of action with the licensee. A cognitively impaired resident shall be eligible for an informed consent agreement only if the resident's legal representative is included in the negotiation of the informed consent agreement and executes the agreement.

(b) *Notification.*

(1) When the licensee chooses to initiate an informed consent process, the provider shall do so by notifying the resident and, if applicable, the resident's designated person in writing and orally. The notification must include a statement that the long-term care ombudsman is available to assist in the process and include the contact information for the ombudsman. For cognitively impaired residents, the ombudsman shall be automatically notified by the licensee. Notification shall be documented in the resident's file by the licensee.

(2) When a resident or, if applicable, the resident's legal representative chooses to initiate an informed consent negotiation, the resident or the resident's legal representative shall do so by notifying the licensee in writing or orally. Notification shall be documented in the resident's file by the licensee.

(c) *Resident's involvement.* A resident who is not cognitively impaired shall be entitled, but is not required, to involve his legal representative and physician, and any other individual the resident wants involved, to participate or assist in the discussion of the resident's wish to exercise independence and, if necessary, in developing a satisfactory informed consent agreement that balances the resident's choices and capabilities with the possibility that the choices will place the resident or other residents at risk of harm.

(d) *Informed consent meeting.*

(1) In a manner the resident can understand, the licensee shall discuss the resident's wish to exercise independence in directing the manner in which he receives care. The discussion must relate to the decision, behavior or action that places the resident or persons other than the resident in imminent risk of substantial harm and hazards inherent in the resident's action. The discussion must include reasonable alternatives, if any, for mitigating the risk, the significant benefits and disadvantages of each alternative and the most likely outcome of each alternative. In the case of a resident with a cognitive impairment, the resident's legal representative shall participate in the discussion.

(2) A resident may not have the right to place persons other than himself at risk, but, consistent with statutory and regulatory requirements, may elect to proceed with a decision, behavior or action affecting only his own safety or health status, foregoing alternatives for mitigating the risk, after consideration of the benefits and disadvantages of the alternatives including his wish to exercise independence in directing the manner in which he receives care. The licensee shall evaluate whether the resident understands and appreciates the nature and consequences of the risk, including the significant benefits and disadvantages of each alternative considered, and then shall further ascertain whether the resident is consenting to accept or mitigate the risk with full knowledge and forethought.

(e) *Successful negotiation.* If the parties agree, the informed consent agreement shall be reduced to writing and signed by all parties, including all individuals engaged in the negotiation at the request of the resident, and shall be retained in the resident's file as part of the service plan.

(f) *Unsuccessful negotiation.* If the parties do not agree, the licensee shall notify the resident, the resident's legal representative and the individuals engaged in the informed consent negotiation at the request of the resident. The residence shall include information on the local ombudsman or the appropriate advocacy organization for assistance relating to the disposition and whether the licensee will issue a notice of discharge.

(g) *Freedom from duress.* An informed consent agreement must be voluntary and free of force, fraud, deceit, duress, coercion or undue influence, provided that a licensee retains the right to issue a notice of involuntary discharge in the event a resident's decision, behavior or action creates a dangerous situation and places persons other than the resident at imminent risk of substantial harm and, after a discussion of the risk, the resident declines alternatives to mitigate the risk.

(h) *Individualized nature.* An informed consent agreement must be unique to the resident's situation and his wish to exercise independence in directing the manner in which he receives care. The informed consent agreement shall be utilized only when a resident's decision, behavior or action creates a situation and places the resident or persons other than the resident at imminent risk of substantial harm. A licensee may not require execution of an informed consent agreement as a standard condition of admission.

(i) *Liability.* Execution of an informed consent agreement does not constitute a waiver of liability beyond the scope of the agreement or with respect to acts of negligence or tort. An informed consent agreement does not relieve a licensee of liability for violation of statutory or

regulatory requirements promulgated under this chapter nor affect enforceability of regulatory provisions including those provisions governing admission or discharge or the permissible level of care in an assisted living residence.

(j) *Change in resident's condition.* An informed consent agreement must be updated following a significant change in the resident's condition that affects the risk potential to the resident or persons other than the resident.

RESIDENT RIGHTS**§ 2800.41. Notification of rights and complaint procedures.**

(a) Upon admission, each resident and, if applicable, the resident's designated person, shall be informed of resident rights and the right to lodge complaints without intimidation, retaliation or threats of retaliation by the residence or its staff persons against the reporter. Retaliation includes transfer or discharge from the residence.

(b) Notification of rights and complaint procedures shall be communicated in an easily understood manner and in a language understood by or mode of communication used by the resident and, if applicable, the resident's designated person.

(c) The Department's poster of the list of resident's rights shall be posted in a conspicuous and public place in the residence.

(d) A copy of the resident's rights and complaint procedures shall be given to the resident and, if applicable, the resident's designated person upon admission.

(e) A statement signed by the resident and, if applicable, the resident's designated person acknowledging receipt of a copy of the information specified in subsection (d), or documentation of efforts made to obtain signature, shall be kept in the resident's record.

§ 2800.42. Specific rights.

(a) A resident may not be discriminated against because of race, color, religious creed, disability, ancestry, sexual orientation, national origin, age or sex.

(b) A resident may not be neglected, intimidated, physically or verbally abused, mistreated, subjected to corporal punishment or disciplined in any way.

(c) A resident shall be treated with dignity and respect.

(d) A resident shall be informed of the rules of the residence and given 30 days' written notice prior to the effective date of a new residence rule.

(e) A resident shall have access to a telephone in the residence to make calls in privacy. Nontoll calls must be without charge to the resident.

(f) A resident has the right to receive and send mail.

(1) Outgoing mail may not be opened or read by staff persons unless the resident requests.

(2) Incoming mail may not be opened or read by staff persons unless upon the request of the resident or the resident's designated person.

(g) A resident has the right to communicate privately with and access the local ombudsman.

(h) A resident has the right to practice the religion or faith of the resident's choice, or not to practice any religion or faith.

(i) A resident shall receive assistance in accessing health care services.

(j) A resident shall receive assistance in obtaining and keeping clean, seasonal clothing. A resident's clothing may not be shared with other residents.

(k) A resident and the resident's designated person, and other individuals upon the resident's written approval shall have the right to access, review and request corrections to the resident's record.

(l) A resident has the right to furnish his living unit and purchase, receive, use and retain personal clothing and possessions.

(m) A resident has the right to leave and return to the residence at times consistent with the residence rules and the resident's support plan.

(n) A resident has the right to relocate and to request and receive assistance, from the residence, in relocating to another facility. The assistance must include helping the resident get information about living arrangements, making telephone calls and transferring records.

(o) A resident has the right to freely associate, organize and communicate with his friends, family, physician, attorney and other persons.

(p) A resident shall be free from restraints.

(q) A resident shall be compensated in accordance with State and Federal labor laws for labor performed on behalf of the residence. Residents may voluntarily and without coercion perform tasks related directly to the resident's personal space or common areas of the residence.

(r) A resident has the right to receive visitors at any time provided that the visits do not adversely affect other residents. A residence may adopt reasonable policies and procedures related to visits and access. If the residence adopts those policies and procedures, they will be binding on the residents.

(s) A resident has the right to privacy of self and possessions. Privacy shall be provided to the resident during bathing, dressing, changing and medical procedures.

(t) A resident has the right to file complaints on behalf of himself and others with any individual or agency and recommend changes in policies, residence rules and services of the residence without intimidation, retaliation or threat of discharge.

(u) A resident has the right to remain in the residence, as long as it is operating with a license, except as specified in § 2800.228 (relating to transfer and discharge).

(v) A resident has the right to receive services contracted for in the resident-residence contract.

(w) A resident has the right to use both the residence's procedures and external procedures, if any, to appeal involuntary discharge.

(x) A resident has the right to a system to safeguard a resident's money and property.

(y) To the extent prominently displayed in the written resident-residence contract, a residence may require residents to use providers of supplemental health care services as provided in § 2800.142 (relating to assistance with health care and supplemental health care services). When the residence does not designate, the resident may choose the supplemental health care service provider.

§ 2800.43. Prohibition against deprivation of rights.

(a) A resident may not be deprived of his rights.

(b) A resident's rights may not be used as a reward or sanction.

(c) Waiver of any resident right shall be void.

§ 2800.44. Complaint procedures.

(a) Prior to admission, the residence shall inform the resident and the resident's designated person of the right to file and the procedure for filing a complaint with the Department's Assisted Living Residence Office, local ombudsman or protective services unit in the area agency on aging, Pennsylvania Protection & Advocacy, Inc. or law enforcement agency.

(b) The residence shall permit and respond to oral and written complaints from any source regarding an alleged violation of resident rights, quality of care or other matter without retaliation or the threat of retaliation.

(c) If a resident indicates that he wishes to make a written complaint, but needs assistance in reducing the complaint to writing, the residence shall assist the resident in writing the complaint.

(d) The residence shall ensure investigation and resolution of complaints. The residence shall designate the staff person responsible for receiving complaints and determining the outcome of the complaint.

(e) Within 2 business days after the submission of a written complaint, a status report shall be provided by the residence to the complainant. If the resident is not the complainant, the resident and the resident's designated person shall receive the status report unless contraindicated by the support plan. The status report must indicate the steps that the residence is taking to investigate and address the complaint.

(f) Within 7 days after the submission of a written complaint, the residence shall give the complainant and, if applicable, the designated person, a written decision explaining the residence's investigation findings and the action the residence plans to take to resolve the complaint. If the resident is not the complainant, the affected resident shall receive a copy of the decision unless contraindicated by the support plan. If the residence's investigation validates the complaint allegations, a resident who could potentially be harmed or his designated person shall receive a copy of the decision, with the name of the affected resident removed, unless contraindicated by the support plan.

(g) The telephone number of the Department's Assisted Living Residence Office, the local ombudsman or protective services unit in the area agency on aging, Pennsylvania Protection & Advocacy, Inc., the local law enforcement agency, the Commonwealth Information Center and the assisted living residence complaint hotline shall be posted in large print in a conspicuous and public place in the residence.

STAFFING

§ 2800.51. Criminal history checks.

Criminal history checks and hiring policies shall be in accordance with the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102), and 6 Pa. Code Chapter 15 (relating to protective services for older adults).

§ 2800.52. Staff hiring, retention and utilization.

Hiring, retention and utilization of staff persons shall be in accordance with the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102), 6 Pa. Code Chapter 15 (relating to protective services for older adults) and other applicable regulations.

§ 2800.53. Qualifications and responsibilities of administrators.

(a) The administrator shall have one of the following qualifications:

(1) A license as a registered nurse from the Department of State and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(2) An associate's degree or 60 credit hours from an accredited college or university in a human services field and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(3) An associate's degree or 60 credit hours from an accredited college or university in a field that is not related to human services and 2 years, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(4) A license as a licensed practical nurse from the Department of State and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(5) A license as a nursing home administrator from the Department of State and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.

(b) The administrator shall be 21 years of age or older.

(c) The administrator shall be responsible for the administration and management of the residence, including the health, safety and well-being of the residents, implementation of policies and procedures and compliance with this chapter.

(d) The administrator shall have the ability to provide personal care services or to supervise or direct the work to provide personal care services.

(e) The administrator shall have knowledge of this chapter.

(f) The administrator shall have the ability to comply with applicable laws, rules and regulations, including this chapter.

(g) The administrator shall have the ability to maintain or supervise the maintenance of financial and other records.

(h) The administrator shall be free from a medical condition, including drug or alcohol addiction that would limit the administrator from performing duties with reasonable skill and safety.

§ 2800.54. Qualifications for direct care staff persons.

(a) Direct care staff persons shall have the following qualifications:

(1) Be 18 years of age or older, except as permitted in subsection (d).

(2) Have a high school diploma, GED or active registry status on the Pennsylvania nurse aide registry.

(3) Be free from a medical condition, including drug or alcohol addiction, that would limit direct care staff persons from providing necessary personal care services with reasonable skill and safety.

(b) A volunteer who performs or provides ADLs shall meet the direct staff person qualifications and training requirements specified in this chapter.

(c) A resident receiving personal care services who voluntarily performs tasks in the residence will not be considered a volunteer under this chapter.

(d) Food services or housekeeping staff may be 16 or 17 years of age.

§ 2800.55. Portability of staff qualifications and training.

A staff person who transfers to another licensed residence, or from a licensed personal care home shall be given credit for any completed hours of training that are required on an annual basis, provided however, that the staff person shall complete any additional training required by these regulations for assisted living residence direct care staff.

§ 2800.56. Administrator staffing.

(a) The administrator shall be present in the residence an average of 40 hours or more per week, in each calendar month. At least 30 hours per month shall be during normal business hours.

(b) The administrator shall designate a staff person to supervise the residence in the administrator's absence. The designee shall have the same training required for an administrator.

§ 2800.57. Direct care staffing.

(a) At all times one or more residents are present in the residence, a direct care staff person who is 21 years of age or older and who serves as the designee shall be present in the residence. The direct care staff person may be the administrator if the administrator provides direct care services.

(b) Direct care staff persons shall be available to provide at least 1 hour per day of personal care services to each mobile resident.

(c) Direct care staff persons shall be available to provide at least 2 hours per day of personal care services to each resident who has mobility needs.

(d) At least 75% of the personal care service hours specified in subsections (b) and (c) shall be available during waking hours.

§ 2800.58. Awake staff persons.

Direct care staff persons on duty in the residence shall be awake at all times.

§ 2800.59. Multiple buildings.

(a) For a residence with multiple buildings on the same premises that are within 300 feet of one another, the direct care staff person required in § 2800.57 (relating to direct care staffing) shall be on the premises and available by a two-way communication system at all times residents are present in the residence.

(b) For a residence with multiple buildings on the same premises regardless of the distance between buildings, the direct care staffing requirements in § 2800.57 apply at all times residents are present in the residence.

§ 2800.60. Additional staffing based on the needs of the residents.

(a) Staffing shall be provided to meet the needs of the residents as specified in the resident's assessment and support plan. Residence staff or service providers who provide services to the residents in the residence shall meet the applicable professional licensure requirements.

(b) The staffing level in this chapter is minimum only. The Department may require additional staffing as necessary to protect the health, safety and well-being of the residents. Requirements for additional staffing will be based on the resident's assessment and support plan, the design and construction of the residence and the operation and management of the residence.

(c) Additional staff hours, or contractual hours, shall be provided as necessary to meet the transportation, laundry, food service, housekeeping and maintenance needs of the residence.

(d) In addition to the staffing requirements in this chapter, the residence shall have a nurse on call at all times. The on-call nurse shall be either an employee of the residence or under contract with the residence.

(e) The residence shall have a dietician on staff or under contract to provide for any special dietary needs of a resident as indicated in his support plan.

§ 2800.61. Substitute personnel.

When regularly scheduled direct care staff persons are absent, the administrator shall arrange for coverage by substitute personnel who meet the direct care staff qualifications and training requirements as specified in §§ 2800.54 and 2800.65 (relating to qualifications for direct care staff persons; and direct care staff person training and orientation).

§ 2800.62. List of staff persons.

The administrator shall maintain a current list of the names, addresses and telephone numbers of staff persons including substitute personnel and volunteers.

§ 2800.63. First aid, CPR and obstructed airway training.

(a) There shall be sufficient staff trained in first aid and certified in obstructed airway techniques and CPR present in the residence at all times to meet the needs of the residents.

(b) Current training in first aid and certification in obstructed airway techniques and CPR shall be provided by an individual certified as a trainer by a hospital or other recognized health care organization.

(c) Licensed, certified and registered medical personnel meet the qualifications in subsection (a) and are exempt from the training requirements in subsections (a) and (b).

(d) A staff person who is trained in first aid or certified in obstructed airway techniques or CPR shall provide those services in accordance with his training, unless the resident has a do not resuscitate order.

§ 2800.64. Administrator training and orientation.

(a) Prior to initial employment as an administrator, a candidate shall successfully complete the following:

(1) An orientation program approved and administered by the Department.

(2) A 100-hour standardized Department-approved administrator training course. The training provided for in

§ 2800.69 (relating to additional dementia-specific training) shall be in addition to the 100-hour training course.

(3) A Department-approved competency-based training test with a passing score.

(b) The standardized Department-approved administrator training course specified in subsection (a)(2) must include the following:

(1) Fire prevention and emergency preparedness.

(2) Medication procedures, medication effects and side effects, universal precautions and personal hygiene.

(3) Certification in CPR and obstructed airway techniques and training in first aid.

(4) Personal care services.

(5) Local, State and Federal laws and regulations pertaining to the operation of a residence.

(6) Nutrition, food handling and sanitation.

(7) Recreation.

(8) Care for residents with mental illness.

(9) Resident rights.

(10) Care for residents with special needs.

(11) Care for residents with mental retardation.

(12) Community resources, social services and activities in the community.

(13) Staff supervision and staff person training including developing orientation and training guidelines for staff.

(14) Budgeting, financial recordkeeping and resident records including:

(i) Writing, completing and implementing initial assessments, annual assessments and support plans.

(ii) Resident-residence contracts.

(15) Gerontology.

(16) Abuse and neglect prevention and reporting.

(17) Cultural competency.

(18) The requirements of this chapter.

(c) An administrator shall have at least 24 hours of annual training relating to the job duties. The Department-approved administrator training course specified in subsection (a) fulfills the annual training requirement for the first year.

(d) Annual training shall be provided by Department-approved training sources listed in the Department's assisted living residence training resource directory or by an accredited college or university.

(e) An administrator who has successfully completed the training in subsections (a)—(d) shall provide written verification of successful completion to the Department's Assisted Living Residence Office.

(f) A record of training including the individual trained, date, source, content, length of each course and copies of certificates received shall be kept.

§ 2800.65. Direct care staff person training and orientation.

(a) Prior to or during the first work day, direct care staff persons including ancillary staff persons, substitute personnel and volunteers shall have an orientation in general fire safety and emergency preparedness that includes the following:

- (1) Evacuation procedures.
- (2) Staff duties and responsibilities during fire drills, as well as during emergency evacuation, transportation and at an emergency location, if applicable.
- (3) The designated meeting place outside the building or within the fire-safe area in the event of an actual fire.
- (4) Smoking safety procedures, the residence's smoking policy and location of smoking areas, if applicable.
- (5) The location and use of fire extinguishers.
- (6) Smoke detectors and fire alarms.
- (7) Telephone use and notification of emergency services.

(b) Within 40 scheduled working hours, direct care staff persons, ancillary staff persons, substitute personnel and volunteers shall have an orientation that includes the following:

- (1) Resident rights.
- (2) Emergency medical plan.
- (3) Mandatory reporting of abuse and neglect under the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102).
- (4) Reporting of reportable incidents and conditions.
- (5) Safe management techniques.
- (6) Core competency training that includes the following:
 - (i) Person-centered care.
 - (ii) Communication, problem solving and relationship skills.
 - (iii) Nutritional support according to resident preference.

(c) Ancillary staff persons shall have a general orientation to their specific job functions as it relates to their position prior to working in that capacity.

(d) Direct care staff persons may not provide unsupervised ADL services until completion of the following:

- (1) Training that includes a demonstration of job duties, followed by supervised practice.
- (2) Successful completion and passing the Department-approved direct care training course and passing of the competency test.
- (3) Initial direct care staff person training to include the following:
 - (i) Safe management techniques.
 - (ii) Assisting with ADLs and IADLs.
 - (iii) Personal hygiene.
 - (iv) Care of residents with mental illness, neurological impairments, mental retardation and other mental disabilities.

(v) The normal aging-cognitive, psychological and functional abilities of individuals who are older.

(vi) Implementation of the initial assessment, annual assessment and support plan.

(vii) Nutrition, food handling and sanitation.

(viii) Recreation, socialization, community resources, social services and activities in the community.

(ix) Gerontology.

(x) Staff person supervision, if applicable.

(xi) Care and needs of residents with special emphasis on the residents being served in the residence.

(xii) Safety management and hazard prevention.

(xiii) Universal precautions.

(xiv) The requirements of this chapter.

(xv) Infection control.

(xvi) Care for individuals with mobility needs, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration, if applicable to the residents served in the residence.

(e) Direct care staff persons shall have at least 12 hours of annual training relating to their job duties. The training required in § 2800.69 (relating to additional dementia-specific training) shall be in addition to the 12 hour annual training.

(f) Training topics for the annual training for direct care staff persons must include the following:

- (1) Medication self-administration training.
- (2) Instruction on meeting the needs of the residents as described in the preadmission screening form, assessment tool, medical evaluation and support plan.
- (3) Care for residents with dementia and cognitive impairments.
- (4) Infection control and general principles of cleanliness and hygiene and areas associated with immobility, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration.
- (5) Personal care service needs of the resident.
- (6) Safe management techniques.
- (7) Care for residents with mental illness or mental retardation, or both, if the population is served in the residence.

(g) Direct care staff persons, ancillary staff persons, substitute personnel and regularly scheduled volunteers shall be trained annually in the following areas:

- (1) Fire safety completed by a fire safety expert or by a staff person trained by a fire safety expert. Videos prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert.
- (2) Emergency preparedness procedures and recognition and response to crises and emergency situations.
- (3) Resident rights.
- (4) The Older Adult Protective Services Act.
- (5) Falls and accident prevention.
- (6) New population groups that are being served at the residence that were not previously served, if applicable.

(h) If a staff person has completed the required initial direct care staff person training within the past year as a direct care staff person at another residence, the requirement for initial direct care staff person training in this

section does not apply if the staff person provides written verification of completion of the training.

(i) A record of training including the staff person trained, date, source, content, length of each course and copies of any certificates received, shall be kept.

§ 2800.66. Staff training plan.

(a) A staff training plan shall be developed annually.

(b) The plan must include training aimed at improving the knowledge and skills of the residence's direct care staff persons in carrying out their job responsibilities. The staff training plan must include the following:

(1) The name, position and duties of each direct care staff person.

(2) The required training courses for each staff person.

(3) The dates, times and locations of the scheduled training for each staff person for the upcoming year.

(c) Documentation of compliance with the staff training plan shall be kept.

§ 2800.67. Training institution registration.

(a) An institution and the course of study offered by an educational institution, association, professional society or organization for the purpose of educating and qualifying applicants for certification as assisted living residence administrators shall be registered and approved by the Department prior to offering the course of study.

(b) An application for registration of an institution and approval of a course of study shall be submitted to the Department on a form provided by the Department and include the following information:

(1) The full name, address, telephone number, facsimile number and electronic mail address of the prospective training provider, each instructor and the program coordinator.

(2) The training objectives, instructional materials, content and teaching methods to be used and the number of clock hours.

(3) The recommended class size.

(4) The attendance certification method.

(5) Proof that each course instructor is certified by the Department to conduct administrator training.

(6) The subject that each instructor will teach and documentation of the instructor's academic credentials, instructional experience and work experience to teach the subject.

(7) The location of the training site, which shall accommodate the number of anticipated participants.

(c) A request to amend a Department-approved course of study shall be submitted for the Department's review and approval prior to implementation of a change in the course of study.

(d) The training institution shall issue a training certificate to each participant who successfully completes the Department-approved course and passes the competency test. Each training certificate must indicate the participant's name, the name of the training institution, the date and location of the training and the number of clock hours completed for each training topic.

§ 2800.68. Instructor approval.

(a) Training for assisted living residence administrators provided by an individual who is not certified as an instructor by the Department will not be considered valid training.

(b) To receive the Department's certification as an approved instructor for assisted living residence administrators, an instructor shall successfully complete the Department's train-the-trainer course. The train-the-trainer course is designed to provide and reinforce basic training skills, including the roles and responsibilities of the trainer, training methodology, the use of instructional aids and recordkeeping.

(c) An instructor shall demonstrate competent instructional skills and knowledge of the applicable topic and meet the Department's qualifications for the topic being taught.

(d) An instructor is subject to unannounced monitoring by the Department while conducting training.

(e) The Department will establish approval standards that include the following:

(1) The mechanism to measure the quality of the training being offered.

(2) The criteria for selecting and evaluating instructors, subject matter and instructional materials.

(3) The criteria for evaluating requests to amend a course.

(4) The criteria for evaluating the effectiveness of each course.

(5) The instructor qualifications for each subject being taught.

(f) The Department may withdraw approval under the following conditions:

(1) Failure to follow the approved curriculum.

(2) Lack of trainer competency.

(3) A pattern of violations of this chapter by a residence conducting the training.

§ 2800.69. Additional dementia-specific training.

Administrative staff, direct care staff persons, ancillary staff persons, substitute personnel and volunteers shall receive at least 4 hours of dementia-specific training within 30 days of hire and at least 2 hours of dementia-specific training annually thereafter in addition to the training requirements of this chapter.

PHYSICAL SITE

§ 2800.81. Physical accommodations and equipment.

(a) The residence shall provide or arrange for physical site accommodations and equipment necessary to meet the health and safety needs of a resident with a disability and to allow safe movement within the residence and exiting from the residence.

(b) Wheelchairs, walkers, prosthetic devices and other apparatus used by residents must be clean, in good repair and free of hazards.

§ 2800.82. Poisons.

(a) Poisonous materials shall be stored in their original, labeled containers.

(b) Poisonous materials shall be stored separately from food, food preparation surfaces and dining surfaces.

(c) Poisonous materials shall be kept locked and inaccessible to residents unless all of the residents living in the residence are able to safely use or avoid poisonous materials.

§ 2800.83. Temperature.

(a) The indoor temperature, in areas used by the residents, must be at least 70° F when residents are present in the residence.

(b) A residence in existence prior to _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) shall provide central air conditioning. If central air conditioning is not feasible or is cost prohibitive, window air conditioning units shall be provided. The residence shall submit justification to the Department for the use of window air conditioning units.

(c) For new construction after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.), the residence shall provide central air conditioning.

§ 2800.84. Heat sources.

Heat sources, such as steam and hot heating pipes, water pipes, fixed space heaters, hot water heaters and radiators exceeding 120° F that are accessible to the resident must be equipped with protective guards or insulation to prevent the resident from coming in contact with the heat source.

§ 2800.85. Sanitation.

(a) Sanitary conditions shall be maintained.

(b) There may be no evidence of infestation of insects or rodents in the residence.

(c) Trash shall be removed from the premises at least once a week.

(d) Trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.

(e) Trash outside the residence shall be kept in covered receptacles that prevent the penetration of insects and rodents.

(f) For a residence serving 9 or more residents that is not connected to a public sewer system, there shall be a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the residence is located.

§ 2800.86. Ventilation.

(a) All areas of the residence that are used by the resident shall be ventilated. Ventilation includes an operable window, air conditioner, fan or mechanical ventilation that ensures airflow.

(b) A bathroom that does not have an operable, outside window must be equipped with an exhaust fan for ventilation.

§ 2800.87. Lighting.

The residence's rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps, evacuation routes, outside walkways and fire escapes must be lighted and marked to ensure that residents, including those with vision impairments, can safely move through the residence and safely evacuate.

§ 2800.88. Surfaces.

(a) Floors, walls, ceilings, windows, doors and other surfaces must be clean, in good repair and free of hazards.

(b) The residence may not use asbestos products for renovations or new construction.

§ 2800.89. Water.

(a) The residence must have hot and cold water under pressure in each bathroom, kitchen and laundry area to accommodate the needs of the residents in the residence.

(b) Hot water temperature in areas accessible to the resident may not exceed 120° F.

(c) A residence that is not connected to a public water system shall have a coliform water test at least every 3 months, by a Department of Environmental Protection-certified laboratory, stating that the water is below maximum contaminant levels. A public water system is a system that provides water to the public for human consumption, which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

(d) If the water is found to be above maximum contaminant levels, the residence shall conduct remediation activity to reduce the level of contaminants to below the maximum contaminant level. During remediation activity, an alternate source of drinking water shall be provided to the residents.

(e) The residence shall keep documentation of the laboratory certification, in addition to the results and corrections made to ensure safe water for drinking.

§ 2800.90. Communication system.

(a) The residence shall have a working, noncoin operated, landline telephone that is accessible in emergencies and accessible to individuals with disabilities.

(b) For a residence serving 9 or more residents, there shall be a system or method of communication that enables staff persons to immediately contact other staff persons in the residence for assistance in an emergency.

§ 2800.91. Emergency telephone numbers.

Telephone numbers for the nearest hospital, police department, fire department, ambulance, poison control, local emergency management and assisted living residence complaint hotline shall be posted on or by each telephone with an outside line.

§ 2800.92. Windows and screens.

Windows, including windows in doors, must be in good repair and securely screened when doors or windows are open.

§ 2800.93. Handrails and railings.

(a) Each ramp, interior stairway, hallway and outside steps must have a well-secured handrail.

(b) Each porch must have a well-secured railing.

§ 2800.94. Landings and stairs.

(a) Interior and exterior doors that open directly into a stairway and are used for exit doors, resident areas and fire exits must have a landing, which is a minimum of 3 feet by 3 feet.

(b) Interior stairs, exterior steps and ramps must have nonskid surfaces.

(c) Stairs must have strips for those with vision impairments.

§ 2800.95. Furniture and equipment.

Furniture and equipment must be in good repair, clean and free of hazards.

§ 2800.96. First aid kit.

(a) The residence shall have a first aid kit that includes an automatic electronic defibrillation device, non-porous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, adhesive tape, scissors, breathing shield, eye coverings and tweezers.

(b) Staff persons shall know the location of the first aid kit.

(c) The first aid kit must be in a location that is easily accessible to staff persons.

§ 2800.97. Elevators and stair glides.

Each elevator and stair glide must have a certificate of operation from the Department of Labor and Industry or the appropriate local building authority in accordance with 34 Pa. Code Chapter 405 (relating to elevators and other lifting devices).

§ 2800.98. Indoor activity space.

(a) The residence shall have at least two indoor wheelchair accessible common rooms for all residents for activities such as reading, recreation and group activities. One of the common rooms shall be available for resident use at any time, provided the use does not affect or disturb others.

(b) The residence shall have at least one furnished living room or lounge area for residents, their families and visitors. The combined living room or lounge areas must accommodate all residents at one time. There must be at least 15 square feet per living unit for up to 50 living units. There must be a total of 750 square feet if there are more than 50 living units. These rooms or areas must contain tables, chairs and lighting to accommodate the residents, their families and visitors.

(c) The residence shall have a working television and radio available to residents in a living room or lounge area.

§ 2800.99. Recreation space.

The residence shall provide regular access to outdoor and indoor recreation space and recreational items, such as books, newspapers, magazines, puzzles, games, cards and crafts.

§ 2800.100. Exterior conditions.

(a) The exterior of the building and the building grounds or yard must be in good repair and free of hazards.

(b) The residence shall ensure that ice, snow and obstructions are removed from outside walkways, ramps, steps, recreational areas and exterior fire escapes.

§ 2800.101. Resident living units.

(a) A residence shall provide a resident with the resident's own living unit unless the conditions of subsection (c) are met.

(b)(1) For new construction of residences after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), each living unit for a single resident must have at least 250 square feet of floor space measured wall-to-wall, excluding bathrooms and closet space. If two residents share a living unit, there must be an additional 80 square feet in the living unit.

(2) For residences in existence prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), each living unit

must have at least 175 square feet measured wall to wall, excluding bathrooms and closet space. If two residents share a living unit, there must be an additional 80 square feet in the living unit.

(3) Each living unit must have a telephone jack and individually controlled thermostats for heating and cooling.

(4) The doors in living units, including entrance doors, must be accessible or adaptable for wheelchair use.

(c) Two residents may voluntarily agree to share one living unit provided that the agreement is in writing and contained in each of the resident-residence contract of those residents. A licensee may not require residents to share a living unit. The maximum number of residents in any living unit shall be two residents.

(d) Kitchen capacity requirements are as follows:

(1) *New construction.* For new construction of residences after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), the kitchen capacity, at a minimum, must contain a small refrigerator with a freezer compartment, a cabinet for food storage, a small bar-type sink with hot and cold running water and space with electrical outlets suitable for small cooking appliances such as a microwave oven. The cooking appliances shall be designed so that they can be disconnected and removed for resident safety or if the resident chooses not to have cooking capability in his living unit.

(2) *Existing facilities.* Facilities that convert to residences after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), must meet the following requirements related to kitchen capacity:

(i) The residence shall provide a small refrigerator in each living unit.

(ii) The residence shall provide a microwave oven in each living unit.

(iii) The residence shall provide access to a sink for dishes, a stovetop for hot food preparation and a food preparation area in a common area. A common resident kitchen may not include the kitchen used by the residence staff for the preparation of resident or employee meals, or the storage of goods.

(e) Ceiling height in each living unit must be an average of at least 7 feet.

(f) Each living unit must have at least one window with direct exposure to natural light.

(g) A resident's bedroom in the living unit shall be used only by the occupying resident unless two consenting adult residents agree to share a bedroom and the requirements of subsection (c) are met.

(h) Each living unit must have a door with a lock, except where a lock in a unit under a special care designation would pose a risk or be unsafe.

(i) A resident shall have access to his living unit at all times.

(j) Each resident shall have the following in the living unit:

(1) A bed with a solid foundation and fire retardant mattress that is in good repair, clean and supports the resident.

(2) A chair for each resident that meets the resident's needs.

(3) Pillows, bed linens and blankets that are clean and in good repair.

(4) A storage area for clothing that includes a chest of drawers and a closet or wardrobe space with clothing racks or shelves accessible to the resident.

(5) A bedside table or a shelf.

(6) A mirror.

(7) An operable lamp or other source of lighting that can be turned on at bedside.

(8) If a resident shares a bedroom with another resident, the items specified in paragraphs (4)—(7) may be shared with one other resident.

(k) Cots and portable beds are prohibited.

(l) Bunk beds or other raised beds that require residents to climb steps or ladders to get into or out of bed are prohibited.

(m) A living unit may not be used as an exit from or used as a passageway to another part of the residence unless in an emergency situation.

(n) The living unit must have walls, floors and ceilings, which are finished, clean and in good repair.

(o) In living units with a separate bedroom, there must be a door on the bedroom.

(p) Space for storage of personal property shall be provided in a dry, protected area.

(q) There must be drapes, shades, curtains, blinds or shutters on the living unit windows. Window coverings must be clean, in good repair, provide privacy and cover the entire window when drawn.

(r) Each living unit must be equipped with an emergency notification system to notify staff in the event of an emergency.

§ 2800.102. Bathrooms.

(a) There shall be one functioning flush toilet in the bathroom in the living unit.

(b) There shall be at least one sink and wall mirror in the bathroom of the living unit.

(c) There shall be at least one bathtub or shower in the bathroom of the living unit.

(d) Toilet and bath areas in the living unit must have grab bars, hand rails or assist bars. Bathtubs and showers must have slip-resistant surfaces.

(e) Privacy in the living unit shall be provided for toilets, showers and bathtubs by partitions or doors.

(f) An individual towel, washcloth and soap shall be provided for each resident unless the resident provides his own supplies of these items.

(g) Individual toiletry items including toothpaste, toothbrush, shampoo, deodorant, comb and hairbrush shall be made available to residents who are not recipients of SSI. If the residence charges for these items, the charges shall be indicated in the resident-residence contract. Availability of toiletry items for residents who are recipients of SSI is specified in § 2800.27(d)(1) (relating to SSI recipients).

(h) Toilet paper shall be provided for every toilet.

(i) A dispenser with soap shall be provided within reach of each bathroom sink. Bar soap is not permitted unless there is a separate bar clearly labeled for each resident who shares a bathroom.

(j) Towels and washcloths shall be in the possession of the resident in the resident's living unit unless the resident has access to the residence's linen supply.

(k) Use of a common towel is prohibited.

(l) Shelves or hooks for the resident's towel and clothing shall be provided.

(m) A residence shall have at least one public restroom that meets applicable local, State and Federal laws and guidelines and that is convenient to common areas and wheelchair accessible.

(n) Each bathroom must be equipped with an emergency notification system to notify staff in the event of an emergency.

§ 2800.103. Food service.

(a) A residence shall have access on the grounds to an operable kitchen with a refrigerator, sink, stove, oven, cooking equipment and cabinets or shelves for storage. If the kitchen is not in the residence, the residence shall have a kitchen area with a refrigerator, cooking equipment, a sink and food storage space.

(b) Kitchen surfaces must be of a nonporous material and cleaned and sanitized after each meal.

(c) Food shall be protected from contamination while being stored, prepared, transported and served.

(d) Food shall be stored off the floor.

(e) Food served and returned from an individual's plate may not be served again or used in the preparation of other dishes. Leftover food shall be labeled and dated.

(f) Food requiring refrigeration shall be stored at or below 40° F. Frozen food shall be kept at or below 0° F. Thermometers are required in refrigerators and freezers.

(g) Food shall be stored in closed or sealed containers.

(h) Food shall be thawed either in the refrigerator, microwave oven, under cool water or as part of the cooking process.

(i) Outdated or spoiled food or dented cans may not be used.

(j) Eating, drinking and cooking utensils shall be washed, rinsed and sanitized after each use by a method specified in 7 Pa. Code Chapter 46, Subchapter D (relating to equipment, utensils and linen).

§ 2800.104. Dining room.

(a) An assisted living residence shall have an accessible common dining space outside the resident living units. A dining room area must be equipped with tables and chairs and able to accommodate the maximum number of residents scheduled for meals at any one time. There must be at least 15 square feet per person for residents scheduled for meals at any one time.

(b) Dishes, glassware and utensils shall be provided for eating, drinking, preparing and serving food. These utensils must be clean, and free of chips and cracks. Plastic and paper plates, utensils and cups for meals may not be used on a regular basis.

(c) Condiments shall be available at the dining table.

(d) Adaptive eating equipment or utensils shall be available, if needed, to assist residents in eating at the table.

(e) Breakfast, midday and evening meals shall be served to residents in a dining room except in the following situations:

(1) Service in the resident's living unit shall be available at no additional charge when the resident is unable to come to the dining room due to illness.

(2) When room service is available in a residence, a resident may choose to have a meal served in the resident's living unit. This service shall be provided at the resident's request and may not replace daily meals in a dining room.

§ 2800.105. Laundry.

(a) Laundry service for bed linens, towels and personal clothing shall be provided by the residence, at no additional charge, to residents who are recipients of or eligible applicants for SSI benefits. Laundry service does not include dry cleaning.

(b) Laundry service for bed linens, towels and personal clothing for the residents who are not recipients of SSI shall be provided by the residence unless otherwise indicated in the resident-residence contract.

(c) The supply of bed linens and towels must be sufficient to ensure a complete change of bed linen and towels at least once per week.

(d) Bed linens and towels shall be changed at least once every week and more often as needed to maintain sanitary conditions.

(e) Clean linens and towels shall be stored in an area separate from soiled linen and clothing.

(f) Measures shall be implemented to ensure that residents' clothing are not lost or misplaced during laundering or cleaning. The resident's clean clothing shall be returned to the resident within 24 hours after laundering.

(g) To reduce the risks of fire hazards, lint shall be removed from the lint trap and drum of clothes dryers after each use. Lint shall be cleaned from the vent duct and internal and external ductwork of clothes dryers according to the manufacturer's instructions.

§ 2800.106. Swimming areas.

If a residence operates a swimming area, the following requirements apply:

(1) Swimming areas shall be operated in accordance with applicable laws and regulations.

(2) Written policy and procedures to protect the health, safety and well-being of the residents shall be developed and implemented.

§ 2800.107. Emergency preparedness.

(a) The administrator shall have a copy and be familiar with the emergency preparedness plan for the municipality in which the residence is located.

(b) The residence shall have written emergency procedures that include the following:

(1) Contact information for each resident's designated person.

(2) The residence's plan to provide the emergency medical information for each resident that ensures confidentiality.

(3) Contact telephone numbers of local and State emergency management agencies and local resources for housing and emergency care of residents.

(4) Means of transportation in the event that relocation is required.

(5) Duties and responsibilities of staff persons during evacuation, transportation and at the emergency location. These duties and responsibilities shall be specific to each resident's emergency needs.

(6) Alternate means of meeting resident needs in the event of a utility outage.

(c) The residence shall maintain at least a 3-day supply of nonperishable food and drinking water for residents.

(d) The written emergency procedures shall be reviewed, updated and submitted annually to the local emergency management agency.

§ 2800.108. Firearms and weapons.

(a) A residence shall have a written policy regarding firearms.

(b) The policy must include, at a minimum, procedures regarding the safety, access and use of firearms, weapons and ammunition.

(c) Firearms, weapons and ammunition shall be permitted on the licensed premises of a residence only when the following conditions are met:

(1) Firearms and weapons shall be contained in a locked cabinet located in a place other than the residents' living unit or in a common living area.

(2) Ammunition shall be contained in a locked area separate from firearms and weapons, and located in a place other than the residents' living unit or in a common living area.

(3) The key to the locked cabinet containing the firearms, weapons and ammunition shall be in the possession of the administrator or a designee.

(4) The administrator or designee shall be the only individual permitted to open the locked cabinet containing the firearms and weapons and the locked area containing the ammunition.

(d) If a firearm, weapon or ammunition is the property of a resident, there shall be a written policy and procedures regarding the safety, access and use of firearms, weapons and ammunition. A resident may not take a firearm, weapon or ammunition out of the locked cabinet into the living area.

§ 2800.109. Pets.

(a) The residence rules must specify whether the residence permits pets on the premises.

(b) Cats and dogs present at the residence shall have a current rabies vaccination. A current certificate of rabies vaccination from a licensed veterinarian shall be kept.

(c) Pets that are accessible to the residents shall be in good health and nonaggressive to the residents.

(d) If a residence has additional charges for pets, the charges shall be included in the resident-residence contract.

(e) A residence shall disclose to applicants whether pets are permitted and present in the residence.

FIRE SAFETY

§ 2800.121. Unobstructed egress.

(a) Stairways, hallways, doorways, passageways and egress routes from living units and from the building must be unlocked and unobstructed.

(b) Except as provided in § 2800.101 (relating to resident living units), doors used for egress routes from living units and from the building may not be equipped with

key-locking devices, electronic card operated systems or other devices which prevent immediate egress of residents from the building, unless the residence has written approval or a variance from the Department of Labor and Industry, the Department of Health or the appropriate local building authority.

§ 2800.122. Exits.

Unless otherwise regulated by the Department of Labor and Industry, the Department of Health or the appropriate local building authority, all buildings must have at least two independent and accessible exits from every floor, arranged to reduce the possibility that both will be blocked in an emergency situation.

§ 2800.123. Emergency evacuation.

(a) Exit doors must be equipped so that they can be easily opened by residents from the inside without the use of a key or other manual device that can be removed, misplaced or lost.

(b) Copies of the emergency procedures as specified in § 2800.107 (relating to emergency preparedness) shall be posted in a conspicuous and public place in the residence and a copy shall be kept.

(c) For a residence serving nine or more residents, an emergency evacuation diagram of each floor showing corridors, line of travel to exit doors and location of the fire extinguishers and pull signals shall be posted in a conspicuous and public place on each floor.

(d) If the residence serves one or more residents with mobility needs above or below grade level of the residence, there shall be a fire-safe area, as specified in writing within the past year by a fire safety expert, on the same floor as each resident with mobility needs.

§ 2800.124. Notification of local fire officials.

The residence shall notify the local fire department in writing of the address of the residence, location of the living units and bedrooms and the assistance needed to evacuate in an emergency. Documentation of notification shall be kept.

§ 2800.125. Flammable and combustible materials.

(a) Combustible and flammable materials may not be located near heat sources or hot water heaters.

(b) Combustible materials shall be inaccessible to residents.

§ 2800.126. Furnaces.

(a) A professional furnace cleaning company or trained maintenance staff person shall inspect furnaces at least annually. Documentation of the inspection shall be kept.

(b) Furnaces shall be cleaned according to the manufacturer's instructions. Documentation of the cleaning shall be kept.

§ 2800.127. Space heaters.

(a) Portable space heaters are prohibited.

(b) Nonportable space heaters must be well vented and installed with permanent connections and protectors.

§ 2800.128. Supplemental heating sources.

(a) The use of kerosene burning heaters is prohibited.

(b) Wood and coal burning stoves shall be used only if a local fire department or other municipal fire safety authority, professional cleaning company or trained maintenance staff person inspects and approves them annually. Wood and coal burning stoves that are used as a

regular heating source shall be cleaned every year according to the manufacturer's instructions. Documentation of wood and coal burning stove inspections and cleanings shall be kept.

(c) Wood and coal burning stoves must be securely screened or equipped with protective guards while in use.

§ 2800.129. Fireplaces.

(a) A fireplace must be securely screened or equipped with protective guards while in use.

(b) A fireplace chimney and flue shall be cleaned when there is an accumulation of creosote. Written documentation of the cleaning shall be kept.

§ 2800.130. Smoke detectors and fire alarms.

(a) There shall be an operable automatic smoke detector located in each living unit.

(b) Smoke detectors and fire alarms must be of a type approved by the Department of Labor and Industry, the appropriate local building authority or local fire safety expert, or listed by Underwriters Laboratories.

(c) If the residence serves nine or more residents, there shall be at least one smoke detector on each floor interconnected and audible throughout the residence or an automatic fire alarm system that is interconnected and audible throughout the residence.

(d) If one or more residents or staff persons are not able to hear the smoke detector or fire alarm system, a signaling device approved by a fire safety expert shall be used and tested so that each resident and staff person with a hearing impairment will be alerted in the event of a fire.

(e) Smoke detectors and fire alarms shall be tested for operability at least once per month. A written record of the monthly testing shall be kept.

(f) If a smoke detector or fire alarm becomes inoperative, repair shall be completed within 48 hours of the time the detector or alarm was found to be inoperative.

(g) The residence's emergency procedures shall indicate the procedures that will be immediately implemented until the smoke detector or fire alarms are operable.

(h) In residences housing five or more residents with mobility needs, the fire alarm system shall be directly connected to the local fire department or 24-hour monitoring service approved by the local fire department, if this service is available in the community.

§ 2800.131. Fire extinguishers.

(a) There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor and living unit, including the basement and attic.

(b) If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space.

(c) A fire extinguisher with a minimum 2A-10BC rating shall be located in each kitchen and in the living units. The kitchen extinguisher must meet the requirements for one floor as required in subsection (a).

(d) Fire extinguishers must be listed by Underwriters Laboratories or approved by Factory Mutual Systems.

(e) Fire extinguishers shall be accessible to staff persons. Fire extinguishers shall be kept locked if access to the extinguisher by a resident could cause a safety risk to

the resident. If fire extinguishers are kept locked, each staff person shall be able to immediately unlock the fire extinguisher in the event of a fire emergency.

(f) Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection shall be on the extinguisher.

§ 2800.132. Fire drills.

(a) An unannounced fire drill shall be held at least once a month.

(b) A fire safety inspection and fire drill conducted by a fire safety expert shall be completed annually. Documentation of this fire drill and fire safety inspection shall be kept.

(c) A written fire drill record must include the date, time, the amount of time it took for evacuation, the exit route used, the number of residents in the residence at the time of the drill, the number of residents evacuated, the number of staff persons participating, problems encountered and whether the fire alarm or smoke detector was operative.

(d) Residents shall be able to evacuate the entire building to a public thoroughfare, or to a fire-safe area designated in writing within the past year by a fire safety expert within the period of time specified in writing within the past year by a fire safety expert. For purposes of this subsection, the fire safety expert may not be a staff person of the residence.

(e) A fire drill shall be held during sleeping hours once every 6 months.

(f) Alternate exit routes shall be used during fire drills.

(g) Fire drills shall be held on different days of the week, at different times of the day and night, not routinely held when additional staff persons are present and not routinely held at times when resident attendance is low.

(h) Residents shall evacuate to a designated meeting place away from the building or within the fire-safe area during each fire drill.

(i) A fire alarm or smoke detector shall be set off during each fire drill.

(j) Elevators may not be used during a fire drill or a fire.

§ 2800.133. Exit signs.

The following requirements apply for a residence serving nine or more residents:

(1) Signs bearing the word "EXIT" in plain legible letters shall be placed at all exits.

(2) Access to exits shall be marked with readily visible signs indicating the direction to travel.

(3) Exit sign letters must be at least 6 inches in height with the principal strokes of letters at least 3/4 inch wide.

RESIDENT HEALTH

§ 2800.141. Resident medical evaluation and health care.

(a) A resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner documented on a form specified by the Department, within 60 days prior to admission. The evaluation must include the following:

(1) A general physical examination by a physician, physician's assistant or nurse practitioner.

(2) Medical diagnosis including physical or mental disabilities of the resident, if any.

(3) Medical information pertinent to diagnosis and treatment in case of an emergency.

(4) Special health or dietary needs of the resident.

(5) Allergies.

(6) Immunization history.

(7) Medication regimen, contraindicated medications, medication side effects and the ability to self-administer medications.

(8) Body positioning and movement stimulation for residents, if appropriate.

(9) Health status.

(10) Mobility assessment, updated annually or at the Department's request.

(11) An indication that a tuberculin skin test has been administered with negative results within 2 years; or if the tuberculin skin test is positive, the result of a chest X-ray. In the event a tuberculin skin test has not been administered, the test shall be administered within 15 days after admission.

(12) Information about a resident's day-to-day personal care needs.

(b) A resident shall have a medical evaluation:

(1) At least annually.

(2) If the medical condition of the resident changes prior to the annual medical evaluation.

§ 2800.142. Assistance with health care and supplemental health care services.

(a) The residence shall assist the resident to secure medical care and supplemental health care services. To the extent prominently displayed in the written admission agreement, a residence may require residents to use providers of supplemental health care services approved or designated by the residence. If the resident has health care coverage for the supplemental health care services, the approval may not be unreasonably withheld. The residence shall document the resident's need for the medical care, including updating the resident's assessment and support plan.

(b) If a resident refuses routine medical or dental examination or treatment, the refusal and the continued attempts to educate and inform the resident about the need for health care shall be documented in the resident's record.

(c) If a resident has a serious medical or dental condition, reasonable efforts shall be made to obtain consent for treatment from the resident or the resident's designated person.

(d) The residence shall assist the resident to secure preventative medical, dental, vision and behavioral health care as requested by a physician, physician's assistant or certified registered nurse practitioner.

§ 2800.143. Emergency medical plan.

(a) The residence shall have a written emergency medical plan that includes the following:

(1) The hospital or source of health care that will be used in an emergency. This shall be the resident's choice, if possible.

- (2) Emergency transportation to be used.
- (3) An emergency staffing plan.
- (b) The following current emergency medical and health information shall be available at all times for each resident and shall accompany the resident when the resident needs emergency medical attention:
 - (1) The resident's name and birth date.
 - (2) The resident's Social Security number.
 - (3) The resident's medical diagnosis.
 - (4) The resident's physician's name and telephone number.
 - (5) Current medication, including the dosage and frequency.
 - (6) A list of allergies.
 - (7) Other relevant medical conditions.
 - (8) Insurance or third party payer and identification number.
 - (9) The power of attorney for health care or health care proxy, if applicable.
 - (10) The resident's designated person with current address and telephone number.
 - (11) Personal information and related instructions regarding advance directives, do not resuscitate orders or organ donation, if applicable.

§ 2800.144. Use of tobacco.

- (a) A residence may permit smoking tobacco in a designated smoking room of the residence.
- (b) The residence rules must specify whether the residence is designated as smoking or nonsmoking.
- (c) A residence that permits smoking inside or outside of the residence shall develop and implement written fire safety policy and procedures that include the following:
 - (1) Proper safeguards inside and outside of the residence to prevent fire hazards involved in smoking, including providing fireproof receptacles and ashtrays, direct outside ventilation, no interior ventilation from the smoking room through other parts of the residence, extinguishing procedures, fire resistant furniture both inside and outside the residence and fire extinguishers in the smoking rooms.
 - (2) Location of a smoking room or outside smoking area a safe distance from heat sources, hot water heaters, combustible or flammable materials and away from common walkways and exits.
 - (3) Prohibition of the use of tobacco during transportation by the residence.
 - (d) Smoking outside of the smoking room is prohibited.

NUTRITION

§ 2800.161. Nutritional adequacy.

- (a) Meals shall be offered that meet the recommended dietary allowances established by the United States Department of Agriculture.
- (b) At least three nutritionally well-balanced meals shall be offered daily to the resident. Each meal shall include an alternative food and drink item from which the resident may choose.
- (c) Additional portions of meals and beverages at meal-times shall be available for the resident.

(d) A resident's special dietary needs as prescribed by a physician, physician's assistant, certified registered nurse practitioner or dietitian shall be met. Documentation of the resident's special dietary needs shall be kept in the resident's record.

(e) Dietary alternatives shall be available for a resident who has special health needs or religious beliefs regarding dietary restrictions.

(f) Drinking water shall be available to the resident at all times.

(g) Between-meal snacks and beverages shall be available at all times for each resident, unless medically contraindicated as documented in the resident's support plan.

(h) Residents have the right to purchase groceries and prepare their own food in addition to the three meal plan required in § 2800.220(b) (relating to assisted living residence services) in their living units unless it would be unsafe for them to do so consistent with their support plan.

§ 2800.162. Meals.

(a) There may not be more than 15 hours between the evening meal and the first meal of the next day. There may not be more than 6 hours between breakfast and lunch, and between lunch and supper. This requirement does not apply if a resident's physician has prescribed otherwise.

(b) When a resident misses a meal, food adequate to meet daily nutritional requirements shall be available and offered to the resident.

(c) Menus, stating the specific food being served at each meal, shall be prepared for 1 week in advance and shall be followed. Weekly menus shall be posted 1 week in advance in a conspicuous and public place in the residence.

(d) Past menus of meals that were served, including changes, shall be kept for at least 1 month.

(e) A change to a menu shall be posted in a conspicuous and public place in the residence and shall be accessible to a resident in advance of the meal. Meal substitutions shall be made in accordance with § 2800.161 (relating to nutritional adequacy).

(f) A resident shall receive adequate physical assistance with eating or be provided with appropriate adaptive devices, or both, as indicated in the resident's support plan.

(g) Appropriate cueing shall be used to encourage and remind residents to eat and drink.

§ 2800.163. Personal hygiene for food service workers.

(a) Staff persons, volunteers and residents involved in the storage, preparation, serving and distributing of food shall wash their hands with hot water and soap prior to working in the kitchen areas and after using the bathroom.

(b) Staff persons, volunteers and residents shall follow sanitary practices while working in the kitchen areas.

(c) Staff persons, volunteers and residents involved with the storage, preparation, serving and distributing of food shall be in good health.

(d) Staff persons, volunteers and residents who have a discharging or infected wound, sore, lesion on hands, arms or any exposed portion of their body may not work in the kitchen areas in any capacity.

§ 2800.164. Withholding or forcing of food prohibited.

(a) A residence may not withhold meals, beverages, snacks or desserts as punishment. Food and beverages may be withheld in accordance with prescribed medical or dental procedures.

(b) A resident may not be forced to eat food.

(c) If a resident refuses to eat or drink continuously during a 24-hour period, the resident's primary care physician and the resident's designated person shall be immediately notified.

(d) If a resident has a cognitive impairment that affects the resident's ability to consume adequate amounts of food and water, a staff person shall encourage and remind the resident to eat and drink.

TRANSPORTATION

§ 2800.171. Transportation.

(a) A residence shall be required to provide or coordinate transportation to and from medical and social appointments.

(b) The following requirements apply whenever staff persons or volunteers of the residence provide transportation for the resident:

(1) The occupants of the vehicle shall be in an appropriate safety restraint at all times the vehicle is in motion.

(2) The driver of a vehicle shall be 18 years of age or older and possess a valid driver's license.

(3) The driver of the residence vehicle cannot be a resident.

(4) At least one staff member transporting or accompanying the residents shall have completed the initial new hire direct care staff person training as specified in § 2800.65 (relating to direct care staff training and orientation).

(5) The vehicle must have a first aid kit with the contents as specified in § 2800.96 (relating to first aid kit).

(6) During vehicle operations, the driver may only use a hands-free cellular telephone.

(7) Transportation must include, when necessary, an assistant to the driver who assists the driver to escort residents in and out of the residence and provides assistance during the trip.

(c) The residence shall maintain current copies of the following documentation for each of the residence's vehicles used to transport residents:

(1) Vehicle registration.

(2) Valid driver's license for vehicle operator.

(3) Vehicle insurance.

(4) Current inspection.

(5) Commercial driver's license for vehicle operator if applicable.

(d) If a residence supplies its own vehicle for transporting residents to and from medical and social appointments, a vehicle used for this purpose shall be accessible to resident wheelchair users and any other assistive equipment the resident may need.

MEDICATIONS

§ 2800.181. Self-administration.

(a) A residence shall provide residents with assistance, as needed, with medication prescribed for the resident's self-administration. This assistance includes helping the resident to remember the schedule for taking the medication, storing the medication in a secure place and offering the resident the medication at the prescribed times.

(b) If assistance includes helping the resident to remember the schedule for taking the medication, the resident shall be reminded of the prescribed schedule.

(c) The resident's assessment shall identify if the resident is able to self-administer medications as specified in § 2800.227(e) (relating to development of the support plan). A resident who desires to self-administer medications shall be assessed by a physician, physician's assistant or certified registered nurse practitioner regarding the ability to self-administer and the need for medication reminders.

(d) If the resident does not need assistance with medication, medication may be stored in a resident's living unit for self-administration. Medications stored in the resident's living unit shall be kept in a safe and secure location to protect against contamination, spillage and theft. The residence shall provide a lockable storage unit for this purpose.

(e) To be considered capable to self-administer medications, a resident shall:

(1) Be able to recognize and distinguish his medication.

(2) Know how much medication is to be taken.

(3) Know when medication is to be taken.

(f) The resident's record shall include a current list of prescription, CAM and OTC medications for each resident who is self-administering his medication.

§ 2800.182. Medication administration.

(a) A residence shall provide medication administration services for a resident who is assessed to need medication administration services in accordance with § 2800.181 (relating to self-administration) and for a resident who chooses not to self-administer medications.

(b) Prescription medication that is not self-administered by a resident shall be administered by one of the following:

(1) A physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.

(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the residence.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the residence.

(4) A staff person who has completed the medication administration training as specified in § 2800.190 (relating to medication administration training) for the administration of oral; topical; eye, nose and ear drop prescrip-

tion medications; insulin injections and epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the resident:

- (1) Identify the correct resident.
- (2) If indicated by the prescriber's orders, measure vital signs and administer medications accordingly.
- (3) Remove the medication from the original container.
- (4) Crush or split the medication as ordered by the prescriber.
- (5) Place the medication in a medication cup or other appropriate container, or in the resident's hand.
- (6) Place the medication in the resident's hand, mouth or other route as ordered by the prescriber, in accordance with the limitations specified in subsection (b)(4).
- (7) Complete documentation in accordance with § 2800.187 (relating to medication records).

§ 2800.183. Storage and disposal of medications and medical supplies.

(a) Prescription medications, OTC medications and CAM shall be kept in their original labeled containers and may not be removed more than 2 hours in advance of the scheduled administration. Assistance with insulin and epinephrine injections and sterile liquids shall be provided immediately upon removal of the medication from its container.

(b) Prescription medications, OTC medications, CAM and syringes shall be kept in an area or container that is locked. This includes medications and syringes unless kept in the resident's living unit.

(c) Prescription medications, OTC medications and CAM stored in a refrigerator shall be kept in an area or container that is locked unless the resident has the capacity to store the medications in the resident's own refrigerator in the resident's living unit.

(d) Only current prescription, OTC, sample and CAM for individuals living in the residence may be kept in the residence.

(e) Prescription medications, OTC medications and CAM shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(f) Prescription medications, OTC medications and CAM that are discontinued, expired or for residents who are no longer served at the residence shall be destroyed in a safe manner according to the Department of Environmental Protection and Federal and State regulations. When a resident permanently leaves the residence, the resident's medications shall be given to the resident, the designated person, if any, or the person or entity taking responsibility for the new placement on the day of departure from the residence.

(g) Subsections (a) and (e) do not apply to a resident who self-administers medication and stores the medication in his living unit.

§ 2800.184. Labeling of medications.

(a) The original container for prescription medications must be labeled with a pharmacy label that includes the following:

- (1) The resident's name.
- (2) The name of the medication.

(3) The date the prescription was issued.

(4) The prescribed dosage and instructions for administration.

(5) The name and title of the prescriber.

(b) If the OTC medications and CAM belong to the resident, they must be identified with the resident's name.

(c) Sample prescription medications must have written instructions from the prescriber that include the components specified in subsection (a).

§ 2800.185. Accountability of medication and controlled substances.

(a) The residence shall develop and implement procedures for the safe storage, access, security, distribution and use of medications and medical equipment by trained staff persons.

(b) At a minimum, the procedures must include:

(1) Documentation of the receipt of controlled substances and prescription medications.

(2) A process to investigate and account for missing medications and medication errors.

(3) Limited access to medication storage areas.

(4) Documentation of the administration of prescription medications, OTC medications and CAM for residents who receive medication administration services or assistance with self-administration. This requirement does not apply to a resident who self-administers medication without the assistance of a staff person and stores the medication in his living unit.

(5) To the extent indicated in the resident's support plan, the residence shall obtain prescribed medication for residents and keep an adequate supply of resident medication on hand at all times.

§ 2800.186. Prescription medications.

(a) Each prescription medication must be prescribed in writing by an authorized prescriber. Prescription orders shall be kept current.

(b) Prescription medications shall be used only by the resident for whom the prescription was prescribed.

(c) Changes in medication may only be made in writing by the prescriber, or in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by nurses in accordance with regulations of the Department of State. The resident's medication record shall be updated as soon as the residence receives written notice of the change.

§ 2800.187. Medication records.

(a) A medication record shall be kept to include the following for each resident for whom medications are administered:

- (1) Resident's name.
- (2) Drug allergies.
- (3) Name of medication.
- (4) Strength.
- (5) Dosage form.
- (6) Dose.
- (7) Route of administration.
- (8) Frequency of administration.
- (9) Administration times.

- (10) Duration of therapy, if applicable.
- (11) Special precautions, if applicable.
- (12) Diagnosis or purpose for the medication, including pro re nata (PRN).
- (13) Date and time of medication administration.
- (14) Name and initials of the staff person administering the medication.

(b) The information in subsection (a)(13) and (14) shall be recorded at the time the medication is administered.

(c) If a resident refuses to take a prescribed medication, the refusal shall be documented in the resident's record and on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The residence shall follow the directions of the prescriber.

§ 2800.188. Medication errors.

- (a) Medication errors include the following:
 - (1) Failure to administer a medication.
 - (2) Administration of the wrong medication.
 - (3) Administration of the wrong amount of medication.
 - (4) Failure to administer a medication at the prescribed time.
 - (5) Administration to the wrong resident.
 - (6) Administration through the wrong route.
- (b) A medication error shall be immediately reported to the resident, the resident's designated person and the prescriber.
- (c) Documentation of medication errors and the prescriber's response shall be kept in the resident's record.
- (d) There shall be a system in place to identify and document medication errors and the residence's pattern of error.
- (e) There shall be documentation of the follow-up action that was taken to prevent future medication errors.

§ 2800.189. Adverse reaction.

- (a) If a resident has a suspected adverse reaction to a medication, the residence shall immediately consult a physician or seek emergency medical treatment. The resident's designated person shall be notified, if applicable.
- (b) The residence shall document adverse reactions, the prescriber's response and any action taken in the resident's record.

§ 2800.190. Medication administration training.

(a) A staff person who has successfully completed a Department-approved medications administration course that includes the passing of the Department's performance-based competency test within the past 2 years may administer oral; topical; eye, nose and ear drop prescription medications and epinephrine injections for insect bites or other allergies.

(b) A staff person is permitted to administer insulin injections following successful completion of a Department-approved medications administration course that includes the passing of a written performance-based competency test within the past 2 years, as well as

successful completion of a Department-approved diabetes patient education program within the past 12 months.

(c) A record of the training shall be kept including the staff person trained, the date, source, name of trainer and documentation that the course was successfully completed.

§ 2800.191. Resident education.

The residence shall educate the resident of the right to question or refuse a medication if the resident believes there may be a medication error. Documentation of this resident education shall be kept.

SAFE MANAGEMENT TECHNIQUES

§ 2800.201. Safe management techniques.

The residence shall use positive interventions to modify or eliminate a behavior that endangers the resident himself or others. Positive interventions include improving communications, reinforcing appropriate behavior, redirection, conflict resolution, violence prevention, praise, deescalation techniques and alternative techniques or methods to identify and defuse potential emergency situations.

§ 2800.202. Prohibitions.

The following procedures are prohibited:

- (1) Seclusion, defined as involuntary confinement of a resident in a room or living unit from which the resident is physically prevented from leaving, is prohibited. This does not include the admission of a resident in a secured dementia care unit in accordance with § 2800.231 (relating to admission).
- (2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli, is prohibited.
- (3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance, is prohibited.
- (4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior, is prohibited. A chemical restraint does not include a drug ordered by a physician or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.

(5) A mechanical restraint, defined as a device that restricts the movement or function of a resident or portion of a resident's body, is prohibited. Mechanical restraints include geriatric chairs, handcuffs, anklets, wristlets, camisoles, helmet with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, papoose boards, restraining sheets, chest restraints and other types of locked restraints. A mechanical restraint does not include a device used to provide support for the achievement of functional body position or proper balance that has been prescribed by a medical professional as long as the resident can easily remove the device or the resident or his designee understands the need for the device and consents to its use.

(6) A manual restraint, defined as a hands-on physical means that restricts, immobilizes or reduces a resident's ability to move his arms, legs, head or other body parts freely, is prohibited. A manual restraint does not include prompting, escorting or guiding a resident to assist in the ADLs or IADLs.

§ 2800.203. Bedside rails.

(a) Bedside rails may not be used unless the resident can raise and lower the rails on his own. Bedside rails may not be used to keep a resident in bed. Use of any length rail longer than half the length of the bed is considered a restraint and is prohibited. Use of more than one rail on the same side of the bed is not permitted.

(b) Half-length rails are permitted only if the following conditions are met:

(1) The resident's assessment or support plan, or both, addresses the medical symptoms necessitating the use of half-length rails and the health and safety protection necessary in order to safely use half-length rails.

(2) The residence has attempted to use less restrictive alternatives.

(3) The resident or legal representative consented to the use of half-length rails after the risk, benefits and alternatives were explained.

SERVICES**§ 2800.220. Assisted living residence services.**

(a) *Services.* The residence shall provide core services as specified in subsection (b). Other individuals or agencies may furnish services directly or under arrangements with the residence in accordance with a mutually agreed upon charge or fee between the residence, resident and other individual or agency. These other services shall be supplemental to the core services provided by the residence and shall not supplant them.

(b) *Core services.* The residence shall, at a minimum, provide the following services:

(1) Nutritious meals and snacks in accordance with §§ 2800.161 and 2800.162 (relating to nutritional adequacy; and meals).

(2) Laundry services in accordance with § 2800.105 (relating to laundry).

(3) A daily program of social and recreational activities in accordance with § 2800.221 (relating to activities program).

(4) Assistance with performing ADLs and IADLs as indicated in the resident's assessment and support plan in accordance with §§ 2800.23 and 2800.24 (relating to activities; and personal hygiene).

(5) Assistance with self-administration of medication or medication administration as indicated in the resident's assessment and support plan in accordance with §§ 2800.181 and 2800.182 (relating to self-administration; and medication administration).

(6) Household services essential for the health, safety and comfort of the resident based upon the resident's needs and preferences.

(7) Transportation in accordance with § 2800.171 (relating to transportation).

(c) *Supplemental services.* The residence shall provide or arrange for the provision of supplemental health care services, including, but not limited to, the following:

- (1) Hospice services.
- (2) Occupational therapy.
- (3) Skilled nursing services.
- (4) Physical therapy.
- (5) Behavioral health services.

(6) Home health services.

(7) Escort service to and from medical appointments if transportation is coordinated by the residence.

(d) *Cognitive support services.* The residence shall provide cognitive support services to residents who require such services, whether in a special care unit or elsewhere in the residence.

§ 2800.221. Activities program.

(a) The residence shall develop a program of daily activities designed to promote each resident's active involvement with other residents, the resident's family and the community. The residence shall encourage the residents' active participation in the development of the daily activities calendar.

(b) The program must be based upon individual and group interests and provide social, physical, intellectual and recreational activities in a planned, coordinated and structured manner and shall encourage active participation in the community at large.

(c) The week's daily activity calendar shall be posted in advance in a conspicuous and public place in the residence.

§ 2800.222. Community social services.

Residents shall be encouraged and assisted in the access to and use of social services in the community which may benefit the resident, including a county mental health and mental retardation program, a drug and alcohol program, a senior citizens center, an area agency on aging or a home health care agency.

§ 2800.223. Description of services.

(a) The residence shall have a current written description of services and activities that the residence provides including the following:

(1) The scope and general description of the services and activities that the residence provides.

(2) The criteria for admission and discharge.

(3) Specific services that the residence does not provide, but will arrange or coordinate.

(b) The residence shall develop written procedures for the delivery and management of services from admission to discharge.

§ 2800.224. Preadmission screening.

(a) A determination shall be made by the administrator or designee within 30 days prior to admission and documented on the Department's preadmission screening form that the needs of the potential resident can be met by the services provided by the residence.

(b) A potential resident whose needs cannot be met by the residence shall be provided with a written decision denying their admission and provide a basis for their denial. The potential resident shall then be referred to a local appropriate assessment agency.

(c) The preadmission screening shall be completed by the administrator or designee. If the potential resident is referred by a State-operated facility, a county mental health and mental retardation program, a drug and alcohol program or an area agency on aging, a representative of the referral agent may complete the preadmission screening.

(d) A potential resident who requires assisted living services but does not currently require assistance in obtaining supplemental health care services may be ad-

mitted to the residence, provided the resident is only provided assisted living services required or requested by the resident. When services are required, the residence shall develop a support plan as required in § 2800.227 (relating to development of the support plan). This subsection applies to residents under any of the following circumstances:

(1) A resident who may require supplemental health care services in the future.

(2) A resident who wishes to obtain assistance in obtaining the services.

(3) A resident who resides in a facility in which the services are available.

(e) An initial screening will not be required to commence supplemental health care services to a resident of a residence under any of the following circumstances:

(1) If the resident was not receiving the services at the time of the resident's admission.

(2) To transfer a resident from a portion of a residence that does not provide supplemental health care services to a portion of the residence that provides such service.

(3) To transfer a resident from a personal care home to a residence licensed by the same operator.

(f) Each residence shall demonstrate the ability to provide or arrange for the provision of supplemental health care services in a manner protective of the health, safety and well-being of its residents utilizing employees, independent contractors or contractual arrangements with other health care facilities or practitioners licensed, registered or certified to the extent required by law to provide the service.

(g) Persons requiring the services of a licensed long-term care nursing facility, may reside in a residence, provided that appropriate supplemental health care services are provided and the design, construction, staffing and operation of the residence allows for safe emergency evacuation.

§ 2800.225. Initial and annual assessment.

(a) A resident shall have a written initial assessment that is documented on the Department's assessment form within 15 days of admission. The administrator or designee, or licensed practical nurse, under the supervision of a registered nurse, may complete the initial assessment.

(b) A residence may use its own assessment form if it includes the same information as the Department's assessment form.

(c) The resident shall have additional assessments as follows:

(1) Annually.

(2) If the condition of the resident significantly changes prior to the annual assessment.

(3) At the request of the Department upon cause to believe that an update is required.

§ 2800.226. Mobility criteria.

(a) The resident shall be assessed for mobility needs as part of the resident's assessment.

(b) If a resident is determined to have mobility needs as part of the resident's initial or annual assessment, specific requirements relating to the care, health and safety of the resident shall be met immediately.

(c) The administrator shall notify the Department within 30 days after a resident with mobility needs is admitted to the residence or the date when a resident develops mobility needs.

§ 2800.227. Development of the support plan.

(a) Each resident requiring services shall have a written support plan developed and implemented within 30 days of admission to the residence. The support plan shall be documented on the Department's support plan form.

(b) A residence may use its own support plan form if it includes the same information as the Department's support plan form. A licensed practical nurse, under the supervision of a registered nurse, shall review and approve the support plan.

(c) The support plan shall be revised within 30 days upon completion of the annual assessment or upon changes in the resident's needs as indicated on the current assessment. The residence shall review each resident's support plan on a quarterly basis and modify as necessary to meet the resident's needs.

(d) Each residence shall document in the resident's support plan the dietary, medical, dental, vision, hearing, mental health or other behavioral care services that will be made available to the resident, or referrals for the resident to outside services if the resident's physician, physician's assistant or certified registered nurse practitioner, determine the necessity of these services. This requirement does not require a residence to pay for the cost of these medical and behavioral care services.

(e) The resident's support plan must document the ability of the resident to self-administer medications or the need for medication reminders or medication administration.

(f) A resident shall be encouraged to participate in the development and implementation of the support plan. A resident may include a designated person or family member in making decisions about services.

(g) Individuals who participate in the development of the support plan shall sign and date the support plan.

(h) If a resident or designated person is unable or chooses not to sign the support plan, a notation of inability or refusal to sign shall be documented.

(i) The support plan shall be accessible by direct care staff persons at all times.

(j) A resident or a designated person has a right to request the review and modification of his support plan.

(k) The residence shall give a copy of the support plan to the resident and the resident's designated person.

§ 2800.228. Transfer and discharge.

(a) The facility shall ensure that a transfer or discharge is safe and orderly and that the transfer or discharge is appropriate to meet the resident's needs. This includes ensuring that a resident is transferred or discharged with all his medications, durable medical equipment and personal property. The residence shall permit the resident to participate in the decision relating to the relocation.

(b) If the residence initiates a transfer or discharge of a resident, or if the legal entity chooses to close the residence, the residence shall provide a 30-day advance written notice to the resident, the resident's family or designated person and the referral agent citing the reasons for the transfer or discharge. This shall be stipulated in the resident-residence contract.

(1) The 30-day advance written notice must be written in language in which the resident understands, or performed in American Sign Language or presented orally in a language the resident understands if the resident does not speak standard English. The notice must include the following:

- (i) The specific reason for the transfer or discharge.
- (ii) The effective date of the transfer or discharge.
- (iii) The location to which the resident will be transferred or discharged.
- (iv) An explanation of the measures the resident or the resident's designated person can take if they disagree with the residence decision to transfer or discharge which includes the name, mailing address, and telephone number of the State and local long-term care ombudsman.

(2) Prior to initiating a transfer or discharge of a resident, the residence shall make reasonable accommodation for aging in place that may include services from outside providers. The residence shall demonstrate through support plan modification and documentation the attempts to resolve the reason for the transfer or discharge. The residence may not transfer or discharge a resident if the resident or his designated person arranges for the needed services. Supplemental services may be provided by the resident's family, residence staff or private duty staff as agreed to by the resident and the residence. This shall be stipulated in the resident-residence contract.

(3) Practicable notice, rather than a 30-day advance written notice is required if a delay in transfer or discharge would jeopardize the health, safety or well-being of the resident or others in the residence, as certified by a physician or the Department. This may occur when the resident needs psychiatric services or is abused in the residence, or the Department initiates closure of the residence.

(c) A residence shall give the Department written notice of its intent to close the residence, at least 60 days prior to the anticipated date of closing.

(d) A residence may not require a resident to leave the residence prior to 30 days following the resident's receipt of a written notice from the residence regarding the intended closure of the residence, except when the Department determines that removal of the resident at an earlier time is necessary for the protection of the health, safety and well-being of the resident.

(e) The date and reason for the transfer or discharge, and the destination of the resident, if known, shall be recorded in the resident record and tracked in a transfer and discharge tracking chart that the residence shall maintain and make available to the Department.

(f) If the legal entity chooses to voluntarily close the residence or if the Department has initiated legal action to close the residence, the Department working in conjunction with appropriate local authorities, will offer relocation assistance to the residents. Except in the case of an emergency, each resident may participate in planning the transfer, and shall have the right to choose among the available alternatives after an opportunity to visit the alternative residences. These procedures apply even if the resident is placed in a temporary living situation.

(g) Within 30 days of the residence's closure, the legal entity shall return the license to the Department.

(h) The only grounds for transfer or discharge of a resident from a residence are for the following conditions:

(1) If a resident is a danger to himself or others and the behavior cannot be managed through interventions, services planning or informed consent agreements.

(2) If the legal entity chooses to voluntarily close the residence, or a portion of the residence.

(3) If a residence determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the residence under § 2800.229 (relating to excludable conditions; exceptions) or within the scope of licensure for a residence. In that case, the residence shall notify the resident, the resident's designated person and the local ombudsman. The residence shall provide justification for the residence's determination that the needs of the resident cannot be met. If a resident or the resident's designated person disagrees with the residence's decision to transfer or discharge, the residence shall contact the local ombudsman. If the residence decides to proceed with the transfer or discharge, the ombudsman shall notify the Department. The Department may take any appropriate licensure action it deems necessary based upon the report of the ombudsman. In the event that there is no disagreement related to the transfer or discharge, a plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the area agency on aging, county mental health/mental retardation program or drug and alcohol program, for assistance. The administrator shall also contact the Department.

(4) If meeting the resident's needs would require a fundamental alteration in the residence's program or building site, or would create an undue financial or programmatic burden on the residence.

(5) If the resident has failed to pay after reasonable documented efforts by the residence to obtain payment.

(6) If closure of the residence is initiated by the Department.

(7) Documented, repeated violation of the residence rules.

(8) A court has ordered the transfer or discharge.

§ 2800.229. Excludable conditions; exceptions.

(a) *Excludable conditions.* Except as provided in subsection (b), a residence may not admit, retain or serve an individual with any of the following conditions or health care needs:

- (1) Ventilator dependency.
- (2) Stage III and IV decubiti and vascular ulcers that are not in a healing stage.
- (3) Continuous intravenous fluids.
- (4) Reportable infectious diseases, such as tuberculosis, in a communicable state that requires isolation of the individual or requires special precautions by a caretaker to prevent transmission of the disease unless the Department of Health directs that isolation be established within the residence.
- (5) Nasogastric tubes.
- (6) Physical restraints.
- (7) Continuous skilled nursing care 24 hours a day.

(b) *Exception.* The residence may submit a written request to the Department on a form provided by the Department for an exception related to any of the conditions or health care needs listed in subsection (a) or (e) to allow the residence to admit, retain or serve an individual with one of those conditions or health care needs, unless a determination is unnecessary as set forth in subsection (e).

(c) *Submission, review and determination of an exception request.*

(1) The administrator of the residence shall submit the exception request. The exception request must be signed and affirmed by an individual listed in subsection (d) and accompanied by a support plan which includes the residence accommodations for treating the excludable condition requiring the exception request. Proposed accommodations must conform with the provisions contained within the resident-residence contract.

(2) The Department will review the exception request in consultation with a certified registered nurse practitioner or a physician, with experience caring for the elderly and disabled in long-term living settings.

(3) The Department will respond to the exception request in writing within 5 business days of receipt.

(4) The Department may approve the exception request if the following conditions are met:

(i) The exception request is desired by the resident or applicant.

(ii) The resident or applicant will benefit from the approval of the exception request.

(iii) The residence demonstrates to the Department's satisfaction that the residence has the staff, skills and expertise necessary to care for the resident's needs related to the excludable condition.

(iv) The residence demonstrates to the Department's satisfaction that any necessary supplemental health care provider has the staff, skills and expertise necessary to care for the resident's needs related to the excludable condition.

(v) The residence provides a written alternate care plan that ensures the availability of staff with the skills and expertise necessary to care for the resident's needs related to the excludable condition in the event the supplemental health care provider is unavailable.

(5) The Department will render decisions on exception requests on a case-by-case basis and not provide for facility-wide exceptions.

(d) *Certification providers.* The following persons may certify that an individual may not be admitted or retained in a residence:

(1) The administrator acting in consultation with supplemental health care providers.

(2) The individual's physician or certified registered nurse practitioner.

(3) The medical director of the residence.

(e) *Departmental exceptions.* A residence may admit, retain or serve an individual for whom a determination is made by the Department, upon the written request of the residence, that the individual's specific health care needs can be met by a provider of assisted living services or within a residence, including an individual requiring:

(1) Gastric tubes, except that a determination will not be required if the individual is capable of self-care of the gastric tube or a licensed health care professional or other qualified individual cares for the gastric tube.

(2) Tracheostomy, except that a determination will not be required if the individual is independently capable of self-care of the tracheostomy.

(3) Skilled nursing care 24 hours a day, except that a determination will not be required if the skilled nursing care is provided on a temporary or intermittent basis.

(4) A sliding scale insulin administration, except that a determination will not be required if the individual is capable of self-administration or a licensed health care professional or other qualified individual administers the insulin.

(5) Intermittent intravenous therapy, except that a determination will not be required if a licensed health care professional manages the therapy.

(6) Insertions, sterile irrigation and replacement of a catheter, except that a determination will not be required for routine maintenance of a urinary catheter, if the individual is capable of self-administration or a licensed health care professional administers the catheter.

(7) Oxygen, except that a determination will not be required if the individual is capable of self-administration or a licensed health care professional or other qualified individual administers the oxygen.

(8) Inhalation therapy, except that a determination will not be required if the individual is capable of self-administration or a licensed health care professional or other qualified individual administers the therapy.

(9) Other types of supplemental health care services that the administrator, acting in consultation with supplemental health care providers, determines can be provided in a safe and effective manner by the residence.

(f) *Request for exception by resident.* Nothing herein prevents an individual seeking admission to a residence or a resident from requesting that the residence apply for an exception from the Department for a condition listed in this section for which an exception must be granted by the Department. The residence's determination on whether or not to seek such an exception shall be documented on a form supplied by the Department.

(g) *Record.* A written record of the exception request, the supporting documentation to justify the exception request and the determination related to the exception request shall be kept in the records of the residence. The information required by this subsection shall also be kept in the resident's record.

(h) *Decisions.* The residence shall record the following decisions made on the basis of this section.

(1) Admission denials.

(2) Transfer or discharge decisions that are made on the basis of this section.

SPECIAL CARE UNITS

§ 2800.231. Admission.

(a) This section and §§ 2800.232—2800.239 apply to special care units. These provisions are in addition to the other provisions of this chapter. A special care unit is a residence or portion of a residence that provides specialized care and services for residents with Alzheimer's disease or other dementia in the least restrictive manner consistent with the resident's support plan to ensure the

safety of the resident and others in the residence while maintaining the resident's ability to age in place. Admission of a resident to a special care unit shall be in consultation with the resident's family or designated person. Prior to admission into a special care unit, other service options that may be available to a resident shall be considered.

(b) A resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner, documented on a form provided by the Department, within 60 days prior to admission. Documentation must include the resident's diagnosis of Alzheimer's disease or other dementia and the need for the resident to be served in a special care unit.

(c) A written cognitive preadmission screening completed in collaboration with a physician or a geriatric assessment team and documented on the Department's preadmission screening form shall be completed for each resident within 72 hours prior to admission to a special care unit.

(d) A geriatric assessment team is a group of multidisciplinary specialists in the care of adults who are older than that conducts a multidimensional evaluation of a resident and assists in developing a support plan by working with the resident's physician, designated person and family to coordinate the resident's care.

(e) Each resident record must have documentation that the resident and the resident's designated person have agreed to the resident's admission or transfer to the special care unit.

(f) In addition to the requirements in § 2800.225 (relating to initial and annual assessment), the resident shall also be assessed quarterly for the continuing need for the special care unit.

(g) An individual who does not have a primary diagnosis of Alzheimer's disease or other dementia may reside in the special care unit if desired by the resident or his designated person.

(1) The individual shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner, documented on a form provided by the Department within 60 days prior to residence or 15 days after residence.

(2) The individual shall have access to and be able to follow directions for the operation of the key pads or other lock-releasing devices to exit the special care unit.

(h) The resident-residence contract specified in § 2800.25 (relating to resident-residence contract) must also include a disclosure of services, admission and discharge criteria, change in condition policies, special programming and costs and fees.

(i) For individuals with Alzheimer's disease or dementia, or when the residence holds itself out to the public as providing services or housing for individuals with cognitive impairments, the residence shall disclose to individuals and provide materials that include the following:

(1) The residence's written statement of its philosophy and mission which reflects the needs of individuals with cognitive impairments.

(2) A description of the residence's physical environment and design features to support the functioning of individuals with cognitive impairments.

(3) A description of the frequency and types of individual and group activities designed specifically to meet the needs of individuals with cognitive impairments.

(4) A description of the security measures provided by the residence.

(5) A description of the training provided to staff regarding provision of care to individuals with cognitive impairments.

(6) A description of availability of family support programs and family involvement.

(7) The process used for assessment and establishment of a plan of services for the individual, including methods by which the plan of services will remain responsive to changes in the individual's condition.

(j) The residence shall identify measures to address individuals with cognitive impairments who have tendencies to wander.

§ 2800.232. Environmental protection.

(a) The residence shall provide exercise space, both indoor and outdoor.

(b) No more than two residents may occupy a living unit regardless of its size. A living unit shall meet the requirement in § 2800.101 (relating to resident living units), as applicable.

(c) The residence shall provide space for dining, group and individual activities and visits.

(d) The residence shall provide a full description of the measures taken to enhance environmental awareness and maximize independence of the residents. The measures to enhance environmental awareness and maximize independence of the residents shall be implemented.

§ 2800.233. Doors, locks and alarms.

(a) Doors equipped with key-locking devices, electronic card operated systems or other devices that prevent immediate egress are permitted only if there is written approval from the Department of Labor and Industry, Department of Health or appropriate local building authority permitting the use of the specific locking system.

(b) A residence shall have a statement from the manufacturer, specific to that residence, verifying that the electronic or magnetic locking system will shut down, and that all doors will open easily and immediately when one or more of the following occurs:

(1) Upon a signal from an activated fire alarm system, heat or smoke detector.

(2) Power failure to the residence.

(3) Overriding the electronic or magnetic locking system by use of a key pad or other lock-releasing device.

(c) If key-locking devices, electronic card systems or other devices that prevent immediate egress are used to lock and unlock exits, directions for their operation shall be conspicuously posted near the device.

(d) Doors that open onto areas such as parking lots, or other potentially unsafe areas, shall be locked by an electronic or magnetic system.

(e) Fire alarm systems must be interconnected to the local fire department, when available, or a 24-hour monitoring service approved by the local fire department.

§ 2800.234. Resident care.

(a) Within 72 hours of the admission, or within 72 hours prior to the resident's admission to the special care unit, a support plan shall be developed, implemented and documented in the resident record.

(b) The support plan must identify the resident's physical, medical, social, cognitive and safety needs.

(c) The support plan must identify the individual responsible to address the resident's needs.

(d) The support plan shall be reviewed, and if necessary, revised at least quarterly and as the resident's condition changes.

(e) The resident or the resident's designated person shall be involved in the development and the revisions of the support plan.

§ 2800.235. Discharge.

If the residence initiates a discharge or transfer of a resident, or the legal entity chooses to close the residence, the administrator shall give a 30-day advance written notice to the resident, the resident's designated person and the referral agent citing the reasons for the discharge or transfer. This requirement shall be stipulated in the resident-residence contract signed prior to admission to the special care unit.

§ 2800.236. Training.

(a) Each direct care staff person working in a special care unit shall have 8 hours of initial training within the first 30 days of the date of hire and a minimum of 8 hours of annual training related to dementia care and services, in addition to the 12 hours of annual training specified in § 2800.65 (relating to direct care staff person training and orientation).

(b) The training at a minimum must include the following topics:

- (1) An overview of Alzheimer's disease and related dementias.
- (2) Managing challenging behaviors.
- (3) Effective communications.
- (4) Assistance with ADLs.
- (5) Creating a safe environment.

§ 2800.237. Program.

(a) The following types of activities shall be offered at least weekly:

- (1) Gross motor activities, such as dancing, stretching and other exercise.
- (2) Self-care activities, such as personal hygiene.
- (3) Social activities, such as games, music and holiday and seasonal celebrations.
- (4) Crafts, such as sewing, decorations and pictures.
- (5) Sensory and memory enhancement activities, such as review of current events, movies, story telling, picture albums, cooking, pet therapy and reminiscing.
- (6) Outdoor activities, as weather permits, such as walking, gardening and field trips.

(b) Resident participation in general activity programming shall:

- (1) Be voluntary.
- (2) Respect the resident's age and cognitive abilities.
- (3) Support the retention of the resident's abilities.

§ 2800.238. Staffing.

Each resident in a special care unit shall be considered to be a resident with mobility needs under § 2800.57(c) (relating to direct care staffing).

§ 2800.239. Application to Department.

(a) The legal entity shall submit a written request to the Department at least 60 days prior to the following:

- (1) Opening a special care unit.
- (2) Adding a special care unit to an existing residence.
- (3) Increasing the maximum capacity in an existing unit.
- (4) Changing the locking system, exit doors or floor plan of an existing unit.

(b) The Department will inspect and approve the special care unit prior to operation or change. The requirements of this chapter shall be met prior to operation.

(c) The following documents shall be included in the written request specified in subsection (a):

- (1) The name, address and legal entity of the residence.
- (2) The name of the administrator of the residence.
- (3) The maximum capacity of the residence.
- (4) The requested resident population of the special care unit.
- (5) A building description.
- (6) A unit description.
- (7) The type of locking system.
- (8) Policy and procedures to be implemented for emergency egress and resident elopement.
- (9) A sample of a 2-week staffing schedule.
- (10) Verification of completion of additional training requirements.
- (11) The operational description of the special care unit locking system of the doors.
- (12) The manufacturer's statement regarding the special care unit locking system.
- (13) A written approval or a variance permitting locked exit doors from the Department of Labor and Industry, the Department of Health or the appropriate local building authority.
- (14) The name of the municipality or 24-hour monitoring service maintaining the interconnection with the residence's fire alarm system.
- (15) A sample plan of care and service for the resident addressing the resident's physical, medical, social, cognitive and safety needs for the residents.
- (16) The activity standards.
- (17) The complete medical and cognitive preadmission assessment, that is completed upon admission and reviewed and updated annually.
- (18) A consent form agreeing to the resident's placement in the special care unit, to be signed by the resident or the resident's designated person.
- (19) A written agreement containing full disclosure of services, admission and discharge criteria, change in condition policies, services, special programming, costs and fees.
- (20) A description of environmental cues being utilized.

- (21) A general floor plan of the entire residence.
- (22) A specific floor plan of the special care unit, outside enclosed area and exercise space.

RESIDENT RECORDS

§ 2800.251. Resident records.

- (a) A separate record shall be kept for each resident.
- (b) The entries in a resident's record must be permanent, legible, dated and signed by the staff person making the entry.
- (c) The residence shall use standardized forms to record information in the resident's record.
- (d) Separate resident records shall be kept on the premises where the resident lives.
- (e) Resident records shall be made available to the resident and the resident's designated person during normal working hours. Resident records shall be made available upon request to the resident and the family members.

§ 2800.252. Content of resident records.

Each resident's record must include the following information:

- (1) Name, gender, admission date, birth date and Social Security number.
- (2) Race, height, weight, color of hair, color of eyes, religious affiliation, if any, and identifying marks.
- (3) A photograph of the resident that is no more than 2 years old.
- (4) Language or means of communication spoken or used by the resident.
- (5) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.
- (6) The name, address and telephone number of the resident's physician or source of health care.
- (7) The current and previous 2 years' physician's examination reports, including copies of the medical evaluation forms.
- (8) A list of prescribed medications, OTC medications and CAM.
- (9) Dietary restrictions.
- (10) A record of incident reports for the individual resident.
- (11) A list of allergies.
- (12) The documentation of health care services and orders, including orders for the services of visiting nurse or home health agencies.
- (13) The preadmission screening, initial intake assessment and the most current version of the annual assessment.
- (14) A support plan.
- (15) Applicable court order, if any.
- (16) The resident's medical insurance information.
- (17) The date of entrance into the residence, relocations and discharges, including the transfer of the resident to other residences owned by the same legal entity.

(18) An inventory of the resident's personal property as voluntarily declared by the resident upon admission and voluntarily updated.

(19) An inventory of the resident's property entrusted to the administrator for safekeeping.

(20) The financial records of residents receiving assistance with financial management.

(21) The reason for termination of services or transfer of the resident, the date of transfer and the destination.

(22) Copies of transfer and discharge summaries from hospitals, if available.

(23) If the resident dies in the residence, a copy of the official death certificate.

(24) Signed notification of rights, grievance procedures and applicable consent to treatment protections specified in § 2800.41 (relating to notification of rights and complaint procedures).

(25) A copy of the resident-residence contract.

(26) A termination notice, if any.

(27) A record relating to any exception request under § 2800.229 (relating to excludable conditions; exceptions).

(28) Ongoing resident progress notes.

§ 2800.253. Record retention and disposal.

(a) The resident's entire record shall be maintained for a minimum of 3 years following the resident's discharge from the residence or until any audit or litigation is resolved.

(b) Records shall be destroyed in a manner that protects confidentiality.

(c) The residence shall keep a log of resident records destroyed on or after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*). This log must include the resident's name, record number, birth date, admission date and discharge date.

(d) Records required under this chapter that are not part of the resident records shall be kept for a minimum of 3 years or until any audit or litigation is resolved.

§ 2800.254. Record access and security.

(a) Records of active and discharged residents shall be maintained in a confidential manner, which prevents unauthorized access.

(b) Each residence shall develop and implement policy and procedures addressing record accessibility, security, storage, authorized use and release and who is responsible for the records.

(c) Resident records shall be stored in locked containers or a secured, enclosed area used solely for record storage and be accessible at all times to the administrator, the administrator's designee, or the nurse involved in assessment and support plan development and upon request, to the Department or representatives of the area agency on aging.

ENFORCEMENT

§ 2800.261. Classification of violations.

(a) The Department will classify each violation of this chapter into one of three categories as described in paragraphs (1)—(3). A violation identified may be classified as Class I, Class II or Class III, depending upon the severity, duration and the adverse effect on the health and safety of residents.

(1) *Class I.* Class I violations have a substantial probability of resulting in death or serious mental or physical harm to a resident.

(2) *Class II.* Class II violations have a substantial adverse effect upon the health, safety or well-being of a resident.

(3) *Class III.* Class III violations are minor violations, which have an adverse effect upon the health, safety or well-being of a resident.

(b) The Department's guidelines for determining the classification of violations are available from the Department.

§ 2800.262. Penalties and corrective action.

(a) The Department will assess a penalty for each violation of this chapter.

(b) Penalties will be assessed on a daily basis from the date on which the citation was issued until the date the violation is corrected, except in the case of Class II and Class III violations.

(c) In the case of a Class II violation, assessment of the penalty will be suspended for 5 days from the date of citation to permit sufficient time for the residence to correct the violation. If the residence fails to provide proof of correction of the violation to the Department within the 5-day period, the fine will be retroactive to the date of citation. The Department may extend the time period for good cause.

(d) The Department will assess a penalty of \$20 per resident per day for each Class I violation. Each Class I violation shall be corrected within 24 hours.

(e) The Department will assess a minimum penalty of \$5 per resident per day, up to a maximum penalty of \$15 per resident per day, for each Class II violation.

(f) There is no monetary penalty for Class III violations unless the residence fails to correct the violation within 15 days. Failure to correct a Class III violation within the 15-day period may result in a penalty assessment of up to \$3 per resident per day for each Class III violation retroactive to the date of the citation.

(g) If a residence is found to be operating without a license, a penalty of \$500 will be assessed. After 14 days, if the residence operator cited for operating without a license fails to file an application for a license, the Department will assess an additional \$20 for each resident for each day during which the residence operator fails to apply.

(h) A residence charged with a violation of this chapter or Chapter 20 (relating to licensure or approval of facilities and agencies) has 30 days to pay the assessed penalty in full.

§ 2800.263. Appeals of penalty.

(a) If the residence that is fined intends to appeal the amount of the penalty or the fact of the violation, the residence shall forward the assessed penalty, not to exceed \$500, to the Secretary for placement in an escrow account with the State Treasurer. A letter appealing the penalty shall be submitted with the assessed penalty. This process constitutes an appeal.

(b) If, through an administrative hearing or judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the Secretary will, within 30 days, remit the appropriate amount to the legal entity together with interest accumulated on these funds in the escrow deposit.

(c) Failure to forward payment of the assessed penalty to the Secretary within 30 days will result in a waiver of the right to contest the fact of the violation or the amount of the penalty.

(d) After an administrative hearing decision that is adverse to the legal entity, or a waiver of the administrative hearing, the assessed penalty amount will be made payable to the "Commonwealth of Pennsylvania." It will be collectible in a manner provided by law for the collection of debts.

(e) If a residence liable to pay the penalty neglects or refuses to pay the penalty upon demand, the failure to pay will constitute a judgment in favor of the Commonwealth in the amount of the penalty, together with the interest and costs that may accrue on these funds.

§ 2800.264. Use of fines.

(a) Money collected by the Department under this section will be placed in a special restricted receipt account.

(b) Money collected will be used first to defray the expenses incurred by residents relocated under this chapter.

(c) The Department will use money remaining in this account to assist with paying for enforcement of this chapter. Fines collected will not be subject to 42 Pa.C.S. § 3733 (relating to deposits into account).

§ 2800.265. Review of classifications.

Semiannually, the Department will review the standard guidelines for the classification of violations and evaluate the use of these guidelines. This review is to ensure the uniformity and consistency of the classification process.

§ 2800.266. Revocation or nonrenewal of licenses.

(a) The Department will temporarily revoke the license of a residence if, without good cause, one or more Class I violations remain uncorrected 24 hours after the residence has been cited for the violation.

(b) The Department will temporarily revoke the license of a residence if, without good cause, one or more Class II violations remain uncorrected 15 days after the citation.

(c) Upon the revocation of a license in the instances described in subsections (a) and (b), or if the residence continues to operate without applying for a license as described in § 2800.262(h) (relating to penalties), residents shall be relocated.

(d) The revocation of a license may terminate upon the Department's determination that its violation is corrected.

(e) If, after 3 months, the Department does not issue a new license for a residence, the prior license is revoked under section 1087 of the Public Welfare Code (62 P. S. § 1087).

(1) Revocation or nonrenewal under this section will be for a minimum of 5 years.

(2) A residence, which has had a license revoked or not renewed under this section, will not be allowed to operate, staff or hold an interest in a residence which applies for a license for 5 years after the revocation or nonrenewal.

(f) If a residence has been found to have Class I violations on two or more separate occasions during a 2-year period without justification, the Department will revoke or refuse to renew the license of the residence.

(g) The power of the Department to revoke or refuse to renew or issue a license under this section is in addition to the powers and duties of the Department under section 1026 of the Public Welfare Code (62 P. S. § 1026).

§ 2800.267. Relocation of residents.

(a) If the relocation of residents is due to the failure of the residence to apply for a license, the Department will offer relocation assistance to the residents. This assistance will include each resident's involvement in planning the relocation, except in the case of an emergency. Each resident shall have the right to choose among the available alternatives after an opportunity to visit the alternative residences. These procedures will occur even if the residents are placed in a temporary living situation.

(b) A resident will not be relocated if the Secretary determines in writing that the relocation is not in the best interest of the resident.

§ 2800.268. Notice of violations.

(a) The administrator shall give each resident and the resident's designated person written notification of a Class I violation within 24 hours of the citation.

(b) The administrator shall give each resident and the resident's designated person oral or written notification of a Class I or Class II violation, as defined in § 2800.261 (relating to classification of violations), which remains uncorrected for 5 days after the date of citation.

(c) If a Class II violation remains uncorrected within 5 days following the citation, the administrator shall give written notice of the violation to each resident and the resident's designated person on the 6th day from the date of the citation.

(d) The Department will provide immediate written notification to the appropriate long-term care ombudsman of Class I violations, and notification of Class II violations which remain uncorrected 5 days after the date of citation.

§ 2800.269. Ban on admissions.

(a) The Department will ban new admissions to a residence:

(1) That has been found to have a Class I violation.

(2) That has been found to have a Class II violation that remains uncorrected without good cause 5 days after being cited for the violation.

(3) Whose license has been revoked or nonrenewed.

(b) The Department may ban new admissions to a residence that has been found to have a repeated Class II violation within the past 2 years.

(c) A ban on admissions will remain in effect until the Department determines that the residence has corrected the violation, and after the correction has been made, has maintained regulatory compliance for a period of time sufficient to permit a conclusion that the compliance will be maintained for a prolonged period.

§ 2800.270. Correction of violations.

The correction of a violation cited under section 1086 of the Public Welfare Code (62 P. S. § 1086) does not preclude the Department from issuing a provisional license based upon the same violation.

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