

PENNSYLVANIA BULLETIN

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See Part II page 4859
for the Housing Finance Agency's
Homeowner's Emergency Mortgage
Assistance Program; Revised Policy
Statement, Uniform Notice and
Current List of Consumer Credit
Counseling Agencies

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Pennsylvania Public Utility Commission
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State Board of Pharmacy
Susquehanna River Basin Commission
Turnpike Commission

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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 GOVERNOR

Pennsylvania State Data Center; Pennsylvania Population Projections

The Pennsylvania State Data Center at the Pennsylvania State University consulting with a Statewide advisory committee comprised of State agencies, regional planning agencies and academic representatives have produced State and county population projections for the Commonwealth of Pennsylvania. These projections are detailed by age, sex and race (race projections are only for counties with a 2,000 nonwhite population over 10,000). Presented as follows are county totals from the 2000 Census and projections for 2010 to 2030.

The method of projection is a cohort-component demographic projection model. That is, the base population is survived 5 years in the iteration of the projection cycle, and births are projected by applying fertility rates to survived females of childbearing age to determine the population due to natural increase. The survived population for each group is then adjusted for projected net migration by age-sex-race.

For additional information on the population projections contact the Pennsylvania State Data Center, Penn State Harrisburg, Room 224, Church Hall, 777 West Harrisburg Pike, Middletown, PA 17057, (717) 948-6427, pasdc@psu.edu.

Pennsylvania Population Projections: 2000-2030

<i>County</i>	<i>April 1, 2000 Census</i>	<i>July 1, 2010 Projection</i>	<i>July 1, 2020 Projection</i>	<i>July 1, 2030 Projection</i>	<i>% Change 2000-2010</i>	<i>% Change 2000-2020</i>	<i>% Change 2000-2030</i>
Pennsylvania	12,281,054	12,540,718	12,871,823	13,190,400	2.1	4.8	7.4
Adams	91,292	101,426	109,237	114,689	11.1	19.7	25.6
Allegheny	1,281,666	1,210,748	1,169,207	1,132,736	-5.5	-8.8	-11.6
Armstrong	72,392	68,439	66,054	63,736	-5.5	-8.8	-12.0
Beaver	181,412	168,593	158,212	147,744	-7.1	-12.8	-18.6
Bedford	49,984	50,988	51,751	51,926	2.0	3.5	3.9
Berks	373,638	412,053	450,718	491,914	10.3	20.6	31.7
Blair	129,144	121,278	114,559	107,272	-6.1	-11.3	-16.9
Bradford	62,761	60,664	59,359	58,680	-3.3	-5.4	-6.5
Bucks	597,635	643,095	673,124	697,961	7.6	12.6	16.8
Butler	174,083	191,471	206,380	220,496	10.0	18.6	26.7
Cambria	152,598	141,528	132,810	124,101	-7.3	-13.0	-18.7
Cameron	5,974	5,570	5,569	5,612	-6.8	-6.8	-6.1
Carbon	58,802	63,170	66,843	69,098	7.4	13.7	17.5
Centre	135,758	147,935	156,620	166,148	9.0	15.4	22.4
Chester	433,501	519,979	604,385	692,054	19.9	39.4	59.6
Clarion	41,765	39,662	38,726	37,895	-5.0	-7.3	-9.3
Clearfield	83,382	82,641	81,487	79,890	-0.9	-2.3	-4.2
Clinton	37,914	35,540	33,669	32,263	-6.3	-11.2	-14.9
Columbia	64,151	64,454	67,053	69,765	0.5	4.5	8.8
Crawford	90,366	89,281	89,515	90,088	-1.2	-0.9	-0.3
Cumberland	213,674	234,902	258,880	282,921	9.9	21.2	32.4
Dauphin	251,798	256,070	262,550	269,855	1.7	4.3	7.2
Delaware	550,864	553,502	566,788	583,942	0.5	2.9	6.0
Elk	35,112	31,935	28,909	26,269	-9.0	-17.7	-25.2
Erie	280,843	280,397	275,355	267,538	-0.2	-2.0	-4.7
Fayette	148,644	145,762	139,362	131,874	-1.9	-6.2	-11.3
Forest	4,946	7,060	7,579	7,999	42.7	53.2	61.7
Franklin	129,313	135,740	141,656	148,596	5.0	9.5	14.9
Fulton	14,261	15,480	16,603	17,506	8.5	16.4	22.8
Greene	40,672	40,460	40,018	38,857	-0.5	-1.6	-4.5
Huntingdon	45,586	47,322	47,974	47,564	3.8	5.2	4.3
Indiana	89,605	81,006	72,876	66,095	-9.6	-18.7	-26.2
Jefferson	45,932	44,577	43,775	42,529	-3.0	-4.7	-7.4
Juniata	22,821	23,977	24,798	25,696	5.1	8.7	12.6
Lackawanna	213,295	204,673	199,310	194,835	-4.0	-6.6	-8.7

<i>County</i>	<i>April 1, 2000 Census</i>	<i>July 1, 2010 Projection</i>	<i>July 1, 2020 Projection</i>	<i>July 1, 2030 Projection</i>	<i>% Change 2000-2010</i>	<i>% Change 2000-2020</i>	<i>% Change 2000-2030</i>
Lancaster	470,658	498,465	526,194	553,293	5.9	11.8	17.6
Lawrence	94,643	89,957	86,145	83,348	-5.0	-9.0	-11.9
Lebanon	120,327	122,409	126,069	131,118	1.7	4.8	9.0
Lehigh	312,090	336,187	361,437	381,738	7.7	15.8	22.3
Luzerne	319,250	306,330	296,621	287,943	-4.0	-7.1	-9.8
Lycoming	120,044	115,866	113,105	109,969	-3.5	-5.8	-8.4
McKean	45,936	43,742	41,592	39,716	-4.8	-9.5	-13.5
Mercer	120,293	120,047	121,376	122,967	-0.2	0.9	2.2
Mifflin	46,486	46,744	46,421	45,599	0.6	-0.1	-1.9
Monroe	138,687	173,357	208,142	239,824	25.0	50.1	72.9
Montgomery	750,097	813,853	854,994	888,265	8.5	14.0	18.4
Montour	18,236	17,275	16,977	17,038	-5.3	-6.9	-6.6
Northampton	267,066	291,610	316,862	342,081	9.2	18.6	28.1
Northumberland	94,556	93,197	92,861	92,182	-1.4	-1.8	-2.5
Perry	43,602	44,339	45,111	45,638	1.7	3.5	4.7
Philadelphia	1,517,550	1,447,889	1,421,328	1,408,232	-4.6	-6.3	-7.2
Pike	46,302	63,639	80,765	94,374	37.4	74.4	103.8
Potter	18,080	17,760	17,641	17,153	-1.8	-2.4	-5.1
Schuylkill	150,336	146,972	146,457	146,078	-2.2	-2.6	-2.8
Snyder	37,546	38,294	39,025	38,955	2.0	3.9	3.8
Somerset	80,023	78,393	77,149	76,298	-2.0	-3.6	-4.7
Sullivan	6,556	6,338	6,313	6,287	-3.3	-3.7	-4.1
Susquehanna	42,238	48,523	61,630	77,530	14.9	45.9	83.6
Tioga	41,373	40,361	39,772	39,680	-2.4	-3.9	-4.1
Union	41,624	46,414	50,018	52,280	11.5	20.2	25.6
Venango	57,565	55,182	52,844	50,205	-4.1	-8.2	-12.8
Warren	43,863	39,425	35,723	32,145	-10.1	-18.6	-26.7
Washington	202,897	206,656	211,288	212,986	1.9	4.1	5.0
Wayne	47,722	52,499	60,607	67,197	10.0	27.0	40.8
Westmoreland	369,993	374,002	380,748	380,588	1.1	2.9	2.9
Wyoming	28,080	26,872	24,010	20,565	-4.3	-14.5	-26.8
York	381,751	416,743	450,887	482,984	9.2	18.1	26.5

Source: Pennsylvania State Data Center

SUE COPELLA,
Director

[Pa.B. Doc. No. 08-1574. Filed for public inspection August 29, 2008, 9:00 a.m.]

THE COURTS

Title 210—APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 9, 11, 19, 21 AND 25]

Amendment of Rules 102, 903, 904, 905, 1112, 1113, 1116, 1123, 1925, 1931, 1972, 2154, 2172, 2185, 2542 and 2545

The Appellate Court Procedural Rules Committee (Committee) proposes to amend Pennsylvania Rules of Appellate Procedure 102, 903, 904, 905, 1112, 1113, 1116, 1123, 1925, 1931, 1972, 2154, 2172, 2185, 2542 and 2545. The suggested amendments are designed to implement a broad Family Fast Track to speed up the appellate process in cases involving the rights of children—dependency, termination of parental rights, adoptions, custody and paternity. The suggested amendments are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

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

Attached to this Recommendation is a Committee Report that addresses the problem identified by the Committee, the process by which it studied the problem and prepared the Recommendation, and a summary of the Recommendation. This report was prepared by this Committee for the convenience of the bench and bar. It will neither constitute part of the rule nor be officially adopted or promulgated.

All communications in reference to the proposed amendment should be sent no later than September 24, 2008, to:

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

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By the Appellate Court
Procedural Rules Committee

HONORABLE MAUREEN E. LALLY-GREEN,
Chair

PROFESSOR ABRAHAM J. GAFNI,
Vice Chair

Annex A

TITLE 210. APPELLATE PROCEDURE PART I. RULES OF APPELLATE PROCEDURE ARTICLE I. PRELIMINARY PROVISIONS CHAPTER 1. GENERAL PROVISIONS IN GENERAL

Rule 102. Definitions.

Subject to additional definitions contained in subsequent provisions of these rules which are applicable to

specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

* * * * *

Docket entries—Includes the schedule of proceedings of a governmental unit.

Family Fast Track Appeal—Any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity. See 42 Pa.C.S. §§ 6301 et seq.; 23 Pa.C.S. §§ 2511 et seq.; 23 Pa.C.S. §§ 2101 et seq.; 23 Pa.C.S. §§ 5301 et seq.; 23 Pa.C.S. §§ 5102 et seq.

* * * * *

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FORM LOWER COURTS

Rule 903. Time for Appeal.

* * * * *

(c) *Special provisions.* Notwithstanding any other provision of this rule:

* * * * *

(2) An appeal from any of the orders covered by the family fast track appeal shall be taken within 21 days of the entry of the order from which the appeal is taken.

[(2)] (3) Where an election has been filed under Rule 311(b) (order sustaining venue or personal or *in rem* jurisdiction), the notice of appeal shall be filed within 30 days after the filing of the election.

[(3)] (4) In a criminal case in which no post-sentence motion has been filed, the notice of appeal shall be filed within 30 days of the imposition of the judgment of sentence in open court.

* * * * *

Rule 904. Content of the Notice of Appeal.

(a) *Form.* [**The**] **Except as otherwise prescribed by this rule, the notice of appeal shall be in substantially the following form:**

* * * * *

(f) Content in family fast track appeals.—In a family fast track appeal the notice of appeal shall include a statement advising the appellate court that the appeal is a family fast track appeal.

* * * * *

Rule 905. Filing of Notice of Appeal.

(a) *Filing with clerk.*

(1) Two copies of the notice of appeal, the order for transcript, if any, and the proof of service required by Rule 906 (service of notice of appeal), shall be filed with the clerk of the trial court. If the appeal is to the Supreme Court, the jurisdictional statement required by Rule 909 shall also be filed with the clerk of the trial court.

(2) If the appeal is a family fast track appeal, the concise statement of errors complained of on ap-

peal as described in Rule 1925(b) shall be filed with the notice of appeal and served in accordance with Rule 1925(b)(1).

(3) Upon receipt of the notice of appeal the clerk shall immediately stamp it with the date of receipt, and that date shall constitute the date when the appeal was taken, which date shall be shown on the docket.

(4) If a notice of appeal is mistakenly filed in an appellate court, or is otherwise filed in an incorrect office within the unified judicial system, the clerk shall immediately stamp it with the date of receipt and transmit it to the clerk of the court which entered the order appealed from, and upon payment of an additional filing fee the notice of appeal shall be deemed filed in the trial court on the date originally filed.

(5) A notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof.

(b) *Transmission to appellate court.* The clerk shall immediately transmit to the prothonotary of the appellate court named in the notice of appeal a copy of the notice of appeal showing the date of receipt, the related proof of service and a receipt showing collection of any docketing fee in the appellate court required under Subdivision (c). **If the appeal is a family fast track appeal, the clerk shall stamp the notice of appeal with a "Family Fast Track" designation in red ink, advising the appellate court that the appeal is a family fast track appeal and shall transmit to the prothonotary of the appellate court named in the notice of appeal the concise statement of errors complained of on appeal required by Subdivision (a)(2) of this rule.** The clerk shall also transmit with such papers:

* * * * *

**CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT
PETITION FOR ALLOWANCE OF APPEAL**

Rule 1112. Appeals by Allowance.

* * * * *

(c) *Petition for allowance of appeal.* [—]

(1) Allowance of an appeal from a final order of the Superior Court or the Commonwealth Court may be sought by filing a petition for allowance of appeal with the Prothonotary of the Supreme Court within the time allowed by Rule 1113 (time for petitioning for allowance of appeal), with proof of service on all other parties to the matter in the appellate court below.

(2) If the petition for allowance of appeal is transmitted to the Prothonotary of the Supreme Court by means of first class mail, the petition shall be deemed received by the Prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as shown on a U.S. Postal Service Form 3817 certificate of mailing. The certificate of mailing shall show the docket number of the matter in the appellate court below and shall be either enclosed with the petition or separately mailed to the Prothonotary.

(3) Upon actual receipt of the petition for allowance of appeal the Prothonotary of the Supreme Court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when allowance of appeal was sought, which date

shall be shown on the docket. The Prothonotary of the Supreme Court shall immediately note the Supreme Court docket number upon the petition for allowance of appeal and give written notice of the docket number assignment in person or by first class mail to the prothonotary of the appellate court below who shall note on the docket that a petition for allowance of appeal has been filed to the petitioner and to the other persons named in the proof of service accompanying the petition.

(4) In a family fast track appeal, the Prothonotary of the Supreme Court shall stamp the petition for allowance of appeal with a "Family Fast Track" designation in red ink, advising the Supreme Court that the petition for allowance of appeal is a family fast track appeal.

* * * * *

Rule 1113. Time for Petitioning for Allowance of Appeal.

(a) *General rule.*—Except as otherwise prescribed by this rule [,]:

(1) [a] A petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.

(2) If a timely application or reargument is filed in the Superior Court or Commonwealth Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision. Unless the Superior Court or the Commonwealth Court acts on the application for reargument within 60 days after it is filed the court shall no longer consider the application, it shall be deemed to have been denied and the prothonotary of the appellate court shall forthwith enter an order denying the application and shall immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

* * * * *

(d) *Family fast track appeals.*—In a family fast track appeal:

(1) A petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 21 days after the entry of the order of the Superior Court sought to be reviewed.

(2) If a timely application or reargument is filed in the Superior Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision. Unless the Superior Court acts on the application for reargument within 45 days after it is filed the Superior Court shall no longer consider the application, it shall be deemed to have been denied and the prothonotary of the Superior Court shall forthwith enter an order denying the application and shall

immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the Superior Court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

* * * * *

Rule 1116. Brief in Opposition to Petition.

(a) *General rule.*—[Within] Except as otherwise prescribed by this rule, within 14 days after service of a petition for allowance of appeal an adverse party may file a brief in opposition. The brief in opposition need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court and shall comply with Rule 1115(a)(7) (content of petition for allowance of appeal). No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file a brief in opposition under this rule who does not intend to do so shall, within the time fixed by these rules for filing a brief in opposition, file a letter stating that a brief in opposition to the petition for allowance of appeal will not be filed. The failure to file a brief in opposition will not be construed as concurrence in the request for allowance of appeal.

(b) *Family fast track appeals.*—In a family fast track appeal, within 10 days after service of a petition for allowance of appeal, an adverse party may file a brief in opposition.

* * * * *

Rule 1123. Denial of Appeal; Reconsideration.

* * * * *

(b) *Reconsideration.* Applications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances. An application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within fourteen days after entry of the order denying the petition for allowance of appeal. In a family fast track appeal, the application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 7 days after entry of the order denying the petition for allowance of appeal. Any application filed under this subdivision must:

* * * * *

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1925. Opinion in Support of Order.

(a) *General rule.*—[Upon] Except as otherwise prescribed by this rule, upon receipt of the notice of appeal, the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall forthwith file of record at least a brief opinion of the reasons for the order, or for

the rulings or other errors complained of, or shall specify in writing the place in the record where such reasons may be found.

* * * * *

(e) *Family fast track appeals.*—In a family fast track appeal:

(1) Upon receipt of the notice of appeal and the concise statement of errors complained of on appeal required by Rule 905(a)(2), the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall within 14 days file of record at least a brief opinion of the reasons for the order, or for the rulings or other errors complained of, or shall specify in writing the place in the record where such reasons may be found.

(2) The concise statement of errors complained of on appeal shall be filed and served with the notice of appeal required by Rule 905. See Pa.R.A.P. 905(a)(2).

* * * * *

Rule 1931. Transmission of the Record.

(a) *Time for transmission.*—[The] Except as otherwise prescribed by this rule, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 60 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by Rule 1122 (allowance of appeal and transmission of record) or by Rule 1322 (permission to appeal and transmission of record), as the case may be. The appellate court may shorten or extend the time prescribed by this subdivision for a class or classes of cases.

* * * * *

(f) *Family fast track appeals.*—In a family fast track appeal, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 30 days after the filing of the notice of appeal.

* * * * *

DISPOSITION WITHOUT REACHING THE MERITS

Rule 1972. Dispositions on Motion.

(a) Except as otherwise prescribed by this rule, [Subject] subject to Rule 123 (applications for relief), any party may move:

* * * * *

(b) In a family fast track appeal, a dispositive motion filed under Subdivisions (a)(1), (a)(2), (a)(5), (a)(6) or (a)(7) of this rule shall be filed within 10 days of the filing of the statement of errors complained of on appeal required by Rules 905(a)(2) and 1925(b), or within 10 days of the lower court's filing of a Rule 1925(e)(1) opinion, whichever period expires last, unless the basis for seeking to quash the appeal appears on the record subsequent to the time limit provided herein, or except upon application and for good cause shown.

* * * * *

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF REPRODUCED RECORD

Rule 2154. Designation of Contents of Reproduced Record.

(a) General rule—Except when the appellant has elected to proceed under Subdivision (b) of this rule, or as otherwise provided in Subdivision (c) of this Rule, the appellant shall not later than 30 days before the date fixed by or pursuant to Rule 2185 (time for serving and filing briefs) for the filing of his brief, serve and file a designation of the parts of the record which he intends to reproduce and a brief statement of issues which he intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within ten days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.

* * * * *

(c) Family fast track appeals.

(1) In a family fast track appeal, the appellant shall not later than 23 days before the date fixed by or pursuant to Rule 2185 (time for serving and filing briefs) for the filing of his brief, serve and file a designation of the parts of the record which he intends to reproduce and a brief statement of issues which he intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within 7 days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.

(2) In a family fast track appeal, the provisions of Subdivision (b) shall not apply.

* * * * *

FORM OF BRIEFS AND REPRODUCED RECORD

Rule 2172. Covers.

* * * * *

(b) Family fast track appeals.—In a family fast track appeal, the front cover shall include a statement advising the appellate court that the appeal is a family fast track appeal.

[(b)] (c) Reproduced record.—If the reproduced record is bound separately, the cover thereof shall be the same as provided in Subdivision (a), except that in place of the information set forth in Paragraph (a)(4) of this rule there shall appear "Reproduced Record" or "Supplemental Reproduced Record," as the case may be.

[(c)] (d) Repetition in body of document.—Unless expressly required by these rules, none of the material set forth in Subdivisions (a) and (b) shall be repeated in the brief or reproduced record.

[(d)] (e) Cover stock.—The covers of all briefs and reproduced records must be so light in color as to permit writing in ink thereon to be easily read and so firm in texture that the ink will not run.

* * * * *

FILING AND SERVICE

Rule 2185. Time for Serving and Filing Briefs.

(a) General Rule.—[The] Except as otherwise provided by this rule, the appellant shall serve appellant's brief not later than the date fixed pursuant to Subdivision (b) of this rule, or within 40 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve appellee's brief within 30 days after service of appellant's brief and reproduced record if proceeding under Rule 2154(a). A party may serve a reply brief permitted by these rules within 14 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served within 30 days of service of the deemed or designated appellee's first brief. Except as prescribed by Rule 2187(b) (advance text of briefs), each brief shall be filed not later than the last day fixed by or pursuant to this rule for its service.

* * * * *

(d) Family fast track appeals.

(1) In a family fast track appeal, the appellant shall serve appellant's brief within 30 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve appellee's brief within 20 days after service of appellant's brief and reproduced record. A party may serve a reply brief permitted by these rules within 7 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served within 20 days of service of the deemed or designated appellee's first brief.

(2) In a family fast track appeal, the provisions of Subdivisions (b) and (c) shall not apply.

* * * * *

CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2542. Time for Application for Reargument. Manner of Filing.

(a) Time.—[An] Except as otherwise prescribed by this rule, an application for reargument shall be filed with the prothonotary within 14 days after entry of the judgment or other order involved.

* * * * *

(c) Family fast track appeals.—In a family fast track appeal, an application for reargument shall be filed with the prothonotary within 7 days after entry of the judgment or other order involved.

* * * * *

Rule 2545. Answer in Opposition to Application.

(a) *General rule.*—[Within] Except as otherwise prescribed in Subdivision (b) of this rule, within 14 days after service of an application for reargument, an adverse party may file an answer in opposition. The answer in opposition need not be set forth in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer in opposition under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer in opposition, file a letter stating that an answer in opposition to the application for reargument will not be filed. The failure to file an answer in opposition will not be construed as concurrence in the request for reargument.

(b) *Family fast track appeals.*—In a family fast track appeal, within 7 days after service of an application for reargument, an adverse party may file an answer in opposition.

COMMITTEE REPORT**The Problem**

While timeliness is important in all court disputes, it is particularly important in cases involving the rights and interests of children—especially those who are involved in and forced to remain in unstable and sometimes violent circumstances. Because childhood is so short, time-wise, and children need stable and safe environments, it is critical that timely and efficient decision-making occurs by those who exercise legal decision making authority over children. This is especially so in cases involving custody, paternity, dependency, termination of parental rights and adoption.

We observe that the Superior Court does operate a system wherein, among others, appeals involving custody, paternity, dependency, termination of parental rights and adoption are treated by the Court on a “fast track” basis (“family fast track”). The current family fast track system expedites these appeals once they arrive at the chambers of the judges of the Superior Court. This process, however, does not expedite the process from decision by the trial court until the appeal reaches the chambers of the Superior Court judges.

After careful study, the Committee believes that a series of amendments to the appellate rules will improve case management throughout the entire appellate process (not just the time spent in the chambers of the Superior Court judges). These amendments are intended to facilitate a quicker addressing of these cases at the appellate stage with due and appropriate regard to meaningful appellate review and decision making.

The Process involved in Developing this Proposal

The Pennsylvania Supreme Court created the Office of Children and Families in the Courts within the Administrative Office of Pennsylvania Courts in 2006. The mission of the Office of Children and Families in the Courts is to achieve more rapid placement of abused and neglected children in permanent homes. There are about 20,000 such children in the Commonwealth. Sandra Moore, Administrator of the Office of Children and Families in the Courts, provided substantial support to the Committee—initially by assisting the Committee in identifying the problem and subsequently in assisting the Committee in obtaining additional input from judges,

advocates and child care professionals as to how best to address case management of appeals involving children as the appeals move from the trial courts to the appellate court and through the appellate process.

Once the problem was identified, the Chair of the Committee, Superior Court Judge Maureen Lally-Green and Committee Member Frederick Frank, Esquire, were appointed as Co-Chairs of a subcommittee to address the feasibility and the mechanism for expediting certain appeals involving children. The subcommittee included representatives of the Appellate Court Procedural Rules Committee, the Domestic Relations Procedural Rules Committee, the Juvenile Procedural Rules Committee and the Orphans’ Court Procedural Rules Committee. The Chairs of the subcommittee met with, and sought input from, the Administrative Judges in a number of judicial districts and the Juvenile Judges Section of the Conference of State Court Trial Judges. The Chairs also met with, and sought input from, members of the bar and the participants in several roundtables sponsored by the Office of Children and Families in the Courts. The subcommittee, with the assistance of Counsel, then drafted the attached Recommendation, which is now being published for review and comment.

Summary of Recommendation

The Recommendation suggests the following amendments to the following Pennsylvania Rules of Appellate Procedure:

- Rule 102 (“Definitions”)—defining the term “Family Fast Track Appeal” as “any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity.”
- Rule 903 (“Time for Appeal”)—reducing the time for filing a notice of appeal in a family fast track appeal from 30 days to 21 days.
- Rule 904 (“Content of the Notice of Appeal”)—requiring that the notice of appeal in a family fast track appeal include a statement advising the appellate court that the appeal is a family fast track appeal.
- Rule 905 (“Filing of the Notice of Appeal”)—requiring that the concise statement of errors complained of on appeal as described in Rule 1925 be filed with the notice of appeal in a family fast track appeal and served in accordance with Rule 1925, and further requiring the clerk of the appellate court to stamp the notice of appeal with a family fast track designation in red ink.
- Rule 1112 (“Appeals by Allowance”)—requiring the clerk to stamp a petition for allowance of appeal filed in a family fast track appeal with a family fast track designation in red ink.
- Rule 1113 (“Time for Petitioning for Allowance of Appeal”)—reducing the time for filing a petition for allowance of appeal in a family fast track appeal from 30 days to 21 days; and reducing the time after which an application for reconsideration filed in the Superior Court in a family fast track appeal is deemed denied from 60 days to 45 days.
- Rule 1116 (“Brief in Opposition to Petition”)—reducing the time for filing a brief in opposition to a petition for allowance of appeal in a family fast track appeal from 14 days to 10 days.
- Rule 1123 (“Denial of Appeal; Reconsideration”)—reducing the time for filing an application for recon-

sideration of denial of a petition for allowance of appeal in a family fast track appeal from 14 days to 7 days.

- Rule 1925 (“Opinion in Support of Order”)—requiring the judge who entered the order giving rise to a family fast track appeal to file a opinion of the reasons for the order within 14 days of receipt of the notice of appeal and concise statement of errors complained of on appeal, if the reasons do not appear of record; and reiterating the requirement in Rule 905 that the concise statement of errors complained of on appeal as described in Rule 1925 be filed with the notice of appeal in a family fast track appeal and served in accordance with Rule 1925.
- Rule 1931 (“Transmission of the Record”)—reducing the time for the transfer of the record on appeal from the lower court to the appellate court after the filing of the notice of appeal in a family fast track appeal from 60 days to 30 days.
- Rule 1972 (“Dispositions on Motion”)—requiring that any dispositive motion in a family fast track appeal seeking to transfer to another appellate court, seeking to dismiss for failure to preserve question below or for having waived the right to appeal, or seeking to quash for any reason on the record other than mootness or lack of jurisdiction, be filed within 10 days of the filing of the statement of errors complained of on appeal, or the filing of the Rule 1925 opinion, whichever period expires last.
- Rule 2154 (“Designation of Contents of Reproduced Record”)—reducing the time for the appellant in a family fast track appeal to file a designation of the reproduced record from 40 days before the date fixed for the filing of the brief of the appellant to 23 days; reducing the time for the appellee to file a designation of the reproduced record after receipt of the appellant’s designation from 10 days to 7 days; and eliminating the large record exception in a family fast track appeal.
- Rule 2172 (“Covers”)—requiring that the front covers of a brief and petition for allowance of appeal in a family fast track appeal include a statement advising the appellate court that the appeal is a family fast track appeal.
- Rule 2185 (“Time for Serving and Filing Briefs”)—reducing the time to file and serve the brief of the appellant in a family fast track appeal after the date on which the record is filed from 40 days to 30 days; reducing the time to file and serve the brief of the appellee from 30 days to 20 days; reducing the time to file and serve the reply brief from 14 days to 7 days; and reducing the time in cross appeals to file and serve the second brief of the deemed or designated appellant from 30 days to 20 days.
- Rule 2542 (“Time for Application for Reargument. Manner of Filing”)—reducing the time for filing an application for reargument in a family fast track appeal from 14 days to 7 days.

- Rule 2545 (“Answer in Opposition to Application”)—reducing the time for filing an answer to an application for reargument in a family fast track appeal from 14 days to 7 days.

[Pa.B. Doc. No. 08-1575. Filed for public inspection August 29, 2008, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 19]

Order Amending Pa.R.A.P. 1921; No. 194; Appellate Procedural Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 13th day of August, 2008, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rule of Appellate Procedure 1921 is amended in the following form.

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

Annex A

TITLE 210. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1921. Composition of Record on Appeal.

The original papers and exhibits filed in the lower court, **hard copies of legal papers filed with the prothonotary by means of electronic filing**, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the lower court shall constitute the record on appeal in all cases.

Official Note: The rule is intended as a codification of present practice. An appellate court may consider only the facts which have been duly certified in the record on appeal. *Commonwealth v. Young*, 456 Pa. 102, 115, 317 A.2d 258, 264 (1974).

Explanatory Comment—2008

Pa.R.C.P. No. 2054(a)(1) authorizes a court by local rule to permit or require electronic filing of legal papers with the prothonotary. Therefore, the amendment to Rule 1921 provides that where such electronic filing is utilized, hard copies of legal papers electronically filed shall become part of the record on appeal.

[Pa.B. Doc. No. 08-1576. Filed for public inspection August 29, 2008, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1900]

Order Amending Rule 1905; No. 497; Doc. No. 5

Order

Per Curiam:

And Now, this 13th day of August, 2008, Rule 1905 of the Pennsylvania Rules of Civil Procedure is amended as attached as follows.

This order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective in ninety days, on November 11, 2008.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

* * * * *

(b) The petition in an action filed pursuant to the Act shall be substantially in the following form, **but the first page (paragraphs 1 through 4), following the Notice of Hearing and Order, must be exactly as set forth in this rule:**

[(Caption)

PETITION FOR PROTECTION FROM ABUSE

1. Plaintiff's name is: _____

2. I am filing this petition on behalf of: Myself and/or Another Person.

If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as the "Plaintiff," and provide your address here, unless confidential:

If you checked "Another Person," indicate your relationship with Plaintiff:

- parent of minor Plaintiff(s)
- applicant for appointment as guardian ad litem of minor Plaintiff(s)
- adult household member with minor Plaintiff(s)
- court appointed guardian of incompetent Plaintiff(s)

3. Name(s) of ALL person(s), including Plaintiff and minor children, who seek protection from abuse: _____

- 4. Plaintiff's address is confidential or Plaintiff's address is: _____

5. Defendant is believed to live at the following address: _____

Defendant's Social Security Number (if known) is: _____

Defendant's date of birth is: _____

Defendant's place of employment is: _____

Check here if you have reason to believe that Defendant is a licensed firearms dealer is employed by a licensed firearms dealer or manufacturer; is employed as a writer, researcher or technician in the firearms or hunting industry or is required to carry a firearm as a condition of employment.

Check here if Defendant is 17 years old or younger.]

PETITION FOR PROTECTION FROM ABUSE	IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA NO. _____
---	---

1. PLAINTIFF

--	--	--	--

First Middle Last Plaintiff's DOB

Plaintiff's Address:

Plaintiff's address is confidential or Plaintiff's address is:

V.

2. DEFENDANT

--

First Middle Last Suffix

Defendant's Address:

DEFENDANT IDENTIFIERS			
DOB		HEIGHT	
SEX		WEIGHT	
RACE		EYES	
HAIR			
SSN			
DRIVER'S LICENSE #			
EXP DATE		STATE	

CAUTION:

- Weapon Involved**
- Weapon Present on the Property**
- Weapon Requested Relinquished**

Defendant's place of employment is:

Check here if you have reason to believe that Defendant is a licensed firearms dealer; is employed by a licensed firearms dealer or manufacturer; is employed as a writer, researcher or technician in the firearms or hunting industry; or is required to carry a firearm as a condition of employment.

3. I am filing this Petition on behalf of: Myself and/or Another Person

If you checked "myself", please answer all questions referring to yourself as "Plaintiff". If you ONLY checked "another person", please answer all questions referring to that person as the "Plaintiff", and provide your name and address here, as filer, unless confidential.

Filer's Name:

--

First Middle Last Suffix

Filer's address is confidential or Filer's address is:

If you checked "Another Person", indicate your relationship with Plaintiff:

- parent of minor Plaintiff(s)
- applicant for appointment as guardian ad litem of minor Plaintiff(s)
- adult household member with minor Plaintiff(s)
- court appointed guardian of incompetent Plaintiff(s)

4. Name(s) of all persons, including minor child/ren who seek protection from abuse:

[6] 5. Indicate the relationship between Plaintiff and Defendant.

CHECK ALL THAT APPLY:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- current or former cohabitant (person who lives with) Defendant]**

Check here if Defendant is 17 years old or younger.

[7] 6. Have Plaintiff and Defendant been involved in any of the following court actions?

- Divorce Custody Support Protection From Abuse

[8] 7. Has Defendant been involved in any criminal court action? _____

[9] 8. Plaintiff and Defendant are the parents of the following minor child/ren:

[10] 9. If Plaintiff and Defendant are parents of any minor child/ren together, is there an existing court order regarding their custody? _____

[11] 10. The following other minor child/ren presently live with Plaintiff:

[12] 11. The facts of the most recent incident of abuse are as follows:

* * * * *

[13] 12. If Defendant has committed prior acts of abuse against Plaintiff or the minor child/ren, describe these prior incidents, including any threats, injuries, or incidents of stalking, and indicate approximately when such acts of abuse occurred (attach additional sheets of paper if necessary):

* * * * *

[14] 13. (a) Has Defendant used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren? If so, please describe the use or threatened use below and list on Attachment A to Petition, which is incorporated by reference into this petition, any firearms, other weapons or ammunition Defendant used or threatened to use against Plaintiff and/or the minor child/ren:

* * * * *

[15] 14. Identify the sheriff, police department or law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

* * * * *

[16] 15. There is an immediate and present danger of further abuse from Defendant.

* * * * *

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be substantially in the following form, but the first page must be exactly as set forth in this rule:

[(Caption)

TEMPORARY PROTECTION FROM ABUSE ORDER

Defendant's Name: _____

Defendant's Date of Birth: _____

Defendant's Social Security Number: _____

Names of All Protected Persons, including Plaintiff and minor child/ren:

_____]

<p align="center">TEMPORARY PROTECTION FROM ABUSE ORDER</p> <p><input type="checkbox"/> Amended Order <input type="checkbox"/> Continued Order</p>	<p align="center">IN THE COURT OF COMMON PLEAS OF COUNTY, PENNSYLVANIA</p> <p>NO. _____</p>
---	---

PLAINTIFF

--	--	--	--

First Middle Last Plaintiff's DOB

Name(s) of all protected persons, including minor child/ren and DOB:

V.

DEFENDANT

--	--	--	--

First Middle Last Suffix

Defendant's Address:

DEFENDANT IDENTIFIERS			
DOB		HEIGHT	
SEX		WEIGHT	
RACE		EYES	
HAIR			
SSN			
DRIVER'S LICENSE #			
EXP DATE		STATE	

CAUTION:

- Weapon Involved**
- Weapon Present on the Property**
- Weapon Ordered Relinquished**

The Court Hereby Finds: That it has jurisdiction over the parties and subject matter, and the Defendant will be provided with reasonable notice and opportunity to be heard.

The Court Hereby Orders:

- Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.
- Except for such contact with the minor child/ren as may be permitted under paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.
- Additional findings of this order are set forth below.

Order Effective Date _____

Order Expiration Date _____

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000 and/or up to six months in jail. 23 Pa.C.S.A. §6114. Consent of Plaintiff to Defendant's return to the residence shall **not** invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. §6108 (g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party provided Defendant and the third party first comply with all requirements to obtain a safekeeping permit. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after the service of this order. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§2261-2262.

AND NOW, this ____ day of _____, 20 __, upon consideration of the attached Petition for Protection From Abuse, the court hereby enters the following Temporary Order:

- Plaintiff's request for a Temporary Protection Order is denied.**
- Plaintiff's request for a Temporary Protection Order is granted.**

1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.

* * * * *

(e) The Final Order of Court, **or any amended, modified or extended Final Order of Court**, entered

pursuant to the Act shall be substantially in the following form, **but the first page must be exactly as set forth in this rule:**

**[(Caption)
FINAL ORDER OF COURT**

Defendant's Name: _____
Defendant's Date of Birth: _____
Defendant's Social Security Number: _____

Names and Dates of Birth of All Protected Persons, including Plaintiff and minor children:

Names	Dates of Birth

_____]

<p align="center">FINAL PROTECTION FROM ABUSE ORDER</p> <p><input type="checkbox"/> Extended Order <input type="checkbox"/> Amended Order</p>	<p align="center">IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA</p> <p>NO. _____</p>
--	---

PLAINTIFF

--	--

First Middle Last Plaintiff's DOB

Name(s) of all protected persons, including minor child/ren and DOB:

V.

DEFENDANT

--

First Middle Last Suffix

Defendant's Address:

DEFENDANT IDENTIFIERS

DOB		HEIGHT	
SEX		WEIGHT	
RACE		EYES	
HAIR			
SSN			
DRIVER'S LICENSE #			
EXP DATE		STATE	

CAUTION:

- Weapon Involved**
- Weapon Present on the Property**
- Weapon Ordered Relinquished**

The Court Hereby Finds: That it has jurisdiction over the parties and subject matter, and the Defendant has been provided with reasonable notice and opportunity to be heard.

The Court Hereby Orders:

- Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.
- Except as provided in paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.
- Additional findings of this order are set forth below.

Order Effective Date _____

Order Expiration Date _____

NOTICE TO THE DEFENDANT

Violation of this order may result in your arrest on the charge of indirect criminal contempt which is punishable by a fine of up to \$1,000 and/or a jail sentence of up to six months, 23 Pa.C.S.A. §6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. A violation of this order may result in the revocation of the safekeeping permit, which will require the immediate relinquishment of your firearms, other weapons and ammunition to the sheriff. Plaintiff's consent to contact by Defendant shall **not** invalidate this order which can only be modified by further order of court. 23 Pa.C.S.A. §6108(g).

This order is enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico under the Violence Against Women Act, 18 U.S.C. §2265. If you travel outside of the State and intentionally violate this order, you may be subject to federal criminal proceedings under that Act, 18 U.S.C §§2261-2262. If you possess a firearm or any ammunition while this order is in effect, you may be charged with a federal offense even if this Pennsylvania order does not expressly prohibit you from possessing firearms or ammunition. 18 U.S.C §922(g)(8).

CHECK ALL THAT APPLY:

Plaintiff or Protected Person(s) is/are:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- current or former cohabitant (person who lives with) Defendant**

Defendant was served in accordance with Pa.R.C.P. 1930.4 and provided notice of the time, date and location of the hearing scheduled in this matter.

AND NOW, this ____ day of _____, 20 __, the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED AND DECREED as follows:

* * * * *

Explanatory Comment—2008

The Protection From Abuse petition form, temporary order form and final order form are being modified to conform to the model template used in Project Passport. Project Passport was designed to improve recognition and enforcement of protection orders within and between states and tribes by encouraging states and tribes to adopt a recognizable first page for protection orders. Use of the model template is supported by the National Center for State Courts and the National American Indian Court Judges Association.

The critical aspects of the model template for the first page are common data elements jointly identified by multi-disciplinary teams. Using a recognizable first page for protection orders with this essential data readily available and easily recognizable on a protection order, particularly on "foreign protection orders," helps strengthen the safety net for domestic violence survivors and their children by offering greater consistency in the issuance and enforcement of protection orders.

Implementation of the model first page for Project Passport requires several changes to the Pennsylvania Protection From Abuse petition, temporary order and final order forms. The petition form caption, as well as the plaintiff's or filer's name, relationship to the plaintiff, names and dates of birth of the protected persons, plaintiff's address, defendant's address, social security number, place of employment, and age, were moved to the Project Passport first page. The petition paragraphs are also renumbered. On the temporary order and final order forms, the captions and the defendant's name, date of birth and social security number, as well as the names of the plaintiff and protected persons and dates of birth, were moved to the Project Passport first page. The Project Passport first page for the petition and temporary and final orders all include physical identifiers for the defendant and an indication if weapons were involved, present on the property or relinquished. The first page of the final order also includes the effective

and expiration dates of the protection order and the notice to the defendant.

[Pa.B. Doc. No. 08-1577. Filed for public inspection August 29, 2008, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1910]

Order Amending Rule 1910.21; No. 496; Doc. No. 5

Order

Per Curiam:

And Now, this 13th day of August, 2008, Rule 1910.21 of the Pennsylvania Rules of Civil Procedure is amended as follows.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.21. Support Order. Enforcement. Withholding of Income.

* * * * *

(c) **Order for Withholding.** An order for income withholding must include a provision directing that no commutation or compromise and release of worker's compensation benefits, severance pay or any payment in lieu thereof shall be paid to the defendant until the order for withholding is dissolved by further order of court.

* * * * *

(f) *Income Withholding When the Obligor Defaults on Support Order.*

(1) When an obligor is subject to an order for income withholding and payment is received from the employer within 15 days from the date upon which the obligor's obligation would be considered overdue (i.e. the date upon which delinquent support is equal to one month's support obligation), the payment shall be considered timely and any past due support shall not be converted to overdue support or subject to automated enforcement mechanisms.

(2) When nonpayment of the support order by the obligor causes overdue support to accrue, the court may increase the order for income withholding until the overdue support is paid in full. The court may also direct the employer to withhold any periodic or lump sum distributions of income which may be payable to the obligor in addition to regular income until further order of court.

* * * * *

Explanatory Comment—2008

New subdivision 1910.21(f)(1) is intended to address circumstances in which an employer timely withholds income from an obligor pursuant to an income withholding order, but a delay occurs in receipt of the funds by the State Collection and Disbursement Unit. In those cases, it would be inappropriate to consider the obligor's payment as untimely and convert past due support to overdue

support because an obligor subject to an income withholding order has no control over the timing of the transmission of the funds from the employer. This new rule addresses solely timing issues by providing a 15-day grace period. It does not apply to obligors who are not subject to an order for income withholding.

[Pa.B. Doc. No. 08-1578. Filed for public inspection August 29, 2008, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1910]

Order Amending Rules 1910.16-6, 1910.16-7, 1910.21 and 1910.27; No. 495; Doc. No. 5

Order

Per Curiam:

And Now, this 13th day of August, 2008, Rules 1910.16-6, 1910.16-7, 1910.21 and 1910.27 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective in sixty days on October 12, 2008.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

CHAPTER 1910. ACTIONS FOR SUPPORT

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

Additional expenses permitted pursuant to this Rule 1910.16-6 may be allocated between the parties even if the parties' incomes do not justify an order of basic support.

* * * * *

(b) Health Insurance Premiums.

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party and/or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it, as long as a statutory duty of support is owed to the party who is paying the premium. If health insurance coverage for a child who is the subject of the support proceeding is being provided and paid for by a third party resident of the household, the cost shall be allocated between the parties in proportion to their net incomes. If the obligor is paying the premium, then the obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then the obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

* * * * *

(3) Pursuant to 23 Pa.C.S.A. § 4326(a), [the non-custodial parent bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost on an employment-related or other group basis.] in every support proceeding, the court must ascertain each parent's ability to provide medical support for the parties'

children and the support "order shall include a requirement for medical support to be provided by either or both parents, provided that such medical support is accessible to the children."

(i) The non-custodial parent bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to an obligor shall be defined as an amount that does not exceed 5% of the obligor's net monthly income and, when added to the amount of basic child support plus additional expenses the obligor is ordered pay, does not exceed 50% of the obligor's net monthly income.

(ii) Unless health care coverage for the parties' children is provided by the obligee or a third party, the court shall issue the National Medical Support Notice required by 23 Pa.C.S.A. § 4326(d.1) to the obligor's employer in response to notification that the obligor is employed. The notice shall direct the employer to enroll the children of the obligor who are the subject of the support proceeding if the coverage is available at a reasonable cost to the obligor. However, the notice shall direct that enrollment shall not occur earlier than 25 days from the date of the National Medical Support Notice to allow the obligor time to object. Concurrent with the issuance of the National Medical Support Notice, the court shall provide notice to the obligor setting forth the process to object to the enrollment based upon unreasonable cost, mistake of fact or availability of alternative health care coverage for the children. If there is more than one employer-provided health care coverage option, the obligor shall select the plan, subject to the obligee's right to seek a court order designating a different option.

(iii) Absent the availability of health care coverage to the obligor for the parties' children at a reasonable cost, the court shall order the obligee to provide health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to the obligee shall be defined as an amount not to exceed 5% of the obligee's net monthly income.

(iv) If health care coverage is not available to either party at a reasonable cost, the court may order the custodial parent to apply for government-sponsored coverage, such as the Children's Health Insurance Program ("CHIP"), with any co-premium or other cost apportioned between the parties in proportion to their respective net monthly incomes.

(v) Within thirty days after the entry of the support order, the party ordered to provide health care coverage shall provide written proof to the other party that medical insurance has been obtained, including insurance cards and all other materials set forth in the form order in Rule 1910.27(e). There shall be a continuing obligation to provide the other party and the court with proof of any changes in coverage.

(vi) The court shall give preference to health care coverage that is readily accessible to the child, as defined by geographic coverage area, access to local treatment providers or other relevant factors.

Official Note: The maximum amount of any attachment for child and medical support is set forth by the federal Consumer Credit Protection Act (Public Law 90-321, Section 303(b); 15 U.S.C. § 1601 et seq.).

* * * * *

Explanatory Comment—2008

Federal and state statutes require clarification to subdivision (b) to ensure that all court orders for support address the children's ongoing need for medical care. In those instances where the children's health care needs are paid by the state's medical assistance program, and eligibility for the Children's Health Insurance Program ("CHIP") is denied due to the minimal income of the custodial parent, the obligor remains required to enroll the parties' children in health insurance that is, or may become, available that is reasonable in cost.

Government-sponsored health care plans represent a viable alternative to the often prohibitive cost of health insurance obtainable by a parent. Except for very low income children, every child is eligible for CHIP, for which the parent with primary physical custody must apply and which is based on that parent's income. A custodial parent may apply for CHIP by telephone or on the Internet. While co-premiums or co-pays increase as the custodial parent's income increases, such costs are generally modest and should be apportioned between the parties. Moreover, health care coverage obtained by the custodial parent generally yields more practical results, as the custodial parent resides in the geographic coverage area, enrollment cards are issued directly to the custodial parent, and claims may be submitted directly by the custodial parent.

* * * * *

Rule 1910.16-7. Support Guidelines. Awards of Child Support When There Are Multiple Families.

* * * * *

(d) When an obligor is subject to more than one order for child support, spousal support and/or alimony pendente lite, the priority for distribution of payments and/or collections for the obligor, without regard to the source of funds or method of collection, are as follows unless the court specifically orders a different distribution priority:

- (1) current child support.
- (2) medical, child care or other court-ordered child support-related expenses.
- (3) [**current spousal support or alimony pendente lite**] **child support arrears.**

- (4) [**child support arrears**] **current spousal support or alimony pendente lite.**
- (5) spousal support or alimony pendente lite arrears.
- (6) court costs **and fees.**

* * * * *

Explanatory Comment—2008

The order of priority of the distribution of payments is revised to reflect changes in federal law which presume that cash and medical-related child support are established and paid in that sequence, and that obligations to children take priority over spousal-only obligations. An unallocated order for child and spousal support has the same priority as a child support order.

* * * * *

Rule 1910.21. Support Order. Enforcement. Withholding of Income.

* * * * *

(g) *Priority of Income Withholding.* If there are multiple support obligations in effect against the income of the obligor, the court shall allocate among the obligees the amount of income available for withholding, giving priority to current child support, **child support-related expenses and child support arrears** to the limit provided by law and stating the priority of payment to the obligee.

* * * * *

Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification.

* * * * *

(d) The form used to obtain information relating to health insurance coverage from a party shall be in substantially the following form:

(Caption)

**HEALTH INSURANCE COVERAGE INFORMATION
REQUIRED BY THE COURT**

This form must be completed and returned to the domestic relations section.

IF YOU FAIL TO PROVIDE THE INFORMATION REQUESTED, THE COURT MAY FIND THAT YOU ARE IN CONTEMPT OF COURT.

Do you provide insurance coverage for the dependents named below? (Check each type of insurance which you provide).

Full Name SS #	Type of Coverage					
	Hospitalization	Medical	Dental	Eye	Prescription	Other
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Note: Before forwarding the form to the party, the domestic relations section should fill in the names and Social Security numbers of the dependents about whom the information is sought.

Provide the following information for all types of insurance you maintain, whether or not any of the above-named dependents is covered at this time:

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
Employee [Cost] cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
Employee [Cost] cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
Employee [Cost] cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
Employee [Cost] cost of coverage for dependents: _____

If the above-named dependents are not currently covered by insurance, please state the earliest date coverage could be provided. _____

(e) The form of a support order shall be substantially as follows:

(Caption)
 (FINAL) (TEMPORARY) (MODIFIED)
 ORDER OF COURT

AND NOW, _____, based upon the Court's determination that Payee's monthly net income is \$ _____, and Payor's monthly net income is \$ _____, it is hereby ordered that the Payor pay to the Domestic Relations Section, Court of Common Pleas, _____ Dollars (\$ _____) a month payable (WEEKLY/BIWEEKLY/SEMI-MONTHLY/MONTHLY) as follows: _____ Arrears set at \$ _____ as of _____ are due in full IMMEDIATELY. Contempt proceedings, credit bureau reporting and tax refund offset certification will not be initiated, and judgment will not be entered, as long as payor pays \$ _____ on arrears on time and in full will cause all arrears to become subject to immediate collection by all of the means listed above.

For the support of: _____

Said money to be turned over by the domestic relations section to: _____

Payments must be made (STATE ACCEPTABLE FORMS OF PAYMENT). All checks and money orders must be made payable to (NAME OF ENTITY TO WHOM CHECKS SHOULD BE MADE PAYABLE) and mailed to (NAME OF OFFICE) at (MAILING ADDRESS). Each payment must bear your (FILE/CASE/FOLIO/DOMESTIC RELATIONS) number in order to be processed. Do not send cash by mail.

Unreimbursed medical expenses are to be paid _____% by defendant and _____% by plaintiff. (PLAINTIFF/DEFENDANT/NEITHER) to provide medical insurance coverage. Within 30 days after the entry of this order, the [(PLAINTIFF/DEFENDANT)] **the party ordered to provide medical insurance** shall submit to the [**person having custody of the child (ren) other party**] written proof that medical insurance

coverage has been obtained or that application for coverage has been made. Proof of coverage shall consist, at a minimum, of: 1) the name of the health care coverage provider(s); 2) any applicable identification numbers; 3) any cards evidencing coverage; 4) the address to which claims should be made; 5) a description of any restrictions on usage, such as prior approval for hospital admissions, and the manner of obtaining approval; 6) a copy of the benefit booklet or coverage contract; 7) a description of all deductibles and co-payments; and 8) five copies of any claim forms.

* * * * *

[Pa.B. Doc. No. 08-1579. Filed for public inspection August 29, 2008, 9:00 a.m.]

PART I. GENERAL
[231 PA. CODE CH. 1920]
Order Amending Rule 1920.46; No. 498; Doc. No. 5
Order

Per Curiam:

And Now, this 13th day of August, 2008, the Note to Rule 1920.46 of the Pennsylvania Rules of Civil Procedure is amended as follows.

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

Annex A
TITLE 231. RULES OF CIVIL PROCEDURE
CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE
Rule 1920.46. Affidavit of Non-Military Service.

* * * * *

Official Note: The [**Soldier's and Sailor's**] **Servicemembers Civil Relief Act [of 1940], 50 App. U.S.C.A. [App.] § [520] 521**, requires that in cases [**of default in appearance by**] in which the defendant **does not make an appearance**, the plaintiff must file an affidavit of nonmilitary service before [**entering**] **the court may enter** judgment. If the defendant is in the military service and an attorney has not entered an appearance on behalf of the defendant, no judgment may

be entered until the court appoints an attorney to represent the defendant and protect his or her interest.

* * * * *

[Explanatory Comment—1994

Section 602 of the Act of June 29, 1953, P. L. 304, 35 P. S. § 450.602, requires a certificate of each divorce and annulment of marriage decreed in the Commonwealth to be transmitted to the Department of Health.]

Explanatory Comment—2003

35 P. S. § 450.602 previously required a certificate of each divorce or annulment decreed in the Commonwealth to be transmitted to the Vital Statistics Division of the Commonwealth of Pennsylvania Department of Health. The statute was amended October 30, 2001 (P. L. 826, No. 82), § 1, effective in 60 days, to require that the prothonotary submit a monthly statistical summary of divorces and annulments, rather than individual forms for each decree. Thus, subdivision (a) of Rule 1920.46, requiring the filing of the vital statistics form, is no longer necessary. Former subdivision (b) now comprise the entirety of the rule and the title has been amended to reflect that the rule applies only to the affidavit regarding military service.

[Pa.B. Doc. No. 08-1580. Filed for public inspection August 29, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Amendments to Rule 1920; Administrative Order No. 15 of 2008; 08-M-12

Order of Court

And Now, this 14th day of August, 2008, Adams County Local Rule of Civil Procedure 1920(1) is amended to read as follows:

Rule 1920(1). Exceptions.

A. *Filing.* Exceptions to the Master's report, or any motions or reasons for a new trial, which either party desire to make, shall be filed with the Prothonotary, and a copy thereof served at the same time upon opposing counsel or party if they are not represented by counsel.

B. *Brief in Support.* If either party files Exceptions to the Master's report, the party filing Exceptions shall file and serve a brief in support of their Exceptions within twenty (20) days of their filing of Exceptions. The brief in support shall be filed with the Prothonotary and served upon the opposing counsel or party if they are not represented by counsel. Failure to file and serve a supporting brief within twenty (20) days of filing Exceptions shall result in the Exceptions being deemed withdrawn and, upon praecipe by either party, the Court shall enter an Order dismissing the Exceptions.

C. *Responsive Brief.* If a brief in support of Exceptions has been timely filed and served, the party opposing the Exceptions shall file a brief in opposition within fifteen (15) days after service of the brief in support of Exceptions.

This brief shall be filed with the Prothonotary and served upon the opposing counsel or party if they are not represented by counsel.

D. *Oral Argument.* Absent a specific waiver by both parties in writing, oral argument shall be scheduled by the Court.

E. *Procedure.* Upon the filing of Exceptions pursuant to this Rule, the Prothonotary shall immediately docket the Exceptions and expeditiously transmit the file to the family law Judge.

F. *Transmittal of the record.* If no Exceptions are filed by either party in the time prescribed by the Pennsylvania Rules of Civil Procedure, or if Exceptions have been filed and an Order has been entered disposing of the Exceptions, the Court will, upon praecipe of either party, enter the final decree.

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

The Adams County Court Administrator is directed to:

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

B. Distribute two (2) certified copies and a computer diskette to the Legislative reference bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order with the Civil Procedural Rules Committee.

By the Court

JOHN D. KUHN,
President Judge

[Pa.B. Doc. No. 08-1581. Filed for public inspection August 29, 2008, 9:00 a.m.]

ADAMS COUNTY

Oder Adopts Judicial Administration No. 3.0.F; Administrative Order No. 16 of 2008; 08-M-13

Order of Court

And Now, this 14th day of August, 2008, the Court hereby adopts Local Rule of Judicial Administration No. 3.0.F which shall provide as follows:

3.0.F. *Backers.*—The use of backers, mini-backers, top-pers or other cover stock is discouraged. No substantive content of any pleading or document shall be contained on the backer, mini-backer, topper or other cover stock. The Clerk of Courts and the Prothonotary shall not physically retain or preserve any backer, mini-backer, topper or other cover stock, nor retain or preserve any information contained thereon.

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

The Adams County Court Administrator is directed to:

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

B. Distribute two (2) certified copies and a computer diskette to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order with both the Civil Procedural Rules Committee and Criminal Procedural Rules Committee.

D. File a copy of this Order with the Prothonotary and the Clerk of Courts of Adams County.

By the Court

JOHN D. KUHN,
President Judge

[Pa.B. Doc. No. 08-1582. Filed for public inspection August 29, 2008, 9:00 a.m.]

CARBON COUNTY

Amendment of Civil Procedure Rules 1018.1; Notice to Defend and Form, 1303—Arbitration Hearing and Notice, 2102(b) Style of Action in Real Estate Assessment Appeals; No. 04-1727

Administrative Order No. 16-2008

And Now, this 15th day of August, 2008, it is hereby *Ordered and Decreed* that, effective October 1, 2008, Carbon County Rules of Civil Procedure CARB.R.C.P. 1018.1 governing the Notice to Defend and Form, CARB.R.C.P. 1303 governing the Hearing and Notice in arbitration cases, and CARB.R.C.P. 2102(b) governing the Style of Action in a real estate assessment appeals be and are hereby *Amended* as attached hereto.

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

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

By the Court

ROGER N. NANOVIC,
President Judge

Rule 1018.1—Notice to Defend. Form.

As required by Pa.R.C.P. 1018.1(c), the following shall be designated in the notice to defend as the person from whom legal referral can be obtained:

North Penn Legal Services
1203 North Street
Jim Thorpe, PA 18229
(570) 325-5050

Rule 1303—Hearing. Notice.

Notice of the appointment of arbitrators and the date, time and place of arbitration in accordance with Pa.R.C.P. 1303 shall be made by the Prothonotary's Office. The Notice shall include the following language: "The matter will be heard by a board of arbitrators at the time, date, and place specified but, if one or more of the parties is

not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

All continuance requests must be filed no later than seven (7) days before the scheduled Arbitration hearing. The attorney/party must notify all other attorneys/pro se parties and members of the panel of the granting of the continuance motion. In the event such notice is not provided and a panel member appears, the defaulting party shall be responsible for paying the panel member the current arbitration fee of \$150.00. Any continuances requested within the seven (7) days of the scheduled Arbitration hearing shall require the personal appearance of the attorney/pro se party before the Judge to explain the extenuating circumstances necessitating the late filing.

Any appointed arbitrator must notify Court Administration of their inability to serve within ten (10) days of the scheduled event so that a suitable replacement can be secured.

If a case is settled less than two (2) days before the Arbitration hearing, one of the attorneys/pro se parties must appear before the Board of Arbitrators and have an Award entered by agreement. If it is settled more than two (2) days before the Arbitration hearing, Plaintiff's attorney/Plaintiff must file a praecipe to strike the case from the arbitration list because the case is settled and must notify all other attorneys/pro se parties and the panel members.

Rule 2102(b)—Style of Action.

(1) In all cases where an appeal is taken from a real estate assessment fixed by the Carbon County Board of Assessment and Appeals, the petition for allowance of appeal shall have attached to it a photocopy of the appealed from order of the said board and a proposed preliminary decree which shall provide:

(A) The appeal is allowed.

(B) Within 5 days from the date of the preliminary decree, appellant shall serve a copy of the petition and preliminary decree upon the said board, the governing body of the municipality, and the board of school directors of the school district in which the real estate is situate and upon the property owner, if he is not the appellant. Said service shall be made by either personal service or certified mail, with proof of service thereof to be filed at the Carbon County Prothonotary's Office.

(C) The taxing authorities aforesaid and the property owner, if he is not the appellant, be and are hereby entitled to intervene as parties appellee; and

(D) The Carbon County Board of Assessment and Appeals is directed to certify to the Court all evidence including photos, maps, appraisals, submitted below to become part of the Court record.

2. Within forty-five (45) days after required service of the petition and preliminary decree, all parties of record shall file pre-hearing statements and serve a copy on all other parties of record. The pre-hearing statement shall include:

A. A summary of the facts which will be offered by oral and documentary evidence at the hearing;

B. A list of exhibits to be offered;

C. A list of the names and addresses of all witnesses to be called;

D. Copies of any appraisal reports, or if no report is available, a summary of the testimony of any expert who will be called as a witness;

E. A statement of the current valuation which is the basis for the appeal;

F. A statement setting forth the appellant's position as to the correct valuation which shall include appellant's position as to correct market value, assessment ratio, and assessment;

G. A statement that there have been negotiations between the parties and a good faith attempt to settle the case; and

H. The statement shall be signed by the parties or their counsel.

3. Upon docketing of all pre-hearing statements, a pre-hearing conference shall be scheduled. Notice pursuant to Pa.R.C.P. 440 shall be given by the Prothonotary's Office to all affected taxing authorities whether or not parties of record. Each party of record shall either be personally present, or shall be represented by counsel authorized to act on behalf of the absent party of record with respect to the trial of the case or its settlement.

4. At the pre-hearing conference, the parties of record shall consider:

A. Possible stipulations as to evidence and facts;

B. Simplification of the issue; and

C. Settlement.

5. Following the pre-hearing conference, the Court shall enter an appropriate order or schedule a hearing.

[Pa.B. Doc. No. 08-1583. Filed for public inspection August 29, 2008, 9:00 a.m.]

CARBON COUNTY

Fee Schedule for Carbon County; Civil Division; Arbitrators; No. 04-1728

Administrative Order No. 15-2008

And Now, this 15th day of August, 2008, it is hereby *Ordered* and *Decreed* that, effective January 1, 2009, Carbon County *Adopts* the following fee schedule for Arbitrators appointed under Pennsylvania Rules of Compulsory Arbitration:

1. Each member of the board of arbitrators who signs the award shall receive a fee of \$150.00 for all cases involving two (2) hours or less, plus \$75.00 for each hour of hearing over two (2) hours. (Except by special order, cases heard together count as one award for purposes of this Order). In cases requiring hearings of unusual duration or involving questions of unusual complexity, the Court on petition of the members of the board and for cause shown, may allow additional compensation.

2. In cases where an award is to be entered by the arbitrators pursuant to an agreement of settlement entered within two (2) days before the scheduled hearing, each member of the board shall receive a fee of \$75.00.

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

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

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order in the Prothonotary's Office.

By the Court

ROGER N. NANOVIC,
President Judge

[Pa.B. Doc. No. 08-1584. Filed for public inspection August 29, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 86]

Coal Mine Reclamation Fees and Reclamation of Bond Forfeiture Sites

The Environmental Quality Board (Board) amends Chapter 86 (relating to surface and underground coal mining). The final-form rulemaking incorporates amendments necessary to bring the Commonwealth's regulatory program into conformance with Federal standards for State coal mining regulatory programs. The amendments address the coal mine reclamation fees paid by surface coal mine operators, the dedicated use of moneys for treatment of postmining pollutional discharges at certain mine sites, pertinent definitions and the requirements for reclamation of coal mine sites when the mine operator's bonds were forfeited by the Department of Environmental Protection (Department).

This final-form rulemaking 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 a 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 Richard S. Morrison, 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) 654-5988 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department's web site at www.depweb.state.pa.us.

C. *Statutory Authority*

The final-form rulemaking is adopted under the authority of sections 4(d) and (d.2) and 4.2(a) of the Surface Mining Conservation and Reclamation Act (PASMCR) (52 P. S. §§ 1396.4(d) and (d.2) and 1396.4b(a)); section 7 of the Bituminous Mine Subsidence and Land Conservation Act (52 P. S. § 1406.7); section 5 of The Clean Streams Law (35 P. S. § 691.5); section 3.2 of the Coal Refuse Disposal Control Act (52 P. S. § 30.53b); section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20); and PA. CONST. ART. 1, § 27.

D. *Background of the Amendments*

This final-form rulemaking amends the regulations regarding the Commonwealth's obligation, under Federal law, to provide for the complete reclamation of a certain class of surface mine sites (the ABS Legacy Sites) and the postmining pollutional discharges on these sites. To bring its coal mining program into compliance with Federal law, the Department must assure that it always has sufficient money available to complete the reclamation of the ABS Legacy Sites, including paying the ongoing costs to treat the pollutional discharges at these sites in perpetuity. In related litigation, the United States Third Circuit Court

of Appeals decided that the Commonwealth must demonstrate that it has sufficient funds, and determined that the Department must meet its obligation to assure sufficient funds for reclamation of these sites through legally enforceable means. These amendments are intended to satisfy the Commonwealth's obligations under Federal law by establishing an enforceable regulatory mechanism for generating funds adequate to cover the reclamation costs for all of the ABS Legacy Sites.

This final-form rulemaking establishes two accounts to manage the funds. The Reclamation Fee O&M Trust Account will be used to fund the operation and maintenance costs on an on-going basis. The final-form rulemaking also establishes a cash reserve within the Reclamation Fee O&M Trust Account to pay for unexpected treatment costs. The ABS Legacy Sites Trust Account will be used to fund the perpetual costs of treatment for the discharges at the ABS Legacy Sites. The regulations also identify the funding sources for the accounts and provides for adjustments to the reclamation fee to assure that sufficient funds are available for operation and maintenance. In addition, the regulations list the requirements for the account to be actuarially sound, which is when there is enough money in the accounts so that the interest will cover all of the costs.

Required Consistency of the Commonwealth's Mining Program with Federal Law

One of the fundamental purposes of the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. §§ 1201—1328) (FSMCRA), is to establish a "nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." See 30 U.S.C. § 1202(a). The Federal statute authorizes the Secretary of the Interior, through the Federal Office of Surface Mining Reclamation and Enforcement (OSM), to administer the programs for controlling surface coal mining operations required by the FSMCRA and to promulgate regulations designed to realize the purposes of the FSMCRA. See 30 U.S.C.A. § 1211(c). These purposes include the reclamation of mined areas left without adequate reclamation and assuring that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations.

The FSMCRA allows a state to assume jurisdiction over the regulation of surface coal mining and reclamation operations if the state can administer that program according to Federal standards. See 30 U.S.C.A. § 1253. Once a state program is approved by OSM, the State achieves "primacy" over the regulation of its surface coal mining program under the FSMCRA. The Commonwealth achieved primacy in 1982. See 47 FR 33,050, 33,076 (July 30, 1982). To maintain its jurisdiction over regulation of coal surface mining activities, the Commonwealth must maintain a State program in accordance with the requirements of the FSMCRA. See 30 U.S.C.A. § 1253. State laws must be consistent with the provisions of the FSMCRA, 30 U.S.C.A. § 1255(a), and, in general, a state program must be at least as effective as the requirements in the FSMCRA. See 30 U.S.C.A. § 1255.

Conventional and Alternative Bonding Systems

The FSMCRA states a general requirement that before a coal mining permit is issued an operator must post a performance bond "sufficient to assure completion of the reclamation plan if the work had to be performed by the

regulatory authority.” See 30 U.S.C.A. § 1259(a). The FSMCRA also allows OSM to approve as part of a state program an “alternative bonding system that will achieve the objectives and purposes of the bonding program pursuant” to section 509. See 30 U.S.C.A. § 1259(c). The PASMCRRA similarly requires a surface coal mining permittee to file a bond with the Department prior to commencing surface mining operations. See 52 P.S. § 1396.4(d) regarding mining permit; reclamation plan; bond. The amount of the bond shall be “based upon the total estimated cost to the Commonwealth of completing the approved reclamation plan, or in such other amount and form as may be established by the Department under regulations for an alternate coal bonding program which shall achieve the objectives and purposes of the bonding program.” *Id.* Thus, under both the Commonwealth and pertinent Federal law, the Department has the authority to implement two types of bonding systems to provide financial assurance that surface coal mining operations are properly reclaimed. The two types are known as conventional and alternate bonding.

A conventional bonding system (CBS) requires that the mine operator post a site-specific bond sufficient in amount to assure completion of the mine site’s reclamation plan if the work had to be performed by the Department in the event of a forfeiture. This system is often referred to as full-cost bonding because the amount of the bond is not discounted or intended to be supplemented by other funding sources. An alternate bonding system (ABS) is typically designed as a collective risk-spreading system that draws on other sources of funds for completing reclamation at individual mine sites where the operator has defaulted on its reclamation obligations and the bond for the site has been forfeited. With an ABS, a state can discount the amount of the required site-specific bond to an amount less than the full cost needed to complete reclamation of the mine site in the event of forfeiture. The individual permitted mining operators usually contribute to a reclamation fund administered by the regulatory authority (such as, through imposition of a standard fee), thus sharing the liability for the reclamation of forfeited sites and supplementing the discounted site-specific bonds.

From 1982 until 2001, the Commonwealth employed a bifurcated bond system: surface coal mines, coal refuse reprocessing operations and coal preparation plants were covered by an ABS, while underground coal mines and coal refuse disposal operations were covered by a CBS. The Commonwealth’s ABS was intended to enable the Department to complete reclamation of forfeited mine sites notwithstanding that the actual cost of reclamation exceeded the amount of the individual bonds posted by the operator for a specific site. The Commonwealth’s ABS consisted of a system in which various sources of revenue—that is, excess bond money from forfeited and reclaimed sites, license and permit fees, fines and civil penalties, and reclamation fees—were all placed into the Surface Mining Conservation and Reclamation Fund. See 52 P.S. § 1396.18(a) regarding Surface Mining Conservation and Reclamation Fund; Remining Environmental Enhancement Fund; Remining Financial Assurance Fund; and department authority for awarding of grant. Operators were required to post site-specific bonds for surface mining operations covered by the ABS, but they were not required to post a bond sufficient in amount to cover the full cost of completing reclamation of the mine site. The money in the SMCR Fund was intended to cover the difference between the bond and the actual cost of reclamation.

The reclamation fee imposed by § 86.17(e) (relating to permit and reclamation fees) was paid by operators of permitted sites on a per-acre basis for each acre authorized in the surface mine operator’s permit; the fee was originally assessed at \$50 per acre but was raised to \$100 per acre in 1993. As part of administering the Commonwealth’s ABS, the reclamation fees and other moneys described previously have been deposited by the Department into the SMCR Fund and have been used to supplement site-specific bonds to cover the Department’s full costs to reclaim mine sites if mine operators defaulted on their reclamation obligations.

Insolvency of this Commonwealth’s ABS

Problems relating to the solvency of the Commonwealth’s ABS were identified around 1990, and by early 1991 OSM began to exercise its oversight authority in an effort to bring the Commonwealth’s ABS into compliance with applicable Federal standards. See 30 U.S.C.A. §§ 1253 and 1254; 30 CFR 732.17, 733.11 and 733.12 (relating to State program amendments; general requirements for maintaining State programs; and procedures for substituting Federal enforcement for State programs or to withdraw of State programs). In January 1991, OSM notified the Department that this Commonwealth’s ABS must be modified to provide the resources needed to reclaim existing ABS forfeited sites within a reasonable time frame, and to ensure that future forfeiture sites would be reclaimed in a timely manner. Moreover, the ABS had to have sufficient funds to complete the reclamation plan approved in the surface mining permit. In May 1991, OSM codified a required program amendment directing the Commonwealth to submit information by November 1991 which demonstrated that the ABS was solvent. See 30 CFR 938.16(h). Specifically, OSM required the Commonwealth to either submit information demonstrating that the ABS “can be operated in a manner that will meet the requirements of 30 CFR 800.11(e) (relating to requirement to file bond)” or, to amend its program to be compliant with Federal standards. 56 FR 24,687, 24,719-21 (May 31, 1991).

In August 1991, the OSM’s Harrisburg Field Office issued a report titled *Pennsylvania Bond Program as an Alternative Bonding System*. The 1991 report documented the Department’s failure to adequately reclaim all forfeited ABS sites, primarily because the Department was not addressing postmining pollutional discharges at many of the sites. The report concluded that the ABS was insolvent because the Department did not have sufficient funds to complete the reclamation at all of the primary ABS forfeiture sites.

In October 1991, OSM notified the Department, under 30 CFR 732.17, that for the Commonwealth to maintain jurisdiction of the regulatory program under the FSMCRA, the Department had to adopt changes to its ABS to address program deficiencies and outstanding reclamation on ABS forfeiture sites (the 30 CFR Part 732 notice (relating to procedures and criteria for approval or disapproval of State program submissions)). A 30 CFR 732 is a document in which the OSM notifies the State that its regulatory program must be amended to be in accordance with the FSMCRA and consistent with Federal regulations. A notification may be necessary as a result of Federal regulation changes, State or Federal court decisions, or problems identified during oversight or other program review processes. See *Pennsylvania Fed’n*

of *Sportsmen's Clubs v. Norton*, 413 F. Supp. 2d 358, 364 (M.D. Pa. 2006). The 30 CFR Part 732 Notice stated, in part:

The specific event leading to this determination is an OSM Field Office evaluation of the adequacy of the Commonwealth's ABS. This evaluation identified unfunded reclamation liabilities (for backfilling, grading, and revegetation) in excess of 8 million dollars for current bond forfeiture sites alone. The review also found that the ABS is financially incapable of abating or permanently treating pollutional discharges from bond forfeitures. Even if no such discharges are created in the future, annual treatment costs for existing discharges are currently estimated at 1.3 million dollars.

The 30 CFR Part 732 Notice concluded that the ABS was no longer in conformance with the FSMCRA and the Federal regulations, which mandate that an ABS "must assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time." See 30 CFR 800.11(e)(1).

Termination of ABS and Conversion of Surface Mines to a CBS

The Department undertook various efforts in response to the OSM's required program amendment and the 30 CFR Part 732 Notice (most of which need not be enumerated in this preamble), including an increase in amount of the per-acre reclamation fee from \$50 to \$100 per acre in 1993. Doubling the reclamation fee did not generate sufficient funds to eliminate the ABS deficit, and the Department concluded that if significant changes were not made the deficit would only get worse. The number of acres being permitted had been declining (with a corresponding reduction in income from the reclamation fee), and there was a significant number of underbonded ABS permits with postmining discharges. Recognizing that the ABS would never address the situation, the Department decided to terminate the ABS and to employ a full-cost bonding system for all of this Commonwealth's active mine sites. In 2001, the Department began converting active surface coal mining permits issued under the ABS to a CBS.

The conversion of the ABS permits to a CBS required a complex approach by the Department in coordination with the Legislature and the mining industry. The main components of the approach included the following. A comprehensive analysis by the Department of the existing ABS deficit for land reclamation was prepared in a February 2000 report titled *Assessment of Pennsylvania's Bonding Program for Primacy Coal Mining Permits*. Based on the report's conclusions, the General Assembly appropriated \$5.5 million in 2001 to cover that land reclamation deficit. The Department developed a conversion assistance financial guarantee program by which the Department effectively operates as a surety and provides part of the bonding for conventional bonds, thus easing the transition for active operators to the CBS and thereby preventing bankruptcies or abandonment of sites, or both. In 2001, the General Assembly appropriated \$7 million to underwrite the conversion assistance financial guarantee program. The Department developed a detailed conventional bonding guidance document that set forth the mechanics of the conventional bonding process for surface mining operations. The Department then implemented conventional bonding for all ABS actively-mined, permitted surface coal mine sites. A plan to address postmining pollutional discharges on the ABS forfeiture sites was

formulated, resulting in the Program Enhancement Document and the Discharge Abatement Workplan. In August 2001, the ABS was formally terminated.

Related Litigation

In 1999, a citizens' suit was filed in the United States District Court for the Middle District of Pennsylvania by several citizen groups against the Department, OSM and the United States Department of the Interior. *Pennsylvania Federation of Sportsmen's Clubs, Inc. et al. v. McGinty, et al.*, (No. 99-cv-1791). Plaintiffs alleged various deficiencies in the Commonwealth's bonding program related to the insolvency of the ABS and the Department's failure to reclaim all the ABS forfeiture discharge sites. Six of the eight counts against the Department were dismissed. The remaining two concerned the 30 CFR Part 732 Notice and required program amendment in 30 CFR 938.16(h) (relating to regulatory programs amendments). This lawsuit is currently pending before the United States District Court for the Middle District of Pennsylvania and has been stayed pending the final disposition of a related case in the same court called *Pennsylvania Federation of Sportsmen's Clubs, Inc. et al. v. Kempthorne, et al.*, (No. 03-cv-0220). In June 2003, the OSM terminated the bonding program deficiency as it relates to the ABS, in part, as a result of the Department's conversion to the CBS and in response to a report prepared by the Department jointly with the OSM. The report is titled *Pennsylvania Bonding System Program Enhancements* and includes a discussion and analysis of the bond program enhancements undertaken to resolve inadequate bonding for the ABS. The *Kempthorne* case was filed in December 2003, by the same plaintiffs that filed the *McGinty* case, in response to the OSM's termination of the 30 CFR Part 732 Notice and its removal of the required program amendment in 30 CFR 938.16(h). The *Kempthorne* (previously called *Norton*) case names the United States Department of the Interior and the OSM as defendants; the Department intervened as a defendant in this litigation. See *Pennsylvania Federation of Sportsmen's Clubs, Inc. et al. v. Norton, et al.*, 413 F. Supp. 2d 358 (M.D. Pa. 2006). In 2006, the U.S. District Court in *Kempthorne* granted the joint motion of the Federal defendants and the Department requesting dismissal of the case. Plaintiffs then appealed the decision to the United States Court of Appeals for the Third Circuit.

In the *Kempthorne* case, plaintiffs argued that it was a violation of section 509 of the FSMCRA (30 U.S.C. § 1259), and the regulations implementing the FSMCRA issued by the OSM—specifically 30 CFR 800.11(e)(1)—for the Department to terminate its ABS when it converted to a CBS in 2001. Plaintiffs also argued that, even if the ABS was lawfully terminated in 2001, the primacy ABS forfeited sites plus any additional sites whose reclamation costs are not fully covered by CBS bonds (together the "ABS Legacy Sites"), remain subject to the requirements of 30 CFR 800.11(e)(1). As such, the Commonwealth remains obligated to provide for the complete reclamation and treatment of the ABS Legacy Sites and their pollutional discharges by assuring the Department has available sufficient money to complete reclamation for these sites at any time. See 30 CFR 800.11(e)(1).

On August 7, 2007, the Third Circuit decided the appeal and issued an opinion in which the court reversed, in part, the district court and remanded the case for further proceedings in accordance with the appellate decision. See *Pennsylvania Federation of Sportsmen's Clubs, Inc. v. Kempthorne*, 497 F.3d 337 (3d Cir. 2007). The Third Circuit decision in *Kempthorne* directly im-

pacted the Department's decisions with respect to this final-form rulemaking because the Department had proposed to eliminate the per-acre reclamation fee in 25 Pa. Code § 86.17(e) in the proposed rulemaking. See 36 Pa.B. 4200, 4200-01 (August 5, 2006). The Court explained the pertinent issue as follows:

Although we have determined that Pennsylvania has effectively converted to a CBS and OSM did not abuse its discretion in approving that conversion, neither we nor OSM are yet out of the woods, so to speak. That is because we are still faced with the question of what obligations, if any, Pennsylvania has to ensure reclamation of sites forfeited before the conversion to a CBS began, plus any additional sites whose reclamation costs are still not fully covered by CBS bonds. To clarify, it is important we distinguish between the ABS as a bonding program, which no longer exists in Pennsylvania, and the particular mine sites bonded under that now defunct program. This distinction is a critical one as the conclusion that it is permissible under the "[FSMCRA]" for a State to dissolve its ABS program, in the manner Pennsylvania has, does not lead ineluctably to the conclusion that all liabilities accrued under that program are also automatically dissolved. In other words, there are still mining sites in Pennsylvania that were originally bonded under the ABS and forfeited prior to the CBS conversion. The question remains as to what obligations Pennsylvania has to provide for complete reclamation and treatment of these mining sites and their pollutional discharges.

Kemphorne, 497 F.3d at 349-50.

The Third Circuit concluded that 30 CFR 800.11(e) continues to apply to the ABS Legacy Sites and "that § 800.11(e) requires that Pennsylvania fulfill the obligations it voluntarily assumed to ensure that these sites are fully reclaimed." *Kemphorne*, 497 F.3d at 353. To meet the requirements of Federal law, a state's ABS "must assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time." See 30 CFR 800.11(e)(1). Thus, the Third Circuit ruled that the Commonwealth must assure that it will have sufficient money available at any time to complete the reclamation of all the ABS Legacy Sites, including the treatment of any postmining pollutional discharges at these sites. The Third Circuit Court also ruled that the Program Enhancement Document did not meet the Federal requirements because it was not a formal program amendment and was not legally enforceable. The Court reinstated the 30 CFR Part 732 Notice and the required program amendment in 30 CFR 938.16(h) and remanded the case to the District Court for further proceedings, see *Kemphorne*, 497 F.3d at 354-55. The related litigation has been temporarily stayed by the District Court pending the issuance of this final rulemaking. To comply with the Court's ruling, the Commonwealth must assess the extent of the liability associated with all of the ABS Legacy Sites, and must identify specific sources of dedicated revenue that will generate enough money to cover the costs of reclaiming these sites, specifically the ongoing costs for treating any pollutional discharges at these sites. The method for providing the revenue must be submitted to the OSM for approval as a formal program amendment which satisfies the 30 CFR Part 732 Notice and 30 CFR 938.16(h), and it must be legally enforceable.

Reclamation Obligations at the Primacy ABS Legacy Sites

As part of its development of this final-form rulemaking, the Department carefully examined the extent of the liability associated with all of the ABS Legacy Sites. The reclamation liability of the ABS Legacy Sites was divided into two categories: outstanding land reclamation; and the abatement or perpetual treatment of postmining pollutional discharges. In 2004, in an effort to improve the management of the reclamation of the ABS sites, the responsibility for coordinating the reclamation of primacy bond forfeiture sites was transferred from the Bureau of Abandoned Mine Reclamation to the Bureau of District Mining Operations. At that time, there were approximately 150 primacy ABS permits with outstanding reclamation obligations (land reclamation and postmining discharges).

Fifty-five ABS sites had land reclamation remaining to be completed as of November 2007. Of these 55, 23 have had the necessary arrangements made and are in the process of being reclaimed. All of the remaining primacy ABS sites with outstanding land reclamation have been identified and evaluated to determine the projected costs of completing this land reclamation. The estimated cost of the land reclamation for these remaining land-reclamation sites is approximately \$7.8 million. As of November 2007, the ABS deficit closeout account balance was approximately \$4.4 million. Forfeited bonds were collected for the land reclamation primacy ABS sites; there is approximately \$1.9 million in collected bonds for these sites currently held in a restricted account in the SMCR Fund. The balance of about \$1.5 million needed to complete the land reclamation at ABS Legacy Sites can be paid from other funds currently in the SMCR Fund, including excess bond money from other forfeited sites that have already been fully reclaimed and interest income on the SMCR Fund moneys. The Department has determined that it currently has sufficient money available in the SMCR Fund to complete all of the outstanding land reclamation at the ABS Legacy Sites. Nearly all of this money is already restricted by law for this purpose, and the Department expects that land reclamation at the ABS Legacy Sites will be completed within the next 2 years. Thus, the changes made for this final-form rulemaking do not address funding for land reclamation of ABS Legacy Sites.

The ABS Legacy Sites with discharges that need treatment include both the primacy ABS forfeited sites, plus any additional sites whose reclamation costs are not fully covered by CBS bonds when forfeited in the future. All of these sites remain subject to 30 CFR 800.11(e)(1). Establishing a final exact number of ABS Legacy Sites with pollutional discharges that will need treating is not yet possible, though the Department has identified and evaluated the primacy ABS discharges sites that have already had the bond forfeited.

There are 80 primacy ABS permits where the bonds were forfeited and there is a postmining discharge that requires continued treatment. Some of these permits contain multiple discharges. The population of the ABS forfeited postmining discharge sites has been evolving, and the Department has worked closely with the OSM to develop and maintain an accurate inventory of these discharges. In 2003, there were 99 discharges on the primacy ABS forfeiture discharge sites inventory. As of October 2007, there were 97 discharges, however, a significant number of discharges had been removed from the list and others added between 2003 and October 2007. An evaluation of the primacy ABS forfeited discharge

sites was completed, to project the costs of treating the discharges at these sites. Postmining treatment costs are evaluated in three categories: (i) initial facility construction costs; (ii) the annual operation and maintenance cost; and (iii) recapitalization costs. Initial facility construction costs cover all of the costs to get a treatment system up and running such as facility design costs, property access and construction. The annual operation and maintenance costs include: the treatment chemicals as needed, water quality sampling, facility inspection, site maintenance and sludge removal and disposal. Recapitalization costs are the money that needs to be set aside to reconstruct a facility or replace major components of a treatment system. Of the 97 discharges on the ABS forfeiture discharge sites inventory, 30 have functioning passive treatment systems in place. Costs for treating all the 97 discharges at the primacy ABS forfeiture discharge sites were estimated using the water quality and quantity monitoring data for the discharges and the AMDTreat model developed by the OSM.

The initial cost to construct the necessary facilities for the primacy ABS forfeiture discharge sites is approximately \$2.8 million. The Department currently has funds available to cover the cost to construct the necessary initial treatment facilities for the primacy ABS forfeiture discharge sites. There is approximately \$2.5 million in the released bond account which may be used to pay the treatment facility construction costs. Money in the general operations account may be used for reclamation purposes as well as general administrative costs, and there is approximately \$9.2 million currently held in the general operations account. Construction of these initial treatment facilities is expected to occur over the course of the next 2 to 3 years. Consequently, the changes made for this final-form rulemaking do not address the means for funding initial construction costs at the primacy ABS forfeiture discharge sites.

The total estimated annual operation and maintenance costs for the 80 primacy ABS forfeiture discharge sites and their 97 discharges, once construction of all the necessary treatment facilities has been completed, is approximately \$1.2 million. These costs were also calculated using the AMDTreat model developed by the OSM. Currently, there is no established, legally-enforceable, means to generate the revenue to pay the annual operation and maintenance costs (including recapitalization costs) associated with the primacy ABS forfeiture sites. The changes made for this final-form rulemaking are intended to provide a legally enforceable mechanism for paying the costs of treating the discharges at the ABS Legacy Sites in perpetuity. The final-form rulemaking restructures the reclamation fee and dedicates other sources of funding for performing reclamation of the ABS Legacy Sites, including the interest earned by the reclamation fee moneys and civil penalties assessed under the PASMCR. See Summary of Changes to the Proposed Rulemaking in Section E.

It is important to recognize that the ABS forfeiture discharge sites inventory will continue to have some sites added to the list. At the time of conversion to the CBS there were some surface coal mining sites, permitted under the primacy ABS, that were not being actively mined but had postmining pollutional discharges and the operators were continuing to treat the discharges. The bonds for these sites were not sufficient to cover the costs to perpetually treat the discharges. These sites remain part of the ABS legacy until the costs to treat the discharges in perpetuity are covered by fully-funded financial guarantees. At the time of conversion, additional

bond needed to be posted, or fully-funded trusts established, for 270 treatment facilities to treat 400 existing postmining discharges at these sites. As of December 2007, operators had posted additional bonds, or established trust funds, through the execution of 72 agreements covering 174 discharge treatment facilities treating 244 discharges. Forty-four of the 72 agreements are for full-cost bonds totaling \$109.1 million; 16 are fully-funded trusts totaling \$45.5 million; 11 involve trusts being funded over time that will total \$43.1 million when fully funded. Negotiations are currently ongoing for 22 agreements for 55 facilities and 59 discharges, with a total estimated financial obligation (bond or trust) of \$57.8 million. It was expected that about 124 agreements would be needed to fund the entire set of 270 treatment facilities.

As of December 2007, there remained 45 primacy ABS permits with 85 postmining discharges where the permittee has yet to post a full-cost financial guarantee, but the bond currently posted for the site has not been forfeited. It is not possible to know how many of these 45 permits will ultimately be forfeited and added to the primacy ABS forfeiture discharge inventory. The operator may ultimately default on its obligation at some of these sites and the defaulted sites would become part of the ABS legacy for which the Department must assure long-term funding for discharge treatment. This final-form rulemaking addresses this uncertainty, in part, through a mechanism to adjust the amount of the reclamation fee, and by maintaining a \$3,000,000 cash reserve in the Reclamation Fee O&M Trust Account. The Department determined the amount of the cash reserve by taking into account the expected annual operation and maintenance costs up until January 1, 2010 (when the fee can be adjusted). Another consideration was the cost to maintain treatment at ABS sites that may be forfeited. The conditions which must be met before the ABS Legacy Sites Trust Account is actuarially sound are intended to assure the generating of sufficient funds for the Department to pay the discharge treatment costs for the entire class of ABS Legacy Sites.

Available Revenue Sources for Reclamation of ABS Legacy Sites

As part of its development of this final-form rulemaking, the Department also examined existing funds and revenue sources available to pay for the required reclamation of primacy ABS forfeiture discharge sites. Funds which may be used for reclamation are currently held in the SMCR Fund and are tracked in various accounts. The available funds which may be used to help pay for treatment of discharges at ABS forfeiture sites include the money collected from bonds forfeited at ABS discharge sites and excess bond money in the released bond account. When a bond is forfeited and collected, the money is deposited in the restricted bond account. This money may only be used for reclamation activities for the permit for which it was posted, unless it is determined that the reclamation is unreasonable, unnecessary or impossible. If any of these restricted funds are not needed to reclaim the site for which they were posted, then they are transferred to the released bond account for use to complete other reclamation projects. See 52 P. S. § 1396.18(b). Money in the general operations account in the SMCR Fund may be used for reclamation, in addition to other purposes provided for in the PASMCR. See 52 P. S. § 1396.18(a) and; § 86.187(a)(3) (relating to use of money).

Current revenue sources which may be used to pay the costs of treating the discharges at the ABS Legacy Sites

were identified. These include the following: (i) revenue from the per-acre reclamation fee imposed by § 86.17(e); (ii) interest on funds held in the reclamation fee account; (iii) interest on funds held in the restricted bond account; (iv) interest on the other moneys held in the SMCR Fund such as moneys in the released bond account or the general operations account; and (v) civil penalties assessed under the PASMCRRA. At the current rate of \$100 per acre imposed on the operational area of the permit, the reclamation fee is expected to produce revenue of approximately \$200,000 per year. The State Treasurer is responsible for the management of Commonwealth money and moneys in the SMCR Fund generate interest which is periodically paid into the fund. The interest income has been at an annual rate of about 5%. The amount collected for civil penalties assessed under the PASMCRRA tends to fluctuate from year to year, however the average annual amount collected over the past 6 years has been approximately \$300,000.

Public Response to Elimination of Reclamation Fee in Proposed Rulemaking and Public Involvement in Development of the Final-form Rulemaking

The proposed rulemaking was published at 36 Pa.B. 4200. Public comments were accepted from August 5, 2006, to September 5, 2006, and the comment period officially closed on November 5, 2006. The Department received extensive public comments regarding the proposed elimination of the reclamation fee imposed by § 86.17(e) and the Department's financial means for addressing the ABS Legacy Sites. The Department proposed to eliminate the reclamation fee for a variety of reasons: the ABS had been terminated in 2001; active mine sites permitted under the ABS had been converted to the CBS; operators are being required to post full-cost bonds for the costs to treat postmining pollutional discharges which had developed on active mine sites; the General Assembly had appropriated the money needed to complete the land reclamation of all of the ABS forfeited sites; and the discharges on the ABS forfeited sites were proposed to be addressed in accordance with the Program Enhancements Document. The public commentators objected to the proposed elimination of the reclamation fee for various reasons. The comments asserted that the Commonwealth had a legal obligation to adequately complete the reclamation of all ABS Legacy Sites, questioned the Department's financial capacity to do so without restructuring the current system, and recommended that the Department maintain the reclamation fee as part of a system for paying the ongoing operation and maintenance costs associated with treating postmining pollutional discharges at the ABS forfeiture sites in perpetuity. A summary of the comments and responses to the proposed rulemaking is set forth in Section F.

Following the close of the comment period on the proposed rulemaking, and prior to the appellate Court's decision in the related litigation, the Department presented this rulemaking to the MRAB at its January 25, 2007, meeting as a final-form without having made any changes to the proposed rulemaking. At the January 25, 2007, meeting, the MRAB was deadlocked in the vote on a motion to recommend that the Department proceed to final-form rulemaking and eliminate the reclamation fee. At that meeting, some of the MRAB members expressed the view that further progress in obtaining additional bond money for the primacy ABS discharge sites must be accomplished before the reclamation fee could be eliminated. After hearing the Department's report, the MRAB members opposed to moving forward with eliminating the reclamation fee stated that it was premature to eliminate

the fee because the Department did not have sufficient funds on hand to cover the costs to treat the discharges at the ABS Legacy Sites.

The deadlock in the MRAB's vote, the views expressed by the MRAB members at the January 2007 meeting, the public comments on the proposed rulemaking, and ultimately the decision by the Third Circuit in *Kempthorne* discussed previously, resulted in the Department's reconsideration of the advisability of eliminating the reclamation fee as part of this rulemaking. In the wake of the August 2007 Court decision in *Kempthorne*, the Department sought the advice of the MRAB on how to proceed in response to that decision. A series of MRAB meetings were held specifically so that the Department could obtain advice and recommendations from the MRAB based upon: the Third Circuit court decision, the outstanding required program amendment and 30 CFR Part 732 Notice issued by the OSM, and the public comments on the proposed rulemaking. This issue was on the agenda at the meetings of the full MRAB on October 25, 2007, and the special meeting on November 29, 2007. In addition, the Regulation, Legislation and Technical Committee of the MRAB met on October 17, 2007, and November 15, 2007, solely to address this issue.

At its November 29, 2007, meeting, the MRAB unanimously recommended that the Department address the ABS Legacy Sites by means of the following components. First, the Department should retain the reclamation fee and should dedicate the money collected from imposition of the fee solely for the purpose of paying operation and maintenance costs for the discharges on the ABS Legacy Sites. Second, the amount of the reclamation fee should be maintained at its current rate of \$100 for 2 years. After 2 years, it should be adjusted by operation of law to generate sufficient funds to pay operation and maintenance costs for discharges on the ABS Legacy Sites until a permanent alternate source of funding is found and the reclamation fee can be discontinued. Third, the Department should also dedicate money from certain other specific sources for use in paying operation and maintenance costs for ABS Legacy Sites. The MRAB suggested dedicating the moneys received from civil penalties collected under PASMCRRA, a portion of the interest earned on other moneys held in the SMCR Fund (to be determined at the Department's discretion), and funds from certain other identified sources. Lastly, the MRAB requested that the Department present its annual review and proposed adjustment of the reclamation fee amount to the MRAB for review and comment in advance of the adjusted amount being published in the *Pennsylvania Bulletin*, and that the final-form rulemaking include a provision expressly noting that the Department's determination of the adjusted amount is appealable to the Environmental Hearing Board (EHB). The MRAB agreed with the Department's proposal to create a separate restricted ABS Legacy Sites Account which would hold the collected bonds on primacy ABS forfeited discharge sites and the interest generated by those funds.

The Department met informally with OSM between August 2007 and January 2008 to discuss compliance with the appellate court decision in *Kempthorne*, and the Department's response to the outstanding required program amendment in 30 CFR 938.16(h) and the 30 CFR Part 732 Notice issued by OSM and reinstated by the Court. On November 6, 2007, OSM provided some direction in a letter to the Department regarding its expectations for a program amendment to address the ABS deficiencies. The letter stated that the Department should focus its attention on "developing an amendment that

provides enforceable guarantees that satisfy the financial obligations prescribed by § 800.11(e) for those reclamation obligations not covered by full cost bonds." The November 6, 2007, letter from OSM also stated that "the amendment needs to identify the specific revenue sources to be used, and include a requirement that the revenue generated be directed towards the reclamation of mine sites that were permitted after Pennsylvania obtained programmatic 'primacy' in 1982."

The Department drafted changes to this final-form rulemaking in response to the MRAB and OSM recommendations, and to the public comments received on the proposed rulemaking. The Department then sought public comment on the changes being made between proposed and final-form rulemaking through an Advance Notice of Final Rulemaking (ANFR). On January 5, 2008, the ANFR was published in the *Pennsylvania Bulletin* seeking comments on the changes from proposed to final rulemaking and providing thirty days to submit such comments. See 38 Pa.B. 80 (January 5, 2008). A summary of the comments and responses to the ANFR is set forth in Section F.1.

At the MRAB meeting on January 10, 2008, members of the MRAB commented on the draft of the final-form rulemaking issued as part of the ANFR and suggested several changes to the draft. First, the MRAB recommended strengthening the text of the provisions establishing the Reclamation Fee O&M Account and ABS Legacy Sites Account to better prevent the funds in these accounts from being used for some purpose other than paying costs associated with the treatment of discharges on the ABS Legacy Sites. The MRAB did not think that the provisions limiting how the Department could use the money were a sufficient protection. Second, the MRAB asked that the \$50 minimum amount set for the reclamation fee be removed from the draft issued with the ANFR. Third, they requested that only "excess" moneys in the Reclamation Fee O&M Account should be available for transfer to the ABS Legacy Sites Account. Finally, the MRAB recommended that a provision be added expressly stating that an alternate source of funding in lieu of the reclamation fee could be used if that alternate funding source was sufficient to maintain the \$3 million balance and cover the annual costs of treating the discharges at all ABS Legacy Sites. The final-form rulemaking was formally presented for consideration by the MRAB at its meeting on January 10, 2008, at which time the Department requested the MRAB's approval of the final-form rulemaking. After making the recommendations for changes described previously, the MRAB voted unanimously to recommend this final-form rulemaking for approval. The Department incorporated changes in response to these MRAB recommendations into the final rulemaking.

The Department also met individually with representatives of the surface mining industry, OSM, and interested citizens groups to solicit comments on the final-form rulemaking as proposed in the ANFR. The amendments made to the reclamation fee section (§ 86.17(e)) and the use-of-money section (§ 86.187) in this final-form rulemaking respond to recommendations made by the MRAB, to public comments made in response to the ANFR, and to comments made by OSM, the regulated industry and interested citizens groups. See Summary of Changes to the Proposed Rulemaking in Section E.

Bond Forfeiture Program Corrections

The amendments to the bond forfeiture regulations in §§ 86.187(b)—86.190 will make these sections consistent

with Federal regulations, and are necessary to satisfy conditions for maintaining primacy of the Commonwealth's regulatory program. OSM previously disapproved certain aspects of these regulations and required amendments to make the regulations as effective as Federal law. See 30 CFR 938.16(mm)—(qq) (required program amendments for Pennsylvania); 56 FR 55080 (October 24, 1991). These amendments will satisfy the requirements in 30 CFR 938.16(mm)—(qq). No changes were made to these bond-forfeiture amendments between proposed and final-form rulemaking.

E. Summary of Changes to the Proposed Rulemaking

The following sections have been revised or added in the final-form rulemaking.

§ 86.1. (definition of "ABS Legacy Sites")

The term "ABS Legacy Sites" has been added to the list of terms in § 86.1 (relating to definitions) because it is used throughout the amendments to §§ 86.17(e) and 86.187 made as part of this final-form rulemaking. The term "ABS Legacy Sites" connotes a certain class of surface coal mine sites which were permitted under the Department's primacy ABS. These sites have postmining pollutional discharges, the operator has defaulted on its obligation to adequately treat the discharges, and the operator's financial guarantee for reclamation is insufficient to cover the cost of treating the discharge in perpetuity. The Department's means for addressing reclamation of the ABS Legacy Sites, including the cost of treating the discharges in perpetuity, is the subject of the ruling of the Third Circuit Court of Appeals in the *Kemphorne* case discussed previously, and the focus of public comments on the proposed rulemaking. The cost of treating the discharges at these sites is being addressed by the amendments to §§ 86.17(e) and 86.187 made as part of this final-form rulemaking.

§ 86.1. (definition of "operational area")

The term "operational area" is being added to § 86.1 to help clarify the amendments to § 86.17(e) concerning the manner in which the reclamation fee is assessed in the context of a CBS. Following conversion to the CBS, the Department's practice has been to assess the per-acre reclamation fee on each acre of the approved operational area, as opposed to all acreage covered by the surface mining permit. Amendments to § 86.17(e) clarifying that the reclamation fee is assessed only for the operational area, and the definition for the term "operational area," are being added in response to public comments regarding the Department's practice of assessing the reclamation fee and the textual ambiguities in § 86.17(e) created by the Department's conversion to the CBS.

§ 86.1. (definition of "operation and maintenance costs")

The term "operation and maintenance costs" is being added to § 86.1 to help clarify the amendments to §§ 86.17(e) and 86.187 concerning how certain moneys are to be used to treat discharges on a certain class of bond forfeiture sites—the ABS Legacy Sites. The definition for the term "operation and maintenance costs" is being added in response to public comments and comments of the MRAB.

§ 86.1. (definition of "primacy alternate bonding system")

The term "primacy alternate bonding system" is being added to § 86.1. The ABS Legacy Sites, which are the focus of the *Kemphorne* case and the public comments received in response to the proposed rulemaking, are a class of coal mine sites which were permitted under the "primacy alternate bonding system" and have certain

additional characteristics described in the definition for "ABS Legacy Sites." It is necessary to distinguish sites permitted under the Department's ABS from those converted to, or originally permitted under, the CBS to accurately identify the ABS Legacy Sites. It is also necessary to distinguish further between the "primacy" ABS and the alternate bonding system that was employed by this Commonwealth for surface coal mine sites prior to this Commonwealth obtaining primacy in July 1982, because the preprimacy ABS sites are not subject to the requirements of 30 CFR 800.11(e). This term and its definition are needed to accurately identify the class of mine sites being addressed by the amendments to §§ 86.17(e) and 86.187 made as part of this final-form rulemaking.

§ 86.1. (definition of "recapitalization costs")

The term "recapitalization costs" is being added to the list of terms in § 86.1. When calculating the costs to treat postmining pollutional discharges at mine sites in perpetuity, the Department must include an amount to cover the costs to replace discharge treatment facility components over time (as such components simply wear out or otherwise need to be replaced). It may also be cost effective to replace a particular treatment system with another system that costs substantially less to operate and maintain in the long run. This term is needed to assure that these specific equipment-replacement costs are identified as part of the ongoing costs for treating postmining discharges at the ABS Legacy Sites. Recapitalization costs are expressly included as part of the operation and maintenance costs for treating discharges at ABS Legacy Sites in changes being made to §§ 86.17(e) and 86.187.

§ 86.17(e). (reclamation fees)

The proposed rulemaking amended this subsection to discontinue collection of the per-acre reclamation fee for surface mining activities upon publication of the rulemaking as final in the *Pennsylvania Bulletin*. In response to public comments and the Third Circuit ruling in *Kemphorne*, and in accordance with the recommendation of the MRAB, the Department determined that the reclamation fee is an adjustable source of revenue that should be used to help cover the costs of treating discharges at the ABS Legacy Sites. Consequently, the Department decided not to repeal the reclamation fee as proposed. The final rulemaking retains the reclamation fee, and amends the text of § 86.17(e) to clarify the application of this subsection in the context of the CBS. The amended text clarifies that the fee is assessed for each acre of the approved operational area of the permit, reflecting the Department's current practice. The amendments that clarify the manner the reclamation fee is assessed were made in response to public comments concerning the Department's practice and the textual ambiguities in § 86.17(e) created by conversion to the conventional bonding system. Provisions in this subsection pertaining to deposit of the reclamation fee in the SMCR Fund and its use for reclaiming forfeited mine sites have been deleted and reworked into a new paragraph (1) which is being added in this final-form rulemaking. Finally, minor editorial changes were made by adding references to § 86.143 (relating to requirement to file a bond) and to the exception for remaining areas provided in § 86.283(c) (relating to procedures).

§ 86.17(e)(1). (deposit and use of reclamation fees)

This provision, in conjunction with § 86.187(a)(1), establishes a separate subaccount within the SMCR Fund

called the Reclamation Fee O&M Trust Account, and requires the Department to deposit all reclamation fees it collects into the Reclamation Fee O&M Trust Account. This subsection also requires that the Department use the reclamation fees only for the purpose of paying the costs associated with treating postmining pollutional discharges at ABS Legacy Sites. In addition, this paragraph requires that all interest earned on the moneys in the Reclamation Fee O&M Trust Account be deposited into the account and be used only to pay the costs associated with treating postmining pollutional discharges at ABS Legacy Sites. The name of this account reflects that it is a trust established by this rulemaking and that the funds contained in the account are held in trust by the Commonwealth for the benefit of the people to be used by the Commonwealth to treat postmining pollutional discharges at ABS Legacy Sites. In response to the public comments on the proposed rulemaking, and the Third Circuit ruling in *Kemphorne*, the Department determined that the reclamation fee is an adjustable source of revenue that should be used to help cover the costs of treating discharges at the ABS Legacy Sites. Moreover, to comply with the Court's ruling, the Department must identify and dedicate specified sources of revenue that will generate enough money to cover the costs for treating discharges at these sites. This subsection has been added to the final-form rulemaking as part of an enforceable regulatory mechanism for assuring that the Department always has sufficient funds to cover the costs of reclamation, including the costs of treating postmining pollutional discharges in perpetuity, at all the ABS Legacy Sites.

§ 86.17(e)(2). (preparation of fiscal-year report on Reclamation Fee O&M Trust Account)

This provision requires the Department to prepare a report after the end of each fiscal year containing financial analysis and projections of the revenues and expenditures of the Reclamation Fee O&M Trust Account. The report must be made available for review by the MRAB and the general public. This provision establishes a process by which the MRAB and the general public can examine the Department's expenditure of funds from the Reclamation Fee O&M Trust Account for the treatment of discharges at the ABS Legacy Sites, the amount of revenue deposited into the account during the prior fiscal year from the various dedicated revenue sources, and the projected expenditures and projected revenue. This provision will assist the OSM, the MRAB, affected persons in the industry, and interested members of the public, with their oversight of the Department's compliance with the requirements of 30 CFR 800.11(e) as applied to the ABS Legacy Sites, the Court ruling in *Kemphorne*, and the required program amendment in 30 CFR 938.16(h). The fiscal year-end report will also serve as the vehicle by which the Department will provide these same stakeholders with an opportunity to review and comment on the calculation of the amount of the reclamation fee under § 86.17(e)(3) and (4).

§ 86.17(e)(3). (amount of the reclamation fee)

The amount of the reclamation fee is currently set at \$100 per acre. Section 86.17(e)(3) requires the fee amount to be maintained at \$100 per acre until December 31, 2009. After this initial period at \$100 per acre, the reclamation fee will be annually adjusted based on criteria specified in § 86.17(e)(3) and (4). Members of the regulated industry expressed their intention to seek the establishment of a permanent alternative funding source which could take the place of the reclamation fee by providing all the funds needed to pay the annual operation and maintenance costs for the ABS Legacy Sites. The

MRAB recommended that the regulations include express provisions regarding the use of a permanent alternative funding source in lieu of the reclamation fee. In response to this recommendation of the MRAB and to comments made by the regulated industry on the ANFR, this section also includes provisions concerning the potential for a permanent alternative source of funding to be used in lieu of the reclamation fee—if that alternative funding source meets the conditions in § 86.17(e)(3)(i) and (ii). Section 86.17(e)(3) provides that the Department will begin annually adjusting the amount of the reclamation fee as of January 1, 2010, and will continue to do so, until either a permanent alternative funding source is established or the ABS Legacy Sites Trust Account becomes actuarially sound. Section 86.17(e)(3)(i) makes clear that the reclamation fee will be adjusted annually until the ABS Legacy Sites Trust Account is actuarially sound, unless a permanent alternative funding source in place of the reclamation fee is used to fund the Reclamation Fee O&M Trust Account. Section 86.17(e)(3)(ii) establishes the conditions that a permanent alternative funding source must meet before the reclamation fee could be discontinued and the permanent alternative source used in its stead. Such an alternative funding source must be permanent; must provide sufficient revenues to maintain a balance in the Reclamation Fee O&M Trust Account of at least \$3,000,000; and, must provide sufficient revenue to pay the annual operation and maintenance costs for all the ABS Legacy Sites.

§ 86.17(e)(4). (amount of the reclamation fee)

The Department expects that the adjusted amount of the reclamation fee will become effective as of January 1, 2010, and will be similarly made effective on that date each year thereafter. Section 86.17(e)(3) sets the basic parameters for annually adjusting the amount of the reclamation fee, and § 86.17(e)(4) lists the specific factors to be used in the Department's calculation of the adjusted amount. Section 86.17(e)(3) requires that the reclamation fee be annually adjusted so as to ensure that there are sufficient revenues to maintain a balance of at least \$3,000,000 in the Reclamation Fee O&M Trust Account. Following the close of the Commonwealth's 2008-09 fiscal year (in June 2009), the Department must prepare its year-end financial analysis of the Reclamation Fee O&M Trust Account under § 86.17(e)(2). The 2008-09 Fiscal-Year report must include the Department's calculation of the amount of the reclamation fee for the upcoming calendar year commencing on January 1, 2010. Section 86.17(e)(4) prescribes the factors to be used for making the calculation—essentially an analysis of the revenues and expenditures for the past year and projected revenues and expenditures for the current fiscal year.

The Department recognizes the reclamation fee as a flexible source of funding for the operation and maintenance costs associated with treating discharges at the ABS Legacy Sites. Section 86.17(e)(3) and (4) establishes a mechanism for annually adjusting the amount of the reclamation fee. The adjustment procedure is necessary to accommodate the fluctuations in the operation and maintenance costs for treating pollutional discharges at the ABS Legacy Sites that will occur over time. The adjustment procedure is also necessary to maintain a sufficient cushion in the Reclamation Fee O&M Trust Account to prevent pollution and assure that the Department has sufficient money at any time to treat the discharges at the ABS Legacy Sites. A flexible mechanism for adjusting the fee, up or down, will assure that the Department always has sufficient funds on hand to cover the costs of treating the discharges at all the ABS Legacy Sites—

thereby enabling Pennsylvania's bonding program to meet the requirements of 30 CFR 800.11(e)—while simultaneously avoiding collection of excessive reclamation fee amounts from mine operators.

§ 86.17(e)(5). (publishing amount of the adjusted reclamation fee; calculation appealable)

Section 86.17(e)(5) is added to prescribe a procedure for the Department to publish the amount of the adjusted reclamation fee. The Department must review its calculation of the adjusted reclamation fee amount at a public meeting of the MRAB (most likely in October of each year), when the members of the MRAB, affected persons in the industry, and the general public, will have an opportunity to comment on the Department's financial report and its calculation of the adjusted amount of the fee. The Department will subsequently publish the adjusted amount of the reclamation fee in the *Pennsylvania Bulletin*, the adjusted amount to be effective upon publication. This provision also states that the Department's calculation of the adjusted reclamation fee is a final action appealable to the EHB, which the MRAB recommended be included as an express provision in the changes to the final-form rulemaking. Section 86.17(e)(5) balances the Department's need for a flexible mechanism to assure funding to treat discharges at the ABS Legacy Sites with the interests of the industry and the public in reviewing, commenting on, and challenging (before an independent forum) the Department's administration of the Reclamation Fee O&M Trust Account and the calculation of the new reclamation fee.

§ 86.17(e)(6). (conditions for ceasing collection of reclamation fee)

Section 86.17(e)(6) requires the Department to cease assessment and collection of the reclamation fee when the ABS Legacy Sites Trust Account, established under § 86.187(a)(i), is actuarially sound. The conditions which must be met for the ABS Legacy Sites Trust Account to become actuarially sound are prescribed here and in § 86.187(a)(2)(ii). The Department's current estimate of the annual operation and maintenance costs for treating the discharges at the ABS Legacy Sites is approximately \$1.2 million. However, the ultimate annual amount for operation and maintenance costs may change significantly depending upon the number of additional underfunded sites which go into default and other relevant factors. When financial guarantees sufficient to cover reclamation costs have been approved for all mine sites permitted under the primacy ABS, no additional sites will need to be added to the class of ABS Legacy Sites. Once the Department completes construction of all necessary discharge treatment systems for all of the ABS Legacy Sites, the Department will ascertain the amount of annual operation and maintenance costs, including recapitalization costs, which will be necessary to treat the discharges at all of the ABS Legacy Sites. This provision allows the Department to cease collection of the reclamation fee when the ABS Legacy Sites Trust Account contains funds which generate interest at a rate sufficient to pay the annual operation and maintenance costs for treating postmining pollutional discharges at all the ABS Legacy Sites. At that point, the Department will always have sufficient funds on hand in the ABS Legacy Sites Account to cover the costs of treating the discharges at all the ABS Legacy Sites, and the Commonwealth will have met the requirements of 30 CFR 800.11(e) without the need for additional revenue from the reclamation fee.

§ 86.187(a)(1). (deposit of reclamation fee into Reclamation Fee O&M Trust Account)

This provision, in conjunction with § 86.17(e)(1), has been amended to establish a separate subaccount within the SMCR Fund called the Reclamation Fee O&M Trust Account, and to require that the reclamation fees collected by the Department under § 86.17(e) must be deposited into the Reclamation Fee O&M Trust Account. The provision also directs that the interest accrued on collected reclamation fees must be deposited into the Reclamation Fee O&M Trust Account. Section 86.187 (relating to use of money) specifies the purposes for which the Department must use moneys from fees, fines, penalties, bond forfeitures and other moneys received under PASMCR, as well as interest earned on these moneys. By requiring through regulations that certain identified funding sources must be used to pay the costs of treating the discharges at the ABS Legacy Sites, the Department is establishing an enforceable regulatory mechanism for assuring that the Department always has sufficient funds to cover the costs of reclamation, including the costs of treating postmining pollutional discharges in perpetuity, at all the ABS Legacy Sites. The enforceable regulatory mechanism created by the amendments to the final-form rulemaking will enable the Commonwealth's bonding program to meet the requirements of 30 CFR 800.11(e).

§ 86.187(a)(1)(i). (deposit of civil penalties into Reclamation Fee O&M Trust Account)

Under section 18(a) of the PASMCR, civil penalties collected under that statute may be used by the Department for reclamation of surface coal mine sites, restoration of water supplies affected by surface coal mining, or for any other conservation purposes provided by the PASMCR. See 52 P. S. § 1396.18(a). The Department is thus authorized to use civil penalty moneys, as a supplement to forfeited bonds, for purposes of reclaiming the ABS Legacy Sites including treatment of postmining pollutional discharges at these sites. New § 86.187(a)(1)(i) will require the Department to deposit into the Reclamation Fee O&M Trust Account the moneys collected from civil penalties assessed under the PASMCR, and to use those moneys deposited into the account to pay the costs associated with treating discharges at the ABS Legacy Sites. This provision responds to public comments on the proposed rulemaking regarding assurance of adequate funding to treat the discharges at the ABS Legacy Sites, as well as to the court ruling in the *Kempthorne* case regarding the obligation of the Department to meet the requirements of 30 CFR 800.11(e). To comply with the Court's ruling, the Department must identify and dedicate specified sources of revenue that combined will generate enough money to cover the costs for treating discharges at all the ABS Legacy Sites. This subsection identifies a source of revenue—civil penalties collected under the PASMCR—and requires the Department to use this source of revenue to fund the discharge-treatment costs of the ABS Legacy Sites. As such, this provision is added to the final rulemaking as part of an enforceable regulatory mechanism for assuring that the Department always has sufficient funds to cover the costs of reclamation, including the costs of treating postmining pollutional discharges in perpetuity, at all the ABS Legacy Sites.

This provision recognizes that a percentage of the civil penalties collected must be allotted to the Environmental Education Fund by law. See 35 P. S. § 7528 regarding the environmental education fund. Section 86.187(a)(1)(i) also caps the amount of civil penalties that must be deposited

into the Reclamation Fee O&M Account during a single fiscal year at \$500,000. If the Department collects more than \$500,000 in civil penalties during a fiscal year, § 86.187(a)(1)(i) gives the Department discretion to deposit the excess amount into the SMCR Fund where it may be used for the purposes described in § 86.187(a)(3).

§ 86.187(a)(1)(ii). (deposit of interest earned on other moneys in the SMCR Fund into the Reclamation Fee O&M Trust Account)

Similar to the deposit of civil penalties required by § 86.187(a)(1)(i), this section is being added to authorize the Department to deposit into the Reclamation Fee O&M Trust Account a portion of the interest which is earned on other moneys in the SMCR Fund. The SMCR Fund contains moneys from released bonds, license fees, and other sources; these moneys earn interest which may be used by the Department for the purposes specified by section 18(a) of the PASMCR. See 52 P. S. § 1396.18(a) and; § 86.187(a). This provision identifies another source of revenue to be used to fund the discharge-treatment costs of the ABS Legacy Sites. Section 86.187(a)(1)(ii), like § 86.187(a)(i), is being added to the final-form rulemaking as part of an enforceable regulatory mechanism for assuring that the Department always has sufficient funds to cover the costs of reclamation, including the costs of treating postmining pollutional discharges in perpetuity, at all the ABS Legacy Sites. Notably, this provision gives the Department discretion as to the amount of the interest earned on other moneys in the SMCR Fund which will be deposited into the Reclamation Fee O&M Trust Account during any given fiscal year.

§ 86.187(a)(1)(iii). (deposit of other moneys into the Reclamation Fee O&M Trust Account)

Section 86.187(a)(1)(iii) will give the Department regulatory authority to deposit other monies from sources such as legislative appropriations or donations into the Reclamation Fee O&M Trust Account. In addition, in the event a change in the applicable law provides for it, this provision will give the Department regulatory authority to deposit into the Reclamation Fee O&M Trust Account the fees that will be collected for "sum-certain financial guarantees needed to facilitate full-cost bonding" (colloquially called "conversion assistance financial guarantees" or "conversion assistance bonds"). Under section 213 of the General Appropriation Act of 2001 (P. L. 979, No. 2001-6A), the Legislature appropriated \$7 million to the Department for purposes of establishing a financial guarantee program to assist with the conversion to full-cost bonding. Section 213 of the General Appropriation Act of 2001 also authorized the Department to collect fees for the conversion assistance financial guarantees issued by the Department as part of the program, although the law requires these fees be used to help finance reclamation of the sites participating in the conversion assistance financial guarantee program which have been forfeited. See General Appropriation Act of 2001 (P. L. 979, No. 2001-6A) in section 213 (appropriating \$7,000,000 for "the conservation purpose of providing sum-certain financial guarantees needed to facilitate full-cost bonding for a fee and, in the event of forfeiture, to finance reclamation of the forfeited surface mining site in an amount not to exceed the sum-certain financial guarantee"). In response to the recommendation of the MRAB, the Department added § 86.187(a)(1)(iii) to the final rulemaking to provide explicit regulatory authority for the Department to deposit moneys from other sources into the Reclamation Fee O&M Trust Account where the

moneys will be used to fund the costs associated with treating discharges at the ABS Legacy Sites.

§ 86.187(a)(1)(iv). (restriction on use moneys in the Reclamation Fee O&M Trust Account)

Section 86.187(a)(1)(iv) specifies that all moneys deposited into the Reclamation Fee O&M Trust Account must be used to pay the costs associated with treating the postmining pollutional discharges at the ABS Legacy Sites. As with the other amendments to § 86.187(a)(1) added for the final-form rulemaking, this provision creates an enforceable regulatory mechanism for assuring that the Department always has sufficient funds to cover the costs of reclamation, including the costs of treating postmining pollutional discharges in perpetuity, at all the ABS Legacy Sites. As part of its approval of this final-form rulemaking, the MRAB recommended that the Department strengthen the text of the regulations to make it clear that the moneys in the Reclamation Fee O&M Trust Account and the ABS Legacy Sites Trust Account may only be used for the purpose of paying the costs associated with discharges at the ABS Legacy Sites. In response to the MRAB's recommendation, the Department is declaring through this final rulemaking that the Department is establishing the Reclamation Fee O&M Trust which is an account in the SMCR Fund. The Department has included language in § 86.187(a)(1)(iv) that specifically establishes the trust called the Reclamation Fee O&M Trust Account. This provision explicitly states that the moneys held in the Reclamation Fee O&M Trust Account are being held by this Commonwealth in trust for the benefit of all the people of the Commonwealth to protect their rights under Article I, § 27 of the Pennsylvania Constitution. The Commonwealth's exercise of its fiduciary duties to manage and use these moneys for the purposes specified will assure the Department has sufficient funds to cover the annual treatment costs at ABS Legacy Sites until the ABS Legacy Sites Trust Account is actuarially sound which will meet the court ruling in the *Kemphorne* case regarding the obligation of the Department to meet the requirements of 30 CFR 800.11(e).

§ 86.187(a)(2). (use of moneys received from forfeiture of bonds)

A minor editorial change is being made to this provision to clarify that moneys received from the Department's forfeiture of bonds on ABS Legacy Sites will be used to reclaim the land and restore water supplies affected by the surface mining operations upon which liability was charged on the bond, and, more specifically, in accordance with § 86.187(a)(2)(i) and (ii) which are being added as part of this final-form rulemaking.

§ 86.187(a)(2)(i). (deposit of moneys from bonds forfeited on ABS Legacy Sites into separate subaccount)

Section 86.187(a)(2)(i) establishes a separate subaccount within the SMCR Fund called the ABS Legacy Sites Trust Account. The moneys received from the bonds forfeited on ABS Legacy Sites, and all interest accrued on such moneys, must be deposited into the ABS Legacy Sites Trust Account according to new § 86.187(a)(2)(i). Section 86.187(a)(2)(i) will also provide regulatory authorization for the Department to deposit moneys from other sources, such as appropriations, donations, or interest earned on other moneys in the SMCR Fund, into this account. Finally, § 86.187(a)(2)(i) authorizes the Department to transfer "excess" moneys from the Reclamation Fee O&M Trust Account into the ABS Legacy Sites Trust Account, upon review and recommendation of the MRAB.

The MRAB recommended that the Department's authority to transfer funds from the Reclamation Fee O&M Trust Account be limited to "excess" moneys in the Reclamation Fee O&M Trust Account. The MRAB did not explain what would constitute "excess" funds; this provision requires the Department to seek the MRAB's review and recommendation prior to transferring any "excess" funds. Section 86.187(a)(2)(i) responds to public comments on the proposed rulemaking regarding assurance of adequate funding to treat the discharges at the ABS Legacy Sites, as well as to the court ruling in the *Kemphorne* case regarding the obligation of the Department to meet the requirements of 30 CFR 800.11(e).

Section 86.187(a)(2)(i) will establish a kind of savings account for moneys ultimately to be used to pay the annual operation and maintenance costs associated with all of the ABS Legacy Sites. The Department currently has approximately \$4.8 million in forfeited bonds held for primacy ABS forfeited discharge sites; these funds will constitute the initial principal in the ABS Legacy Sites Trust Account. Section 86.187(a)(2)(iii), discussed as follows, prohibits the Department from making any disbursements from the ABS Legacy Sites Trust Account until the account becomes actuarially sound. The Reclamation Fee O&M Trust Account will be used to pay the ongoing operation and maintenance costs on a pay-as-you-go basis, while funds in the ABS Legacy Sites Trust Account accumulate from earned interest and other potential income sources. The amendments to § 86.17(e) in this final rulemaking will enable the Department to annually replenish and maintain funds in the Reclamation Fee O&M Trust Account sufficient to cover the annual operation and maintenance costs for treating discharges at the ABS Legacy Sites for the foreseeable future. In the meantime, the ABS Legacy Sites Trust Account will grow to the point that the interest earned on that account will be enough to cover all the annual operation and maintenance costs for the ABS Legacy Sites, without the need to generate any additional revenue from other sources such as the reclamation fee.

§ 86.187(a)(2)(ii). (restriction on use of moneys in ABS Legacy Sites Trust Account)

This provision requires that all moneys deposited into the ABS Legacy Sites Trust Account be used only to pay the operation and maintenance costs for treating discharges at the ABS Legacy Sites. As in § 86.187(a)(1)(iv), and in response to the MRAB's comments, the Department is declaring through this final rulemaking that it is establishing the ABS Legacy Sites Trust as an account in the SMCR Fund. The Department has included language in § 86.187(a)(2)(ii) that specifically establishes the trust called the ABS Legacy Sites Trust Account. This regulation explicitly states that all moneys deposited in the ABS Legacy Sites Trust Account are held by this Commonwealth *in trust* for the benefit of the people of the Commonwealth to protect their rights under Article I, § 27 of the Pennsylvania Constitution, and these funds may only be used to pay the costs associated with treating discharges at the ABS Legacy Sites. The Commonwealth's exercise of its fiduciary duties to manage and use these moneys for the purposes specified will assure the Department has sufficient funds to cover annual treatment costs at ABS Legacy Sites which will meet the court ruling in the *Kemphorne* case regarding the obligation of the Department to meet the requirements of 30 CFR 800.11(e).

§ 86.187(a)(2)(iii), (A)–(C). (restrictions on ABS Legacy Sites Trust Account)

Section 86.187(a)(2)(iii) prohibits the Department from making any disbursements from the ABS Legacy Sites Trust Account until the account becomes actuarially sound. The conditions which must be met for the ABS Legacy Sites Trust Account to become actuarially sound are prescribed in this paragraph. Three conditions must be met before the ABS Legacy Sites Trust Account will be actuarially sound. First, financial guarantees sufficient to cover all reclamation costs must have been approved by the Department for all mine sites permitted under the primacy ABS. At the time of conversion to the CBS there were some surface coal mining sites, permitted under the primacy ABS, that were not being actively mined but had postmining pollutional discharges and the operators were continuing to treat the discharges. The bonds for these sites were not sufficient to cover the costs to perpetually treat the discharges. These sites remain part of the ABS legacy until the costs to treat the discharges in perpetuity are covered by fully-funded financial guarantees, at which time they will be full cost bonded under the conventional bonding system. The Department has been working to obtain fully-funded financial guarantees for these ABS-permitted discharge sites, but some of these continue to be underfunded. The operator may ultimately default on its obligation at some of these underfunded sites and such defaulted sites would become part of the class of ABS Legacy Sites for which the Department must assure long-term funding for discharge treatment. When financial guarantees sufficient to cover reclamation costs have been approved for all mine sites permitted under the primacy ABS, no additional sites will need to be added to the class of ABS Legacy Sites. Second, the Department must have completed construction of all necessary discharge treatment systems for all of the ABS Legacy Sites. Once the entire class of ABS Legacy Sites is known, and all necessary discharge treatment systems have been constructed for these sites, the Department will be able to ascertain the amount of annual operation and maintenance costs, including recapitalization costs, which will be necessary to treat all the discharges at all of the ABS Legacy Sites. Once this figure is known, the third condition precedent may be satisfied, that is, the ABS Legacy Sites Trust Account must contain funds which generate interest at a rate and amount sufficient to pay the annual operation and maintenance costs for treating all postmining pollutional discharges at all the ABS Legacy Sites. When the ABS Legacy Sites Trust Account becomes actuarially sound, the Department will always have sufficient funds on hand in the ABS Legacy Sites Trust Account to cover the costs of treating the discharges at all the ABS Legacy Sites, and the Commonwealth's bonding program will meet the requirements of 30 CFR 800.11(e) without the need for any revenue from the reclamation fee or the other revenue sources dedicated to the Reclamation Fee O&M Trust Account.

§ 86.187(a)(2)(iv). (transfer of remaining funds in Reclamation Fee O&M Trust Account to ABS Legacy Sites Trust Account)

Section 86.187(a)(2)(iv) provides for termination of the Reclamation Fee O&M Trust Account when the ABS Legacy Sites Trust Account becomes actuarially sound. This provision authorizes the Department to transfer the remaining funds in the Reclamation Fee O&M Trust Account into the ABS Legacy Sites Trust Account when that account, combined with the Reclamation Fee O&M Trust Account, contains sufficient funds to pay the annual operation and maintenance costs for the ABS Legacy Site

discharges. At that point, the Reclamation Fee O&M Trust Account will no longer be necessary and will terminate. In addition, the reclamation fee (or an alternative permanent funding source established in lieu of the reclamation fee) will no longer be needed and will cease to be collected, and the deposit of civil penalty moneys into the Reclamation Fee O&M Trust Account under § 86.186(a)(1)(i) will also cease.

§ 86.283(c). (exception to paying reclamation fees for remaining areas)

The proposed rulemaking would have deleted this subsection which provides an exception to requirement to the pay per-acre reclamation fees in § 86.17(e) for remaining areas for mine operators approved to participate in the remaining financial guarantees program. This change was proposed for consistency with the change proposed in § 86.17(e). The final-form rulemaking will retain this subsection in its current form, given that the Department has determined in response to public comments and the ruling of the Court in *Kempthorne* that the reclamation fee in § 86.17(e) should be retained. The exception for remaining areas provided by this subsection is an incentive to remaining in this Commonwealth which the Department believes should be continued.

F. Summary of Comments and Responses on the Proposed Rulemaking

The Board approved publication of the proposed amendments at its meeting on May 17, 2006. The proposed amendments were published at 36 Pa.B. 4200. Public comments were accepted from August 5, 2006, to September 5, 2006.

One organization, Citizens for Pennsylvania's Future, acting on behalf of a group of six organizations (including itself), submitted timely comments in response to the proposed rulemaking. The group of commentators included the Pennsylvania Federation of Sportsmen's Clubs, Inc., Pennsylvania Chapter Sierra Club, Pennsylvania Trout, Inc., Tri-State Citizens Mining Network, Inc., Mountain Watershed Association, Inc. and Citizens for Pennsylvania's Future. The Independent Regulatory Review Commission (IRRC) did not submit comments in regard to the proposed rulemaking.

The following is a summary of the comments received during the public comment period, organized according to subject matter.

1) Commentators Submitted Arguments They Presented to the United States Court of Appeals for the Third Circuit in Related Litigation as Comments on the Proposed Rulemaking.

(C) Of the group of six organizations that submitted comments, five are plaintiffs in a Federal lawsuit currently pending before the United States District Court for the Middle District of Pennsylvania called *Pennsylvania Federation of Sportsmen's Clubs, Inc. et al. v. Kempthorne, et al.*, (No. 03-cv-0220) and a related case in the same court called *Pennsylvania Federation of Sportsmen's Clubs, Inc. et al. v. McGinty, et al.*, (No. 99-cv-1791). The *Kempthorne* (previously called *Norton*) case names the Department of the Interior and OSM as defendants; the Department intervened as a defendant in this litigation. See *Pennsylvania Federation of Sportsmen's Clubs, Inc. et al. v. Norton, et al.*, 413 F. Supp. 2d 358 (M.D. Pa. 2006). The United States District Court in *Norton* granted the joint motion of the Federal defendants and the Department requesting dismissal of the case, and the commentators appealed the decision to the United States Court of Appeals for the Third Circuit.

Commentators argued in the litigation that it was a violation of section 509 of FSMCRA (30 U.S.C.A. § 1259), and the regulations implementing FSMCRA issued by OSM, specifically 30 CFR 800.11(e)(1), for the Department to terminate its ABS when it converted to a CBS in 2001. Commentators also argued that, even if the ABS was lawfully terminated in 2001, the primacy ABS forfeited sites plus any additional sites whose reclamation costs are not fully covered by CBS bonds, remain subject to the requirements of 30 CFR 800.11(e)(1). As such, the commentators argued that the Commonwealth remains obligated to provide for the complete reclamation and treatment of the ABS Legacy Sites and their pollutional discharges by assuring the Department has available sufficient money to complete reclamation for these sites at any time. These commentators submitted the arguments in their brief filed with the Court of Appeals as comments on the proposed deletion of § 86.17(e).

(R) The Third Circuit decided commentators/appellants' appeal and issued an opinion on August 7, 2007 in which the Court reversed, in part, the district court and remanded the case for further proceedings in accordance with the appellate decision. See *Pennsylvania Federation of Sportsmen's Clubs, Inc. v. Kempthorne*, 497 F.3d 337 (3d Cir. 2007). The Third Circuit reached two essential conclusions. First, the appellate court agreed with the district court that the Commonwealth terminated its ABS in August 2001 and effectively converted to a CBS at that time, and that OSM did not abuse its discretion in approving that conversion. *Kempthorne*, 497 F.3d at 349. Second, the Third Circuit concluded that 30 CFR 800.11(e) continues to apply to the ABS Legacy Sites and "that § 800.11(e) requires that Pennsylvania fulfill the obligations it voluntarily assumed to ensure that these sites are fully reclaimed." *Kempthorne*, 497 F.3d at 353. To meet the requirements of Federal law, the Commonwealth must assure (through a legally enforceable mechanism) that it will have sufficient money available at any time to complete the reclamation of all the ABS Legacy Sites, including the treatment of any postmining pollutional discharges at these sites.

The Department determined that the reclamation fee is an adjustable source of revenue that should be used to cover the costs of treating discharges at the ABS Legacy Sites and consequently decided not to delete the reclamation fee in § 86.17(e) as proposed. The final rulemaking restructures the reclamation fee as part of the Department's compliance with the mandate of the Third Circuit ruling and the requirements of 30 CFR 800.11(e). Further amendments to §§ 86.17(e) and 86.187 were made in the final rulemaking in response to these comments and the ruling of the Court in *Kempthorne*; these regulatory amendments will require the Department to dedicate certain identified funding sources to help pay the reclamation costs for ABS Legacy Sites. The final-form rulemaking will also establish a procedure for adjusting the reclamation fee amount. As a result of the amendments, this final rulemaking will establish an enforceable regulatory mechanism to address the remnants of the primacy ABS in a manner that meets the requirements of 30 CFR 800.11(e), the Third Circuit's application of the law to the Commonwealth's bonding program, and the OSM program amendment at issue in the litigation.

2) *Eliminating the Reclamation Fee Required by 25 Pa. Code § 86.17(e) would Violate Federal Law.*

(C) Commentators asserted that eliminating the per-acre reclamation fee in § 86.17(e) would violate Federal law because the fee is a necessary component of an active

ABS in this Commonwealth and the Commonwealth must maintain an active ABS concurrently with the CBS until every site bonded under the ABS that remains permitted has completely converted to a CBS by posting reclamation guarantees covering the full cost of the remaining reclamation, including perpetual mine drainage treatment.

(R) The Department disagrees with commentators' broad assertion that the proposed deletion of § 86.17(e) would necessarily have violated Federal law. There is no specific requirement in Federal law for the Commonwealth to impose a per-acre reclamation fee for surface coal mining activities conducted in the Commonwealth. To maintain its jurisdiction over regulation of coal surface mining activities, the Commonwealth must maintain a State program in accordance with the requirements of FSMCRA. See 30 U.S.C.A. § 1253. State laws may not be inconsistent with the provisions of FSMCRA (30 U.S.C.A. § 1255(a)), and, in general, a State program must be at least as effective as the requirements in FSMCRA. See 30 U.S.C.A. § 1255. There is no specific provision in FSMCRA regarding imposition of a per-acre reclamation fee like that imposed by § 86.17(e). FSMCRA states a general requirement that before a coal mining permit is issued an operator must post a performance bond sufficient to assure completion of the reclamation plan if the work had to be performed by the regulatory authority. See 30 U.S.C.A. § 1259(a). Section 509 of FSMCRA also allows OSM to approve as part of a State program an "alternative bonding system that will achieve the objectives and purposes of the bonding program pursuant" to section 509 of FSMCRA. See 30 U.S.C.A. § 1259(c). The precise details of an acceptable ABS are not specified by Federal law; thus, a State's ABS is not specifically required by Federal law to include a per-acre reclamation fee of the type found in § 86.17(e), and it would not have been a violation of Federal law to eliminate the per-acre reclamation fee.

The Department also disagrees with commentators' assertion that the Commonwealth must maintain an active ABS concurrently with the CBS implemented in 2001. This question was resolved by the Third Circuit in *Kempthorne* when it decided that the Commonwealth terminated its active ABS in August 2001.

3) *Discontinuing Collection of the 25 Pa. Code § 86.17(e) Reclamation Fee would be Unwise*

(C) Commentators suggested that it would be unwise to discontinue collection of the per-acre reclamation fee imposed by § 86.17(e) because the revenue from the reclamation fee could be used to supplement the CBS. The revenue could be particularly helpful for any actively-mined permitted sites with long-term mine drainage treatment or substantial land-reclamation liabilities that are currently under-bonded, in the event that the sites are ultimately abandoned and the bonds forfeited.

(R) The Department disagrees with commentators that the reclamation fee should be used to supplement the CBS. The CBS internalizes the costs of mining and reclamation first and foremost on a site-by-site/operator-by-operator basis. The most equitable manner of implementing the CBS is to assure that the conventional bond for each individual permitted site will cover the cost for the Department to complete the site reclamation plan, including treatment of all postmining discharges in perpetuity. The Department has actively pursued this goal by undertaking frequent and continuous study of its methods for calculating conventional bonds. A refinement of Technical Guidance Document No. 563-2504-001, *Conventional*

Bonding for Land Reclamation—Coal, was recently completed with input from the MRAB. See 36 Pa.B. 7178 (November 25, 2006).

(C) Commentators suggest that the Department should enhance the revenues which could be used to reclaim sites that were forfeited during administration of the ABS but have not been fully reclaimed because the sites have untreated postmining discharges. Referring to the list of 63 ABS primacy bond forfeiture sites with 99 long-term discharges found in the Department's 2003 Program Enhancements Document, commentators contend that maintaining the 25 Pa. Code § 86.17(e) reclamation fee could yield several hundred thousand dollars which could help pay the costs of long-term treatment facilities at the ABS bond forfeiture discharge sites. They further contend that the cost-benefit analysis included with the proposed rulemaking failed to account for the benefits to the Commonwealth and the public that would be lost by eliminating the reclamation fee.

(R) The Department agrees that revenues used for reclaiming the ABS Legacy Sites should be enhanced. The final rulemaking will greatly enhance the revenues available for reclaiming sites forfeited during administration of the primacy ABS that were not fully reclaimed because the sites have untreated postmining discharges. The provisions added to the final rulemaking are designed to ensure that the Department meets the requirements of 30 CFR 800.11(e), as applied by the Third Circuit and subject to OSM's oversight and enforcement.

The fee will be maintained at its current level of \$100 per acre of operational area until December 31, 2009, and will then be annually adjusted as necessary to assure that the Department continually has sufficient funds to cover the operation and maintenance costs for treating discharges at all ABS Legacy Sites. The final-form rulemaking will also require, by enforceable regulation, that any interest earned by the reclamation fee moneys be used to pay operation and maintenance costs associated with treating discharges at ABS Legacy Sites.

4) *The Department Has Improperly Applied the Reclamation Fee Regulation After Conversion to the CBS.*

(C) Commentators contended that the Department drastically cut the amount of revenue generated by the \$100 per-acre reclamation fee following conversion to the CBS because the Department unlawfully applied the reclamation fee only to the operational area of sites permitted under the CBS. They further contend that if the Department applied the reclamation fee to the entire permitted acreage of CBS permitted surface coal mine sites, the Department could be collecting \$600,000 to \$800,000 per year in reclamation fees imposed by 25 Pa. Code § 86.17(e).

(R) The Department disagrees with commentators' argument that the Department's application of § 86.17(e) in the context of the CBS is unlawful. Upon implementation of the CBS in late 2001, a question the Department encountered was how to apply § 86.17(e) to permits issued under the CBS. The text of § 86.17(e) provides no indication of how to apply the per-acre reclamation fee to permits issued under the CBS. Exercising its discretion in applying its own regulations, the Department decided that a reasonable method of applying the reclamation fee requirement to surface coal mine permits issued under the CBS was to impose the fee solely for the acreage of the operational area. The Department's application of § 86.17(e) in the context of the CBS is neither plainly erroneous nor unreasonable, and therefore is not unlaw-

ful. However, in order to squarely address the issue, the final rulemaking will amend the text of § 86.17(e) to expressly provide that the reclamation fee will be applied to the operational area. The final rulemaking will also include a definition for "operational area" in § 86.1 as further clarification.

With respect to the potential revenue that could be generated from the \$100 per-acre reclamation fee, in fiscal year 2001-02, (the last year the reclamation fee was collected for all acreage permitted in surface mining permits), the Department collected \$529,813. Following conversion to the CBS, and application of the reclamation fee solely to the operational area of permitted surface mining sites, the Department collected \$148,936 in Fiscal Year 2002-03; \$221,620 in Fiscal Year 2004-05; and \$201,467 in Fiscal Year 2005-06. If the reclamation fee had been collected for all surface coal mine acreage permitted, the average yield would have been approximately \$600,000 annually for the past 5 years.

5) *The Department Should Retain the Reclamation Fee and Impose a Per-Ton Severance Fee Funding Mechanism for ABS Discharge Sites.*

(C) Commentators assert that the Department has broad authority under PASMCRRA to establish other revenue-generating mechanisms in addition to the per-acre reclamation fee, such as a fee for each ton of coal severed in the State. They recommend that the Department expand the ABS, concurrent with operation of the CBS, by retaining the reclamation fee in § 86.17(e) and by proposing a regulation that would impose a per-ton severance fee funding mechanism for treating discharges on ABS forfeiture sites. Commentators point to West Virginia as an illustrative example because West Virginia generated significant revenue for its ABS—approximately \$94 million since January 2002 according to commentators—from a Special Reclamation Tax assessed on each ton of coal extracted in the State.

(R) The Department terminated the ABS and there is no need to continue to operate an ABS concurrently with the CBS that has been implemented in this Commonwealth. The question is how to address the remnants of this Commonwealth's ABS, such as, the ABS Legacy Sites. The Department considered whether a per-ton fee should be imposed as a funding mechanism for addressing mine discharges in this Commonwealth, and this option was discussed in public meetings with the MRAB in response to comments received on the proposed rulemaking. The Department has determined that the funding source structure established by the final rulemaking will enable the Department to meet the requirements of Federal law through an enforceable regulatory mechanism, as required by the Third Circuit ruling in *Kemphorne* and the program amendment issued by OSM concerning the Commonwealth's ABS.

6) *Challenges to the Stated Rationale for Repeal of 25 Pa. Code § 86.17(e).*

(C) Commentators challenged the rationales for eliminating the reclamation fee stated in the proposed rulemaking's preamble. They first challenge the Department's "commitment" to industry that, following conversion of actively-mined permitted surface coal mine sites to the CBS, the reclamation fee would be proposed for elimination. Commentators asserted that any "commitment" made by the Department to eliminate the reclamation fee is not legally binding on the Board.

(R) The Department agrees that the Board is not bound by any commitment the Department may make

with respect to proposed rulemaking. Under the law, the Board is a separate legal entity from the Department, and the Board decides whether to promulgate regulations the Department has proposed.

The Department's "commitment" to propose the elimination of the reclamation fee was made in the overall context of the conversion from the ABS to the CBS—an enormous administrative undertaking. Financial analyses of the ABS found the system was in deficit and would inevitably fail. Because of the substantial costs for operators to convert to conventional bonds, an overnight conversion to a conventional bonding system would only have exacerbated the inadequate funding problems of the ABS. The Department's purpose in converting to the CBS was to find solutions to the problem of unreclaimed ABS surface coal mine sites—without bankrupting industry and thereby making this Commonwealth's mine reclamation problems worse.

Consequently, the conversion to a CBS required a complex approach by the Department in coordination with the Legislature and the mining industry. The main components of the approach included: (1) a comprehensive analysis by the Department of the existing ABS deficit for land reclamation; (2) appropriation of \$5.5 million by the Legislature to cover that land reclamation deficit; (3) Department development of a conversion assistance financial guarantee program by which the Department effectively operates as a surety and provides part of the bonding for sites converted to conventional bonding, thus easing the transition for active operators to the CBS and thereby preventing bankruptcies or abandonment, or both, of sites; (4) appropriation of \$7 million by the General Assembly to underwrite the conversion assistance financial guarantee program; (5) development of a detailed conventional bonding guidance document that set forth the mechanics of the conventional bonding process; (6) implementation of conventional bonding for all ABS actively-mined permitted surface coal mine sites; (7) development of a workable plan to address all postmining pollutional discharges on the ABS forfeiture sites—resulting in the Program Enhancement Document and the Discharge Abatement Workplan; (8) termination of the ABS; (9) a "commitment" to propose the elimination of the reclamation fee once the conversion of all actively-mined permitted surface coal mining sites to the CBS was completed; and (10) implementation of conventional bonding for under bonded sites that have a postmining pollutional discharge.

(C) Commentators asserted that the conversion to a CBS is not complete unless every ABS site permitted as of August 2001 has replaced its ABS bond coverage with financial guarantees covering the full cost of reclamation, including perpetual treatment of any postmining discharges. They contended that this condition has not been met and therefore the reclamation fee imposed by § 86.17(e) should not be eliminated.

(R) The Department disagrees with commentators' assertion that conversion to the CBS is not complete until every single site permitted as of August 2001, including sites with no active mining, have posted fully-funded financial guarantees. The ABS was discontinued and terminated in 2001 and the process of converting surface coal mining permits was undertaken. By 2002, all permitted surface coal mining sites actively mining coal were converted to the CBS through the posting of full-cost reclamation bonds. All new surface coal mining permits issued after August 2001 are part of the CBS and have posted conventional full-cost reclamation bonds. The De-

partment has operated only a CBS—not a dual system of CBS and ABS—for surface coal mine sites since 2001, and the Third Circuit in *Kemphorne* agreed that the Department terminated the ABS in 2001.

7) *Impact of Outstanding Litigation on the Proposed Rulemaking.*

(C) Commentators contended that the reclamation fee in 25 Pa. Code § 86.17(e) should not be eliminated until after the United States Court of Appeals for the Third Circuit issues its decision in the *PSFC v. Kemphorne* case because the adequacy of funding of this Commonwealth's ABS is the main issue in that appeal.

(R) The Third Circuit rendered its decision in the *Kemphorne* case before the Department sought approval of the Board of the final-form rulemaking. The proposed elimination of the reclamation fee generated significant public comment. In response to comments raised, the recommendation of the MRAB, and the Third Circuit ruling in *Kemphorne*, the Department determined that the reclamation fee remains an adjustable funding source which should be used for the operation and maintenance costs associated with treating postmining pollutional discharges at ABS Legacy Sites. Consequently, the Department decided not to repeal the reclamation fee as proposed. The final rulemaking restructures the reclamation fee as part of the Department's compliance with the Third Circuit ruling in *Kemphorne* and 30 CFR 800.11(e).

F.1. *Summary of Comments and Responses for the Advanced Notice of Final Rulemaking.*

(C) The ANFR was presented to the MRAB for consideration at its January 10, 2008, meeting. The regulatory changes presented by the ANFR provided that the moneys received from the reclamation fee could only be used by the Department to pay construction, operation and maintenance and recapitalization costs associated with treating post mining pollutional discharges on ABS Legacy Sites. Various members of the MRAB commented that the amendments proposed with the ANFR did not do enough to ensure that the money being deposited into the Reclamation Fee O&M Account and the ABS Legacy Sites Account was not used for some other purpose. These MRAB members requested that the final-form rulemaking provide more protection to ensure the reclamation fee money was used for its intended purpose—treatment of mine drainage on ABS Legacy Sites.

(R) The Department revised the final rulemaking to address this concern of the MRAB. The final rulemaking now follows the example set by the General Assembly when it specified in PASMCR and in The Clean Streams Law that certain types of collateral bonds posted by surface mine operators were to be held in trust. The final rulemaking creates two trust accounts. This final-form rulemaking serves as a declaration of trust which provides that funds held in the Reclamation Fee O&M Trust Account and in the ABS Legacy Sites Trust Account are held in trust by the Commonwealth. The Commonwealth includes the Department, other offices of the executive branch, the General Assembly and the State Treasurer. The money that is held in these two trusts is being held for the benefit of all of the people to effectuate their right to pure water and the preservation of natural and esthetic values of the environment as specified in Article I, § 27 of the Pennsylvania Constitution. The Commonwealth, collectively, will have a fiduciary duty to manage and use the moneys in the Reclamation Fee O&M Trust Account and in the ABS Legacy Sites Trust Account to treat pollutional mine drainage emanating from ABS

Legacy Sites. If the Commonwealth ever violate this fiduciary duty by using or attempting to use the moneys for another purpose, any resident of this Commonwealth with an interest in pure water could initiate proceedings in the appropriate forum to enforce the terms of the trust.

(C) The MRAB commented on § 86.17(e)(2) of the ANFR that provided for adjusting the reclamation fee, but provided the reclamation fee could not be less than \$50 per acre. The MRAB recommended the minimum of \$50 be deleted as the MRAB did not think the fee should be collected if it was not needed for annual operation and maintenance treatment costs that year. Other commentators also made this recommendation.

(R) The Department has followed the MRAB's advice and deleted the \$50 minimum reclamation fee provision. The final-form rulemaking now provides the fee will be adjusted annually based upon need and can be zero if the funding is not needed for that years' projected operation and maintenance costs.

(C) The MRAB wanted the regulation to specify that if, instead of the reclamation fee, an alternative source of funding to pay all of the annual costs covered by the Reclamation Fee O&M Account is established, the \$100 reclamation fee will not be adjusted up or continue to be collected. Other commentators also made this recommendation.

(R) The Department followed the MRAB's advice. Section 86.17(e)(3) now contains express language that provides for the reclamation fee to be used until an alternative funding source in lieu of the reclamation fee is established to pay all of the costs covered by the Reclamation Fee O&M Trust Account.

(C) The MRAB recommended that § 86.187(a)(2)(i) be revised to limit the Department's authority to transfer funds from the Reclamation Fee O&M Account into the ABS Legacy Sites Trust Account. The MRAB wanted the regulation to specify that only excess funds could be transferred. Other commentators also made this recommendation.

(R) The Department followed the MRAB's advice. Section 86.187(a)(2)(i) of the final-form rule provides that the Department may, upon review and recommendation of the MRAB, transfer excess moneys from the Reclamation Fee O&M Trust Account into the ABS Legacy Sites Trust Account.

(C) The MRAB advised that the ANFR should be revised to provide that the ABS Legacy Sites Trust Account will be actuarially sound when the money in it, together with the money in the Reclamation Fee O&M Account, will generate enough interest to pay all ABS Legacy Sites treatment costs forever. The MRAB also recommended that the money in the Reclamation Fee O&M Account then be transferred into the ABS Legacy Sites Account, the Reclamation Fee O&M Account be closed, and, the reclamation fee be terminated.

(R) The Department followed the advice of the MRAB. A new subparagraph has been added as § 86.187(a)(2)(iv) which provides for the transfer of the money from the Reclamation O&M Trust Account into the ABS Legacy Sites Trust Account, termination of the Reclamation Fee O&M Trust Account, cessation of the reclamation fee, and cessation of the transfer of civil penalties into the Reclamation Fee O&M Trust Account.

(C) If the Legislature approves the use of premiums collected for conversion assistance financial guarantees for reclamation costs at ABS sites, then those funds

should be deposited into the Reclamation Fee O&M Trust account and considered during the annual review of the reclamation fee amount.

(R) Section 86.187(a)(1)(iii) has been modified to allow for the deposit of the "fees collected for sum-certain financial guarantees needed to facilitate full-cost bonding."

(C) If a permanent alternate funding stream is approved, then that funding must be dedicated to cover the O&M costs at the ABS Legacy Sites.

(R) The final-form rulemaking has been modified to specify that an alternate funding source must provide "sufficient revenues to maintain a balance in the Reclamation Fee O&M Trust Account of at least \$3,000,000 and to pay the annual operation and maintenance costs for treating postmining pollutional discharges at all ABS Legacy Sites." See § 86.17(e)(3)(ii).

(C) The draft final-form regulations failed to guarantee that all discharges from all ABS Legacy Sites will be treated in perpetuity.

(R) The regulations are designed to address the Federal requirement for the Department to have available sufficient money to complete reclamation for the ABS Legacy Sites at any time. This rulemaking will provide sufficient funds to treat the discharges. The regulations establish a mandatory process to adjust the revenue stream to pay the cost of reclamation that could become due at any time. The Department does not have the authority to commit the full faith and credit of the Commonwealth to "guarantee" funding.

(C) The short-term, pay-as-you-go system of the Reclamation Fee O&M Account does not provide a guarantee of perpetual discharge treatment at all ABS Legacy Sites.

(R) The Department disagrees. The regulations will provide the Department with the money needed to meet the requirement to have sufficient money to complete reclamation for these sites at any time. The revenue stream is to be annually adjusted to pay the cost of treatment and a financial reserve will be maintained to pay unexpected treatment costs.

(C) The draft final-form rulemaking does not guarantee that the ABS Legacy Account will ever contain sufficient funds to be actuarially sound, or that it will remain solvent in perpetuity.

(R) The Federal regulations do not require a "guarantee" that the ABS Legacy Account will become actuarially sound but require the Department to have available sufficient money to complete reclamation. The regulations do provide for the Department to have the needed funds. The ABS Legacy Sites Trust Account is a tool that, once it contains sufficient money, can replace the pay-as-you-go approach.

(C) The funding for the Reclamation Fee O&M Account and the ABS Legacy Account must come from the coal mining industry.

(R) The Department disagrees. West Virginia was faced with a similar problem of how to fund the treatment for forfeited discharges. In the preamble for OSM's approval of their program amendment addressing this matter, OSM stated:

Congress was not specific on how alternative bonding programs such as West Virginia's should be financed. The only test applicable is whether the proposed alternative system achieves the objectives and pur-

poses of a CBS as expressed in section 509 of SMCRA and as implemented by 30 CFR 800.11 (e). (60 FR 51901, October 4, 1995)

The regulation meets this standard.

(C) The final regulations must include an enforceable commitment for timely construction of adequate treatment system at all ABS Legacy Sites currently lacking them.

(R) The regulations address the Federal requirement to have available sufficient money to complete reclamation for these sites at any time. While a purpose of Federal SMCRA is to "assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations," there is no Federal requirement for a regulatory construction schedule.

(C) The regulation must specify in greater detail the standard for determining whether the ABS Legacy Account contains sufficient funds to be actuarially sound.

(R) The Department disagrees. The regulation provides a complete description of the concept of being actuarially sound. There is no need to specify in the regulation additional standards such as the suggestion to require an actuary with specific qualifications.

(C) The regulations must require, as a fourth condition for finding the ABS Legacy Account is "actuarially sound," that all construction, recapitalization, and operation and maintenance costs at ABS Legacy Sites paid by Non-SMCRA government funding programs have been refunded from the Reclamation Fee O&M Account.

(R) The Department disagrees. The primary approach that the Department has taken to managing the treatment of abandoned and forfeited discharges is to utilize all available resources. The approach of this rulemaking is to protect the environment while meeting the requirements of the Federal regulation.

(C) The Department should delete the provision of the draft final-form rulemaking purporting to declare the Department's annual determination of the required amount of the reclamation fee to be appealable to the EHB.

(R) The Department disagrees. The Department is confident that the EHB will find that the determination of the reclamation fee amount is a final action of the Department as defined at § 1021.2 (relating to definitions).

(C) Where possible, the final-form rulemaking should use the active voice and the word "will" to express duties.

(R) The Department agrees and has made this change in various places in the final-form rulemaking.

(C) The definition of "ABS Legacy Sites" should be revised to delete the phrase "and is sufficient to cover the cost of treating the discharge."

(R) The Department disagrees with this comment. The entire definition is needed to be consistent with the concept of full cost conventional bonding and to avoid ambiguity.

(C) Definitions of "operation and maintenance costs" and "OM&R" should be added.

(R) The Department has added a definition for "operation and maintenance costs." A definition of "operation, maintenance and recapitalization" costs is not needed.

(C) The specific date (August 4, 2001) should be added to the definition of the "Primacy Alternate Bonding System."

(R) The Department agrees and has made this change.

(C) The reclamation fee should apply to the entire permit area, not just the operational area, and should apply to permit transfers.

(R) The final rule addresses the application of the reclamation fee in a manner that is consistent with conventional bonding. Furthermore, it would be against the public interest to apply the fee to permit transfers because it could discourage a mine operator from accepting a transfer from a troubled firm which could then lead to bond forfeiture instead of the reclamation being completed by the transferee.

(C) The Department should retain the minimum reclamation fee rate in § 86.17(3), but should set the minimum rate at \$100 per acre.

(R) Based upon the advice of the MRAB, the Department decided to eliminate the minimum fee amount and adjust the fee under the procedures established in the regulations.

(C) The Department should make clear that the \$3 million minimum balance target for the reclamation fee O&M Account would have no effect on authorized expenditures for discharge treatment.

(R) The Department has concluded it is clear that there is no spending restriction in the regulation as it is written.

(C) The regulation does not account for inflation. Therefore, it is questionable whether the \$3 million cushion and the Reclamation Fee O&M Account will cover the cost of treatment in the long term.

(R) The Department disagrees. The regulation contains provisions that require the revenue stream to be adjusted annually. The annual adjustment will enable the needed revenue to keep pace with inflation. It is not necessary for the \$3 million reserve to be adjusted for inflation over the long term. The \$3 million reserve is needed most for the short term to address unexpected operation and maintenance costs that might be incurred before the reclamation fee can be adjusted and to pay the cost of maintaining treatment at ABS sites that may be forfeited in the near future.

(C) The provisions that authorize the Department to deposit "other moneys, including appropriations" into the Reclamation Fee O&M Account and into the ABS Legacy Account go beyond the scope of the proposed rulemaking and should not appear in the regulations to help steer clear of a legal challenge that might unnecessarily interfere with the approval and implementation of the regulation as the costs should be borne by the industry.

(R) The Department disagrees. The final regulation is within the scope of the proposed regulation as it encompassed the funding mechanism for the former ABS and addresses the concerns raised by the commentators in comments submitted on the proposed rulemaking.

G. *Benefits, Costs and Compliance*

Benefits

Citizens of this Commonwealth will benefit from these amendments because the pollution from the Primacy ABS Legacy Sites will have a dedicated funding source to provide for the treatment of the postmining discharges.

Owners of coal mined lands where bonds have been forfeited and alternate reclamation plans have been approved will benefit by having their land restored to conditions for supporting the uses the mined land was capable of supporting prior to the mining, or to a higher or better use.

The amendments will also enable the Commonwealth to fulfill its primacy obligations, retain primary enforcement responsibility for coal mining operations, and to continue to receive the Federal abandoned mine land funds.

Compliance Costs

The final-form rulemaking may increase compliance costs on the regulated community if the per acre reclamation fee increases. The amended regulations will not result in increased costs to the regulated community through at least January 1, 2010. Until then, the reclamation fee will continue to be calculated in the same way it is under the current regulation. The amount of fees, and other dedicated funding sources, will be available for addressing postmining discharges on sites forfeited under the former ABS. After January 1, 2010, whether the fee increases, decreases or stays the same will be determined by the actual and projected costs of the treatment of the ABS discharges and whether other funding becomes available. It is not possible to determine how the fee will have to be adjusted in the future. It is possible that a substantial increase in the fee will be required. This would be the result of some unexpected circumstances (such as, many additional ABS forfeitures, dramatic increases in costs or erroneous estimates). Eventually, the reclamation fee can be eliminated, when adequate funds have accumulated to provide for the operation and maintenance costs.

The Department will incur additional cost in implementing this final rulemaking. To manage the funding sources, the Department must track revenues and expenses specifically related to the Primacy ABS discharge sites. This is expected to initially cost about \$60,000 per year for personnel for the accounting of the revenues and expenses, with the cost increasing as personnel costs increase. This amount is in addition to the costs incurred as a result of the management of the completion of reclamation and treatment that the Department already performs.

Compliance Assistance Plan

The Department will provide written notification of the changes to the coal mining industry.

Paperwork Requirements

There are no paperwork requirements imposed on the regulated community by this final-form rulemaking. The Department will be required to prepare an annual report on actual and projected annual revenues and expenditures, and any proposed adjustment of the reclamation fee.

H. *Pollution Prevention*

The matters affected by this final-form rulemaking do not pertain to pollution prevention or control.

I. *Sunset Review*

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. §§ 745.5(a)), on July 19, 2006, the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 4200, to the IRRC and 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 this final-form rulemaking, the Department has considered all public comments that it has received. These comments are addressed in the comment and response document and in Section F and F.1 of this order. IRRC and the Committees did not provide comments on the proposed rulemaking.

Under section 5.1(j.2) of the act (71 P. S. § 745.5a(j.2)), on July 9, 2008, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the act (71 P. S. § 745.5a(e)), IRRC met on July 10, 2008, and approved the final-form regulation in accordance with section 5(c) of the Regulatory Review Act.

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 in 1 Pa. Code §§ 7.1 and 7.2.

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

(3) The regulations do not enlarge the purpose of the proposal published at 36 Pa.B. 4200.

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

L. *Order of the Board*

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

(1) The regulations of the Department, 25 Pa. Code, Chapter 86, are amended by amending §§ 86.1, 86.17 and 86.187—86.190 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) 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.

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

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

(5) This order shall take effect immediately.

JOSEPH R. POWERS,
Acting Chairperson

(Editor's Note: The proposal to amend § 86.283, included in the proposed rulemaking at 36 Pa.B. 4200, has been withdrawn. Section 86.1 was not proposed to be amended in the proposal at 36 Pa.B. 4200.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4045 (July 26, 2008).)

Fiscal Note: 7-401. (1) General Fund; (2) Implementing Year 2007-08 is \$60,000; (3) 1st Succeeding Year 2008-09 is \$62,000; 2nd Succeeding Year 2009-10 is \$64,000; 3rd Succeeding Year 2010-11 is \$67,000; 4th Succeeding Year 2011-12 is \$69,000; 5th Succeeding Year 2012-13 is \$71,000; (4) 2006-07 Program—\$36,868,000; 2005-06 Program—\$37,049,000; 2004-05 Program—\$37,594,000; (7) Environmental Program Management; (8) recommends adoption. Additional costs to the Environmental Program Management appropriation will be covered by augmentations from the Reclamation Fee O&M Trust Account.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

Subchapter A. GENERAL PROVISIONS

§ 86.1. Definitions.

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

ABS Legacy Sites—Mine sites, permitted under the Primacy Alternate Bonding System, that have a postmining pollutional discharge where the operator has defaulted on its obligation to adequately treat the discharge and, either the bond posted for the site is insufficient to cover the cost of treating the discharge, or a trust to cover the costs of treating the discharge was not fully funded and is insufficient to cover the cost of treating the discharge.

* * * * *

Operational area—The maximum portion of the permitted area that the permittee is authorized to disturb at any specific time during the permit term in accordance with the approved mining and reclamation plan, including all of the land affected by mining activities that is not planted, growing and stabilized.

Operation and maintenance costs—Expenses associated with the day-to-day operation and maintenance of a conventional or a passive treatment facility, such as chemicals, electricity, labor, water sampling, sludge removal and disposal, maintenance of access roads, mowing, snow removal, inspecting facilities, repairing and maintaining all aspects of the treatment facility, equipment and buildings.

* * * * *

Primacy Alternate Bonding System—The bonding system utilized by the Commonwealth from July 31, 1982, until August 4, 2001, for surface coal mines, coal refuse reprocessing facilities and coal preparation plants in which a central pool of money to be used by the Department for reclamation of forfeited sites was funded in part through imposition of a per-acre reclamation fee paid by operators of permitted sites.

* * * * *

Recapitalization costs—The costs associated with replacing discharge treatment facility components or the costs to install treatment systems with lower operation and maintenance costs than the system being replaced.

* * * * *

Subchapter B. PERMITS

GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS

§ 86.17. Permit and reclamation fees.

(a) A permit application for coal mining activities shall be accompanied by a check for \$250 payable to the "Commonwealth of Pennsylvania."

(b) A permit application for a coal preparation plant shall be accompanied by a check for \$250 payable to the "Commonwealth of Pennsylvania."

(c) A renewal application, whether the site has not yet been activated or where coal is being extracted, shall be accompanied by a check for \$250 payable to the "Commonwealth of Pennsylvania." A renewal application for reclamation activities requires no application fee.

(d) A permit application for coal refuse disposal activities shall be accompanied by a check for \$500 plus \$10 per acre for acreage in excess of 50 acres payable to the "Commonwealth of Pennsylvania."

(e) In addition to the bond established under §§ 86.143, 86.145, 86.149 and 86.150 and subject to the exception provided for in § 86.283(c) (relating to procedures), the applicant for a permit or a permit amendment shall pay a per acre reclamation fee for surface mining activities except for the surface effects of underground mining. This reclamation fee will be assessed for each acre of the approved operational area and shall be paid by the applicant prior to the Department's issuance of a surface mining permit. If a permit amendment results in an increase in the approved operational area, the reclamation fee will be assessed on the increased acreage and shall be paid by the operator prior to the Department's issuance of the permit amendment.

(1) The reclamation fee will be deposited into a separate subaccount within the Surface Mining Conservation and Reclamation Fund called the Reclamation Fee O&M Trust Account, as a supplement to bonds forfeited from ABS Legacy Sites. The reclamation fee will be used by the Department to pay the construction costs and operation and maintenance costs associated with treating postmining pollutional discharges at ABS Legacy Sites, and the moneys may not be used for any other purpose. The interest earned on the moneys in the Reclamation Fee O&M Trust Account will be deposited into the Reclamation Fee O&M Trust Account and will be used by the Department to pay the construction costs and operation and maintenance costs associated with treating postmining pollutional discharges at ABS Legacy Sites. The interest may not be used for any other purpose. For

purposes of this section, operation and maintenance costs include recapitalization costs.

(2) After the end of each fiscal year, the Department will prepare a fiscal-year report containing a financial analysis of the revenue and expenditures of the Reclamation Fee O&M Trust Account for the past fiscal year and the projected revenues and expenditures for the current fiscal year. Beginning with the report for fiscal year 2008-09, the report will include the Department's calculation of the required amount of the reclamation fee, and the proposed adjustment of the reclamation fee amount. The fiscal-year report will be submitted to the members of the Mining and Reclamation Advisory Board for their review and comment and will be published on the Department's web site. Notice of the report's availability will be published in the *Pennsylvania Bulletin*. The Department will review the fiscal-year report at a meeting of the Mining and Reclamation Advisory Board.

(3) The amount of the reclamation fee shall be \$100 per acre until December 31, 2009. Commencing January 1, 2010, and continuing until either a permanent alternative funding source is established or the ABS Legacy Sites Trust Account is actuarially sound, the reclamation fee will be adjusted as necessary to ensure that there are sufficient revenues to maintain a balance in the Reclamation Fee O&M Trust Account of at least \$3,000,000.

(i) The reclamation fee will be used until the ABS Legacy Sites Trust Account is actuarially sound unless an alternative permanent funding source in lieu of the reclamation fee is used to fund the Reclamation Fee O&M Trust Account.

(ii) Until the ABS Legacy Sites Trust Account is actuarially sound, the alternative permanent funding source must provide sufficient revenues to maintain a balance in the Reclamation Fee O&M Trust Account of at least \$3,000,000 and to pay the annual operation and maintenance costs for treating postmining pollutional discharges at the ABS Legacy Sites. Funds that are not needed for annual operation and maintenance or to maintain the \$3,000,000 balance may be deposited into the ABS Legacy Sites Trust Account.

(4) Commencing January 1, 2010, and continuing until the ABS Legacy Sites Trust Account is actuarially sound, the amount of the reclamation fee will be annually calculated and, if necessary, will be adjusted in multiples of \$50 based on the following factors:

(i) The current balance in the Reclamation Fee O&M Trust Account.

(ii) The total amount of revenue into the trust account during the previous fiscal year from collection of the reclamation fee, the interest accrued by the Reclamation Fee O&M Trust Account, the deposits of civil penalties into the trust account and deposits from other sources of moneys into the trust account.

(iii) The amount of ongoing operation and maintenance costs incurred by the Reclamation Fee O&M Trust Account during previous fiscal years.

(iv) The projected number of acres subject to the reclamation fee during the current fiscal year.

(v) The projected amount of revenue into the Reclamation Fee O&M Trust Account during the current fiscal year from projected interest accrued by the trust account, projected deposits of civil penalties and projected deposits of moneys from other sources.

(vi) The projected expenditures of the Reclamation Fee O&M Trust Account for operation and maintenance costs for the current fiscal year.

(5) Following the Department's review of its calculation of the required reclamation fee amount at a public meeting of the Mining and Reclamation Advisory Board under paragraph (2), the Department will publish the adjustment in the required amount of the reclamation fee in the *Pennsylvania Bulletin*. Adjustments to the amount of the reclamation fee will become effective upon publication in the *Pennsylvania Bulletin*. The Department's determination of the required amount of the reclamation fee under paragraphs (3) and (4) will be a final action of the Department appealable to the EHB.

(6) The Department will cease to assess and collect the reclamation fee when the ABS Legacy Sites Trust Account established under § 86.187(a) (relating to use of money) becomes actuarially sound. The ABS Legacy Sites Trust Account will become actuarially sound when the following conditions are met:

(i) Financial guarantees sufficient to cover reclamation costs, including the costs to treat each discharge in perpetuity, have been approved by the Department for all mine sites permitted under the primacy alternate bonding system.

(ii) Construction of the necessary discharge treatment facilities has been completed at the ABS Legacy Sites.

(iii) The ABS Legacy Sites Trust Account, combined with the Reclamation Fee O&M Trust Account, contains funds which generate interest at a rate and in an amount sufficient to pay the annual operation and maintenance costs for treating postmining pollutional discharges at the ABS Legacy Sites.

**Subchapter F. BONDING AND INSURANCE
REQUIREMENTS BOND FORFEITURE**

§ 86.187. Use of money.

(a) Moneys received from fees, fines, penalties, bond forfeitures and other moneys received under authority of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31), and interest earned on the moneys, will be deposited in the Fund.

(1) Moneys received from the reclamation fees required by § 86.17(e) (relating to permit and reclamation fees), and the interest accrued on these monies, will be deposited into a separate subaccount within the fund called the Reclamation Fee O&M Trust Account.

(i) The Department will deposit into the Reclamation Fee O&M Trust Account, up to \$500,000 in a fiscal year, the moneys collected from civil penalties assessed by the Department under the Surface Mining Conservation and Reclamation Act less the percentage of those penalty moneys due the Environmental Education Fund under section 8 of the Environmental Education Act (35 P. S. § 7528). If the amount of penalty moneys collected exceeds \$500,000 during a fiscal year, the Department may deposit the amount collected in excess of \$500,000 into the fund and use the excess amount in accordance with paragraph (3).

(ii) The Department may deposit into the Reclamation Fee O&M Trust Account a portion, to be determined at the Department's discretion, of the interest earned on other moneys in the fund.

(iii) The Department may deposit other moneys into the Reclamation Fee O&M Trust Account, including appropriations, donations, or, the fees collected for sum-certain financial guarantees needed to facilitate full-cost bonding in accordance with applicable law.

(iv) The moneys deposited in the Reclamation Fee O&M Trust Account will be used to pay construction costs and operation and maintenance costs associated with treating postmining pollutional discharges at ABS Legacy Sites, and the moneys may not be used for any other purpose. For purposes of this section, operation and maintenance includes recapitalization costs. Moneys in the Reclamation Fee O&M Trust Account will be held by the Commonwealth in trust for the benefit of all the people to protect their right to pure water and the preservation of the values of the environment. The State Treasurer will manage the investment of the funds in the Reclamation Fee O&M Trust Account with the advice of the Department.

(2) Moneys received from the forfeiture of bonds will be used only to reclaim land and restore water supplies affected by the surface mining operations upon which liability was charged on the bond, except as otherwise provided in this section and in § 86.190 (relating to sites where reclamation is unreasonable, unnecessary or impossible; excess funds). Interest accrued on these moneys will be used only to reclaim land and restore water supplies affected by surface mining operations for which the Department has forfeited bonds, as a supplement to bond forfeiture funds.

(i) Moneys received from bonds forfeited on ABS Legacy Sites, and the interest accrued on the moneys, will be deposited into a separate subaccount in the Fund called the ABS Legacy Sites Trust Account. The Department may, upon review and recommendation of the Mining and Reclamation Advisory Board, transfer excess moneys from the Reclamation Fee O&M Trust Account into the ABS Legacy Sites Trust Account. The Department may deposit other moneys into the ABS Legacy Sites Trust Account, including appropriations, donations, or interest earned on other moneys in the fund.

(ii) Moneys in the ABS Legacy Sites Trust Account, including the interest accrued by the trust account, will be used to pay the operation and maintenance costs associated with treating postmining pollutional discharges at ABS Legacy Sites, and the moneys may not be used for any other purpose. Moneys in the ABS Legacy Sites Trust Account will be held by the Commonwealth in trust for the benefit of all the people to protect their right to pure water and the preservation of the values of the environment. The State Treasurer will manage the investment of the funds in the ABS Legacy Sites Trust Account with the advice of the Department.

(iii) The Department may not make disbursements from the ABS Legacy Sites Trust Account until that trust account becomes actuarially sound. The ABS Legacy Sites Trust Account will become actuarially sound when the following conditions are met:

(A) Financial guarantees sufficient to cover reclamation costs, including the costs to treat each discharge in perpetuity, have been approved by the Department for all mine sites permitted under the Primacy Alternate Bonding System.

(B) Construction of the necessary discharge treatment facilities has been completed at the ABS Legacy Sites.

(C) The ABS Legacy Sites Trust Account, combined with the Reclamation Fee O&M Trust Account, contains funds which generate interest at a rate and in an amount sufficient to pay the annual operation and maintenance costs for treating postmining pollutional discharges at the ABS Legacy Sites.

(iv) When the ABS Legacy Sites Trust Account becomes actuarially sound the Department will transfer the moneys in the Reclamation Fee O&M Trust Account into the ABS Legacy Sites Trust Account and the Reclamation Fee O&M Trust Account will terminate. At that time, the reclamation fee or the alternative permanent funding source, whichever is in place, will cease and the deposit of civil penalty moneys under paragraph (l)(i) will also cease.

(3) Other moneys deposited in the Fund may be used to reclaim land affected by surface mining operations and for other conservation purposes consistent with the purposes of the Fund, including restoration of water supplies affected by surface mining operations. The Department may also use the money in the Fund, other than the monies described in paragraphs (1) and (2), for necessary administrative expenses, including the purchase, lease or rental of vehicles, equipment, office space, laboratory supplies or other supplies, materials or services and personnel and overhead expenses.

(b) The Department, after notifying and consulting with the landowner, will expend the funds to reclaim the land affected by the operation in a manner which completes the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site or an alternative reclamation plan completed under subsection (c). The Department will expend the funds to reclaim the land affected by the operation in a manner which completes an alternative reclamation plan in compliance with subsection (c) if either of the following apply:

(1) After considering the engineering cost estimate for completion of the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site, the Department determines that the plan may be amended to decrease the cost of reclaiming the bond forfeiture site.

(2) The Department determines that completion of the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site is unreasonable, unnecessary or physically impossible.

(c) If the Department determines under subsection (b) that an alternative to the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site should be implemented, the Department will prepare and implement a plan that complies with the applicable performance standards in accordance with § 86.189(c)(2), (3) or (4) (relating to reclamation of bond forfeiture sites), whichever is appropriate, and that ensures that all disturbed areas are restored to conditions that are capable of supporting either the uses they were capable of supporting before any mining, or higher or better uses.

§ 86.188. Evaluation of bond forfeiture sites.

(a) After forfeiture of bond under §§ 86.180—86.182 and 86.185 (relating to scope; general; procedures; and preservation of remedies) has become final and the bond proceeds have been collected, the Department will evaluate the bond forfeiture site for reclamation purposes. The evaluation will consist of an onsite inspection by the Department and solicitation of information regarding the site and reclamation intention of the landowner and

others determined by the Department to have information on, or an interest in, the site. The Department will provide to the landowner of the site, upon request, a copy of the completed site evaluation report.

(b) The Department will prioritize a bond forfeiture site according to the following categories, which are listed in decreasing order of severity of condition:

(1) Sites which present a significant and continuing hazard to human life by either their proximity to or impact on human populations.

(2) Sites which present a significant threat to health or safety, including actual or threatened loss of public or private water supplies.

(3) Sites which present a significant risk of damage to public or private property.

(4) Sites which are causing environmental degradation or pollution affecting the productive use of public or private land, or the reclamation of which would create significant environmental benefits.

(c) The Department, in selecting sites for reclamation under § 86.189(b)(1) (relating to reclamation of bond forfeiture sites), will consider the following factors:

(1) The severity of the conditions at the site.

(2) The potential for conditions at the site to deteriorate, including environmental quality, thus increasing the hazard to life, health, safety or property.

(3) The willingness of the landowner, or other person, to undertake the reclamation of the site under § 86.189(b)(2), (3) or (4), as evidenced by previous reclamation activity performed on the site or other indications of willingness to reclaim by the landowner or other person.

(4) The ability of the Department to gain adequate access to the site.

(5) The potential for re-mining of all or a portion of the site.

(6) The lack of participation of the landowner in the surface mining activities which created the conditions at the site.

(7) The potential for agricultural use or reforestation of the site.

(d) The Department will compile a list of sites for which forfeiture of bonds under §§ 86.180—86.182 and 86.185 has become final and bond proceeds have been collected. The list will be updated quarterly and will be available for review in the Department's district and central offices. The Department will publish quarterly in the *Pennsylvania Bulletin* notice of the availability of this list for review.

§ 86.189. Reclamation of bond forfeiture sites.

* * * * *

(c) The Department will not enter into a reclamation contract under this section with a person unless the person demonstrates the following to the satisfaction of the Department:

* * * * *

(2) For bond forfeiture sites for which permits were issued under the Federally-approved surface coal mining regulatory program which took effect July 31, 1982, the proposed reclamation plan will result in reclamation of the site in a manner consistent with The Clean Streams Law and the regulations promulgated thereunder for

active surface coal mining operations, as specified in the contract, and the Surface Mining Conservation and Reclamation Act and the regulations promulgated thereunder for active surface coal mining operations.

(3) For bond forfeiture sites for which the bonds were declared forfeit on or after May 3, 1978, and for which permits were not issued under the Federally-approved surface coal mining regulatory program which took effect July 31, 1982, the proposed reclamation plan will result in reclamation of the site in a manner that is consistent with the interim Federal program regulations first published at 42 FR 62639 (December 13, 1977), as well as The Clean Streams Law and the regulations promulgated thereunder in effect at the time the bonds were declared forfeit, as specified in the contract, and the Surface Mining Conservation and Reclamation Act and the regulations promulgated thereunder in effect at the time the bonds were declared forfeit. If the Department's permit files for the site clearly show that surface mining activities on the site occurred before August 3, 1977, the proposed reclamation plan may be consistent with paragraph (4).

(4) For bond forfeiture sites for which the bonds were declared forfeit before May 3, 1978, the proposed reclamation plan will result in reclamation of the site in a manner that is consistent with The Clean Streams Law and the regulations promulgated thereunder that were applicable to active surface coal mining operations at the time the bonds were declared forfeit, as specified in the contract, and the Surface Mining Conservation and Reclamation Act and the regulations that were promulgated thereunder at the time the bonds were declared forfeit.

(5) Except in the case of a landowner of a bond forfeiture site under subsection (b)(2) and (4), the person shall demonstrate the following:

* * * * *

§ 86.190. Sites where reclamation is unreasonable, unnecessary or impossible; excess funds.

(a) If the Department determines in the evaluation of a bond forfeiture site that completion of the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site or an alternative reclamation plan is unreasonable, unnecessary or physically impossible, the bond amount will be made available for expenditure from the Fund only to reclaim land and restore water supplies affected by surface mining operations for which the Department has forfeited bonds. The reasons justifying this determination include the following:

(1) The site has been re-permitted and rebonded for mining, and reclamation of the site is a condition of the permit.

(2) The site has been otherwise reclaimed.

(b) Before a final determination under subsection (a), the Department will send written notice to the landowner of the Department's intention to remove restrictions on the expenditure of the forfeited bond amount.

(c) If the Department determines that the funds received from bonds covering the bond forfeiture site exceed the amount which is required to reclaim the bond forfeiture site, the excess funds will be made available for

expenditure from the fund only to reclaim land and restore water supplies affected by surface mining operations for which the Department has forfeited bonds.

[Pa.B. Doc. No. 08-1585. Filed for public inspection August 29, 2008, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONATION STANDARDS

STATE ARCHITECTS LICENSURE BOARD

[49 PA. CODE CH. 9]

Requirements for Examination Eligibility

The State Architects Licensure Board (Board) amends §§ 9.27, 9.41a, 9.46, 9.50 and 9.52 to read as set forth at 37 Pa.B. 4625 (August 25, 2007).

A. *Effective Date*

The amendments will be effective on publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

B. *Statutory Authority*

The amendments are authorized under section 6(a) and (d) of the Architects Licensure Law (63 P. S. § 34.6(a) and (d)).

C. *Background and Purpose*

Currently, § 9.46(b) (relating to requirements for examination eligibility) states that “[a]n architectural degree candidate applying for first time licensure is required to pass the entire professional licensure examination of the Board within 5 years of the date of eligibility to take the examination.” Passing the entire examination requires that each candidate pass all of the various divisions of the Architecture Registration Examination (ARE) within 5 years of the date of eligibility to take the examination. Under this provision, if a candidate fails to pass any one or more of the divisions within the 5-year period, the eligibility period ends and that candidate would be required to take the entire examination all over again.

Under the amendments, if a candidate does not complete the entire examination within 5 years, any division that the candidate had passed that is older than 5 years old will not be accepted for licensure purposes and the candidate will be required to retake only that “stale” division of the examination. Thus, the candidate will not lose the entire examination, as the current regulation requires, only those divisions that are older than 5 years old.

D. *Description of Amendments*

The Board amends § 9.27 (relating to inactive records) by deleting the language pertaining to an examination candidate completing the entire examination within 5 years of eligibility.

The Board is amending § 9.41a(b) (relating to adoption of National Board Examinations) by adding language specifying that examination candidates shall comply with the National Council of Architecture Registration Board’s (NCARB) examination procedures, conduct standards and standards pertaining to eligibility and passing of the ARE, unless otherwise stated in the Board’s regulations.

In § 9.46(b), the Board is deleting the requirement that examination candidates complete the entire examination within 5 years of the date of eligibility to take the examination. Instead, the Board is adopting new language that specifies that the Board will consider only those divisions of the examination passed within the 5-year period since the first passed division was administered. If any division is more than 5 years old, the candidate will be required to retake that division of the examination and will automatically be given a new 5-year period beginning from the date of the administration of the next oldest passed division without the need to reapply. This implements a new “rolling clock” standard for the Board.

The Board amends § 9.50 (relating to reapplications) to delete the cross-reference to § 9.46(3) because reapplication will no longer be necessary under the rolling clock requirement. The Board is also adding a cross-reference to § 9.41a(b). The Board further amends § 9.52 (relating to grading compilation) to add cross-references to §§ 9.41a(b) and 9.46(b) with regard to the opportunity to retake portions of the examination which were failed or which expired under the 5-year rolling clock.

E. *Response to Public Comment and Regulatory Review of Proposed Rulemaking*

Publication of proposed rulemaking at 37 Pa.B. 4625 (August 25, 2007) was followed by a 30-day public comment period during which the Board received favorable comments from the American Institute of Architects Pennsylvania (AIAPA). Following the close of the public comment period, the Board did not receive comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). The Board did receive comments from the Independent Regulatory Review Commission (IRRC).

While AIAPA commented favorably on the revisions of the rolling clock standard for examination eligibility, it urged the Board to adopt other recent action by NCARB that would permit candidates for licensure to sit for the ARE prior to completion of the NCARB Intern Development Program. However, such a change would expand the scope of this rulemaking beyond what was proposed, which would require a separate rulemaking be undertaken. In addition, the Board has not yet decided whether it will support NCARB’s recent policy change and, therefore, will not amend its regulations to support this change at this time.

IRRC questioned, in relation to § 9.27, what effect the rolling clock period would have on the calculation of when a record becomes inactive. If all of the passed sections of the ARE become more than 5 years old, ARE eligibility will expire for that applicant and the application will be considered inactive. At that time, because the applicant would have to retake all portions of the ARE, the candidate would be required to reapply to NCARB to retake the entire examination. So long as at least one passed section of the ARE is less than 5 years old, the candidate’s record will remain active.

IRRC asked for further clarification of § 9.46(b), which states, “All applicants will have the benefit of the rolling clock but the Board will only consider the divisions of the examination passed within the 5-year time period immediately preceding the date of the latest administered division passed by the applicant.” Specifically, IRRC questioned whether, once the rolling clock expires, the applicant will have to take only the remaining divisions

needed to pass, or all divisions administered within the new rolling clock period. The intended result of the rolling clock is that if the applicant does not complete the entire examination within 5 years, any division that the applicant has passed that is older than 5 years old will “drop off” and the applicant will be required to retake the “stale” division of the examination only. The language questioned by IRRC is intended to convey the point that once the final division is passed, the Board will look back 5 years to confirm that the entire examination was completed during the preceding 5-year period. Any division that was passed more than 5 years earlier would need to be passed anew. This situation would reset the rolling clock to begin with the passage of the next oldest division that had been passed. So, for example, if the next oldest division was passed 4 years and 8 months earlier, the applicant would have only 4 months remaining to pass the stale division within the rolling 5-year period. The bottom line is that all of the various divisions of the ARE must be completed within a rolling 5-year period.

Moreover, IRRC questioned whether NCARB’s January 1, 2006, date for implementation of the rolling clock standard should be included in the final-form rulemaking. Specifically, IRRC referred to the Board’s exception to NCARB’s standard with regard to applicants who have completed at least one section of the ARE prior to January 1, 2006. The Board noted in its proposed rulemaking that the difference between the NCARB standard and the Board’s standard is that for National certification purposes, NCARB will accept any section passed prior to January 1, 2006, and the applicant will not be required to retake those divisions, even if more than 5 years goes by before the final division is passed. Conversely, for licensure purposes, the Board simply will not accept any passed section that is more than 5 years old. Therefore, the January 1, 2006, date is irrelevant in terms of eligibility for licensure by the Board and does not need to be included in the final-form rulemaking.

F. Fiscal Impact and Paperwork Requirements

The final-form rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions. Likewise, the final-form rulemaking should not necessitate any legal, accounting, reporting or other paperwork requirements.

G. Sunset Date

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 15, 2007, the Board submitted a copy of the proposed rulemaking, published at 37 Pa.B. 4625, to IRRC and to the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. 745.5a(j.2)), on June 25, 2008, the final-form rulemaking was approved by the HPLC. On July 23, 2008, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 24, 2008, and approved the final-form rulemaking.

I. Contact Person

Further information may be obtained by contacting Penny Walker, Administrator, State Architects Licensure Board, P. O. Box 2649, Harrisburg, PA 17105-2649, pewalker@state.pa.us.

J. Findings

The Board finds that:

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

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

(3) The amendments do not enlarge the purpose of proposed rulemaking published at 37 Pa.B. 4625.

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

K. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 9, are amending by amending §§ 9.27, 9.41a, 9.46, 9.50 and 9.52 to read as set forth at 37 Pa.B. 4625.

(b) The Board shall submit this order and 37 Pa.B. 4625 to the Office of General Counsel and to the Office of the Attorney General as required by law.

(c) The Board shall certify this order and 37 Pa.B. 4625 and deposit them with the Legislative Reference Bureau as required by law.

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

DENNIS R. CONNELL,
President

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4449 (August 9, 2008).)

Fiscal Note: Fiscal Note 16A-419 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 08-1586. Filed for public inspection August 29, 2008, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 69]

Fishing

The Fish and Boat Commission (Commission) amends Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

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

B. *Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The amendment of § 69.12a (relating to special regulations applicable to Lake Erie tributary streams) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The final-form rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the amendment is described in more detail under the summary of changes.

E. *Summary of Changes*

Currently, from the day after Labor Day until the opening day of trout season in April, all Lake Erie tributary streams are closed to fishing from 10 p.m. to 5 a.m. except for Walnut and Elk Creeks north of Route 5. The portion of Walnut Creek from Route 5 north to Manchester Road flows through a residential area. All of the property owners historically have allowed public fishing in Walnut Creek in this area and tolerated the problems associated with night time fishing.

During last year's steelhead season, however, several of the property owners expressed concerns to the Commission's law enforcement staff regarding the problems they are facing associated with night time fishing. Anglers fishing in this area at night are causing the property owners' dogs to become alarmed and start barking. Property owners also indicate that they can hear anglers' loud voices and radios being played during the night time hours. Unfortunately, continued night time fishing in this section of Walnut Creek jeopardizes the privacy of the property owners and creates unnecessary disturbances to the entire neighborhood. The Commission also received two letters from property owners expressing similar concerns.

The Commission's law enforcement staff met with several of the property owners in an attempt to address their concerns. One potential solution that was discussed was to prohibit angling during the night time hours in this area. The property owners agreed to continue to allow public fishing between 5 a.m. and 10 p.m. The Commission therefore proposed that § 69.12a be amended to prohibit fishing in Walnut Creek from Route 5 north to Manchester Road Bridge between the hours of 10 p.m. and 5 a.m. The Commission adopted the amendment as set forth in the notice of proposed rulemaking.

F. *Paperwork*

The final-form rulemaking will slightly increase paperwork and will create new paperwork requirements in that the Commission will post signs notifying anglers of the

regulatory change. The Commission's Bureau of Law Enforcement will post both sides of the stream from the Manchester Road Bridge south to Route 5 and will post signs at the Walnut Creek Marina. After the first year that the change goes into effect, the Commission does not expect to have to post the stream.

G. *Fiscal Impact*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The Commission's costs for signage will be modest. The final-form rulemaking will impose no new costs on the private sector or the general public.

H. *Public Comments*

A notice of proposed rulemaking was published at 38 Pa.B. 1589 (April 5, 2008). The Commission received one public comment supporting the proposal. Copies of all public comments were provided to the commissioners.

Findings

The Commission finds that:

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

(2) A public comment period was provided, and the comments that were received were considered.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 69, are amended by amending § 69.12a to read as set forth at 38 Pa.B. 1589.

(b) The Executive Director will submit this order and 38 Pa.B. 1589 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 38 Pa.B. 1589 and deposit them with the Legislative Reference Bureau as required by law.

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

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

Fiscal Note: Fiscal Note 48A-201 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 08-1587. Filed for public inspection August 29, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 1101, 1103, 1105, 1107 and 1113]

Supplemental Nutrition Program for Women, Infants and Children (WIC Program)

The Department of Health (Department), Bureau of Family Health, Division of WIC (WIC Program), proposes to amend 28 Pa. Code Chapters 1101, 1103, 1105, 1107 and 1113. The chapters govern the authorization and management of stores participating in the Special Supplemental Nutrition for Women, Infants and Children (WIC) Program.

Without some of these proposed revisions, the United States Department of Agriculture, Food Nutrition Services (USDA-FNS) may withhold funding to the WIC Program. If Federal funding is interrupted, the Department would likely need to suspend or eliminate the WIC Program, having a significant negative impact on the health and welfare of WIC eligible women, infants and children. Loss or even suspension of Federal funding for the WIC Program would render it inoperable, as 100% of the WIC Program's funds are Federal funds, or would place a difficult, if not impossible, financial burden on the Commonwealth, if the Commonwealth continue to operate the WIC Program with State funds. The WIC Program serves approximately 245,000 families and individuals, and is a high profile benefits program not only in this Commonwealth, but also around the country. An interruption in the funding of the WIC Program would affect the receipt of necessary food benefits for the participants of the WIC Program, the retail grocery business and the employment of personnel at 24 local WIC agencies.

Other proposed revisions to the WIC Program State regulations include the addition of language which will allow the WIC Program to more smoothly incorporate technology advancements. These advancements will ensure that the Pennsylvania WIC Program remains at the forefront of quality and efficiency and continues to provide the best experience for WIC participants and WIC authorized stores.

A. Summary of Amendments

Section 1101.2. Definitions.

The Department proposes to revise this section to add definitions for the terms "above-50-percent-store," "competitive price," "food items," "food sales," "Food Stamp Program," "full line grocery store," "peer group" and "store peer group system." These proposed terms, and their definitions, are required for the implementation of the other revisions to the regulations providing for the identification of WIC-Only stores, the term more commonly used when referring to above-50-percent stores, and for additional Federally-mandated cost containment requirements.

The Department proposes to define an "above-50-percent-store" as a store that derives more than 50% of its annual food sales revenue from WIC checks and any new store that is expected to derive more than 50% of its annual food sales revenue from WIC checks. Guidelines for determining if more than 50% of the store's food sales revenue is from WIC checks are set by the USDA in accordance with Federal laws.

The Department proposes to define "competitive price" as the price established by the Department, at or below which a store must maintain the required minimum inventory. As explained as follows, this term will replace "maximum allowable price" in some other existing provisions of the regulations, although "maximum allowable price" will remain an operative term in the regulations.

The Department proposes to define "food items" as items sold for human consumption that are eligible items under the Food Stamp Program. The Department also proposed to define "food sales" as sales of all Food Stamp Program eligible foods.

The Department proposes to define "Food Stamp Program" as the government benefits program operated under the authority of the Food Stamp Act of 1964, 7 U.S.C.A. Chapter 51, as amended, and 55 Pa. Code Part II, Subpart L (relating to Food Stamp Program). This program is administered by the USDA-FNS and the Department of Public Welfare.

The Department proposes to define "full line grocery store" as a store that, in addition to WIC authorized foods, offers for sale, food items in each of the four following food categories: 1) meat, poultry or fish; 2) bread or cereal; 3) vegetables or fruits; and, 4) dairy. A minimum of three different varieties of food items in each of the four categories must be available for sale at all times of operation and displayed in a public area of the store.

As stated previously, above-50-percent-stores are typically referred to as WIC-Only stores. WIC-Only stores generally sell only WIC foods, serve only WIC participants and charge significantly higher prices for WIC foods than typical grocery stores. In turn, these higher prices result in a higher cost for the WIC Program, which could result in a reduction in the number of WIC checks provided to WIC Program participants and ultimately a reduction in the number of participants the WIC Program can serve.

The Department proposes to define "peer group" as the classification of an authorized store under the store peer group system, as determined by the criteria selected by the Department. The term "store peer group system" is proposed to be defined as a classification of authorized stores into groups based on common characteristics or criteria that affect food prices, for the purposes of applying appropriate competitive pricing criteria to stores at authorization and reauthorization and limiting payment for foods to competitive levels. Both of these proposed terms and definitions will allow the Department to implement Federally-mandated cost containment measures.

The Department also proposes to revise the definition of "overpayment" to clarify that the maximum allowable price applicable to the store's peer group will be used for determining whether the WIC Program made payment to a store for an amount higher than what the store would be entitled to under program regulations.

Section 1103.1. Authorization and reauthorization process and requirements.

The Department proposes to renumber § 1103.1(b)(5) and (6) as § 1103.1(b)(6) and (7) respectively, and insert a new § 1103.1(b)(5). The Department also proposes to revise this section to renumber subsections (c)(2) and (3) as (c)(3) and (4), respectively, to insert a new subsection (c)(2).

The proposed subsections (b)(5) and (c)(2) provide that the Department may request from a store seeking authorization or reauthorization any information the Department deems necessary to determine whether the store will derive or is deriving more than 50% of its annual food items sales revenue from the sale of food items for WIC checks. This information may include, but is not limited to, official State and Federal Income Tax Filings, Official State Sales Tax records, inventory purchase records, sales records or a self-declaration, or both, from the applicant. Amendments to the Federal regulations governing the WIC Program and appropriating the funding to the WIC Program necessitate these, and other similar revisions to the Pennsylvania WIC regulations. See Child Nutrition and WIC Reauthorization Act, Pub. L. No. 108-265, § 203(e)(10), 118 Stat. 729 at 776-779 (2004) (codified at 42 U.S.C. § 1786(h)(11)); Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 2833 and 2850 § 780 (2005 Appropriations Act); and, Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-97, 119 Stat. 2120, 2144 and 2163 § 787 (2006 Appropriations Act). The Department published a notice of its intent to implement some of these Federal mandates in the *Pennsylvania Bulletin*. See 35 Pa.B. 77 (January 1, 2005).

The Department also proposes to revise § 1103.1 to add a new subsection (d)(7). This proposed subsection will allow the Department to terminate authorization of a store if the store fails to provide the Department with the information necessary for the Department to determine whether the store will derive or is deriving more than 50% of its annual food items sales revenue from the sale of food items for WIC checks. The proposed subsection requires that the Department provide written notice to the store of the information requested and that the Department allow the store 20 calendar days to provide the information.

The proposed revisions to this section also include the addition of a new subsection (d)(8) which provides for the termination of authorization of a store as a WIC vendor in the event the Department, subsequent to authorizing the store, determines the store is deriving more than 50% of its annual food items sales revenue from the sale of food items for WIC checks.

The proposed subsection (d)(7) and (8) assists the Department in ensuring all above-50-percent-stores are properly identified to implement the Federally mandated cost containment measures. In conformity with Federal law, the proposed subsections (b)(5), (c)(2) and (d)(7) and (8) do not apply to stores that are solely owned and operated by nonprofit entities.

Section 1103.4. Selection criteria for authorization and reauthorization.

The Department proposes to amend paragraph (5) to require that the minimum inventory be maintained at or below the competitive price applicable to the store's peer group. The regulations currently require the minimum inventory be maintained at or below the maximum allowable price. The Department will continue to reimburse stores up to the price paid by other customers or the maximum allowable price for the food items, whichever is less.

The Department proposes to revise paragraph (8) in § 1103.4 to add language requiring the store to operate as a "full line grocery store" as defined in other revisions to these regulations.

The Department also proposes to add a new paragraph (14) which provides that one of the selection criteria for authorization is that the store does not, nor is expected to, derive more than 50% of its annual food items sales revenue from the sale of food items for WIC checks. In conformity with Federal law, this provision does not apply to stores that are solely owned and operated by nonprofit entities.

The Department also proposes to add a new paragraph (15) which would require stores to maintain certain minimum information technology requirements set by the Department and published annually in the *Pennsylvania Bulletin*. These information technology requirements, including computer, internet and telephone requirements, will allow the Department to more smoothly implement improvements in the WIC benefit and food delivery system such as automated notification of WIC transactions, updates to competitive prices and maximum allowable prices, and provide other information to stores more quickly and efficiently. Stores authorized prior to the effective date of this proposal and maintaining an uninterrupted authorized status will be exempt from the requirements of this proposed paragraph.

These proposed revisions further the Department's efforts to implement the changes in Federal law and in controlling WIC food costs. See 42 U.S.C.A. § 1786(h)(11).

Section 1103.8. Store peer group system.

The Department proposes to add this new section to establish the store peer group system, also defined in these proposed regulatory revisions. Proposed subsection (a) would provide that the Department will establish the peer group system and distinct pricing criteria and reimbursement levels for each peer group. Proposed subsection (b) would provide that a minimum of two criteria would be selected by the Department for creating peer groups, one of which would be geography. The Department would publish the peer group selection criteria in the *Pennsylvania Bulletin* on an annual basis. Because the Federal WIC regulations require states to maintain flexibility in the peer group criteria selection process, the Department cannot more definitively establish those criteria in these regulations.

Proposed subsection (c) would provide a means for the Department to determine which peer group a store will be classified in and how the store will receive notification of this classification. Proposed subsection (d) would require a store to adhere to competitive prices and maximum allowable prices established for the peer group in which it has been classified. Proposed subsection (e) would require stores to notify the Department of any changes which would affect its peer group classification.

Section 1105.1. Training.

The Department proposes to revise § 1105.1(b)(5) to make reference to the proper provision in these regulations, as proposed revisions in other portions of these regulations will be renumbered.

Section 1105.2. Price adjustment.

The Department proposes to revise subsection (a) to provide that the application of maximum allowable prices will be based on the store's peer group.

The Department proposes to revise subsection (e) to make reference to the proper provision in these regulations, as revisions in other portions of these regulations will be renumbered.

Section 1105.3. Terms and conditions of participation.

The Department proposes to revise this section by adding new subsection (a)(17) and (18).

Proposed subsection (a)(17) provides that WIC authorized vendors shall only purchase infant formula that is to be sold to WIC participants from Department-authorized infant formula manufacturers, wholesalers, distributors or retailers. The Department will maintain a list of authorized infant formula manufacturers, wholesalers, distributors and retailers, and make the list readily available to the stores. Information on where to obtain the list will be published simultaneously with the publishing of these regulatory revisions. This proposed subsection is required to conform to recent amendments in the Federal WIC statutes. See 42 U.S.C.A. § 1786(h)(8)(A)(ix) and (x).

Proposed subsection (a)(18) provides that as a term and condition of being an authorized WIC vendor, a store must provide the Department with all the information the Department requests for the Department to determine whether more than 50% of the store's annual food items sales revenue is derived from the sale of food items for WIC checks. This proposed provision will not apply to stores that are solely owned and operated by nonprofit entities.

The Department also proposes to revise subsection (b)(3) to provide that the application of maximum allowable prices will be based on the store's peer group.

The Department proposes to delete subsection (c)(2). This subsection provides that, with regards to WIC check processing and redemption, a WIC-authorized store can only accept a WIC check if the check is made payable to that specific store. As a result of the amendments to the Federal statutes that require states allow participants to redeem WIC checks at any authorized vendor in the state, this language must be deleted. See 42 U.S.C.A. § 1786(f)(1)(C)(i). The amendment allows WIC participants greater flexibility in the redemption of their WIC checks. To comply with Federal law, the Department has been allowing WIC participants to redeem WIC checks at any authorized store since July 1, 2006.

The Department proposes to renumber subsection (c)(3)—(18) as subsection (c)(2)—(17), respectively.

The Department proposes to add subsection (c)(18), which requires a store to transmit to the Department, records of WIC check numbers accepted by the store prior to depositing the WIC checks, through communication channels made available by the Department. This requirement will assist the Department in tracking WIC checks following state implementation of the amendments to Federal regulations that require states to allow participants to redeem WIC checks at any authorized vendor in the State, and will work in conjunction with proposed § 1103.4(15). See 42 U.S.C.A. § 1786(f)(1)(C)(i).

Stores transmit the WIC check numbers for checks accepted at the store in one of four ways by means of an electronic reporting system. First, some stores automatically transmit this data through their registers and computer systems with the addition of software provided by the Department. Second, other stores are able to install software on their computers and transmit the information with the assistance of Magnetic Ink Character Recognition (mini-MICR) readers provided by the Department. Third, stores may use a secure web site where they may log in and manually key in the WIC check numbers from WIC checks accepted by their store. Finally, those stores without computers or internet con-

nections can call a toll-free number and input the WIC check information into a touch-tone system. The toll-free touch tone phone system is available to all stores in the event the preferred methods of electronic transmission experience any technical interruptions. As WIC participants have been permitted to redeem WIC checks at any authorized store since July 1, 2006, the Department has already implemented communication channels for the transmission of this information and stores have been complying with these proposed requirements.

The Department also proposes to revise subsection (d) to allow the Department some flexibility in determining when it will deny payment for checks which were inappropriately submitted for redemption. Because of changes in the redemption process, the Department expects stores may have some initial errors in the redemption process. This proposed change will allow the Department to reimburse stores for the foods provided to participants and not punish them for mistakes which may occur as they adjust to new redemption procedures.

Section 1105.5. Changes in availability or location of WIC authorized stores.

The Department proposes to delete § 1105.5(e) which provides for the temporary authorization of stores to accept WIC checks redeemable at other stores. As a result of other revisions, which allow for redemption of WIC checks at any WIC-authorized store, this subsection has become inoperative and unnecessary. See 42 U.S.C.A. § 1786(f)(1)(C)(i).

Section 1105.6. Monitoring of WIC authorized stores.

The Department proposes to revise subsection (a) to add language providing for an annual analysis by the Department of each WIC authorized store to determine if the store is deriving more than 50% of its annual food items sales revenue from the sale of food items for WIC checks. This proposed revision furthers the Department's efforts to implement the changes to Federal law, including restrictions pertaining to WIC-Only stores, into the State WIC Program. See, 42 U.S.C.A. § 1786(h)(11); 118 Stat. 2809, 2850, § 780; and, 119 Stat. 2120, 2163, § 787. In conformity with Federal law, the proposed language does not apply to stores that are solely owned and operated by nonprofit entities.

The Department also proposes to add a new subsection (h). This proposed subsection provides for the annual determination by the Department of food items sales revenue percentages for WIC authorized stores, and includes language stating the Department may request from the store any information the Department requires to determine if more than 50% of the store's annual food items sales revenue is derived from WIC sales. This proposed subsection does not apply to stores solely owned and operated by nonprofit entities. As with other revisions to these regulations, this revision seeks to implement changes in Federal WIC laws including restrictions pertaining to WIC-Only stores. See 2005 Appropriations Act, 118 Stat. 2809, 2850, § 780; 2006 Appropriations Act, 119 Stat. 2120, 2163, § 787; and 42 U.S.C.A. § 1786(h)(11).

Section 1107.1a. Disqualifications.

The Department proposes to amend subsection (d)(4) to provide that a 1 year disqualification will occur if a WIC authorized store fails to make the minimum inventory of foods available at or below the current competitive price applicable to the store's peer group. The regulations currently require the minimum inventory be provided at or below the maximum allowable price.

The Department proposes to revise this section to delete subsection (d)(6). Subsection (d)(6) provides for a 1-year disqualification for a WIC authorized store in the event the Department found two or more incidences of a WIC authorized store accepting, without prior Department authorization, a WIC check made payable to another store. As a result of other proposed revisions to these regulations, this is no longer a violation of the Department's WIC regulations. See 42 U.S.C.A. § 1786(f)(1)(C)(i).

Because of this proposed deletion, the Department proposes to renumber existing subsection (d)(7)—(17) as subsection (d)(6)—(16), respectively.

Section 1107.2. Civil money penalties.

The Department proposes to revise subsection (a) to make clear that the Department will not offer a civil monetary penalty in lieu of a denial of reauthorization or disqualification for stores found to be subject to a disqualification under § 1107.1a(a). Section 1107.1a(a) provides for the permanent disqualification of a store convicted of trafficking in WIC checks or selling firearms, ammunition, explosives or controlled substances for WIC checks.

The Department also proposes to revise subsection (b)(2) to make reference to the proper provision in these regulations, as proposed in other portions of these regulations will renumber some of the subsections.

Section 1113.1. Right to administrative appeal.

The Department proposes to revise this section to add subsection (b)(4). This proposed subsection provides that the validity and appropriateness of the Department's store's peer group system and the criteria used by the Department to identify above-50-percent-stores may not be challenged by the appeal process set forth in these regulations. This language is required to conform to the recent amendments in Federal WIC regulations. See 7 CFR 246.18(a)(1)(iii)(B) (relating to administrative review of state agency actions). Because of this proposed addition, the Department proposes to renumber existing subsection (b)(4) and (5) as (b)(5) and (6) respectively.

The Department also proposes to revise subsection (c) to make reference to the proper provision in these regulations, as proposed revisions in other portions of these regulations will renumber some of the subsections.

B. Fiscal Impact.

Fiscal Impact on the Department.

The PA WIC Program is 100% Federally-funded. No State dollars are involved in the operation of the WIC Program. The proposed regulatory change to § 1105.3, allowing a WIC check to be used at any authorized store, will cause the PA WIC Program to incur a one time equipment purchase fee.

The Commonwealth is one of the few states whose regulations provide for store specific WIC checks. The customary practice in states that are nonstore specific is to require their banking contractor to capture the authorized store number from the face of each check as it is processed through the bank. This service would have added approximately \$.02 to the cost of each check processed. The Commonwealth processes approximately 8,000,000 WIC checks annually, which would result in an estimated direct cost increase of approximately \$160,000 annually if this method were implemented. Additional costs to the Department under this method would include the issuance and maintenance of WIC authorization

stamps to approximately 1,500 authorized stores. The anticipated initial cost would be \$2,800 and ongoing replacement and new applicant stamp cost of approximately \$300 annually.

The Commonwealth chose an alternate method to this check identification system, which is less costly and less labor intensive. The alternate method is through the use of direct data transfer from each WIC authorized store to the PA WIC Program. This is accomplished with the use of electronic cash registers, Magnetic Ink Character Recognition (mini-MICR) readers, a secure web site or touchtone telephones. Each WIC-authorized store is required to transfer check redemption data to the PA WIC Program prior to depositing the redeemed WIC checks. The data is then combined electronically with each WIC check number, before the bank will redeem the check. This process will incur an initial cost of \$93,823 for the cost of the mini-MICR readers that will be supplied to stores that have the appropriate communications equipment. There will be no additional banking fees incurred. Since the Department was required by Federal law to implement these changes by July 1, 2006, before regulatory revisions could be completed, some of these costs have already been absorbed by the PA WIC Program.

Although costs to the Department initially increased, the long-term costs are greatly reduced. Additionally, savings in efficiencies at the local agency level will mitigate these initial cost increases. WIC checks previously identified the authorized store at which they were to be redeemed. However, when the store did not have the products the participant wanted or ceased operating, participants had to go back to the clinics to have the WIC checks reissued to another store. This created additional workload at the clinics, which is eased with these changes. Unfortunately, the actual cost of this additional workload cannot be quantified for accurate comparison to expected increases in costs.

Other aspects of changes in these regulations may cause some additional costs to the Department. The initial and annual determination of whether a store is, or is expected to, derive more than 50% of its annual revenue from the sale of food items from WIC sales and the establishment and maintenance of the store peer group system will require additional staff time. However, it is anticipated this task can be absorbed by the existing staff.

In addition, the list of authorized infant formula manufacturers, wholesalers, distributors or retailers required to be provided to WIC authorized stores will include approximately 11,000—12,000 entities. The Department has worked with USDA and determined that such a list can be provided or made available to WIC authorized stores in an electronic format, thereby mitigating the cost of production of an 11,000—12,000 entry list to approximately 1,400 WIC authorized stores annually.

Any cost increases as a result of these proposed changes mandated by Federal law will be covered by the Federal funding provided to the WIC Program. Additional costs saving may also be realized from the cost containment measures proposed in these regulations as required by Federal law.

Fiscal Impact on the Regulated Community

The Department does not anticipate any increased costs for the regulated community as a result of these proposed amendments.

C. Paperwork Requirements.

Paperwork Requirements for the Department

The Department's paperwork will increase in obtaining, preparing and updating the list of authorized infant formula manufacturers, wholesalers, distributors and retailers. The Department's paperwork requirements will also increase in the evaluation and documentation of the review of each store's actual or anticipated WIC sales to determine if any store is deriving more than 50% of its annual revenue from the sale of food items from WIC sales and in establishing and maintaining the store peer group system and the applicable competitive and maximum allowable prices.

Paperwork Requirements for the Regulated Community

The proposed amendments do not increase paperwork for WIC Program participants. The WIC-authorized stores are required to submit electronic data regarding the redemption of WIC checks prior to deposit. Although this task will increase the time necessary for WIC-authorized stores to prepare WIC checks for deposit, it will be somewhat offset by the fact that cashiers will no longer need to verify that the WIC check being presented for payment is payable to the store.

D. Effective Date/Sunset Date.

The proposed amendments will become effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking. The regulations will be monitored continuously and will be updated as required by changes in Federal laws governing the WIC Program. Therefore, no sunset date has been set.

E. Statutory Authority.

The WIC Program was authorized through an amendment to the Federal Child Nutrition Act of 1966 (42 U.S.C.A. § 1786). Congress authorized the USDA-FNS to contract with and make funds available to states to administer the WIC Program. In this Commonwealth, the WIC Program receives 100% of its funding from the USDA-FNS. Recent amendments to the Federal WIC statutes and appropriations necessitate these regulatory revisions. See Child Nutrition and WIC Reauthorization Act, Pub. L. No. 108-265, § 203(e)(10), 118 Stat. 729 at 776-779 (2004) (codified at 42 U.S.C. § 1786(h)(11)); Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 2833 and 2850 § 780; and, Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-97, 119 Stat. 2120, 2144 and 2163 § 787.

There are no State statutes governing the operation or administration of the WIC Program. The Women's, Infants' and Children's Nutrition Improvement Act (62 P. S. §§ 2951—2955) authorizes additional State funding for the expansion of the WIC Program. The Commonwealth, however, has not provided funding for the expansion of the program since State Fiscal Year 1996.

The State regulations governing the WIC Program were published at 29 Pa.B. 3841 (July 24, 1999), following the decision of the Commonwealth Court in *Giant Food Stores, Inc. v. Commonwealth of Pennsylvania, Department of Health*, 713 A.2d 177 (Pa. Cmwlth. 1998). The Commonwealth Court held that the Department was required to promulgate regulations governing the selection and management of grocery stores to participate in the WIC Program. The State regulations added 28 Pa. Code Part VIII (relating to supplemental nutrition program for women, infants and children (WIC program)). The regulations also rescinded 28 Pa. Code §§ 8.41—8.74,

the Department's then existing regulations pertaining to WIC Program administrative appeals.

The proposed amendments are published under section 2102(g) of The Administrative Code of 1929 (code) (71 P. S. § 532(g)), which provides the Department general power to promulgate regulations to carry out its duties. Section 2102(a) of the code gives the Department the authority and duty to protect the health of the people of this Commonwealth. (71 P. S. § 532(a))

F. Regulatory Review.

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. §§ 745.1—745.12), the Department submitted a copy of these proposed rulemaking on August 15, 2008, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Health and Human Services and the Senate Public Health and Welfare Committees (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed amendments, it will notify the Department by October 29, 2008. The notifications shall specify the regulatory review criteria which have not been met by that portion. The act specifies detailed procedures for review, prior to final publication of the regulation by the Department, the General Assembly and the Governor, of objections raised.

G. Contact Person.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed regulation to Greg Landis, Director, WIC Program, 2150 Herr Street, 1st Floor, Harrisburg, PA 17103, (717) 783-1289, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Persons with a disability who wish to submit comments, suggestions or objections regarding the proposed amendments may do so by using the previous number or address or for speech or hearing, or both, impaired persons by using V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT). Persons who require an alternative format of this document may contact Greg Landis at the previous address or telephone numbers so that necessary arrangements may be made.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

Fiscal Note: 10-180. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 28. HEALTH AND SAFETY

PART VIII. SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC PROGRAM)

CHAPTER 1101. GENERAL PROVISIONS

§ 1101.2. Definitions.

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

Above-50-percent-store—A store that derives more than 50% of its annual food sales revenue from WIC checks, and a new store applicant expected to meet this criterion under guidelines approved by USDA-FNS.

* * * * *

Competitive price—The price established by the Department, at or below which a store must maintain the required minimum inventory.

* * * * *

Food items—Items sold for human consumption that are eligible for purchase under the Food Stamp Program.

* * * * *

Food sales—

(i) Sales of all Food Stamp Program eligible foods intended for home preparation and consumption, including meat, fish and poultry; bread and cereal products; dairy products; fruits and vegetables.

(ii) Food items such as condiments and spices, coffee, tea, cocoa and carbonated and noncarbonated drinks may be included in food sales when offered for sale along with foods in the categories identified in subparagraph (i).

(iii) The term does not include the sale of any item that cannot be purchased with food stamp benefits, such as hot foods or food that will be eaten in the store.

Food Stamp Program—The government benefits program operated under the authority of the Food Stamp Act of 1964 (7 U.S.C.A. Chapter 51), and 55 Pa. Code Part II, Subpart L (relating to Food Stamp Program), and administered by the USDA-FNS and the Department of Public Welfare.

Full line grocery store—A store that:

(i) Offers for sale, in addition to WIC-authorized foods, food items from each of the following four food categories on a continuous basis:

- (A) Meat, poultry or fish.
- (B) Bread or cereal.
- (C) Vegetables or fruits.
- (D) Dairy.

(ii) Has available for sale at all times of operation and displays in a public area of the store, a minimum of three different varieties of food items in each of the four food categories listed subparagraph (i).

* * * * *

Overpayment—Payment to a WIC-authorized store of a WIC check redeemed by the store in an amount in excess of the amount to which the store was entitled based upon the maximum allowable price [of] applicable to the store's peer group for each allowable food authorized for purchase on the WIC check.

* * * * *

Peer group—The classification of an authorized store pursuant to the store peer group system, as determined by the criteria selected by the Department.

* * * * *

Store peer group system—A classification of authorized stores into groups based on common characteristics or criteria that affect food prices, for the purposes of applying appropriate competitive pricing criteria to stores at authorization and reauthorization and limiting payment for foods to competitive levels.

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CHAPTER 1103. AUTHORIZATION OF STORES

§ 1103.1. Authorization and reauthorization process and requirements.

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(b) *Authorization process.*

* * * * *

(5) The Department may request from the store any information necessary for the Department to determine whether the store qualifies as an above-50-Percent-Store.

(6) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

[(6)] (7) The Department will deny the application if the selection criteria in § 1103.4 are not satisfied, unless the Department grants probationary authorization under § 1103.2 (relating to probationary authorization). The Department will notify the store in writing whether the store's application for authorization is granted or denied. If the Department denies the application for authorization, the store shall be eligible to reapply for authorization six months after the effective date of the denial.

(c) *Reauthorization process.*

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(2) The Department may request from the store any information necessary for the Department to determine whether the store qualifies as an above-50-Percent-Store.

(3) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

[(3)] (4) The Department will deny the application without advance warning if the selection criteria in § 1103.4 are not satisfied, unless the store requests and the Department grants temporary authorization in accordance with § 1103.3 (relating to temporary authorization) or the Department grants probationary authorization in accordance with § 1103.2. The Department will notify the store in writing whether the store's application for reauthorization is granted or denied. If the Department denies the application for reauthorization, the store shall be eligible to apply for authorization 6 months after the effective date of the denial. If the Department grants and later rescinds temporary authorization, the store shall be eligible to apply for authorization 1 year from the date of the first onsite review for reauthorization.

(d) *Termination of authorization or reauthorization.* The Department will terminate a store's authorization or reauthorization if:

* * * * *

(7) The Department does not receive from the store, within 20 calendar days of the store's receipt of a written notice from the Department, the infor-

mation the Department has requested necessary for it to determine whether the store qualifies as an above-50-percent-store.

(8) After authorization of the store, the Department determines the store qualifies as an Above-50-Percent-Store. This paragraph does not apply to stores solely owned or operated by nonprofit entities.

§ 1103.4. Selection criteria for authorization and reauthorization.

The Department will use the following selection criteria to identify stores that meet the operational criteria to serve as a WIC-authorized store:

* * * * *

(5) The store shall have available on the premises at all times the minimum inventory of allowable foods as established by the Department under § 1103.5 (relating to minimum inventory) at shelf prices that are equal to or less than the [maximum allowable] competitive prices applicable to the store's peer group for those foods. The Department will publish in the Pennsylvania Bulletin and mail to all WIC-authorized stores, quarterly, the competitive prices and maximum allowable prices applicable to all peer groups for allowable foods for the next quarter.

* * * * *

(8) The store shall operate as a full line grocery store in a permanent fixed location where participants may purchase allowable foods with their WIC checks.

* * * * *

(14) The store does not qualify or is not expected to qualify as an above-50-percent-store. This paragraph does not apply to stores solely owned or operated by nonprofit entities.

(15) The store shall meet the minimum information technology requirements set by the Department. The Department will publish in the Pennsylvania Bulletin and mail to all WIC authorized stores, by September 15 of each year, the minimum technology requirements applicable for the following calendar year. This paragraph does not apply to stores authorized prior to _____. (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.) and maintaining an uninterrupted authorized status.

§ 1103.8. Store peer group system.

(a) The Department will establish a store peer group system, including distinct competitive pricing criteria and allowable reimbursement levels for each peer group.

(b) The Department will create peer groups based upon at least two criteria selected by the Department, one of which will be a measure of geography, such as metropolitan or other statistical areas that form distinct labor and product markets. The Department will annually publish the peer group selection criteria in the Pennsylvania Bulletin.

(c) The Department will place a store seeking authorization into an appropriate peer group based upon information gathered from the store's application as completed by the store and returned to the local agency in accordance with § 1103.1(b)(1) (relating to authorization and reauthorization process and requirements). The Department will notify a

store of its peer group classification prior to conducting an onsite review under § 1103.1(b)(5). A WIC-authorized store seeking reauthorization shall remain in the peer group previously selected for the store unless otherwise notified by the Department.

(d) A WIC-authorized store shall adhere to the competitive prices and maximum allowable prices applicable to the store's peer group.

(e) A WIC-authorized store shall inform the Department of any store changes applicable to the peer group selection criteria in effect.

CHAPTER 1105. REQUIREMENTS OF WIC AUTHORIZED STORES

§ 1105.1. Training.

* * * * *

(b) Annual training. The Department will provide for WIC-authorized stores annual training which is designed to prevent WIC Program errors and abuses and to improve WIC Program services. The following apply to annual training:

* * * * *

(5) Failure to have at least one representative attend training shall result in the Department imposing sanctions against the WIC-authorized store under [§ 1107.1a(d)(16)] § 1107.1a(d)(15) (relating to disqualifications).

* * * * *

§ 1105.2. Price adjustment.

(a) Determination of overpayment. In each calendar quarter, the Department will compare the maximum amount for which a WIC-authorized store could have redeemed a WIC check based upon the maximum allowable prices applicable to the store's peer group for foods authorized for purchase on the check against the actual amount for which the WIC check was redeemed, to determine whether there was an overpayment.

* * * * *

(e) Sanctions. The Department will impose a sanction against a WIC authorized store under [§ 1107.1a(d)(12)] § 1107.1a(d)(11) (relating to disqualifications) if the store fails to reimburse the Department for an overpayment within the time required under subsections (c) and (d).

§ 1105.3. Terms and conditions of participation.

(a) General terms and conditions. A WIC-authorized store shall adhere to this subsection. Failure to do so shall result in the imposition of sanctions under § 1107.1 (relating to imposition of sanctions). A WIC-authorized store shall:

* * * * *

(17) Purchase infant formula for resale to WIC participants only from Department authorized infant formula manufacturers, wholesalers, distributors or retailers. Information on where to obtain the list will be published by the Department in the Pennsylvania Bulletin simultaneously with the initial publishing of this subsection. (Editor's Note: The list referred to in this paragraph will be published with this rule upon final publication.)

(18) Provide the Department, within 20-calendar days of the store's receipt of a written notice from

the Department requesting the additional information, information the Department has requested necessary for the Department to determine whether the store qualifies as an above-50-percent-store. This paragraph does not apply to stores solely owned or operated by nonprofit entities.

(b) *Terms and conditions of participation with regard to participants.* A WIC-authorized store shall serve participants and authorized representatives as set forth in this subsection. The Department will impose sanctions against a WIC-authorized store that fails to do so, as set forth in § 1107.1. A WIC-authorized store shall:

* * * * *

(3) Provide an allowable food to a participant or authorized representative at or below the current price the store charges other customers, and at or below the maximum allowable price **applicable to the store's peer group.**

* * * * *

(c) *Terms and conditions of participation with regard to WIC check processing and redemption.* A WIC-authorized store shall adhere to the requirements of this subsection with regard to WIC check processing and redemption. The Department will impose sanctions against a WIC-authorized store that fails to do so, as set forth in § 1107.1. A WIC-authorized store shall:

* * * * *

(2) **[Accept a WIC check only if the WIC check is made payable to that specific WIC authorized store, unless the Department has provided written authorization otherwise to the store.**

(3) **[** Accept a WIC check only if the participant or authorized representative presents the WIC check on or between the "First Day to Use" and the "Last Day to Use" designations on the WIC check.

[(4)] (3) Accept a WIC check only if a valid WIC identification card is presented at the time of the WIC transaction.

[(5)] (4) Accept a WIC check only if the signature of the participant or authorized representative is obtained on the WIC check at the time of the WIC transaction and the family identification number on the WIC check matches the family identification number on the identification card.

[(6)] (5) Accept a WIC check only if there is no visible alteration on the WIC check.

[(7)] (6) Charge the WIC Program only for the types and quantities of allowable foods specified on the WIC check and selected for purchase by the participant or authorized representative.

[(8)] (7) Record in ink, on each WIC check immediately after completion of the WIC transaction and prior to the participant or authorized representative signing the WIC check, the actual purchase amount of the transaction net of any cents-off coupons or other discounts.

[(9)] (8) Properly correct an error made in recording the "Pay Exactly" amount of a WIC check by drawing a single line through the incorrect amount and writing the correct amount above or below the error and having the participant or authorized representative initial next to the corrected amount. No other corrections are permissible.

[(10)] (9) Not alter any information on the WIC check as presented by the participant or authorized representative.

[(11)] (10) Not provide a substitute item, raincheck or cash reimbursement for an allowable food that is unavailable.

[(12)] (11) Not provide cash or credit for a WIC check.

[(13)] (12) Not provide change for a coupon tendered during the WIC transaction.

[(14)] (13) Not provide an exchange to replace an allowable food returned by a participant or authorized representative unless the exchange is to replace an identical product that was found to be damaged or otherwise unusable.

[(15)] (14) Not refund money for an allowable food purchased in a WIC transaction that is returned by a participant or authorized representative.

[(16)] (15) Not accept a WIC check as payment for an item other than an allowable food specified on the WIC check.

[(17)] (16) Not charge the WIC Program for an allowable food not received by the participant or authorized representative or for an allowable food in excess of the quantity prescribed on the WIC check.

[(18)] (17) Not charge the WIC Program for the sale of an amount of an allowable food which exceeds the store's documented inventory of that food item covering the period of time under review and in which the sale was made.

(18) Prior to depositing WIC checks, transmit records of WIC check numbers from WIC checks accepted by the store to the Department through transmission mechanisms made available by the Department.

* * * * *

(d) When the Department determines, prior to payment of a check submitted for redemption, that the store has committed a violation of this section that affects the payment to the store, the Department **[will] may** deny payment. If payment already has been made, the Department **[will] may** establish a claim for reimbursement by sending the store a written notice of the overcharge or other improper charge. The store may dispute the Department's claim and shall submit the basis for its dispute in writing within 15 calendar days of the date of the Department's written notice. The Department will notify the store of the resolution of the claim dispute. The Department's resolution of a claim dispute is not an adverse action that may be appealed.

§ 1105.5. Changes in availability or location of WIC authorized stores.

* * * * *

[(e) Temporary authorization to accept WIC checks redeemable at other stores. The Department will temporarily authorize alternate WIC authorized stores to accept WIC checks designated on the face of the check to be used at another WIC authorized store, to provide participants with access to allowable foods when a WIC authorized store has permanently or temporarily closed, the

store's authorization has been terminated, or the store has been disqualified as a WIC authorized store.]

§ 1105.6. Monitoring of WIC-authorized stores.

(a) Purpose and types of monitoring of WIC authorized stores.

(1) Federal, State or local representatives will conduct announced and unannounced onsite reviews of WIC authorized stores to determine compliance with applicable Federal and State regulations, and to investigate complaints regarding a store. The types of onsite reviews that may be conducted for monitoring purposes are compliance investigations, inventory audits, routine reviews and WIC transaction reviews. The monitoring process, to determine compliance with applicable Federal and State regulations, operates independently of the authorization process and may overlap more than one authorization period.

(2) The Department will conduct an annual analysis of a WIC authorized store's sales data in order to determine whether the store qualifies as an above-50-percent-store, except that stores solely owned or operated by nonprofit entities will not be subject to this annual analysis.

* * * * *

(h) Annual determination of WIC sales percentage. The Department may request from a store any information necessary for the Department to determine whether the store qualifies as an above-50-percent-store. This subsection does not apply to stores solely owned or operated by nonprofit entities.

CHAPTER 1107. SANCTIONS

§ 1107.1a. Disqualifications.

* * * * *

(d) One-year disqualification. The Department will disqualify a WIC-authorized store for 1 year for any of the following violations:

* * * * *

(4) Failing to maintain on the premises at all times minimum inventory requirements of an allowable food at or below the current [maximum allowable] competitive price applicable to the store's peer group for that food.

* * * * *

(6) [Two or more incidences of accepting a WIC check made payable to another store without prior written approval from the Department.

(7)] Failing to maintain a clean and sanitary store.

[(8)] (7) Failing to properly store or refrigerate an allowable food.

[(9)] (8) Closure of the store by a city, local or county health department.

[(10)] (9) Charging or demanding that a participant or authorized representative pay for an allowable food with money or with another WIC check for purchases made with a WIC check.

[(11)] (10) Two or more incidences of securing the signature of the participant or authorized representative prior to completing the "Pay Exactly" box on the WIC check.

[(12)] (11) Two or more incidences of charging the WIC Program Sales Tax.

[(13)] (12) Giving monetary change to the person who tenders a WIC check.

[(14)] (13) Failing to reimburse the Department for overpayments, overcharges or other improper charges within the specified time frame.

[(15)] (14) Physically altering or changing on the face of a WIC check the store name, food type or quantity, participant information, date, or printed dollar amount.

[(16)] (15) Failing to have at least one representative of the store attend required training.

[(17)] (16) Providing false information on the application for authorization or reauthorization.

* * * * *

§ 1107.2. Civil money penalties.

(a) Option available in lieu of a disqualification or denial of reauthorization. The Department may offer to a WIC authorized store the option of paying a civil money penalty in lieu of a denial of reauthorization or a disqualification required under § 1107.1 (relating to imposition of sanctions), only if the Department finds inadequate participant access as set forth in § 1103.7 (relating to inadequate participant access). The Department will not provide this option for third or subsequent violations under § 1107.1a(b)—(d) (relating to disqualifications) or for any permanent disqualifications under § 1107.1a(a).

(b) Calculation of civil money penalty.

* * * * *

(2) For a civil money penalty in lieu of disqualification under [§ 1107.1a(d)(3)—(16)] § 1107.1a(d)(3)—(15), the Department will calculate the civil money penalty for each violation identified by multiplying 5% of the average monthly total value of WIC checks redeemed for the most recent 6-month period by the number of months the store would be disqualified under § 1107.1. For a store to which the Department may deny reauthorization and for which this option is available, the Department will multiply 5% of the average monthly total value of WIC checks for the most recent 6-month period by 6 months to determine the civil money penalty to be paid. If 6 months of information relating to the monthly value of WIC checks redeemed is not available, the Department will calculate the monthly average based upon the number of months for which information is available.

* * * * *

CHAPTER 1113. STORE APPEALS.

§ 1113.1. Right to administrative appeal.

* * * * *

(b) A store may not appeal the following:

* * * * *

(4) **The validity or appropriateness of the Department's store peer group system criteria and the criteria used by the Department to identify stores that qualify as an above-50-percent-store or that are comparable to an above-50-percent-stores.**

[(4)] (5) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program.

[(5)] (6) The resolution of an overpayment dispute under § 1105.2(d) (relating to price adjustment) or the resolution of an overcharge dispute under § 1105.3(d) (relating to terms and conditions of participation).

(c) A denial of authorization under **[§ 1103.1(b)(6)] § 1103.1(b)(7)** and a disqualification imposed under § 1107.1a(a) (relating to disqualifications) shall be effective on the date of the store's receipt of notice of the adverse action. All other adverse actions shall be effective on the date set forth in the written notice.

[Pa.B. Doc. No. 08-1588. Filed for public inspection August 29, 2008, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On August 19, 2008, the Environmental Quality Board (Board) accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by Foundation Mining, LP, requests the Board amend 25 Pa. Code § 93.9v (relating to drainage list V) to redesignate tributaries to South Fork of Tenmile Creek, including House, Hoge and McCourtney Runs in Greene County, from High Quality-Warm Water Fishes (HQ-WWF) to Warm Water Fishes (WWF) designation.

Under 25 Pa. Code, § 93.4d(a) (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for South Fork of Tenmile Creek will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition submitted by Foundation Mining, LP is available to the public by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 and is also accessible on the Department's web site at www.depweb.state.pa.us (DEP Keywords: EQB ("EQB Meeting/Agendas/Handouts/Minutes").

JOHN HANGER,
Acting Chairperson

[Pa.B. Doc. No. 08-1589. Filed for public inspection August 29, 2008, 9:00 a.m.]

[25 PA. CODE CH. 85]

Bluff Recession and Setback

[Correction]

A typographical error occurred in the fiscal note notation for the proposed rulemaking which appeared at 38 Pa.B. 4617, 4619 (August 23, 2008). The correct fiscal note number is 7-404.

[Pa.B. Doc. No. 08-1523. Filed for public inspection August 22, 2008, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2009.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The proposed addition of § 63.53 (relating to egg collection) is published under the statutory authority of section 2102(a) of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed regulation is described in more detail under the summary of proposal.

E. Summary of Proposal

The Commission's waterways conservation officers during the past year encountered anglers catching large female brown trout and removing the eggs contained within the fish. The fish were released back into the waters from which they were taken. The anglers indicated that they used these eggs as bait to fish for trout in other water areas. The continued removal of eggs from large female trout may have a detrimental effect on the numbers of young of the year fish in a wild trout population and likely cause undue harm to a fish that is released. Currently, the regulations require that fish must be released immediately unharmed from most specially regulated trout waters. Officers successfully charged two individuals for a violation of this regulation and, in doing so, had to prove that the fish were harmed by the removal of the eggs. To clearly prohibit this activity, the Commission proposes that a new regulation be added to read as set forth in Annex A.

By notice published at 38 Pa.B. 3875 (July 12, 2008), the Executive Director, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), took immediate action to make it unlawful to take eggs from a fish taken from waters of this Commonwealth outside the Lake Erie watershed or to possess these eggs or use them as bait. Eggs taken from lawfully harvested fish from the Lake Erie watershed may be possessed and used as bait in the Lake Erie watershed only. This temporary modification went into effect immediately and will remain in effect until January 1, 2009, unless the Commission, by appropriate action, adopts the new regulation.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

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

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

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

Fiscal Note: 48A-205. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.53. Egg collection.

It is unlawful to take eggs from a fish taken from waters of this Commonwealth outside the Lake Erie watershed or to possess these eggs or use them as bait. Eggs taken from lawfully harvested fish from the Lake Erie watershed may be possessed and used as bait in the Lake Erie watershed only. This section does not prohibit the possession of eggs contained within a lawfully harvested fish that is possessed for the purpose of human consumption.

[Pa.B. Doc. No. 08-1590. Filed for public inspection August 29, 2008, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Dental Hygiene Scope of Practice; Local Anesthesia

The State Board of Dentistry (Board) proposes to amend §§ 33.1, 33.3, 33.102, 33.205, 33.301, 33.302 and 33.402 and add §§ 33.115, 33.116 and 33.205b (relating to local anesthesia permit; certification of public health dental hygiene practitioners; and practice as a public health dental hygiene practitioner) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Under section 3(d), (j.2) and (o) of the Dental Law (law) (63 P. S. § 122(d), (j.2) and (o)), the Board has authority to adopt, promulgate and enforce regulations for the general supervision, scope of practice and continuing education of dental hygienists. The law requires amendments to the regulations to implement a new class of certificate for "public health dental hygiene practitioners."

Background and Purpose

The Board has been considering expanding the scope of practice of dental hygienists to include the administration of local anesthesia since 2002, when the Pennsylvania Dental Hygienists' Association provided testimony on the subject at the January 18, 2002, Board meeting. At that time, 27 states permitted dental hygienists to administer local anesthesia. Today, 39 states and the District of Columbia permit the administration of local anesthesia by dental hygienists. Since 2002, an ongoing dialog has continued within the dental community in this Commonwealth regarding this proposal. In 2005, a draft of this proposed rulemaking was sent out to over 150 organizations, schools and individuals to solicit input from the regulated community and other interested parties. The proposal received overwhelming support from the dental hygiene community. In addition, the dental community was generally supportive of the proposal provided that dental hygienists receive adequate education and are properly supervised. The proposal was revised based on the comments received by the Board.

Some parties to this dialog objected to permitting dental hygienists to administer local anesthesia through both block and infiltration techniques. Essentially, when a nerve is anesthetized along the nerve trunk before it branches, block anesthesia occurs. A block is used to anesthetize the entire area of the nerve's innervation. When a branch of a nerve is anesthetized by depositing the anesthetic solution in the area of the nerve branch so that the solution filters through the underlying bone to reach the nerve, infiltration anesthesia occurs. Initially, the Board considered restricting dental hygienists to infiltration injections only. The Board reviewed the regulations of the 39 states that permit dental hygienists to administer local anesthesia. Of these, 37 states permit both infiltration and block techniques and have not reported significant problems relating to dental hygienists administering local anesthesia. Ultimately, the Board determined that dental hygienists who meet the educa-

tion requirements being proposed and are properly supervised could safely perform infiltration injections and intraoral nerve blocks limited to the second (maxillary) and third (mandibular) divisions of the trigeminal nerve. Under this proposal, a dental hygienist must meet the educational requirements to obtain a local anesthesia permit. In addition, a dental hygienist who holds a local anesthesia permit may administer local anesthesia only under the direct on-premises supervision of a licensed dentist. Direct supervision requires the dentist to examine the patient, authorize the procedure to be performed, be physically present in the dental facility and available during performance of the procedure and examine and take full responsibility for the completed procedure. This proposal would permit a dental hygienist to administer local anesthesia only as authorized by the supervising dentist. A supervising dentist exercising the dentist's professional judgment may choose not to authorize it, authorize it by infiltration only, or authorize it by both infiltration and nerve block techniques.

While these discussions continued, the Board's Regulations Review Committee (Committee) proposed other changes relating to the scope of practice of dental hygienists, specifically with regard to the supervision and continuing education requirements. The Committee suggested that the requirement that routine dental hygiene services (for example, scaling, root planing and polishing) be provided under direct supervision in all cases except for ASA class I patients was unduly restrictive. ASA class I patients are currently defined in § 33.1 (relating to definitions) as those that are without systemic disease. The Committee proposed expanding this exception to provide for general supervision with regard to ASA Class I and II patients. ASA Class II patients are defined as those with mild systemic disease. The Committee also proposed an expansion in the definition of general supervision to permit a dental hygienist to provide dental hygiene services, as authorized by a licensed dentist, within 1 year of an examination by the dentist. Currently the regulations provide a standard of 90 days. Finally, the Committee proposed a change in the continuing education requirements for dental hygienists to permit dental hygienists to complete up to 3 of the required 20 hours of continuing education in the area of communication skills. The Committee made this proposal in recognition of the fact that the education of the patient with regard to oral hygiene care is an important function of a dental hygienist and that effective communication skills are essential to that function.

A draft of the Committee's proposal was also circulated within the regulated community and other interested parties in 2005. Input provided from the dental and dental hygiene communities was, again, generally supportive of the proposal. Some concerns were raised by the dental community regarding the expansion of general supervision to extend to dental hygiene services to be performed within 1 year of a dental examination. The Board, however, believes that this proposal establishes a minimum standard and that each individual dentist is responsible for exercising the dentist's professional judgment in authorizing dental hygiene services to be provided to patients based on each patient's condition and treatment plan. Patients with chronic conditions may need more frequent exams, while patients who are generally healthy and who have good oral hygiene may need less frequent exams. Other commentators agreed that communication skills are essential for dental hygienists, however they objected to any reduction in the number of clinical continuing education hours required and sug-

gested that the Board require 3 additional hours of continuing education be completed in the area of communication skills. The Board, however, does not have the statutory authority to increase the total number of hours of continuing education required beyond the statutorily mandated 20 hours. This proposal would permit, but not require, a dental hygienist to complete up to 3 hours of continuing education in communication skills.

As a result, the Board prepared a prior version of this proposed rulemaking to implement these changes to the scope of practice of dental hygienists. However, before the Board was able to publish the proposed rulemaking, Act 51 was enacted on July 20, 2007. Act 51 made three major amendments to the law which affected this proposal. First, Act 51 created a new classification of certificate for "public health dental hygiene practitioners." Second, Act 51 created a "hierarchy" relating to the provision of radiological procedures in a dental office, with public health dental hygiene practitioners able to take X-rays without supervision, dental hygienists able to take X-rays under general supervision, and other auxiliary staff able to take X-rays only under direct supervision. Finally, section 5 of Act 51 abrogated the Board's regulations relating to the supervision of dental hygienists in § 33.205(d)(1) (relating to practice as a dental hygienist), requiring that section to be completely re-drafted.

Description of Proposed Amendments

The definition of "general supervision" in § 33.1 would be amended to extend general supervision to dental hygiene services to be performed within 1 year of an examination by a dentist, instead of the current standard of 90 days. Section 33.1 would also be amended to define the term "local anesthesia" as "the elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent." As regards dental hygienists administration of local anesthesia under a permit issued by the Board, the term would include local infiltration anesthesia and intraoral nerve block anesthesia limited to the second (maxillary) and third (mandibular) divisions of the trigeminal nerve. Finally, a definition of "public health dental hygiene practitioner" would be added to comport to Act 51.

Section 33.3 (relating to fees) would be amended to include the fees necessary for processing applications for and biennial renewal of local anesthesia permits and public health dental hygiene practitioner certificates.

Section 33.102 (relating to professional education) would be amended to comport with changes made by Act 51.

Section 33.115 would be added to set forth the requirement for a dental hygienist to secure a permit prior to administering local anesthesia. This section also sets forth the qualifications required by the Board for a dental hygienist to both secure and maintain a local anesthesia permit. First, a dental hygienist must hold a current license in good standing to practice as a dental hygienist in this Commonwealth. Second, a dental hygienist must maintain certification in basic life support (BLS). Finally, a dental hygienist must take one of three alternate educational paths prior to applying for a local anesthesia permit. The first is graduation, within the 5 years immediately preceding the filing of the application for a local anesthesia permit, from a dental hygiene school accredited by the American Dental Association's Commission on Dental Accreditation (CODA) which included the successful completion of a didactic and clinical course in

the administration of local anesthesia. The second option is the successful completion, within the 5 years immediately preceding the filing of the application for local anesthesia permit, of a course consisting of a minimum of 30 hours of didactic and clinical instruction in the administration of local anesthesia sponsored by a dental or dental hygiene education program accredited by CODA. The third avenue is for dental hygienists who are licensed in other jurisdictions that permit dental hygienists to administer local anesthesia. The Board will issue permits to these dental hygienists provided that the other jurisdiction required completion of a course in the administration of local anesthesia accredited by CODA or by the Commission on Dental Accreditation of Canada (CDAC) prior to obtaining the authority to administer local anesthesia; the dental hygienist actively engaged in the administration of local anesthesia under a current license or permit within the 5 years immediately preceding the filing of the application for a local anesthesia permit; and the dental hygienist certifies that he at all times administered local anesthesia in accordance with all applicable rules and regulations of the other jurisdiction and provides a letter or certificate of good standing indicating that there has been no disciplinary action taken against the dental hygienist relating to the administration of local anesthesia.

The Board is also proposing a requirement for biennial renewal of the local anesthesia permit. To maintain the local anesthesia permit, a dental hygienist shall submit a renewal application and renewal fee and maintain certification in BLS.

Section 33.116 would be added to implement the provisions of Act 51. Subsection (a) would require a dental hygienist who desires to obtain a certification as a public health dental hygiene practitioner to submit an application and fee to the Board. Subsection (b) sets forth the qualifications for a public health dental hygiene practitioner certificate to include a current license in good standing to practice as a dental hygienist in this Commonwealth; 3,600 hours of practice as a licensed dental hygienist under the supervision of a license dentist; and professional liability insurance. The Board determined the minimum amount of \$1 million per occurrence and \$3 million per annual aggregate in consultation with the Pennsylvania Dental Hygienists' Association as well as by surveying a number of insurance providers licensed to issue this coverage in this Commonwealth.

Subsection (c) provides for the expiration and biennial renewal of the public health dental hygiene practitioner's certificate.

Section 33.205 would be amended to make some minor changes to the description of certain dental hygiene services. Subsection (a)(1) would be amended to replace the more specific "placement of antimicrobial cord," with a more general alternative "placement of subgingival agents." The Board makes this proposal because the existing description is outdated. Therapeutic and technological advances in the delivery of oral health care occur rapidly, while the regulatory process can take years. Dental hygienists are qualified to place a variety of subgingival agents, including antimicrobials, antibiotics, antiseptics or anesthetics, and they may be delivered by a variety of methods, including pastes, ointments, gels, fibers, strips, spheres, discs or chips.

In addition, subsection (a)(2) provides that a dental hygienist may engage in "periodontal probing, scaling, root planing, polishing or another procedure required to remove calculus deposits, accretions, excess or flash re-

storative materials and stains from the exposed surfaces of the teeth and beneath the free margin of the gingiva to the base of the junctional epithelium." The Board proposes to replace the histological reference "beneath the free margin of the gingiva to the base of the junctional epithelium" with "beneath the gingiva." The gingiva is the tissue (covered by mucous membranes) that surrounds the bases of the teeth, commonly referred to as the gums. The "junctional epithelium" is defined as "a circular arrangement of epithelial cells occurring at the base of the gingival sulcus and attached to both the tooth and the subepithelial connective tissue." In layman's terms, the junctional epithelium is a grouping of cells that attach the gums to the teeth. Realistically, the only way to determine "the base of the junctional epithelium" is with a microscope. The fact is that a dental hygienist provides the listed services both above and below the gum line. In fact, root planing, by definition, must be done beneath the gingiva (gums). The current description is overly technical and serves no practical regulatory purpose.

Subsection (a)(7) is added to include the administration of local anesthesia by regional injection within the scope of practice of a dental hygienist in accordance with § 33.115.

Subsection (d)(1) pertaining to supervision requirements for dental hygienists in dental offices would be amended in its entirety as a result of Act 51, which abrogated the existing language. In its place, the text provides that the placement of subgingival agents, some of which require a prescription by a dentist, would be permitted only under direct supervision, unless the dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist, in which case general supervision is required. Scaling, root planing, polishing, and the like, may be provided under general supervision if the patient is relatively free of systemic disease or suffers only mild systemic disease, as determined by the dentist. Otherwise, if the patient suffers from systemic disease that is severe, incapacitating or life threatening, these services may only be provided under direct supervision. The provision of local anesthesia services may only be provided under direct supervision under a permit issued by the Board. All other dental hygiene services may be provided under general supervision.

Section 33.205(d)(2), pertaining to supervision requirements for dental hygienists (who are not public health dental hygiene practitioners) in public and private institutions and institutions under the jurisdiction of Federal, State or local health agencies, would be amended to provide similar supervision requirements relating to the placement of subgingival agents and local anesthesia by regional injection. All other dental hygiene services would be provided under general supervision.

The Board also proposes to add § 33.205b to set forth the standards for public health dental hygiene practitioners in accordance with Act 51. Subsection (a) addresses the scope of practice of public health dental hygiene practitioners. A public health dental hygiene practitioner would be permitted to perform the dental hygiene services set forth in § 33.205(a)(2)—(6) without supervision of a dentist. However, placement of subgingival agents (antimicrobials, antibiotics, anesthetics, and the like) would require a prescription or order of a dentist, and administration of local anesthesia would require direct supervision pursuant to a permit issued by the Board. Although Act 51 provides for a public health dental

hygiene practitioner to practice generally "without the authorization, assignment or examination by a dentist," the General Assembly could not have anticipated the expansion of the scope of practice to include the placement of all subgingival agents and the administration of local anesthesia because these provisions had not yet been proposed by the Board.

Subsection (b) would incorporate the requirement of referral set forth in Act 51. Subsection (c) would establish the practice settings in which a public health dental hygiene practitioner would be authorized to practice without supervision. In subsection (d), the Board proposes minimum standards for recordkeeping by public health dental hygiene practitioners. The Board's existing recordkeeping regulation in § 33.209 (relating to preparing, maintaining and retaining patient records) places the onus on the dentist to assure that dental records are properly maintained. Public health dental hygiene practitioners are authorized to practice in public health settings without supervision, so the onus must fall on them to maintain proper records.

The Board also proposes to amend its regulations relating to the performance of radiologic procedures in Subchapter D. Section 33.301 (relating to definitions) would be amended to establish the Radiation Health and Safety examination administered by the Dental Assisting National Board (DANB) as the required examination for auxiliary personnel who wish to administer ionizing radiation in a dental office. Section 33.302 (relating to auxiliary personnel performing radiologic procedures) would also be amended to comport with changes made by Act 51. The result is that public health dental hygiene practitioners may perform radiologic procedures without the supervision of a dentist; dental hygienists may do so under general supervision, as defined in Act 51, and all other auxiliary personnel who have passed the examination may do so under direct supervision.

Finally, the Board proposes an amendment to § 33.402 (relating to continuing education subject areas) to permit dental hygienists to complete no more than 3 of the required 20 hours of continuing education in courses relating to communication skills; to require public health dental hygiene practitioners to complete 5 of the required 20 hours in public health-related courses; and to permit public health dental hygiene practitioners who are also certified educational specialists by the Department of Education to submit evidence of compliance with section 1205.2 of the Public School Code (24 P. S. § 12-1205.2) meet the 20-hour continuing education requirement.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions because the costs associated with processing the local anesthesia permits and public health dental hygiene practitioner certificates will be borne by applicants. Dental hygienists who apply for local anesthesia permits will incur some costs associated with the permit application and renewal fees and possibly the costs of completing a local anesthesia course. Dental hygienists who wish to obtain certification as public health dental hygiene practitioners will incur costs associated with the permit application and biennial renewal fees. There are currently approximately 7,904 licensed dental hygienists in this Commonwealth. The Board has no way of knowing how many dental hygienists will apply for the local anesthesia permit or the public health dental hygiene practitioner certificate.

The proposed rulemaking will require the Board to develop applications for the local anesthesia permit, public health dental hygiene practitioner certificate, and biennial renewal forms for each of these credentials, but should not result in any additional legal, accounting or reporting requirements for the Commonwealth or the regulated community.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 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 House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Christopher P. Grovich, Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking.

JOHN V. REITZ, D.D.S.,
Chairperson

Fiscal Note: 16A-4617. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.1. Definitions.

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

* * * * *

General supervision—In a dental facility, supervision by a dentist who examines the patient, develops a treatment plan, authorizes the performance of dental hygiene services to be performed within [90 days] 1 year of the examination, and takes full professional responsibility for the performance of the dental hygienist. In facilities

identified in § 33.205(c)(2) and (3) (relating to practice as a dental hygienist), general supervision is defined in § 33.205(d)(2).

* * * * *

Local anesthesia—The elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent. For the purposes of § 33.115 (relating to local anesthesia permit), the term includes local infiltration anesthesia and intraoral nerve block anesthesia limited to the 2nd (maxillary) and 3rd (mandibular) divisions of the trigeminal nerve.

* * * * *

Public health dental hygiene practitioner—A licensed dental hygienist who is certified by the Board as having met the requirements of section 11.9 of the act (63 P. S. § 130j), and who is authorized to perform dental hygiene services in accordance with § 33.205b (relating to practice as a public health dental hygiene practitioner) without the authorization, assignment or examination of a dentist.

* * * * *

§ 33.3. Fees.

(a) Following is the schedule of fees charged by the Board:

* * * * *

Application fee—certificate of public health dental hygiene practitioner..... \$20

Application fee—local anesthesia permit..... \$20

* * * * *

Biennial renewal fee—certificate of public health dental hygiene practitioner..... \$40

Biennial renewal fee—local anesthesia permit \$40

* * * * *

Subchapter B. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS

§ 33.102. Professional education.

* * * * *

(b) *Dental hygienists.*

(1) Candidates for licensure as dental hygienists shall show compliance with section 3(d) of the act by submitting certification of graduation from a dental hygiene school accredited or provisionally accredited by an approved United States Department of Education-recognized regional accrediting agency or the Commission on Dental Accreditation (CODA) of the American Dental Association, if the school's dental hygiene course of study comprises a minimum of 2 years of at least 32 weeks of at least 30 hours each week or its equivalent.

* * * * *

§ 33.115. Local anesthesia permit.

(a) **Permit required.** A dental hygienist shall possess a current permit issued by the Board under this section before administering local anesthesia to a patient in a dental office.

(b) **Application.** A dental hygienist who desires to obtain a permit to administer local anesthesia shall submit an application on a form provided by the

Board, pay the permit fee prescribed in § 33.3 (relating to fees) and meet the qualifications for the permit as prescribed in this section.

(c) **Qualifications.** To obtain a local anesthesia permit, a dental hygienist shall:

(1) Hold a current license in good standing to practice as a dental hygienist in this Commonwealth.

(2) Hold current certification in Basic Life Support (BLS).

(3) Provide to the Board acceptable documentation evidencing one of the following:

(i) Graduation, within the 5 years immediately preceding the filing of the application for local anesthesia permit, from a dental hygiene program that meets the following criteria:

(A) The dental hygiene program is accredited by the American Dental Association's Commission on Dental Accreditation (CODA).

(B) The dental hygiene program included the successful completion of a didactic and clinical course in the administration of local anesthesia.

(ii) Successful completion, within the 5 years immediately preceding the filing of the application for local anesthesia permit, of a course consisting of a minimum of 30 hours of didactic and clinical instruction in the administration of local anesthesia sponsored by a dental or dental hygiene education program accredited by CODA.

(iii) Possession of a current license or permit issued by the proper licensing authority of another state, territory or district, or by Canada, where the dental hygienist is authorized under the laws of that jurisdiction to administer local anesthesia, provided that the following conditions are met:

(A) The jurisdiction where the dental hygienist is so licensed or permitted requires completion of a course in the administration of local anesthesia accredited by CODA or by the Commission on Dental Accreditation of Canada (CDAC) prior to obtaining certification, endorsement or other such authority.

(B) The dental hygienist actively engaged in the administration of local anesthesia under a current license or permit within the 5 years immediately preceding the filing of the application for local anesthesia permit.

(C) The dental hygienist certifies that, at all times prior to filing the application for local anesthesia permit, the dental hygienist administered local anesthesia in accordance with all applicable laws and regulations of the jurisdiction where the dental hygienist is so licensed or permitted.

(D) The jurisdiction where the dental hygienist is so licensed or permitted provides a letter or certificate of good standing indicating that there has been no disciplinary action taken against the dental hygienist relating to the administration of local anesthesia.

(d) **Expiration and biennial renewal.** A local anesthesia permit issued by the Board under this section will expire at the same time as the permit holder's dental hygiene license but may be renewed biennially at the same time the dental

hygiene license is renewed. A dental hygienist who desires to renew a local anesthesia permit shall submit the following:

- (1) A renewal application on a form provided by the Board.
- (2) The permit renewal fee set forth in § 33.3.
- (3) Proof of current certification in BLS.

§ 33.116. Certification of public health dental hygiene practitioners.

(a) *Application.* A licensed dental hygienist who desires to obtain certification as a public health dental hygiene practitioner shall submit an application on a form provided by the Board, pay the application fee prescribed in § 33.3 (relating to fees) and meet the qualifications for certification as prescribed in this section.

(b) *Qualifications.* To qualify for certification as a public health dental hygiene practitioner, a dental hygienist shall:

- (1) Hold a current license in good standing to practice as a dental hygienist in this Commonwealth.
- (2) Provide to the Board acceptable documentation demonstrating that the dental hygienist has completed 3,600 hours of practice as a licensed dental hygienist under the supervision of a licensed dentist.
- (3) Provide to the Board acceptable documentation demonstrating that the dental hygienist has obtained professional liability insurance in the minimum amount of \$1,000,000 per occurrence and \$3 million per annual aggregate.

(c) *Expiration and biennial renewal.* A certificate issued by the Board under this section will expire at the same time as the certificateholder's dental hygiene license but may be renewed biennially at the same time the dental hygiene license is renewed. A dental hygienist who desires to renew a local anesthesia permit shall submit the following:

- (1) A renewal application on a form provided by the Board.
- (2) The permit renewal fee set forth in § 33.3.

Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

§ 33.205. Practice as a dental hygienist.

(a) *Scope of professional practice.* A dental hygienist may offer to perform or perform services that involve:

- (1) Placement of [antimicrobial cord] subgingival agents.
- (2) Periodontal probing, scaling, root planing, polishing or another procedure required to remove calculus deposits, accretions, excess or flash restorative materials and stains from the exposed surfaces of the teeth and beneath the [free margin of the] gingiva [to the base of the junctional epithelium].

* * * * *

(7) Administration of local anesthesia by regional injection in accordance with § 33.115 (relating to local anesthesia permit).

* * * * *

(d) *Supervision.*

(1) [In subsection (c)(1) practice sites, the following apply:

(i) A dental hygienist may provide the professional services identified in subsection (a)(1) to patients in any ASA Class under the direct supervision of a dentist.

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2) to ASA Class I patients under the general supervision of a dentist.

(iii) A dental hygienist may provide the professional services identified in subsection (a)(2) to ASA Class II—ASA Class V patients under the direct supervision of a dentist.

(iv) A dental hygienist may provide the professional services identified in subsection (a)(3)—(6) to patients in any ASA Class under the general supervision of a dentist.]

In subsection (c)(1) practice sites (dental facilities), a dental hygienist shall provide professional services as follows:

(i) A dental hygienist may provide the professional services identified in subsection (a)(1) under the direct supervision of a dentist, except that these services may be provided under general supervision if the dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist.

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2) under the general supervision of a dentist when the patient is free of systemic disease or suffers from mild systemic disease, as determined by the dentist upon review of the patient's medical history.

(iii) A dental hygienist may provide the professional services identified in subsection (a)(2) under the direct supervision of a dentist when the patient is suffering from systemic disease which is severe, incapacitating, or life threatening, as determined by the dentist upon review of the patient's medical history.

(iv) A dental hygienist may provide the professional services identified in subsection (a)(3)—(6) under the general supervision of a dentist.

(v) A dental hygienist may provide the professional services identified in subsection (a)(7) only under the direct supervision of a dentist.

(2) In subsection (c)(2) and (3) practice sites (public and private institutions and institutions under the jurisdiction of Federal, State or local health agencies), a dental hygienist shall provide professional services as follows:

(i) A dental hygienist may provide the professional services identified in subsection (a)(1) under the direct supervision of a dentist, except that these services may be provided under general supervision if a dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist.

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2)—(6)

under the general supervision of a dentist. For the purposes of this paragraph, general supervision is defined as supervision by a dentist who authorizes and takes full professional responsibility for the provision of the services. A single authorization may, when appropriate, apply to one or more classes or categories of students/patients.

(iii) A dental hygienist may provide the professional service identified in subsection (a)(7) only under the direct supervision of a dentist.

(3) For professional services not identified in subsection (a)(1)—[(6)] (7) or § 33.302 (relating to auxiliary personnel performing radiologic procedures), the dentist shall compare the listed services and the supervision required with the unlisted service and utilize the appropriate supervision. Supervision for noncomparable services shall be determined by the Board on a modality basis.

* * * * *

§ 33.205b. Practice as a public health dental hygiene practitioner.

(a) *Scope of professional practice.* A public health dental hygiene practitioner may perform the dental hygiene services set forth in § 33.205(a)(2)—(6) (relating to practice as a dental hygienist) in the practice settings identified in subsection (c) without the authorization, assignment or examination by a dentist. A public health dental hygiene practitioner may perform the dental hygiene services set forth in § 33.205(a)(1) and (7) in accordance with § 33.205(d).

(b) *Requirement of referral.* A public health dental hygiene practitioner shall refer each patient to a licensed dentist on an annual basis. Documentation of the referral must be maintained in the patient's dental record. The failure of the patient to see a dentist as referred does not prevent the public health dental hygiene practitioner from continuing to provide dental hygiene services to the patient within the scope of professional practice set forth in subsection (a).

(c) *Practice settings.* A public health dental hygiene practitioner may perform dental hygiene services without the supervision of a dentist in the following practice settings:

- (1) Schools.
- (2) Correctional facilities.
- (3) Health care facilities, as defined in section 802.1 of the Health Care Facilities Act (35 P. S. § 448.802a).
- (4) Personal care homes, as defined in section 1001 of the Public Welfare Code (62 P. S. § 1001).
- (5) Domiciliary care facilities, as defined in section 2202-A of The Administrative Code of 1929 (71 P. S. § 581-2).
- (6) Older adult daily living centers, as defined in section 2 of the Older Adult Daily Living Centers Licensing Act (62 P. S. § 1511.2).
- (7) Continuing-care provider facilities, as defined in section 3 of the Continuing-Care Provider Registration and Disclosure Act (40 P. S. § 3203).
- (8) Federally qualified health centers.
- (9) Public or private institutions under the jurisdiction of a Federal, State or local agency.

(d) *Recordkeeping.* A public health dental hygiene practitioner shall maintain a dental record which accurately, legibly and completely reflects the dental hygiene services provided to the patient. The dental record shall be retained at least 5 years from the date of the last treatment entry. The dental record must include, at a minimum, the following:

- (1) The name and address of the patient and, if the patient is a minor, the name of the patient's parents or legal guardian.
- (2) The date dental hygiene services are provided.
- (3) A description of the treatment or services rendered at each visit.
- (4) The date and type of radiographs taken, if any, and documentation demonstrating the necessity or justification for taking radiographs, as well as the radiographs themselves.
- (5) Documentation of the annual referral to a dentist.

Subchapter D. PERFORMANCE OF RADIOLOGIC PROCEDURES BY AUXILIARY PERSONNEL

§ 33.301. Definitions.

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

* * * * *

Radiologic procedure examination—[An examination adopted by the Board for auxiliary personnel performing radiologic procedures in the office of a licensed dentist in this Commonwealth] The Radiation Health and Safety examination administered by The Dental Assisting National Board, Inc. (DANB).

§ 33.302. Auxiliary personnel performing radiologic procedures.

[The following auxiliary personnel may perform radiologic procedures on the premises of a dentist under the direct supervision of the dentist. These procedures include applying ionizing radiation on the maxilla, mandible and adjacent structures of human beings for diagnostic purposes. The dentist shall be on the premises when a radiologic procedure is being performed. The dentist is not required to personally observe performance of the procedure.

- (1) Dental hygienists currently licensed in this Commonwealth.
- (2) Auxiliary personnel who have passed the radiologic procedure examination adopted by the Board.]

(a) Public health dental hygiene practitioners may perform radiologic procedures in those settings set forth in § 33.205b(c) (relating to practice as a public health dental hygiene practitioner) without the supervision of a dentist.

(b) Dental hygienists may perform radiologic procedures in any setting under the general supervision of a licensed dentist. For the purposes of this subsection, "general supervision" means supervision by a dentist who examines the patient, devel-

ops a dental treatment plan, authorizes the performance of the radiologic services to be performed within 1 year of the examination, and takes full professional responsibility for performance of the dental hygienist.

(c) Auxiliary personnel who have passed the radiologic procedure examination adopted by the Board may perform radiologic procedures on the premises of a dentist under the direct supervision of a dentist. The dentist shall be on the premises when a radiologic procedure is performed, but is not required to personally observe performance of the procedure.

Subchapter F. CONTINUING DENTAL EDUCATION
§ 33.402. Continuing education subject areas.

(a) [The] Except as provided in subsections (c), (d) and (e), the required credit hours shall be completed in subjects which contribute directly to the maintenance of clinical competence of a dentist, dental hygienist, public health dental hygiene practitioner or expanded function dental assistant. Examples of acceptable subjects include:

* * * * *

(b) Credit hours will not be awarded in nonclinical subjects, including:

* * * * *

(5) Communication skills, except as provided in subsection (c).

(c) A dental hygienist may complete no more than 3 of the required 20 hours of continuing education in courses relating to communication skills.

(d) A public health dental hygiene practitioner shall complete 5 of the required 20 hours of continuing education in public health-related courses.

(e) A school dental hygienist who is certified as a public health dental hygiene practitioner and who, as a certified educational specialist is required to obtain continuing professional education under the act and under section 1205.2 of the Public School Code of 1949 (24 P. S. § 12-1205.2) may submit evidence of the completion of education courses approved for certification by the school district to meet the 20-hour continuing education requirement.

[Pa.B. Doc. No. 08-1591. Filed for public inspection August 29, 2008, 9:00 a.m.]

**STATE BOARD
OF PHARMACY**

[49 PA. CODE CH. 27]

Fees

The State Board of Pharmacy (Board) proposes to amend § 27.91 (relating to schedule of fees) to read as set forth in Annex A. The proposed amendment would increase the application fees for the pharmacy intern certificate, pharmacist license, new pharmacy permit,

reinspections, pharmacy permit changes and the biennial renewal fees for pharmacist licenses and pharmacy permits.

Effective Date

The amendment will be effective upon final-form publication in the *Pennsylvania Bulletin*. The increased biennial renewal fees will take effect beginning with the pharmacy permit biennial renewal period commencing on September 1, 2009, and the pharmacist license biennial renewal period commencing on October 1, 2010. The other fee increases will take effect upon final-form publication.

Statutory Authority

The proposed amendment is authorized under section 8.2(a) of the Pharmacy Act (act) (63 P. S. § 390-8.2(a)). In addition, section 8.2(b) requires the Board to increase fees by regulation in an amount adequate to meet the minimum enforcement efforts required by the act.

Background and Need for Amendment

The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. In accordance with section 8.2 of the act, if the Board anticipates that its revenue will not meet its expenditures, the Board must increase its revenue. The Board raises virtually all of its operating revenue through fees. The biennial license renewal fees are the most substantial revenue generating fees of all the fees charged by the Board.

With the exception of the biennial renewal fees, the Board has not revised its fees since the 1990s. The application fees are now being revised to reflect the current cost of processing an application. The inspection fees are being revised to reflect the current cost to the Board of the inspectors performing the required inspection. The biennial renewal fees were last raised in 2006. Initially, the Board conservatively raised those fees in attempt to not place a hardship on its licensees with a large increase. The Board reviews its revenues on an annual basis and subsequent reviews have shown that another increase is necessary to support its operations. The Board is again being conservative in raising fees so as not to place a hardship on its licensees. Given that a deficit is still projected, the Board will evaluate another fee increase in the future. However, if pending legislation is passed, increased revenue from the registration of pharmacy technicians and imposing investigative costs for disciplinary actions could negate the necessity to further raise renewal fees.

At its April 17, 2007, Board meeting and again at its June 19, 2007, and March 18, 2008, Board meetings, the Bureau of Finance and Operations (BFO) presented a summary of the Board's revenues and expenses for Fiscal Years (FY) 2004-2005, 2005-2006 and 2006-2007, and projected revenues and expenses for FYs 2007-2008—2013-2014. The summary, presented in the following table, demonstrated that the Board must raise fees to maintain a positive balance after the pharmacist renewal takes place in the even-numbered years.

2004-2005 beginning balance	324,955.04
FY 04-05 revenue	2,304,562.44
FY 04-05 expenses	1,655,000.00
Remaining balance	974,517.48
2005-2006 beginning balance	974,517.48
FY 05-06 revenue	529,381.83
FY 05-06 expenses	1,850,000.00
Remaining balance	(346,100.69)

2006-2007 beginning balance	(346,100.69)
FY 06-07 revenue	3,035,093.83
Prior year returned funds	122,155.06
Adjust for prior year expenses	243,901.49
FY 06-07 projected expenses	1,788,000.00
Remaining balance	779,206.71
2007-2008 beginning balance	779,206.71
FY 07-08 projected revenue	500,000.00
Prior year returned funds	576,709.95
FY 07-08 projected expenses	1,842,000.00
Remaining balance	(24,665.09)
2008-2009 beginning balance	(24,665.09)
FY 08-09 projected revenue	3,000,000.00
FY 08-09 projected expenses	1,934,000.00
Remaining balance	1,041,334.91
2009-2010 beginning balance	1,041,334.91
FY 09-10 projected revenue	502,000.00
FY 09-10 projected expenses	2,031,000.00
Remaining balance	(726,925.77)
2010-2011 beginning balance	(726,925.77)
FY 10-11 projected revenue	3,866,000.00
FY 10-11 projected expenses	2,133,000.00
Remaining balance	1,325,334.91
2011-2012 beginning balance	1,325,334.91
FY 11-12 projected revenue	582,000.00
FY 11-12 projected expenses	2,240,000.00
Remaining balance	(332,665.09)
2012-2013 beginning balance	(332,665.09)
FY 12-13 projected revenue	3,866,000.00
FY 12-13 projected expenses	2,352,000.00
Remaining balance	1,181,334.91
2013-2014 beginning balance	1,181,334.91
FY 13-14 projected revenue	582,000.00
FY 13-14 projected expenses	2,470,000.00
Remaining balance	(706,655.09)

As the table indicates, at the close of FY 2005-2006, the Board's expenses exceeded its revenues by \$346,100.69. While the pharmacist renewal brought the Board's account back to a positive balance in FY 2006-2007, in FY 2007-2008, the Board will run at a deficit again and in the off-renewal years the Board will continue to have a deficit. BFO anticipates that the proposed new fees will enable the Board to recapture the deficits every other year.

The increases in the Board's biennial expenses occurred primarily in administrative costs and law enforcement costs. Administrative costs increased from approximately \$343,682 in FY 2005-2006 to approximately \$513,063 in FY 2006-2007. Law enforcement (the Bureau of Enforcement and Investigation) expenditures increased from approximately \$551,194 in FY 2005-2006 to approximately \$630,080 in FY 2006-2007. Legal office costs remained about the same, however the number of complaints filed continued to rise from previous years. Administrative costs likely increased because the Board began receiving applications for the authority to administer injectable medications, immunizations and biologicals. Additionally, vacant pharmacy inspector positions were filled which led to the increase in law enforcement costs both due to the salaries and the increased inspections the additional inspectors performed.

The Board carefully reviewed several options in fee increases to ensure the lowest fee increase possible while keeping the Board out of a long run deficit. Before the Board dramatically raises its renewal fees it prefers to wait until two pieces of legislation that would bring significantly more revenue to the Board complete their journey through the legislative process. If either of these pieces of legislation fails to be enacted during this legislative session, the Board will reevaluate. In addition to increasing fees, the Board is looking at ways to streamline procedures to cut costs; however, the fee increases are still necessary to maintain a positive balance in the Board account in the long run. Finally, in developing the proposal, the Board reviewed fees of other states. It found that the proposed fees are comparable to the renewal fees charged in surrounding states and should cause no competitive disadvantage to the Commonwealth.

Description of Proposed Amendment

Based upon the previous expense and revenue estimates provided to the Board, the Board proposes to amend § 27.91 to increase the fee for biennial renewal of licenses for pharmacists from \$150 to \$190 and increase the biennial renewal fee for pharmacy permits from \$100 to \$125. The Board is also proposing to increase the application fee for a pharmacy intern certificate from \$30 to \$35, the application fee for a pharmacist license from \$40 to \$45, the application fee for a new pharmacy permit from \$100 to \$125, the fee for reinspection of a new pharmacy after failure at first inspection from \$90 to \$115, the application fee for a pharmacy permit change without inspection from \$30 to \$45 and the application fee for a pharmacy permit change when inspection required from \$95 to \$125.

Fiscal Impact

The proposed amendment will increase the biennial renewal fees for pharmacists and pharmacies as well as several other fees the Board charges for its services to applicants. The proposed amendment should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed amendment will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed amendment should not create additional paperwork for the private sector.

Sunset Date

The act requires that the Board monitor its revenue and expenses on a FY and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of this proposed rulemaking on August 18, 2008, to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee (Committees). In addition to submitting the proposed amendment, the Board has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Board. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has comments, recommendations or objections regarding any portion of the proposed rulemaking, it will

notify the Board within 30 days after the close of the public comment period. The notification must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly and the Governor prior to publication of the amendment.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Melanie Zimmerman, Executive Secretary, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed amendment in the *Pennsylvania Bulletin*.

MICHAEL A. PODGURSKI, R. Ph.,
Chairperson

Fiscal Note: 16A-5422. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY FEES

§ 27.91. Schedule of fees.

An applicant for a license, certificate, permit or service shall pay the following fees at the time of application:

Application for pharmacy intern certificate	[\$30]	\$35
Application for pharmacist license	[\$40]	\$45
* * * * *		
Registered pharmacist biennial renewal	[\$150]	\$190
* * * * *		
New pharmacy permit application	[\$100]	\$125
Reinspection of new pharmacy after failure at first inspection	[\$90]	\$115
Pharmacy permit change without inspection	[\$30]	\$45
Pharmacy permit change when inspection required	[\$95]	\$125
* * * * *		
Biennial renewal of pharmacy permit ...	[\$100]	\$125
* * * * *		

[Pa.B. Doc. No. 08-1592. Filed for public inspection August 29, 2008, 9:00 a.m.]

NOTICES

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Request for Proposals

The Administrative Office of Pennsylvania Courts is pleased to announce its intention to release a Request for Proposals (RFP) for the selection of a vendor for online payment processing/e-commerce functionality for its Magisterial District Judge System throughout this Commonwealth. Another phase will include similar functionality to be used at the appellate court level for filing fees associated with electronic filing of certain documents. The RFP is scheduled for release on October 1, 2008. Individuals who would like to receive a copy of the RFP, should contact James Kling, Purchasing Technician, by letter or email:

James Kling, Purchasing Technician
Administrative Office of Pennsylvania Courts
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055-3079
james.kling@pacourts.us

Include your company's name, address, telephone number and a contact person and that person's email address.

ZYGMONT A. PINES,
Court Administrator

[Pa.B. Doc. No. 08-1593. Filed for public inspection August 29, 2008, 9:00 a.m.]

DEPARTMENT OF AGRICULTURE

Quarantine Order; Viral Hemorrhagic Septicemia Virus

Recitals

A. Viral hemorrhagic septicemia (VHS) is an infectious disease caused by a rhabdovirus—the viral hemorrhagic septicemia virus (VHSV)—in a variety of fish species.

B. VHS has been designated a “dangerous transmissible disease” of animals under a temporary order issued by the Department of Agriculture (Department) under 3 Pa.C.S. § 2321(d) (relating to dangerous transmissible diseases). The current temporary order making this designation was published at 37 Pa.B. 6297 (December 1, 2007).

C. The Department has broad authority under the Domestic Animal Law to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases.

D. VHS has caused death losses to various fish species in the Great Lakes and other infected waterways. It is of particular concern to this Commonwealth's aquaculture industry, in that its presence and impact may severely limit the market for this Commonwealth-produced fish and fish products.

E. VHS virus exists within the Lake Erie and Lake Ontario Watersheds, which includes portions of Crawford, Erie and Potter Counties. It is also present in several States outside this Commonwealth, including Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin.

F. The Department registers “artificial propagators” of fish and “dealers” of fish under 3 Pa.C.S. §§ 4201—4223 (relating to Aquacultural Development Law). There are Department-registered artificial propagators and dealers within the Lake Erie and the Lake Ontario Watersheds.

G. There is no known treatment for VHS infection, no vaccine against this disease and no feasible live animal test that can detect the presence of VHSV.

J. The Domestic Animal Law allows at 3 Pa.C.S. § 2329 (relating to quarantine) for the establishment of a Quarantine Order to address the presence and potential impact of VHS. The Department established a VHS-related quarantine by order of October 13, 2007 (published at 37 Pa.B. 5534) and that order was subsequently amended by order of December 8, 2007 (published at 37 Pa.B. 6428).

L. The Department seeks to amend its VHS-related quarantine to better-coordinate with the Fish and Boat Commission and the Animal and Plant Health Inspection Service of the United States Department of Agriculture (USDA-APHIS).

Order

The Department enters a General Quarantine Order and an Interstate Quarantine Order with respect to VHS, incorporating the foregoing recitals into this order. This order is entered under authority of the Domestic Animal Law, at 3 Pa.C.S. § 2329, and establishes the following restrictions and conditions:

1. *Previous VHS-related quarantine orders.* This order supplants the previous VHS-related quarantine orders issued by the Department. These previous orders were issued October 13, 2007 (published at 37 Pa.B. 5534) and December 8, 2007 (published at 37 Pa.B. 6428).

2. *Overview.* This order establishes a General Quarantine with respect to VHS-susceptible species (defined in Paragraph 3) produced, held or transported by Department-registered artificial propagators or Department-registered dealers from those Pennsylvania Counties that are—in whole or in part—within the Lake Erie Watershed, the Lake Ontario Watershed, or any watershed designated “VHS-Affected” or “VHS At-Risk” by the Fish and Boat Commission (FBC) or USDA-APHIS.

This order also establishes an Interstate Quarantine with respect to VHS-susceptible species transported from certain designated States within which VHS has been detected or is reasonably suspected to exist, or any State that is subsequently designated “VHS-Affected” or “VHS At-Risk” by FBC or USDA-APHIS.

3. *VHS-susceptible species.* For purposes of this order, the term “VHS-susceptible species” shall include live animals of the following fish species, as well as any other species designated “VHS-susceptible species” by order of the FBC or USDA-APHIS after the effective date of this order: Bluegill (*Lepomis macrochirus*), Bluntnose Minnow (*Pimephales notatus*), “Bullhead catfishes” (*Ictalurus spp.*), Brown Trout (*Salmo trutta*), Burbot (*Lota lota*), Channel Catfish (*Ictalurus punctatus*), Chinook Salmon

(*Oncorhynchus tshawytscha*), Common Carp (*Cyprinus carpio*), "Crappies" (*Pomoxis spp.*), Emerald Shiner (*Notropis atherinoides*), Freshwater Drum (*Aplodinotus grunniens*), Gizzard Shad (*Dorosoma cepedianum*), Largemouth Bass (*Micropterus salmoides*), Lake Trout (*Salvelinus namaycush*), "Whitefishes" (*Coregonus spp.*), Muskellunge (*Esox masquinongy*), Northern Pike (*Esox lucius*), Pumpkinseed (*Lepomis gibbosus*), Rainbow Trout/Steelhead (*Oncorhynchus mykiss*), Rock Bass (*Ambloplites rupestris*), Round Goby (*Appollonia melanostomus*), "Redhorse Suckers" (*Moxostoma spp.*), Smallmouth Bass (*Micropterus dolomieu*), Spottail shiner (*Notropis hudsonius*), Trout-perch (*Percopsis omiscomaycus*), Walleye (*Sander vitreus*), White Bass (*Morone chrysops*), White Perch (*Morone Americana*), White Sucker (*Catostomus commersonii*) and Yellow Perch (*Perca flavescens*). The term "VHS-susceptible species" does not include dead animals, dead animal parts or the eggs of these species.

The term "VHS-susceptible species" does not include any of the previously-listed species if it is no longer designated a "VHS-susceptible species" by USDA-APHIS after the date of this order.

4. General Quarantine.

a. A General Quarantine is hereby established with respect to the following counties, which are—in whole or in part—within the Lake Erie or Lake Ontario Watersheds: Crawford, Erie and Potter Counties. This General Quarantine shall also extend to the following:

i. A Pennsylvania county, any portion of which is located within a watershed designated "VHS-Affected" or "VHS At-Risk" by FBC through publication of notice in the *Pennsylvania Bulletin*.

ii. A Pennsylvania county, any portion of which is located within a watershed designated "VHS-Affected" or "VHS At-Risk" by order of USDA-APHIS.

The Counties described in this Subparagraph are referred to as the "Quarantined Counties" throughout this order.

b. The Department-registered artificial propagator of fish species or the Department-registered dealer of fish species shall not transport VHS-susceptible species from the Quarantined Counties unless the testing and documentation requirements set forth, in Paragraph 6, are met. The following exceptions apply:

i. VHS-susceptible species may be moved from point-to-point within the Quarantined Counties without the Department-registered artificial propagator or dealer having to comply with the referenced testing and documentation requirements, if the VHS-susceptible species are accompanied in transit by documentation stating the point of origin of the fish and the location within the Quarantined Counties to which they are to be delivered.

ii. VHS-susceptible species may be moved from the Quarantined Counties for testing and scientific purposes without the Department-registered artificial propagator or dealer having to comply with the referenced testing and documentation requirements, if the VHS-susceptible species are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing.

iii. If the Department-registered artificial propagator or dealer located within the Quarantined Counties documents to the Department that its operation is not located within the Lake Erie or Lake Ontario Watersheds, or any watershed described in Subparagraphs (a)(i) or (a)(ii), the

Department may issue the propagator or dealer a written permit exempting that part of the propagator or dealer's operation from the requirements of this General Quarantine.

iv. VHS-susceptible species may be moved from the Quarantined Counties directly to a slaughter facility, processing plant or restaurant within this Commonwealth, if accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption.

c. The Department-registered artificial propagator of fish species or a Department-registered dealer of fish species moving VHS-susceptible species from the Quarantined Counties shall maintain records of any lot of VHS-susceptible species for 2 years and shall, upon request, produce these records for inspection by any employee or representative of the Department. The records shall include:

i. Species, quantity and destination of fish in the lot and date of movement.

ii. Origin of fish in the lot (whether hatched onsite or brought live from another source).

iii. Date of VHS-related testing, and results of these tests.

iv. Dates of any additions of fish to the lot, including the source, species and approximate number of fish added to the lot.

d. If VHS-susceptible species are transported from or within a Quarantined County in accordance with Subparagraph (b), the following apply:

i. The VHS-susceptible species shall not be deposited, introduced, dumped, commingled or otherwise permitted to enter the natural water system outside of the Lake Erie or Lake Ontario Watersheds, or any watershed described in Subparagraphs (a)(i) and (a)(ii).

ii. Water in which VHS-susceptible species are transported shall not be deposited, introduced, dumped, commingled or otherwise permitted to enter the natural water system outside of the Lake Erie or Lake Ontario Watersheds, or any watershed described in Subparagraphs (a)(i) and (a)(ii), above.

5. Interstate Quarantine.

a. An Interstate Quarantine is hereby established with respect to the following States, which have been designated by USDA-APHIS as being either affected by VHS or as being at risk of being affected by VHS (Quarantined VHS-Affected or VHS At-Risk States): Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin. This Interstate Quarantine shall also extend to any State that is subsequently designated a VHS-Affected or VHS At-Risk State by USDA-APHIS.

b. VHS-susceptible species shall not be transported into the Commonwealth from the Quarantined VHS-Affected or VHS At-Risk States unless the testing and documentation requirements set forth, in Paragraph 5, are met. The following exceptions apply:

i. VHS-susceptible species may be moved from Quarantined VHS-Affected or VHS At-Risk States, through this Commonwealth to another State, if the shipping container (tank, trailer, holding vessel or other container) remains biosecure in transit and the VHS-susceptible species are accompanied in transit by documentation

stating the point of origin of the fish and the location outside of this Commonwealth to which they are to be delivered.

ii. VHS-susceptible species may be moved from the Quarantined VHS-Affected or VHS At-Risk States to facilities located within the Commonwealth for testing and scientific purposes without the transporter having to comply with the referenced testing and documentation requirements, if the VHS-susceptible species are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing.

iii. VHS-susceptible species may be moved from Quarantined VHS-Affected or VHS at-Risk States to a slaughter facility, processing plant or restaurant within the Commonwealth, if accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption.

c. If VHS-susceptible species are transported into this Commonwealth from the Quarantined VHS-Affected or VHS At-Risk States in accordance with Subparagraph (b), the following apply:

i. VHS-susceptible species shall not be deposited, introduced, dumped, commingled or otherwise permitted to enter the natural water system within this Commonwealth.

ii. Water in which VHS-susceptible species are transported shall not be deposited, introduced, dumped, commingled or otherwise permitted to enter the natural water system within this Commonwealth.

6. *Testing and Documentation Requirements.* VHS-susceptible species that are required to be tested under Paragraphs 4 or 5, shall meet the following testing and documentation requirements:

a. Within 12 months preceding movement from a Quarantined County or a Quarantined VHS-Affected or VHS At-Risk State, the VHS-susceptible species lot shall be tested in accordance with either the testing protocols described in the current edition of the *Fish Health Section Bluebook* adopted by the American Fisheries Society or

the testing protocols of the Office of International Epizootiologies, and the lot shall be test-negative for VHS.

b. If fish are added to a lot of VHS-susceptible species *after* the testing described in Paragraph (a), previous, is completed, the lot shall be retested in accordance with Paragraph (a) and found VHS test-negative prior to movement.

c. Documentation of VHS status shall accompany VHS-susceptible species that are required to be tested under Paragraphs 4 or 5, at all times the VHS-susceptible species remain within the Commonwealth and shall, upon request, be produced for inspection by any employee or representative of the Department. This documentation shall include the following:

i. A completed Aquaculture Verification Certificate form. This form will be provided by the Department upon request. Requests can be made to the following:

Department of Agriculture
Bureau of Animal Health and Diagnostic Services
ATTN: Aquaculture
2301 North Cameron Street
Harrisburg, PA 17110-9408
(717) 772-2852

ii. A copy of the test results reflecting that the lot is VHS test-negative.

7. *Violations.* Any person violating the requirements of this order shall be subject to criminal prosecution and/or civil penalties of up to \$10,000 per violation.

8. *Effective Date.* This Order is immediately effective August 30, 2008, and shall remain in effect unless rescinded or modified by subsequent order.

9. *Additional Restrictions.* This Order shall not be construed as limiting the Department's authority to establish additional quarantine or testing requirements relating to VHS.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 08-1594. Filed for public inspection August 29, 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 August 19, 2008.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications and any application filed prior to August 7, 2008, may file their comments in writing with the Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101. Comments must be received no later than 30 days from the date notice of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection during regular business hours. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request Policy.

BANKING INSTITUTIONS**Holding Company Acquisitions**

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
8-13-2008	Franklin Financial Services Corporation, Chambersburg, to acquire 100% of Community Financial, Inc., Camp Hill, and thereby indirectly acquire Community Trust Company, Camp Hill	Chambersburg	Filed
8-15-2008	Emclair Financial Corp., Emlenton, to acquire Elk County Savings and Loan Association, Ridgway, which will be merged with and into The Farmers National Bank of Emlenton, Emlenton, a wholly-owned subsidiary of Emclair Financial Corp.	Emlenton	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-13-2008	Farmers and Merchants Trust Company of Chambersburg, Chambersburg, and Community Trust Company, Camp Hill Surviving Institution: Farmers and Merchants Trust Company of Chambersburg, Chambersburg	Chambersburg	Filed

Branch Applications**De Novo Branches**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-6-2008	MoreBank Philadelphia Philadelphia County	1222 North Welsh Road North Wales Montgomery County	Opened
8-13-2008	Luzerne Bank Luzerne Luzerne County	Routes 118 and 415 Dallas Luzerne County	Filed
8-14-2008	Farmers and Merchants Trust Company of Chambersburg Chambersburg Franklin County	870 Norland Avenue Chambersburg Franklin County	Opened
8-18-2008	Embassy Bank for the Lehigh Valley Bethlehem Northampton County	Route 378 and Colesville Road Bethlehem Northampton County	Approved
8-18-2008	ESB Bank Ellwood City Lawrence County	831 Evans City Road Connoquenessing Township Renfrew Butler County	Approved
8-18-2008	First CornerStone Bank King of Prussia Montgomery County	51 Woodland Drive Chadds Ford Township Glen Mills Delaware County	Approved

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-29-2008	Earthstar Bank Southampton Bucks County	48 West Skippack Pike Ambler Montgomery County	Closed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
8-6-2008	North Penn Bank Scranton Lackawanna County	Amendment to Article VII of the Articles of Incorporation changes the authorized number of directors <i>From:</i> not fewer than seven nor more than 20 <i>To:</i> not fewer than five nor more than 20.	Filed

SAVINGS INSTITUTIONS**Conversions**

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
7-3-2008	Elk County Savings and Loan Association Ridgway Elk County	Ridgway	Filed

Conversion from a State-chartered mutual savings association to a State-chartered stock savings association in conjunction with the proposed merger of Elk County Savings and Loan Association, Ridgway, with and into Farmers National Bank of Emlenton, Emlenton.

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. 08-1595. Filed for public inspection August 29, 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

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>
PA0209571	Romain Dorman Small Flow Treatment Facility 1665 Johnstown Road Mifflinburg, PA 17844	West Buffalo Township Union County	North Branch Buffalo Creek 10C	Y

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

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

PA0003000, Industrial Waste, SIC, 3479, **Centria, New Economy Business Park**, 500 Perth Drive, Ambridge, PA 15003. This application is for renewal of an NPDES permit to discharge treated process water, untreated cooling water and stormwater from the Ambridge Plant in Ambridge Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT to the Ohio River classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Midland Borough Municipal Authority located at Midland, PA, 17.4 miles below the discharge point.

Outfall 101: existing discharge, design flow of 0.010 mgd.

<i>Parameter</i>	<i>Mass (lbs/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids	7.78	15.92	20	41	51
Oil and Grease	4.66	7.78	12	20	
Chromium	0.022	0.055	0.17	0.42	0.52
Copper	0.138	0.254	1.00	1.90	2.37
Cyanide	0.015	0.038	0.12	0.29	0.36
Zinc	0.079	0.181	0.56	1.33	1.66
Iron	0.087	0.167	0.63	1.23	1.53
pH	not less than 6.0 nor greater than 9.0				

Other Conditions: Part C conditions regarding priority pollutants, sludges and floating materials, noncontact cooling water, discharge temperature, TRC minimization and stormwater.

The EPA waiver is in effect.

Outfall 201: existing discharge of stormwater.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Nitrate+Nitrite Nitrogen					Monitor and Report
Copper					Monitor and Report
Zinc					Monitor and Report

Outfall 001: existing discharge, design flow of 0.031 mgd.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (° F)					110
Total Residual Chlorine			0.5		1.25
pH	not less than 6.0 nor greater than 9.0				

PA0253847, Sewage, **G. Lynn Waugaman**, 447 South Shore Trail, Central City, PA 15926. This application is for issuance of an NPDES permit to discharge treated sewage from Wenatchee 17 Single-Residence Sewage Treatment Plant in Indian Lake Borough, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Indian Lake, 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 Hooversville Municipal Authority.

Outfall 001: new discharge, design flow of 0.0004 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) (10-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

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

WQM Permit No. WQG016166, Sewerage, **Richard H. Michelini**, 179 Ford City Road, Freeport, PA 16229. This proposed facility is located in South Buffalo Township, **Armstrong County**.

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

WQM Permit No. 5608404, Sewerage, **PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541-0260. This proposed facility is located in Stonycreek Township, **Somerset County**.

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

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.

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>
PAI023908020	James Gentile Polaris Iron Run, LP 7562 Penn Drive Suite 100 Allentown, PA 18106	Lehigh	Upper Macungie Township	Iron Run HQ-CWF
PAI023908021	James Gentile North Star Real Estate Investment, LP 7562 Penn Drive Suite 100 Allentown, PA 18106	Lehigh	Upper Macungie Township	Iron Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI036708004	Jerry Watson Keystruct Construction, Inc. 30 Marianne Drive York, PA 17406	York	Springfield Township	Seaks Run CWF
PAI030608015	James Radwanski J & A Court Apartments, LLC 5071 Cherrywood Drive Mohnton, PA 19540	Berks	Cumru Township	Wyomissing Creek HQ-CWF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041408009	Matthew Nixdorf 492 Weaver Hill Road Bellefonte, PA 16823	Centre	Marion and Walker Townships	UNT to Fishing Creek HQ-CWF

Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041808003	John and Miriam Glick 6104 Nittany Valley Drive Mill Hall, PA 17751	Clinton	Porter Township	UNT to Fishing Creek HQ-CWF

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

Beaver County Conservation District, 156 Cowpath Road, Aliquippa, PA 15001, (724) 378-1701.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050408002	Christopher David Turnpike Commission Western Regional Office 2200 North Center Avenue New Stanton, PA 15672	Beaver	Big Beaver Borough	UNT to Jordan Run HQ-CWF

Somerset County Conservation District, Somerset County Agricultural 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>
PAI055608004	The Buncher Company 1300 Penn Avenue Suite 300 Pittsburgh, PA 15222	Somerset	Jefferson Township	Crise Run HQ-CWF

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

Crawford County Conservation District: Woodcock Creek Nature Center, 21742 German Road, Meadville, PA 16335, (814) 763-5269.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI062008001	Vantage Real Estate Investment Company, Ltd. 18282 Technology Drive Suite 202 Meadville, PA 16335	Crawford	Meadville City	French Creek WWF

McKean County Conservation District: 17137 Route 6, Smethport, PA 16749, (814) 887-4001.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI064208003	Kane Area Middle Elementary School	McKean	Kane Borough	West Run HQ-CWF

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

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

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

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

CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS

Agricultural Operation Name and Address	County	Total Acres	Animal Equivalent Units	Animal Type	Special Protection Waters (HQ or EV or NA)	Application
Glenn Gorrell Wood Road R. D. 1 Box 220 Milan, PA 18831	Bradford	2,135	1,225	Dairy (Dry cows, lact. cows, heifers, calves)	NA	Approved 6-2-2008
Marvin Carpenter R. D. 3 Box 471 Shunk, PA 17768	Sullivan County Fox Township	468.7	630.19	Swine finishing, steer and dairy replacement heifer	HQ-CWF Hoagland and Elk Creeks	Application (NMP was received on May 21, 2008)

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Application</i>
Jonathan Dietrich 5931 Buffalo Road Mifflinburg, PA 17844	Union	84.2	1,647.8	Swine	NA	Application

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 3508502, Public Water Supply.

Applicant	Moscow Development Association Moscow Borough Lackawanna County
Responsible Official	Connie Sanko Moscow Development Association 127 Orchard Street Moscow, PA
Type of Facility	Public Water System

Consulting Engineer	Quad 3 Group 72 Glenmaura National Boulevard Moosic, PA
Application Received Date	July 30, 2008
Description of Action	The permitting of a public water system serving an existing housing development.

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

Permit No. 5008504, Public Water Supply.

Applicant	Liverpool Municipal Authority
Municipality	Liverpool Borough
County	Perry
Responsible Official	Harvey W. Cook President P. O. Box 357 Liverpool, PA 17045
Type of Facility	Public Water Supply
Consulting Engineer	Shannon G. Williams, P. E. Herbert, Rowland & Grubic, Inc. 1846 Charter Lane Lancaster, PA 17601
Application Received:	July 30, 2008
Description of Action	Addition of New Well No. 5 with arsenic treatment.

Permit No. 3608510, Public Water Supply.

Applicant	Northwestern Lancaster County Authority
Municipality	Penn Township
County	Lancaster
Responsible Official	Dave McCracken Chairperson 97 North Penryn Road Manheim, PA 17545
Type of Facility	Public Water Supply
Consulting Engineer	Daniel J. Becker, P. E. Becker Engineering, LLC 115 Millersville Road Lancaster, PA 17603
Application Received:	August 4, 2008
Description of Action	Installation of an interconnection with Manheim Borough.

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

Permit No. 5908502—Construction, Public Water Supply.

Applicant **Mansfield Borough Municipal Authority**
 Township or Borough Mansfield Borough
 County **Tioga**
 Responsible Official Robert Bartlett
 Chairperson
 19 East Wellsboro Street
 Mansfield, PA 16933
 Type of Facility Public Water
 Supply—Construction
 Consulting Engineer Jimmie Joe Carl, P. E.
 MRB Group, PC
 2750 Westinghouse Road
 Suite 1
 Horseheads, NY 14845
 Permit Issued Date June 30, 2008
 Description of Action Installation of a new 350,000
 gallon welded steel water storage
 tank. Westside water storage
 tank.

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

Application No. 4208501, Public Water Supply.

Applicant **Bradford City Water Authority**
 Township or Borough Bradford
McKean County
 Responsible Official Kim R. Benjamin
 Executive Director
 Consulting Engineer Michael T. Marino, P. E.
 Project Manager
 Contestoga-Rovers & Associates
 285 Delaware Avenue
 Suite 500
 Buffalo, NY 14202
 Application Received Date August 6, 2008
 Description of Action BCWA residuals handling facility
 and disinfection upgrades.

MINOR AMENDMENT

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

**Application No. 165W8MA, Minor Amendment,
 Public Water Supply.**

Applicant **Aqua Pennsylvania Inc.**
 Oakhill Water System
 Lehman Township
Luzerne County
 Responsible Official Patrick Burke
 Regional Manager
 Aqua Pennsylvania, Inc.
 50 East Woodhaven Drive
 White Haven, PA
 Type of Facility Public Water System
 Consulting Engineer CET Engineering Services
 1240 North Mountain Road
 Harrisburg, PA

Application Received Date May 30, 2008
 Description of Action The installation of chlorine
 contact pipelines at Wells Nos. 2
 and 4.

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.

Andreadis Property, Darby Borough, **Delaware County**. Michael Malone, SECOR International Incorporated, Exton, PA 19341 on behalf of Dinoa Andreadis, 110 Baltimore Pike, Springfield, PA 19064 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of unleaded gasoline. The future use of the site is a rental car business and the intended future use of the property is commercial. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on July 25, 2008.

Germantown Friends School/Post Office Lot, City of Philadelphia, **Philadelphia County**. Toby Kessler, P. G., Gilmore and Associates, Inc., 350 East Butler Avenue, New Britain, PA 18901 on behalf of Nick Dobrowolski, Germantown Friends School, 31 West Coulter Street, Philadelphia, PA 19144 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of PAH and pesticide. The future use of the site will be a science building.

Cummins Power System, LLC, Bristol Township, **Bucks County**. Shawn S. Fiore, Haley & Aldrich, Inc., 5755 Granger Road, Cleveland, OH 44131 on behalf of Lynn Coy, CRM Associates, 241 Goldenrod Drive, Lansdale, PA 19446 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by release of chlorinated solvents. The future use of the site will remain a Cummins diesel engine repair facility. A summary of the Notice of Intent to Remediate was reported to have published in the *Bucks County Courier* on July 14, 2008.

(REVISED NIR) PECO North Wales MGP, North Wales, **Montgomery County**. George Keil, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Benjamin Henry, PECO Energy Company, 2301 Market Street, S9-1, Philadelphia, PA 19101, has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by release of inorganic. The future development plans for the Property and MGP Site are not known at this time. A summary of the Notice of Intent to Remediate was reported to have been published in the *North Penn Life* on August 1, 2008.

(Addendum NIR) Goldman Paper/Wilde Dyehouse Site **City of Philadelphia, Philadelphia County**. Scott Alderfer, Penn Environmental & Remediation, 2755 Bergey Road, Hatfield, PA 19440 on behalf of Beth C. Koob, Esq., Temple University Health System Corporate Offices, 250 Hunting Park Avenue, 4th Floor, Philadelphia, PA 19129 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted by release of chlorinated solvents and No. 2 fuel oil. The future use of the site will remain the same. A summary of the Notice of Intent to Remediate was reported to have published in *The Philadelphia Daily News* on July 28, 2008.

Laurel Pipeline Booth Station, Bethel Township, **Delaware County**. Paul Miller, Environmental Alliance Inc., 1812 Newport Gap Pike, Wilmington, DE 19080 on behalf of Danielle Trittenbach, Buckeye Partners LP, 5Tek

Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of diesel fuel. There are no plans to make any changes in the use of the property, it will remain a pipeline terminal and storage facility for various petroleum based products.

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

Taveras Residence, Ontelaunee Township, **Berks County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Antonia Taveras, 35 Berkley Park Road, Reading, PA 19605, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil. The site will be remediated to the Statewide Health Standard.

Former Tyrone Social Club, Tyrone Borough, **Blair County**. Blazosky Associates, Inc., 2525 Greentech Drive, Suite D, State College, PA 16803, on behalf of Reliance Savings Bank, P. O. Box 1968, Altoona, PA 16603, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with chlorinated solvents and petroleum products which had been released from the operation of a former dry cleaners and former automobile fueling and repair station. The site is being remediated as a Special Industrial Area.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Comptec, Inc., North Huntingdon Township, **Westmoreland County**. Paul Alessio, Cardinal Resources, LLC, 1505 East Carson Street, Pittsburgh, PA 15203 on behalf of Gavin Mann, Comptec, Inc., 8291 Pennsylvania Avenue, Irwin, PA 15642, and Jim Pattock, Tiger Technologies, 4059 7th Street, New Kensington, PA 15068 has submitted a Notice of Intent to Remediate. TCE in soil is from historical use of an exhaust fan from a former paint room. Selected soil was excavated and properly disposed. Current and future use is as an industrial manufacturing facility.

Crane Plumbing (Former), Somerset Township, **Somerset County**. Mark Johnson, ENVIRON, 10 East Baltimore Street, Suite 1400, Baltimore, MD 21202 on behalf of Reed Beidler, RLB Holdings, LLC, 1235 Hartrey Avenue, Evanston, IL 60202, Jeremy Sigmund, JMS Recycling, 1029 South Center Avenue, Somerset, PA 15501 and Randy Martel, ENVIRON International Corp., 4350 North Fairfax Drive, Suite 300, Arlington, VA 22203 has submitted a Notice of Intent to Remediate. The site has been operated as a china fixture manufacturing facility since 1960. Onsite disposal of china molds and wastewater treatment sludge were historically conducted under the approval of Department of Environmental Protection. Groundwater was not encountered at this site and soils will be remediated to a Nonresidential Statewide Health Standard. The property will remain nonresidential.

LTV Midland/East Mills Disposal, City of Midland, **Beaver County**. Robert Mchale, P. G., Civil and Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of Donald Linzer, Centennial ATB, LLC; Centennial Ball fields Enterprises, LP; Centennial Warehouse Properties, LLC and Centennial Murphy Hill, LLC has submitted a Notice of Intent to Remediate. The parcels covered in this NIR include the arrow terminal, the ball field, the former training center, the former physical laboratory, the former bar finishing building and the former stainless steel warehouse. Contaminants in

the soil are unknown, but may include various metals. Future uses of the site include material recovery and industrial redevelopment. The site is in a Special Industrial Area and will be remediated to a Site-Specific Standard.

Warehousing Services, City of Jeannette, **Westmoreland County**. Alan Halperin, D'Appolonia Engineering, 275 Center Road, Monroeville, PA 15146 on behalf of Douglas Johnston, T.S. Quatro, Inc., 215 North Fourth Street, Jeannette, PA 15644 has submitted a Notice of Intent to Remediate. Cinders between the west wall of the warehouse complex and adjacent railroad tracks contain lead concentrations that exceed Statewide Health Standard for direct contact. The area where the cinders occur, approximately 1,800 square feet, will be cleared and capped to prevent contact with the lead containing material. A Site-Specific Standard will be achieved through pathway elimination. The site will remain non-residential.

Pangburn Seep (Former), Forward Township, **Allegheny County**. Alan Halperin, D'Appolonia Engineering, 275 Center Road, Monroeville, PA 15146 on behalf of Bill Weir Reserve Coal Properties Company, 1800 Washington Road, Pittsburgh, PA 15241 has submitted a Notice of Intent to Remediate. The site was part of an unreclaimed surface mine that was used for disposal of rubbish and waste. To remediate an intermittent seep issuing from the area, waste was removed from the site and it was backfilled with unimpacted soil in 2005. Soil with impacts from the waste constituents remain on site. Surface water and shallow groundwater have also been impacted. The site will remain nonresidential.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit Application No. 100329. Waste Management of PA Inc., 851 Robison Road East, Erie, PA 16509, Summit Township, **Erie County**. The application is a major permit modification for Southern Expansion at the Lake View Landfill. The application was submitted to the Department of Environmental Protection (Department) on May 5, 2008, and was subject to the Local Municipality Involvement Process (LMIP) and an Alternative Timeline. The LMIP took place on June 19, 2008, and the timeline was finalized on July 28, 2008. The application was found to be administratively completed by the Northwest Regional Office on August 8, 2008.

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

Permit Application No. 101603. Veolia ES Solid Waste of PA, R. D. 1, Route 6, Pittsfield, PA 16340,

Pittsfield Township, **Warren County**. The application is a major permit modification for daily tonnage increase at the Warren County Transfer Station. The application was submitted to the Department of Environmental Protection (Department) on April 21, 2008, and was subject to the Local Municipality Involvement Process (LMIP). The LMIP took place on July 30, 2008. The application was found to be administratively complete by the Northwest Regional Office on August 11, 2008.

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

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users 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.

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

23-0111A: Centocor Research and Development, Inc. (145 King of Prussia Road, Radnor, PA 19087) for modification of two Diesel or No. 2 Fuel-Fired Internal Combustion Engines that powers two Peak Shaving Electric Generators rated at 2,000 kW and 1,500 kW (diesel electric generators) at their Centocor Pharmaceutical Research and Development facility at 145 King of Prussia Road, Radnor Township, **Delaware County**. The modification of the two diesel electric generators may result in the emissions of: 17.72 tpy of NO_x; 2.0 tpy of CO; 0.48 tpy of VOCs; 0.44 tpy of SO_x; 0.23 tpy of PM/PM₁₀; 0.02 tpy of HAPs and 0.02 tpy of Formaldehyde. The 2,000 kW generator shall be limited to the annual fuel usage of 69,450 gallons and the 1,500 kW generator shall be limited to the annual fuel usage of 52,400 gallons, which is equivalent to 500 hours of operation for each generator per year at 100% load. The Plan Approval and Operating Permit will contain recordkeeping and operating restrictions designed to keep the sources operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

04-00065C: WHEMCO—Steel Castings, Inc. (5 Hot Metal Street, Pittsburgh, PA 15203-2351) for installation of a new head burning booth at the Midland Foundry in Midland Borough, **Beaver County**.

63-00943A: Dominion Transmission, Inc. (445 West Main Street, Clarksburg, WV 26301-2886) for installation of a propane storage and marketing terminal at Charleroi Propane Station, in Fallowfield Township, **Washington County**.

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

24-017C: Morgan Advanced Materials and Technology (441 Hall Avenue, St. Marys, PA 15857) for construction of a second batch coking oven to be controlled by a new thermal oxidizer in St. Marys City, **Elk 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) 826-2507.

45-303-010: Hanson Aggregates Pennsylvania (5245 Lycoming Mall Drive, Montoursville, PA 17754) for modification of an existing Hot Mix Asphalt plant to utilize an alternative fuel, on-spec waste derived liquid fuel in the process at their facility in Hamilton Township, **Monroe County**. This facility is not a Title V facility. The company has elected to take a voluntary production restriction of 495,000 tons of asphalt per year. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the asphalt plant operating within all applicable air quality 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.

23-00018: Exelon Generation Co., LLC (3901 North Delaware Avenue, Philadelphia, PA 19137) for renewal of the Title V Operating Permit for their Chester Generating Station in the City of Chester, **Delaware County**. The facility is a peak power plant, containing three simple cycle combustion turbines, which generate a maximum of 18 Mw each. As a result of potential emissions of NO_x and SO_x, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Permit Renewal does not reflect any change in air emissions from the facility. The facility became subject to the new regulations for NO_x emissions accounting in 25 Pa. Code §§ 129.202 and 129.204 on May 1, 2005. These conditions have been included in the Operating Permit. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

46-00025: Lonza, Inc. (900 River Road, Conshohocken, PA 19248) for renewal of the Title V Operating Permit in Upper Merion Township, **Montgomery County**. The initial permit was issued on December 31, 2001. The facility is primarily a synthesized pharmaceutical, fine organic chemical manufacturing plant with various manufacturing equipment, including boilers, emergency generators, laboratory hoods, a hazardous waste incinerator and a waste treatment plant. The facility is major for VOCs and NO_x emissions and HAPs. The facility caps facility-wide HAP emissions to less than 25 tpy combination HAPs and less than 10 tpy any individual HAP. There are no new sources at the facility. Updated regulations for 40 CFR Part 63, Subpart EEE—National Emission Standards for HAPs for Hazardous Waste Combustors have been added to Source ID 001—Hazardous Waste Incinerator. CEMS reporting and recordkeeping requirements have also been added to Source ID 001. The facility is subjected to Compliance Assurance Monitoring (CAM) under 40 CFR Part 64. CAM requirements have been added to the permit for the scrubber/packed tower (C07) and the thermal oxidizer (C06) associated with Source IDs 101 (Raw Material and Waste Storage Tanks) and 106 (Manufacturing Processes). CAM conditions appear in Section D Source Level Requirements at each source. The

renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

67-05007: Adhesives Research, Inc. (400 Seaks Run Road, Glen Rock, PA 17327) for operation of an adhesive coating facility in Springfield Township, **York County**. This is a renewal of the Title V operating permit that was issued in 2003.

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

24-00012: C/G Electrodes, LLC (800 Theresia Street, Saint Marys, PA 15857-1831) for modification of the Title V Operating Permit to change the operating ranges of some control devices related to the CAM plan in the City of Saint Marys, **Elk County**. The facility's major emission sources include coke unloading, storage, preheaters, screening and crushing, petroleum coke flour mill, pitch impregnation, mixer-feeder-scale, Wheelabrator shot blast, 48" extrusion press system, scrap electrode process, burn off oven, liquid pitch storage, air/vegetable oil quench system, pitch storage plant, coke handling plant, carbottoms, longitudinal graphitizers, 25 inch press, shot blast (LG Rods), sagger sand handling system, parts cleaning, graphite bagging system, mass bake furnaces, sagger bake furnaces and machining operation. The facility is a major facility due to its potential to emit of NOx and SOx. The facility is also subject to CAM plan.

24-00016: Keystone Powdered Metal Co. (251 State Street, St. Marys, PA 15857) for a Title V Operating Permit Re-issuance to operate a Fabricated Metal Products facility in the City of St. Marys, **Elk County**.

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

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

09-00178: Lockheed Martin Space System Company (100 Campus Drive, Newtown, PA 18940-1784) for an initial Non-Title V Facility, State-only, Synthetic Minor Permit in Newtown Township, **Bucks County**. Lockheed Martin is a radio and TV communication equipment manufacturing facility. The facility has taken site level restriction limits of 25 tpy for NOx and 100 tpy for SOx. The restrictions will ensure that Lockheed Martin remains under the emission thresholds. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

06-03095: DirectLink Technologies Corp. (2561 Bernville Road, Reading, PA 19605-9611) for operation of data processing center with three emergency generators in Bern Township, **Berks County**. This is a renewal of the State-only operating permit issued in 2003.

34-03003: Empire Kosher Poultry, Inc. (R. R. 5, Box 228, Mifflintown, PA 17059-1203) for the poultry processing operation in Walker Township, **Juniata County**. The two boilers and frying operation were previously permitted under GP1-34-03003A and 34-317-002A, respectively. The facility wide (State-only) operating permit shall

contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

36-05124: Guyon Industries, Inc. (1344 North Penryn Road, Manheim, PA 17545) for operation of its lumber prefinishing facility in Penn Township, **Lancaster County**. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit issued in 2003.

44-03007: Hoenstine Funeral Home, Inc. (75 Logan Street, Lewistown, PA 17044) for operation of its human crematory in Lewistown Borough, **Mifflin County**. This is a renewal of their State-only operating permit.

44-03010: Trinity Packaging Corporation (13 Industrial Park Road, Lewistown, PA 17044) for manufacturing, laminating and coating of plastic bags in Granville Township, **Mifflin County**. This is a renewal of the State-only operating permit issued in 2003.

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 Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such 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 the application is available for inspection at the District Mining Office indicated above each 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 the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application 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 address of the district mining office indicated above each 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—34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; 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, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the 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 desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91–96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in

Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated above each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must 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 or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 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: 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 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 30841307 and NPDES Permit No. PA0213438, Emerald Coal Resources, LP, (P. O. Box 1020, 158 Portal Road, Waynesburg, PA 15370), to revise the permit for the Emerald Mine No. 1 in Center Township, **Greene County** to change the land use on 4.5

acres from pastureland to industrial/commercial at Emerald No. 5 Airshaft. No additional discharges. Application received July 1, 2008.

Permit Number 30841312 and NPDES Permit No. PA0013790, Consolidation Coal Company, (1800 Washington Road, Pittsburgh, PA 15241), to revise the permit for the Blacksville Mine No. 2 in Gilmore Township, **Greene County** and related NPDES permit to install the Roberts Run Airshaft. Surface Acres Proposed 15.4. Receiving Stream: UNT to Roberts Run, classified for the following use: WWF. Application received July 7, 2008.

Permit Number 32011302 and NPDES Permit No. PA0235521, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to renew the permit

and related NPDES permit and to revise the permit for the Gillhouser Run Deep Mine in Buffington and Brush Valley Townships, **Indiana County** to add acreage to the subsidence control plan area. Subsidence Control Plan Acres Proposed 462.2. No additional discharges. Application received June 10, 2008.

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

56930107 and NPDES No. PA0212466. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 70.3 acres. Receiving streams: UNTs to/and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 5, 2008.

56980103, NPDES Permit No. PA0234699 and General Permit GP12-56980103. Godin Brothers, Inc., 195 East Philadelphia Street, P. O. Box 216, Armagh, PA 15920. Revision to an existing bituminous surface mine operation to add a coal crushing plant facility in Jenner and Lincoln Townships, **Somerset County** affecting 133.5 acres. Receiving streams: UNTs to Quemahoning Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning SWI. The coal crushing plant facility on this site is authorized to operate under General Permit BAQ-GPA/GP12 and is required to meet all applicable limitations, terms and conditions of authorization GP12-56980103. Application received August 5, 2008.

56080107. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563 commencement, operation and restoration of a bituminous surface mine in Southampton Township, **Somerset County**, affecting 162.1 acres. Receiving streams: Powder Run to Gladdens Run to Wills Creek, UNTs to Wills Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 31, 2008.

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

02080101 and NPDES Permit No. PA0251461. Quality Aggregates, Inc. (200 Neville Road, Pittsburgh, PA 15225). Application for commencement, operation and reclamation of a bituminous surface mine, located in Findlay Township, **Allegheny County**, affecting 86.7 acres. Receiving streams: UNT to Potato Garden Run,

classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received August 13, 2008.

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

16060101 and NPDES Permit No. PA0258105. Ancient Sun, Inc. (P. O. Box 129, Shippensburg, PA 16254). Revision to an existing bituminous surface strip operation in Ashland Township, **Clarion County** affecting 23.0 acres. Receiving streams: two UNTs to Little East Sandy Creek and Little East Sandy Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to include a postmining land use change from forestland to unmanaged natural habitat on the Donald E. Kahle, Jr. and F. Howard Kahle property. Application received August 15, 2008.

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

54-305-010GP12. Coaldale Energy, LLC, (c/o Stonegate Partners, LLC, 401 Edgewater Place, Suite 102, Wakefield, MA 01880), application to operate a coal preparation plant whose pollution control equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Surface Mining Permit No. 54070202 in Coaldale Borough, **Schuylkill County**. Application received August 13, 2008.

54-305-011GP12. Summit Anthracite, Inc., (196 Vista Road, Klingerstown, PA 17941), application to operate a coal preparation plant whose pollution control equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Underground Mining Permit No. 54851336 in Porter Township, **Schuylkill County**. Application received August 13, 2008.

54860206R4 and NPDES Permit No. PA053583. WPS Westwood Generation, LLC, (1716 Lawrence Drive, DePere, WI 54115), renewal of an existing anthracite coal refuse reprocessing operation and NPDES Permit for discharge of treated mine drainage in Frailey and Porter Townships, **Schuylkill County** affecting 441.4 acres, receiving stream: Lower Rausch Creek. Application received August 13, 2008.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 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 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based

effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

37920306. Neshannock Sand and Gravel, Inc. (3340 US Route 422, New Castle, PA 16101-7962). Renewal of NPDES Permit No. PA0211320, Neshannock Township, **Lawrence County**. Receiving streams: UNT to the Shenango River (Unclassified) and the Shenango River, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is the City of New Castle. NPDES Renewal application received August 11, 2008.

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

40860302T2. 4P Realty, LP, (309 Main Street, Blakely, PA 18447), transfer of an existing quarry operation from Janet Beccaria in Lake Township, **Luzerne County** affecting 564.0 acres, receiving stream: none. Application received August 6, 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 Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E28-349: Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676, Southampton Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

The project consists of realigning the Turnpike at the curve immediately east of the Blue Mountain Tunnel, to the south of the existing roadway from milepost 199.5 to 200.4 involving the following regulated activities:

1. To construct and maintain a 280.0 linear foot by 24-inch RCP pipe road crossing of a UNT to Clippingers Run (WWF) at Station 195+20 R (Doyleburg, PA Quadrangle North: 2.4 inches; West: 3.4 inches, Latitude: 40° 08' 36" N; Latitude: 77° 38' 32" W) resulting in 280.0 feet of perennial stream impact.

2. To relocate approximately 765.0 linear feet of a UNT to Clippingers Run (WWF) from Station 209+35 to 210+60 R (Doyleburg, PA Quadrangle North: 2.0 inches; West: 3.9 inches, Latitude: 40° 08' 45" N; Latitude: 77° 38' 20" W) resulting in 765.0 linear feet of intermittent stream impact.

3. To construct and maintain a 531.0 linear foot by 60-inch RCP pipe road crossing in a UNT to Clippingers Run (WWF) at Station 211+45 R (Doyleburg, PA Quadrangle North: 1.8 inches; West: 3.8 inches, Latitude: 40° 08' 47" N; Latitude: 77° 38' 16" W) resulting in 669.0 feet of perennial stream impact.

4. To construct and maintain a 355.0 linear foot by 54-inch RCP pipe road crossing in Clippingers Run (WWF) at Station 222+30 R (Doyleburg, PA Quadrangle; North: 0.8 inch; West: 4.0 inches, Latitude: 40° 08' 56" N; Latitude: 77° 37' 55" W) resulting in 516.0 feet of perennial stream impact.

5. To construct and maintain a 297.0 linear foot extension of an existing 48-inch CMP pipe in a UNT to Laughlin Run (WWF) at Station 232+00 R (Doyleburg, PA Quadrangle North: 0.5 inch; West: 4.8 inches, Latitude: 40° 09' 04" N; Latitude: 77° 37' 41" W) resulting in 332.0 feet of perennial stream impact.

The project will permanently impact 1,797.0 linear feet of perennial stream channel and 765.0 linear feet of intermittent stream channel, totaling approximately 0.59 acre of impact to Waters of the Commonwealth. To compensate for unavoidable stream impacts, the applicant has proposed to remove a dam on Middle Spring Creek (CWF) along Middle Spring Road in Southampton Township, Cumberland County (Shippensburg, PA Quadrangle North: 14.7 inches; West: 6.0 inches, Latitude: 40° 4' 52"; Longitude: 77° 32' 36").

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

E17-446. City of DuBois, 139 P. O. Box 408, 16 West Scribner Avenue, DuBois, PA 15801. Pedestrian Bridges Across Sandy Lick Creek and Reasinger Run, in DuBois City, **Clearfield County**, United States Army Corps of Engineers, Pittsburgh District (DuBois, PA Quadrangle Latitude: 41° 07' 6.48"; Longitude: 78° 45' 12.41" and Latitude: 41° 07' 5.48"; Longitude: 78° 45' 12.58").

The applicant proposes to construct, operate and maintain two pedestrian bridge crossings Sandy Lick Creek (CWF) and Reasinger Run (CWF) for public access to recreational facilities. The bridge across Sandy Lick Creek shall be constructed as a single span structure having a minimum span of 45-feet, underclearance of 7.5-feet and width of 10-feet. The bridge across Reasinger Run shall be constructed as a single span structure

having a minimum span of 119.5-feet, underclearance of 14-feet and width 10-feet. The project will not impact wetlands, while permanently impacting 10-feet of each waterway. The project is located along the eastern right-of-way of SR 0219 approximately 2,350-feet east of Park Avenue and SR 0219 intersection.

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

E63-609. Department of Transportation, District 12-0, 825 North Gallatin Avenue Ext., Uniontown, PA 15401. To construct and maintain bridge replacement which extends between East Bethlehem Township, **Washington County** and Jefferson Township, **Greene County**, United States Army Corps of Engineers, Pittsburgh District (Mather, PA Quadrangle N: 19.68 inches; W: 1.47 inches, Latitude 39° 58' 59"; Longitude 80° 00' 38"). The applicant proposes to remove the existing SR 88, two lane, two span, 212 ft. total length, steel through truss bridge, having an underclearance of 14.2 ft. over Tenmile Creek's (WWF) normal pool elevation; and to construct and maintain approximately 20 ft. upstream and to the east a two lane, three span, 384 ft. total length, replacement bridge, with a underclearance of 14.2 ft. over normal pool elevation. In addition, remove the existing SR 2039, 24 ft. span, 62 ft. wide, concrete slab bridge with a underclearance of 7.2 ft; construct and maintain a 61 ft. span 42 ft. wide by 12.2 ft. maximum underclearance replacement on the adjoining UNT (WWF) to accommodate the relocation and raising of the northern SR 88 approach road to the Tenmile Creek Bridge replacement; install a temporary causeway for construction of the SR 88 replacement bridge; install a temporary bridge for the replacement of the SR 2039 bridge; and construct and maintain associated stormwater outfalls. The project, is centered approximately 3,000 ft. upstream of Tenmile Creek's confluence with the Monongahela River.

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

E61-284, Department of Transportation, District 1-0, 255 Elm Street, Oil City, PA 16301. SR 3005, Section B00 Across Scrubgrass Creek, in Clinton Township, **Venango County**, United States Army Corps of Engineers, Pittsburgh District (Eau Claire, PA Quadrangle N: 41° 14' 21.7"; W: 79° 51' 13.7").

To remove the existing truss bridge and to construct and maintain a prestressed concrete spread box beam bridge having an out to out width of 28.25 feet, a clear span of 89.5 feet and an underclearance of 9.5 feet on a 65° skew with a new alignment located immediately upstream of the existing bridge across Scrubgrass Creek on SR 3005, Section B00 approximately 200 feet south of SR 3008.

E62-417, Southwest Township, R. D. 2, Box 184A, Titusville, PA 16354. Sutton Road Across Caldwell Creek, in Southwest Township, **Warren County**, United States Army Corps of Engineers, Pittsburgh District (Grand Valley, PA Quadrangle N: 41° 40' 06"; W: 79° 35' 54").

To remove the existing structure and to construct and maintain a prestressed concrete spread box beam bridge having a clear span of 71 feet and an underclearance of 7.2 feet on an 85° skew across Caldwell Creek (HQ-CWF) and impacting 0.08 acre of wetland (EV) on Sutton Road approximately 1.7 mile from Flat Road. Project proposes creation of 0.08 acre of replacement wetland in the immediate vicinity of the bridge.

E62-418, Southwest Township, R. D. 2, Box 184A, Titusville, PA 16354. Sutton Road Across Caldwell Creek, in Southwest Township, **Warren County**, United States Army Corps of Engineers, Pittsburgh District (Grand Valley, PA Quadrangle N: 41° 41' 39"; W: 79° 34' 17").

To remove the existing structure and to construct and maintain a prestressed concrete spread box beam bridge having a clear span of 58 feet and an underclearance of 7 feet on an 60° skew across West Branch Caldwell Creek and impacting a de minimis area of wetland (EV) on T-304 Flat Road approximately 0.5 mile northeast of Selkirk Road.

ENVIRONMENTAL ASSESSMENTS

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

EA4308603, Edward M. Best, Wheatland Tube Company, 1 Council Avenue, Wheatland, PA 16161. Old Mill Street Demolition Project, in Hermitage, **Mercer County**, United States Army Corps of Engineers, Pittsburgh District (Sharon West, PA Quadrangle N: 41° 14' 18.8"; W: 80° 30' 46.6").

Demolition plan provided under § 105.12(a)(11) for the demolition and removal of the approximately 160' long Old Mill Street Bridge.

Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

EA4309-002. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Division of Mine Hazards, P. O. Box 8476, Harrisburg, PA 17105. Abandoned Mine Land Reclamation Project, in Springfield and Findley Townships, **Mercer County**, United States Army Corps of Engineers, Pittsburgh District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 55 acres of Priority 2 dangerous highwalls and Priority 3 spoil piles. The highwalls total approximately 3,200 feet and average 25 feet high. The project will include the backfilling of 10.29 acres of open water that have developed within the strip pits (Mercer Quadrangle N: 9 inches; W: 7.5 inches).

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

D46-148EA. Upper Merion Township, 175 West Valley Forge Road, King of Prussia, PA 19406. Upper Merion Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

Project proposes to breach and remove Upper Dam across Gulph Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,200 feet of stream channel. The dam is located approximately 1,300 feet east of the intersection of SR 320 and SR 3031 (Gulph Road) (Norristown, PA Quadrangle Latitude: 40° 04' 10"; Longitude: 75° 22' 08").

D49-021EA. Anthony Fernandes, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. Mount Carmel Township, **Northumberland County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Mt. Carmel No. 1 Dam and Storage Reservoir No. 2 Dam across a tributary to Shamokin Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dams are

located approximately 1,700 feet south of the intersection of SR 54 and SR 2040 (South Hickory Street) (Mount Carmel, PA Quadrangle Latitude: 40° 47' 25"; Longitude: 76° 24' 37") (Mount Carmel, PA Quadrangle Latitude: 40° 47' 26"; Longitude: 76° 24' 35").

D32-086EA. Green Township Municipal Authority, 77 Musser Street, Commodore, PA 15729. Green Township, **Indiana County,** United States Army Corps of Engineers, Pittsburgh District.

Project proposes to breach and remove Barr Slope Reservoir Dam across a tributary to Dixon Run (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dam is located approximately 1,700 feet northwest of the intersection of SR 403 and SR 1012 (Barr Slope Road) (Clymer, PA Quadrangle Latitude: 40° 42' 52"; Longitude: 79° 00' 48").

WATER QUALITY CERTIFICATION REQUEST

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

Certification request initiated by the United States Army Corps of Engineers, Baltimore District, P. O. Box 1715, Baltimore, MD 21203. Lidy Creek, Section 14 Emergency Streambank Stabilization Project, in Lidy Creek, Dupont Borough, Luzerne County, United States Army Corps of Engineers, Baltimore District, Avoca Quadrangle N: 13.7 inches; W: 16.6 inches. The United States Army Corps of Engineers proposes the stabilization of approximately 220 linear feet of Lidy Creek. The project would entail stream bank stabilization with rock for 90 linear feet of the north stream bank, 16 linear feet of the south stream bank and 110 feet of reconfigure channel alignment using rock. The Lidy Creek, Section 14 Emergency Streambank Stabilization documents are available for public review at the Pittston Memorial Library, 47 Broad Street, Pittston, PA 18640 and by electronic copy at www.nab.usace.army.mil/PN/CivilWorks.htm.

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-0040487 (Minor Sewage)	PCS Chadaga d/b/a Maple Lane Estates 110 Inverness Drive Blue Bell, PA 19422	Foster Township Luzerne County	Pond Creek 2A	Y
PA-0063673 (Minor Sewage)	Salerno Properties, LLC Fountain Springs West P. O. Box 226 Sciota, PA 18354	Pocono Township Monroe County	Pocono Creek 01E	Y
PA-0064009	ESSROC Cement Corporation Route 248 and Easton Road Nazareth, PA 18064	Nazareth Borough Northampton County	UNT to East Branch Monocacy Creek 2C	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>
PA0111538 (Sewage)	Pine Valley Associates, LP Pine Valley Mobile Home Park 215 West Church Road Suite 105 King of Prussia, PA 19406	West Buffalo Township Union County	North Branch Buffalo Creek HQ-CWF	Y
PA0209589 SP	Girard Township P. O. Box 36 LeContes Mills, PA 16850-0036	Clearfield County Girard Township	Bald Hill Run 8C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0205753 Sewage	East Bethlehem Township Municipal Authority P. O. Box 136 Fredericktown, PA 15333	Washington County East Bethlehem Township	Monongahela River	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>
PA0100960	Bloomfield Township Sewage Authority 22978 Shreve Ridge Road Union City, PA 16438-3540	Bloomfield Township Crawford County	Oil Creek 16-E	Y

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

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

NPDES Permit No. PA0065234, Sewage, **Stephen and Janet Lovell**, 10371 Old Route 22, Kutztown, PA 19530. This proposed facility is located in Weisenberg Township, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit to discharge treated sewage from a single-family residence, treated using an EcoFlow SCB-650 biofilter.

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

NPDES Permit No. PA0240168, CAFO, **Bortnick Dairy, LLC**, 21820 Palmer Road, Conneautville, PA 16406. This proposed facility is located in Beaver Township, **Crawford County**.

Description of Proposed Action/Activity: Permit issuance for operation of a dairy farm.

NPDES Permit No. PA0240150, Sewage, **Norwich Township**, 3853 West Valley Road, Smethport, PA 16749. This proposed facility is located in Norwich Township, **McKean County**.

Description of Proposed Action/Activity: A new discharge of treated sewage.

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

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

WQM Permit No. 3908401, Sewerage, **Stephen and Janet Lovell**, 10371 Old Route 22, Kutztown, PA 19530. This proposed facility is located in Weisenberg Township, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the construction/operation of a small flow treatment facility to replace the malfunctioning cesspool system. Facility consists of a septic tank, Ecoflo ST650 Peat Filter and an ultraviolet disinfection unit.

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

WQM Permit No. 1808401, Sewerage, SIC 4952, **Woodward Township Sewer Authority**, 86 Riverside Terrace, Lock Haven, PA 17745. This proposed facility is located in Woodward Township, **Clinton County**.

Description of Proposed Action/Activity: A permit has been issued for renovations to Pump Station No. 1 along SR 644. The proposed modifications include replacement of the pumps and pump controls, addition of an emergency generator to serve the pump station and the replacement of the force main conveying sewage from the pump station to the City of Lock Haven's collection system.

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

WQM Permit No. 0208201, Industrial Waste, **LaFarge North America, Inc.**, 555 Frost Road, Suite 100, Streetsboro, OH 44241. This proposed facility is located in West Mifflin Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for construction and operation of a wastewater treatment plant.

WQM Permit No. WQG016164, Sewerage, **William Minton**, 300 Bocktown Cork Road, Aliquippa, PA 15001. This proposed facility is located in Independence Township, **Beaver County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a small flow sewage treatment plant.

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

WQM Permit No. 6107402, Sewerage, **Oil Creek Township**, 16835 Shreve Run Road, Pleasantville, PA 16341. This proposed facility is located in Pleasantville Borough, **Venango County**.

Description of Proposed Action/Activity: A sewer extension project proposing to serve residents along SR 27 from Pleasantville toward Enterprise and from Pleasantville toward Titusville, Jerusalem Corners Road, North Main Street Extension, SR 227, South Main Street Extension and Route 36 in Oil Creek Township, Venango County. The waste water will be routed to the Pleasantville Borough Sewage Treatment Plant.

WQM Permit No. 2508405, Sewerage, **Girard Borough**, 34 Main Street West, Girard, PA 16417. This proposed facility is located in Girard Township, **Erie County**.

Description of Proposed Action/Activity: The permit is for the installation of approximately 3,000 LF of 24-in. diameter, PVC gravity sewer line between Rice Avenue and the Girard Borough sewage treatment plant. The proposed work replaces a deteriorated 10-in. clay tile line that will be abandoned in place.

WQM Permit No. 4208402, Sewerage, **Norwich Township**, 3853 West Valley Road, Smethport, PA 16749. This proposed facility is located in Norwich Township, **McKean County**.

Description of Proposed Action/Activity: The proposed project consists of a pressure sewer collection system and treatment plant to serve a portion of Norwich Township, McKean County.

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

WQM Permit No. 4608405, Sewerage, **Salford Township**, P. O. Box 54, 139 Ridge Road, Tylersport, PA 18971. This proposed facility is located in Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a sanitary pump station to convey the sewage from the Country View at Salford Development.

WQM Permit No. WQG02460814, Sewerage, **Valley Forge National Park Service**, 1400 North Outerline Drive, King of Prussia, PA 19406. This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station to serve a "comfort station" at Washington's Headquarters in VFNP.

WQM Permit No. 1598201, Industrial, Renewal, **Herr Foods, Inc.**, P. O. Box 300, Nottingham, PA 19362-0300. This proposed facility is located in West Nottingham Township, **Chester County**.

Description of Action/Activity: Approval for renewal of existing permit for modifications and continued operations of the Herr Foods, Inc. Wastewater 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>
PAI024507007	SADG-2, Inc. 100 Colliery Road Dickson City, PA 18519	Monroe	Mount Pocono Borough	Yankee Run HQ-CWF
PAI023908004	East Penn School District 800 Pine Street Emmaus, PA 18049	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI064208002	Norwich Township 3853 West Valley Road Smethport, PA 16749	McKean	Norwich Township	Potato Creek and UNT; Walcott Brook and UNT; Red Mill Colegrove and Robbins Brooks HQ-CWF; CWF
PAI066108001	Oil Creek Township 16835 Shreve Run Road Pleasantville, PA 16341	Venango	Oil Creek Township	Pine Creek Watershed HQ-CWF West Pithole Creek CWF

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

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

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From 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>
Derry Township Mifflin County	PAG2004408001	Mifflin County School District 201 Eighth Street Highland Park Lewistown, PA 17044	Buck Run TSF	Mifflin County Conservation District 20 Windmill Hill No. 4 Burnham, PA 17009 (717) 248-4695

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

Receiving Water/Use

*Contact Office &
Phone No.*

Upper Allen Township Cumberland County	PAG20021030033R	Arnold-Knaub Partners Meadowview Estates 1929 Fisher Road Mechanicsburg, PA 17019	UNT to Yellow Breeches Creek CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Spring Township Berks County	PAG20006908054	John Wineburg StoneMor Partners 212 Lincoln Circle Chalfont, PA 18914	Cacoosing Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657
Cumru and Robeson Townships Berks County	PAG2000608037	Alfred Picca Department of Transportation Engineering District 5-0 1002 Hamilton Street Allentown, PA 18101	Schuylkill River—Allegheny Creek—Muddy Creek WWF-CWF-TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657
Carroll and Wheatfield Townships Perry County	PAG2035008009	William Dittmar and James Corl 57 Reitz Boulevard Suite 100 Lewisburg, PA 17837	Shermans Creek WWF	Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068
Lower Swatara Township Dauphin County	PAG2002208009	Fulling Mill, LLC 120 West Airport Road Lititz, PA 17543	Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Susquehanna Township Dauphin County	PAG2002208017	Daniel Schiavoni Schiavoni, Ltd. 2445 Walnut Street Harrisburg, PA 17103	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Myerstown Borough Dauphin County	PAG2003805026	Goodwill Fire Company Attn: Jeff Zeller 155 West Main Avenue Myerstown, PA 17067	Tulpehocken Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-9788 (717) 272-5314
South Londonderry Township Lebanon County	PAG2003808007	South Londonderry Township Municipal Authority 20 West Market Street P. O. Box 3 Campbelltown, PA 17010-0003	Killinger Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-9788 (717) 272-5314
Cumberland Township Adams County	PAG2000108001	Donald Yingling D & L Enterprises 3574 Taneytown Road Gettysburg, PA 17325	UNT to Plum Run—Rock Creek Tributary WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636

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>
Conewago Township Adams County	PAG2000108016	Joan McAnall Radio Hanover, Inc. 275 Radio Road P. O. Box 234 Hanover, PA 17331	Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
East Berlin Borough Adams County	PAG2000108015	Phil Keener East Berlin Borough 128 Water Street East Berlin, PA 17316	West Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
Bonneauville Borough Adams County	PAG2000103004R	Jim Watson S & A Homes, Inc. 2121 Old Gatesburg Road Suite 200 State College, PA 16803 (814) 272-8922	Littles Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
Conewago Township Adams County	PAG2000107008(1)	Joseph A. Myers 160 Ram Drive Hanover, PA 17331	South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
West Manchester Township York County	PAG2006707073	Ken Snyder Capital Self Storage 4050 Carlisle Road Dover, PA 17315	UNT to Willis Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Centre County Rush Township	PAG2001408015	Philipsburg Elks Lodge No. 1173 David Holmes 124 North Second Street Philipsburg, PA 16866	Cold Stream CWF One Mile Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Clearfield County City of DuBois	PAG2001708007	Paris Cleaners, Inc. 67 Hoover Avenue DuBois, PA 15801	Sandy Lick Creek CWF TSF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clearfield County Clearfield Borough	PAG2001708009	Keith Powell J. J. Powell, Inc. 109 West Presqueisle Street Philipsburg, PA 16866	West Branch Susquehanna River WWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clearfield County Graham Township	PAG2001708010	Emigh Run/Lakeside Watershed Association P. O. Box 204 Morrisdale, PA 16858	Hubler Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Columbia County Millville Borough	PAG2001908008	George A. Laubach P. O. Box 475 Millville, PA 17846	Little Fishing Creek CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102

*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>
Northumberland County Mount Carmel Township	PAG2004908008	Shady Acres to Locust Gap Watermain Replacement 204 East Sunbury Street Shamokin, PA 17872	UNT to Warrior Run WWF	Northumberland County Conservation District R. R. 3 Box 238-C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Northumberland County Delaware Township	PAG2004908009	Trautman Two Lot Subdivision Gregory Trautman 453 Vincent Avenue Watsonstown, PA 17777	UNT to Warrior Run WWF	Northumberland County Conservation District R. R. 3 Box 238-C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Northumberland County Lower Mahanoy and Jordan Townships	PAG2004908011	Line Mountain Junior High/Senior High David Campbell 500 West Shamokin Street Trevorton, PA 17881	Fiddler's Run WWF	Northumberland County Conservation District R. R. 3 Box 238-C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Butler County Connoquenessing Township	PAG2001003035R	The Vineyards at Brandywine William J. Weaver Weaver Master Builders, Inc. P. O. Box 449 Mars, PA 16049	UNT Little Connoquenessing Creek CWF	Butler County Conservation District (724) 284-5270
Butler County Cranberry Township	PAG2001008017	East Resources, Inc. Professional Office Building and Thorn Hill Industrial Park Parcel 537 301 Brush Creek Road Warrendale, PA 15086	UNT Brush Creek WWF	Butler County Conservation District (724) 284-5270
Erie County McKean Township	PAG2002508002	Rental Storage Units 600 Sterrenttania Road Millfair Holding, LLC 10 Peninsula Drive Erie, PA 16505	Walnut Creek CWF, MF	Erie County Conservation District (814) 825-6403
Erie County City of Erie	PAG2002508016	Cytec Industries, Inc. Hardinger Transfer 5 Garret Mountain Plaza West Patterson, NJ 07424	Cascade Creek Erie Basin WWF-MF	Erie County Conservation District (814) 825-6403

General Permit Type—PAG-3

*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>
Fawn Township Allegheny County	PAR606200	D & D Auto Salvage 2746 Sun Mine Road Tarentum, PA 15084	Lardintown Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water/Use*

*Contact Office &
Phone No.*

Independence Township Beaver County	PAG046383	William Minton 300 Bocktown Cork Road Aliquippa, PA 15001	Tributary to Raccoon Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
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General Permit Type—PAG-8 (SSN)

*Facility Location:
Municipality & County*

*Applicant Name &
Address*

Site Name

*Contact Office &
Phone No.*

East Mahoning Township Indiana County	Synagro 3239 Route 981 New Alexandria, PA 15670	Leasure Farm	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
East Mahaoning Township Indiana County	Synagro 3239 Route 981 New Alexandria, PA 15670	Moore Farm	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501–522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1–691.1001) and the Federal Clean Water Act.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501–508 and 701–704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael 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 at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. 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 pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**NUTRIENT MANAGEMENT PLAN
PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Don Cotner's Farm	Northumberland	1,200	1,303.4	Layers	None	Approved
P & M Snyder	Northumberland	574.4	351.7	Poultry	None	Approved

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

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

Permit No. 4007505, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 50 East Woodhaven Drive White Haven, PA 18661 Bear Creek Township
County	Luzerne
Type of Facility	PWS
Consulting Engineer	William A. LaDieu, P. E. CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112
Permit to Construct Issued	August 8, 2008

Permit No. 4508501, Public Water Supply.

Applicant	Pennsylvania American Water 800 West Hersheypark Drive Hershey, PA 17033 Stroud Township
County	Monroe

Type of Facility	PWS
Consulting Engineer	Francis Voyack, P. E. Quad Three Group, Inc. 37 North Washington Street Wilkes-Barre, PA 18701
Permit to Construct Issued	August 12, 2008
Permit No. 4005506MA, Minor Amendment, Public Water Supply.	
Applicant	Sand Springs Water Company, Inc. 4511 Falmer Drive Bethlehem, PA 18020 Butler Township
County	Luzerne
Type of Facility	PWS
Consulting Engineer	William J. Schumacher, Jr., P. E. Schumacher Engineering, Inc. 55 North Conahan Drive Hazleton, PA 18201
Permit to Construct Issued	August 8, 2008
Permit No. 2450133, Operations Permit, Public Water Supply.	
Applicant	Pennsylvania American Water 800 West Hersheypark Drive Hershey, PA 17033 Stroud Township
County	Monroe
Type of Facility	PWS
Consulting Engineer	Daniel G. Rickard, P. E. Pennsylvania American Water 100 North Pennsylvania Avenue Wilkes-Barre, PA 18701
Permit to Operate Issued	August 11, 2008
<i>Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.</i>	
Permit No. 0108507, Public Water Supply.	
Applicant	IFCO Systems North America, Inc. Butler Township
Municipality	Adams
County	Installation of arsenic treatment.
Type of Facility	Charles A. Kehew II, P. E. James A. Holley & Associates Inc. 18 South George Street York, PA 17401
Consulting Engineer	
Permit to Construct Issued	August 7, 2008
Permit No. 0108508 MA, Minor Amendment, Public Water Supply.	
Applicant	Lake Meade Municipal Authority Reading Township
Municipality	

County **Adams**
 Type of Facility Installation of additional chlorine contact volume.
 Consulting Engineer Janet R. McNally, P. E.
 William F. Hill & Assoc., Inc.
 207 Baltimore Street
 Gettysburg, PA 17325
 Permit to Construct August 15, 2008
 Issued

Permit No. 2208504 MA, Minor Amendment, Public Water Supply.

Applicant **Mama's Pizza**
 Municipality East Hanover Township
 County **Dauphin**
 Type of Facility Installation of two additional treatment trains for VOC removal.
 Consulting Engineer Matthew D. Cichy, P. E.
 Herbert, Rowland & Grubic, Inc.
 369 East Park Drive
 Harrisburg, PA 17111
 Permit to Construct August 7, 2008
 Issued

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

Permit No. 4105502—Operation, Public Water Supply.

Applicant **Williamsport Municipal Water Authority**
 Township or Borough Armstrong Township
 County **Lycoming**
 Responsible Official David A. DiNicola, Executive Director
 Williamsport Municipal Water Authority
 253 West Fourth Street
 Williamsport, PA 17701
 Type of Facility Public Water Supply—Operation
 Consulting Engineer Scott E. Russell, P. E.
 Bucard Horn, Inc.
 1200 West College Avenue
 State College, PA 16801
 Permit Issued Date August 13, 2008
 Description of Action Operation of the recently constructed 24-inch diameter ductile iron transmission line from the Lycoming Creek wellfield to the filtration plant.

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

Permit No. 4304501-MA1, Public Water Supply.

Applicant **St. Paul Homes**
 Township or Borough West Salem Township
 County **Mercer County**
 Type of Facility Public Water Supply

Consulting Engineer Jay Helsel
 KTA-Tator, Inc.
 115 Technology Drive
 Pittsburgh, PA 15272
 Permit to Construct August 19, 2008
 Issued

Transfer of Operations Permit issued to **Fair Winds Manor LP**, PWSID No. 5100063, Windfield Township, Butler County. Permit Number 1088506-T1 issued August 19, 2008, for operation of Wells Nos. 2—4 as well and treatment, according to specifications approved by construction permit 1088506, issued November 16, 1990.

Transfer of Operations Permit issued to **Fair Winds Manor LP**, PWSID No. 5100063, Windfield Township, **Butler County**. Permit Number 1094503-T1 issued August 19, 2008, for operation of Well No. 5 as well and treatment, according to specifications approved by construction permit 1094503, issued September 26, 1994.

WATER ALLOCATIONS

Actions taken on applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.

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

Permit WA 16-1002. Farmington Township, P. O. Box 148, 32691 Route 66, Leeper, PA 16233. Modifies permit granting applicant's request to expand their service area within Farmington Township and into the Village of Crown. Farmington Township, **Clarion County**.

Permit Issued July 28, 2008.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Jim Thorpe Borough	421 North Street Jim Thorpe, PA 18229	Carbon

Plan Description: The Plan calls for the construction of both low-pressure and gravity wastewater collection/conveyance systems to serve the Switchback Ridge and Reservoir Road study areas as described in the text of the Plan and shown on Drawings SR-3 and RR-3 in the Plan. Properties located on East Chipmunk and West Chipmunk Trails and White Lane in the Switchback Ridge area will be served by a proposed low-pressure wastewater collection system that will connect to the proposed gravity wastewater collection system located on Center Avenue. Properties located on Center Avenue will be served by a proposed gravity wastewater collection system. The gravity wastewater collection system will be extended from the Center Avenue wastewater collection system's existing terminus on Center Avenue at Manhole No. 58. Properties located on Reservoir Road will be served by a combination gravity and low-pressure wastewater collection system. The gravity wastewater collection

system will be extended from the Center Street wastewater collection system's existing terminus on Center Street at Manhole No. 106.8.

Treatment of the study area's wastewater will occur at the Borough's Wastewater Treatment Facility, located in Jim Thorpe Borough, with ultimate discharge of the treated wastewater to the Lehigh River. Implementation of the selected wastewater disposal alternative and operation of the proposed facilities will be performed by Jim Thorpe Borough. Financing of the proposed wastewater collection and conveyance system is to be provided by the Pennsylvania Infrastructure Investment Authority (PENNVEST).

Any additional wastewater-related improvements, additions, deletions or changes outside of those explicitly described in the Plan and its correspondence, must be in compliance with the Department of Environmental Protection's (Department) regulations and be submitted to and approved by the Department in writing. This approval correspondence covers only the wastewater planning aspects of the selected wastewater disposal alternative as it relates to Jim Thorpe Borough's Official Sewage Facilities Plan. This review has also not identified any significant environmental impacts resulting from this proposal.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act and the Hazardous Sites Cleanup Act Bishop Tube Site, East Whiteland Township, Chester County

The Pennsylvania Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675), has entered into a Consent Order and Agreement (Agreement) with Johnson Matthey Inc. (Johnson Matthey), Suite 600, 435 Devon Park Drive, Wayne, PA 19087, for an environmental investigation and assessment of the Bishop Tube HSCA Site (Site).

The Site consists of 13.7 acres located on Malin Road, south of US Route 30, in Frazer, East Whiteland Township, Chester County. From 1951 through 1999, the Site was owned and operated by various entities including a predecessor to Johnson Matthey.

In March 2005, a Prospective Purchase Agreement was reached between Constitution Drive Partners, LP, the present owner of the Site and the Department for the remediation of soils contamination at the Site. Concurrently, the Department has been conducting partial characterization of soil, surface water and groundwater. The Department's investigation indicates that hazardous substances, such as chlorinated solvents, are present at significant levels in the groundwater underlying the Site.

Under the terms of the Agreement, Johnson Matthey will conduct an environmental investigation intended to characterize the following: 1) Groundwater contamination contained within the bedrock originating from the former Bishop Tube Property; 2) Contaminated groundwater contained within the overburden (that is, above the bedrock zone) originating from the former Bishop Tube Property and occurring on properties down-gradient from

the former Bishop Tube Property; 3) The vapor intrusion pathway resulting from migration of contaminants from the former Bishop Tube Property; 4) The groundwater to surface water pathway, to determine whether, and if so where, contaminated groundwater resulting from the Bishop Tube Site may be entering Little Valley Creek or other surface water features; 5) Performance of a Risk Assessment; and 6) a Feasibility Study (if necessary). The Department has agreed to provide Johnson Matthey with a covenant not to sue and contribution protection for the Site investigation performed under the Agreement.

This notice is provided under section 1113 of the HSCA (35 P. S. § 6020.1113). The Agreement may be examined from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, 2 East Main Street, Norristown, PA 19401 by contacting either Dustin Armstrong, (484) 250-5723 or Lauren G. Rosen, (484) 250-5871. Dustin Armstrong and Lauren Rosen may also be contacted electronically at darmstrong@state.pa.us and lrosen@state.pa.us, respectively. A public comment period on the Agreement will extend for a period of 60 days from the date of publication of this notice. Interested persons may submit written comments regarding the Agreement within 60 days from the date of publication of this notice to the Department by submitting them to Dustin Armstrong at the previously listed address.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 2

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

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

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of

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

The Department has received the following plans and reports:

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

Andreadis Property, Darby Borough, **Delaware County**. Michael Malone, SECOR International Incorporated, 102 Pickering Way, Suite 200, Exton, PA 19341 on behalf of Dino Amdreadis, 110 Baltimore Pike, Springfield, PA 19064 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Air Shield Property, Warminster Township, **Bucks County**. Samuel Kucia, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Gregory Rogerson, JERC Partners VIII, LP, 171 Route 173, Suite 201, Asbury, NJ 08802 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with other organics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Mancill Mill Road Company, Upper Merion Township, **Montgomery County**. Walter Hungarter, III, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of A Calvarese, VMP, 50 Brandon Road, Jeffersville, PA 19403 has submitted a Cleanup Plan concerning remediation of site soil contaminated with asbestos and arsenic. The report is intended to document remediation of the site to meet the Site-Specific Standard.

1700 North 5th Street, City of Philadelphia, **Philadelphia County**. Robert Marion, GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602 on behalf of Daniel Lasdon, 1700-02 North 5th LLP, 700 East Erie Avenue, Philadelphia, PA 19134 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with No. 6 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Laurel Pipeline Booth Station, Bethel Township, **Delaware County**. Paul Miler Environmental Alliance Inc., 1812 Newport Gap Pike, Wilmington, DE 19808 on behalf of Danielle Trittenbach, Buckeye Partners, LP, 5 TEK Park, 9999 Hamilton Road, Breinigsville, PA 18031 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

French Creek Center Proposed Phoenix Iron and Steel, Phoenixville Borough, **Chester County**. Stephen Brower, Environmental Solutions, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482 on behalf of Michael Kimble, Hankins Phoenix Foundry Partners, LP, 707 Eagleview Boulevard, Exton, PA 19341 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with pcb. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

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

Former Trojan Yacht Site, East Lampeter Township, **Lancaster County**. RETTEW Associates, Inc., 3020 Columbia Avenue, Lancaster, PA 17603, on behalf of Shippen Realty Partners, 1032 Buchanan Avenue, Lancaster, PA 17603, submitted a final report concerning remediation of site soils and groundwater contaminated with VOCs. The report is intended to document remediation of the site to the Statewide Health Standard.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Owl Cleaners, Inc., (Wexford Plaza), Town of McCandless, **Allegheny County**. Chad C. Coy, P. E., Cummings/Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh, PA 15235 (on behalf of Louis Naugle, Reed Smith, LLP (Legal Counsel for Wexford Plaza Associates, a PA Limited Partnership), 435 Sixth Avenue, Pittsburgh, PA 15219 and Joseph Ziccarelli, Owl Cleaners, Inc., 165 Northgate Drive, Warrendale, PA 15086) has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with VOCs, primary chlorinated solvents and their degradation products. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Owl Cleaners, Inc., (Wexford Plaza), Town of McCandless, **Allegheny County**. Chad C. Coy, P. E., Cummings/Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh, PA 15235 (on behalf of Louis Naugle, Reed Smith, LLP (Legal Counsel for Wexford Plaza Associates, a PA Limited Partnership), 435 Sixth Avenue, Pittsburgh, PA 15219 and Joseph Ziccarelli, Owl Cleaners, Inc., 165 Northgate Drive, Warrendale, PA 15086) has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with VOCs, primary chlorinated solvents and their degradation products. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Comptec, Inc., North Huntingdon Township, **Westmoreland County**. Paul Alessio, Cardinal Resources LLC, 1505 East Carson Street, Pittsburgh, PA 15203 on behalf of Gavin Mann, Comptec, Inc., 8291 Pennsylvania Avenue, Irwin, PA 15642 and Jim Pattock, Tiger Technologies, 4059 7th Street, New Kensington, PA 15068 has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Crane Plumbing (Former), Somerset Township, **Somerset County**. Mark Johnson, ENVIRON, 10 East Baltimore Street, Suite 1400, Baltimore, MD 21202 has submitted a Final Report concerning remediation of site soil contaminated with inorganics. 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.

Gulf Service Station, Doylestown Borough, **Bucks County**. Bruno Mercuri, Mercuri & Associates, Inc., 627 Hampton Avenue, Southampton, PA 18966 on behalf of Charles Livezey, Gulf Service Station, 216 South Main Street, Doylestown, PA 18901 has submitted a Final Report concerning the remediation of site groundwater contaminated with Chlorinated solvents. The Final Report demonstrated attainment of the Background Standard and was approved by the Department of Environmental Protection on August 5, 2008.

905 Louis Drive Property, Warminster Township, **Bucks County**. Michael Nines, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Kevin Kroiz, 905 Louis Associates, LP, 505 West Germantown Pike, Suite 200, Plymouth Meeting, PA 19462 has submitted a Final Report concerning

the remediation of site groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Background Standard and was approved by the Department of Environmental Protection on August 4, 2008.

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

Former Tyrone Social Club, Tyrone Borough, **Blair County**. Blazosky Associates, Inc., 2525 Greentech Drive, Suite D, State College, PA 16803, on behalf of Reliance Savings Bank, P. O. Box 1968, Altoona, PA 16603, submitted a baseline remedial investigation work plan concerning remediation of site soils and groundwater contaminated with chlorinated solvents and petroleum products which had been released from the operation of a former dry cleaners and former automobile fueling and repair station. The site is being remediated as a Special Industrial Area. The work plan was approved by the Department of Environmental Protection on July 3, 2007.

IFS Industries, Former Prizer Painter Stove Works, Inc., City of Reading, **Berks County**. Golder Associates, Inc., Spring Mill Corporate Center, 555 North Lane, Suite 6057, Conshohocken, PA 19428, on behalf of IFS Industries, Inc., 400 Orrton Avenue, Reading, PA 19603, submitted a Final Report concerning remediation of site soils and groundwater contaminated with metals, naphthalene and VOCs. The Final Report demonstrated attainment of a combination of Statewide Health and Site-Specific Standards and was approved by the Department of Environmental Protection on August 14, 2008.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Former Lehigh Valley Railroad Maintenance Facility, Sayre Borough, **Bradford County**. KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Brian Driscoll, 1 Progress Plaza, Towanda, PA 18848 has submitted a Risk Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with organics (TCE) in groundwater, LNAPL contamination in a confined area (diesel fuel), metals (lead) in drainage swales. The report and plan were approved on August 15, 2008.

David Strickler Residence, Old Lycoming Township, **Lycoming County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of David Strickler, 27 Hoover Road, Williamsport, PA 17701 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 August 13, 2008.

Marie A. Reed Property, Point Township, **Northumberland County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Marie A. Reed, 157 Bird Lane, Northumberland, PA 17857 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 heating oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 13, 2008.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Baylor's Mobil Station (Former), Borough of Monroeville **Allegheny County**. Michael Smith, CP Environmental Group, Inc., 1092 Fifth Avenue, New

Kensington, PA 15068 on behalf of James Bishop, P. O. Box 47, Turtle Creek, PA 15145 has submitted a Final Report concerning the remediation of site groundwater contaminated with PAH and Fuel Oil No. 1. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 7, 2008.

Comptec, Inc., North Huntingdon Township, **Westmoreland County**. Paul Alessio, Cardinal Resources, LLC, 1550 East Carson Street, Pittsburgh, PA 15203 on behalf of Gavin Mann, Comptec, Inc., 8291 Pennsylvania Avenue, Irwin, PA 15642 and Jim Pattock, Tiger Technologies, 4059 7th Street, New Kensington, PA 15068 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 9, 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) 826-2507.

35-302-121GP1: Scranton School District (355 Maple Street, Scranton, PA 18503) on August 1, 2008, to operate two boilers at their site in Scranton, **Lackawanna County**.

40-302-171GP1: Sargent Realty (100 East Diamond Avenue, Hazleton, PA 18201) on August 1, 2008, to operate a boiler at their site in Hazleton, **Luzerne County**.

35-328-002GP22: PEI Power Corp. (170 Power Boulevard, Archbald, PA 18403) on August 4, 2008, to construct and operate two turbines at their site in Archbald, **Lackawanna County**.

58-310-014GP3: Damascus 535 Quarry & Stone Products, LLC (R. R. 3, Box 324A-1, Montrose, PA 18801) on August 6, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in Lanesboro Borough, **Susquehanna County**.

58-329-003GP9: Damascus 535 Quarry & Stone Products, LLC (R. R. 3, Box 324A-1, Montrose, PA 18801) on August 6, 2008, to install and operate two Diesel I/C Engines at their site in Lanesboro Borough, **Susquehanna County**.

39-399-064GP2: Buckeye Terminals, LLC (5 TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031) on August 4, 2008, to install an internal floating roof on tank No. 293 at their site in Lower Macungie Township, **Lehigh County**.

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

GP1-06-03087: Arkema, Inc. (1112 Lincoln Road, Birdsboro, PA 19508) on August 14, 2008, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in Exeter Township, **Berks 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.

09-0024G: Waste Management of Pennsylvania, Inc.—Tullytown Resource Recovery Facility (1121 Bordertown Road, Morrisville, PA 19067) on August 14, 2008, for an enforceable heat throughput restriction on two enclosed backup flares in Tullytown Borough, **Bucks County**. The new restriction will replace the annual hourly limit of 1,752 in the existing Operating Permit and Plan Approval for each flare with an annual heat throughput limit of 262,800 mmBtu for each flare. The 262,800 mmBtu corresponds to 1,752 hours of operation at the rated capacity of 150 mmBtu/hr of each flare. Replacement of the hourly limit will provide flexibility for operation of the flares at less than their rated capacity. Emissions limits in the existing Operating Permit and Plan Approval for NO_x, SO_x, CO, VOC and PM/PM₁₀ for each flare will remain unchanged. The facility is a major facility. The Plan Approval will include monitoring, testing and recordkeeping requirements designed to keep the facility operating within all applicable air quality requirements.

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

22-03052C: Harman Stove Co. (352 Mountain Road, Halifax, PA 17032-9531) on August 11, 2008, to construct three paint booths for stove and heating appliance coating operations in Jackson Township, **Dauphin County**.

36-03052B: Boose Aluminum Foundry Company, Inc. (77 North Reamstown Road, P. O. Box 261, Reamstown, PA 17567-0261) on August 11, 2008, to replace a molding line in East Cocalico Township, **Lancaster County**.

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

10-021R: INDSPEC Chemical Corp. (133 Main Street, Petrolia, PA 16050-0307) on August 5, 2008, to install a venturi scrubber with a cyclonic mist eliminator to further control Sources 163 and 191 in Petrolia Borough, **Butler County**. This is a Title V facility.

43-011E: Greenville Metals, Inc. (99 Crestview Drive Extension, Transfer, PA 16154) on August 7, 2008, to install a new baghouse to supplement an existing baghouse that controls emissions from the EAF (Source 202) and be sole baghouse for the MNS exothermic reaction process (Source 205) Pymatuning Township, **Mercer County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

46-0261A: U.S. Tape (165 Township Line Road, Suite 2100, Jenkintown, PA 19046) on August 15, 2008, to operate a painting operation in Upper Hanover Township, **Montgomery County**.

15-0094A: Metallurgical Products Co. (P. O. Box 598, West Chester, PA 19381-0598) On August 15, 2008, to operate a new efficiency fiber bed filter in West Goshen Township, **Chester County**.

46-0025J: Lonza, Inc. (900 River Road, Conshohocken, PA 19428) on August 15, 2008, to operate eight new tanks in Upper Merion Township, **Montgomery County**.

46-0037X: Cabot Supermetals (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on August 15, 2008, to operate a powder packaging unit in Douglass Township, **Montgomery County**.

46-0221: Upper Moreland Hatboro Joint Sewer Authority (P. O. Box 535, 2875 Terwood Road, Willow Grove, PA 19090) on August 15, 2008, to operate a tri-mer odor scrubbers in Upper Moreland Township, **Montgomery County**.

46-0037V: Cabot Supermetals (County Line Road, Boyertown, Boyertown, PA 19512-1608) on August 15, 2008, to operate a Gemco dryer in building 19, Douglass Township, **Montgomery County**.

09-0156A: Oldcastle Law and Garden North (500 East Pumping Station Road, Quakertown, PA 18951) on August 15, 2008, to operate three diesel engines and wood processing equipment in Richland Township, **Bucks County**.

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

47-00001C: PPL Montour, LLC (2 North Ninth Street, Allentown, PA 18101) on August 18, 2008, to extend the authorization to operate a limestone processing and storage operation, a gypsum sludge handling, processing and storage operation and a wastewater treatment lime storage silo on a temporary basis to February 14, 2009, at the Montour Steam Electric Station in Derry Township, **Montour 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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

06-05126: Reading Compounds, Inc. (5103C Pottsville Pike, Reading, PA 19605) on August 14, 2008, for a Teflon crumb manufacturing facility in Ontelaunee Township, **Berks County**. This action is a renewal of the Title V operating permit.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00053: Greif Packaging, LLC (695 Louis Drive, Warminster, PA 18974) on August 18, 2008, to operate three spray booths and three associated bake ovens at their facility in Warminster Township, **Bucks County**.

The renewal permit is for a non-Title V (State-only) facility. The potential to emit VOCs from the facility exceeds 25 tpy; however, Greif Packaging, LLC operates and maintains a regenerative thermal oxidizer to capture and control VOC emissions from the spray booths and bake ovens. Therefore, the facility is categorized as Synthetic Minor. The renewal permit will contain monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

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

07-05033: Grannas Brothers Stone & Asphalt Co., Inc. (P. O. Box 488, Hollidaysburg, PA 16648-0488) on August 12, 2008, to operate a limestone crushing plant and asphalt plant in Catharine Township, **Blair County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00146: Republic Environmental Systems (PA), LLC (2869 Sandstone Drive, Hatfield, PA 19440) on August 18, 2008, to operate a Hazardous Waste Treatment, Storage, Disposal Facility in Hatfield Township, **Montgomery County**. The State-only Operating Permit will be issued as an Administrative Amendment for a Change of Ownership of the facility formerly owned by Republic Environmental Systems (PA), Inc. The permit is for a non-Title V (State-only) facility. The facility has elected to cap HAPs to less than 10 tpy (individual HAP) and less than 25 tpy (combination HAPs) and VOCs to less than 25 tpy; therefore the facility is a Synthetic Minor. The Administrative Amendment of the State-only Operating Permit was issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amended State-only Operating Permit did not change and contains all of the applicable regulatory requirements including monitoring recordkeeping, reporting and emission limits. The latest permit was issued March 6, 2006.

46-00049: International Business Systems, Inc. (431 Yerkes Road, King of Prussia, PA 19406) on August 14, 2008, to operate six lithographic printing presses, three parts cleaners and an emergency generator in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The facility has the potential to emit below major thresholds for criteria pollutants; therefore the facility is a Natural Minor. State-only Operating Permit minor modification issued under 25 Pa. Code § 127.462. This modification allows the use of a scratch-off coating at Source ID 116 (Press 6—9 Color Didde VIP). The increase in VOC emissions is limited to 1,998 pounds per year. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00110: Pepperidge Farm, Inc. (421 Boot Road, Downingtown, PA 19335-3043) on August 12, 2008, for a non-Title V facility in Downingtown Borough, **Chester County**. The Synthetic Minor Operating Permit has undergone a minor modification and has been re-issued

for the replacement of pressure drop gauges with bag break detectors. This modification includes testing, monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

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

36-03137: Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506-0550) on August 11, 2008, to operate their limestone crushing facility in Earl Township, **Lancaster County**. This State-only operating permit was administratively amended to incorporate plan approval 36-03137A. This is Revision No. 1.

38-05008: Rich Maid Cabinetry, LLC (633 West Lincoln Avenue, Myerstown, PA 17067-2332) on August 15, 2008, to operate a cabinet finishing system in Jackson Township, **Lebanon County**. This State-only operating permit was administratively amended to upgrade cabinet finishing and streamline production. This is Revision No. 1.

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 56911302 and NPDES Permit No. PA0213772, RoxCOAL, Inc., (P. O. Box 149, Friedens, PA 15541), to revise the permit for the Long T Permit in Stonycreek Township, **Somerset County** to change the land use of 70.9 surface activity site acres from pastureland to unmanaged natural habitat. No additional discharges. Application received May 2, 2008. Permit issued August 11, 2008.

Permit Number 03840401 and NPDES Permit No. PA0214558, TJS Mining, Inc., (2340 Smith Road, Shelocta, PA 15774), to revise the permit for the Coal Refuse Disposal No. 2 in Plumcreek Township, **Armstrong County** to reconfigure the refuse site and install PVC liner. No additional discharges. Application received August 2, 2007. Permit issued August 13, 2008.

Permit Number 17051601 and NPDES Permit No. PA0235733, Junior Coal Contracting, Inc., (2330 Six Mile Road, Philipsburg, PA 16866), to operate the Leslie Tipple in Decatur Township, **Clearfield County** and for

NPDES discharge permit. Surface Acres Proposed 38.0. Receiving Stream: Moshannon Creek, classified for the following use: TSF. Application received March 7, 2005. Permit issued August 13, 2008.

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

32970105 and NPDES No. PA0234419. TLH Coal Company, 4401 Pollock Road, Marion Center, PA 15759, permit renewal for reclamation only of a bituminous surface mine in Grant Township, **Indiana County**, affecting 54.2 acres. Receiving stream: East Run classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 25, 2008. Permit issued August 14, 2008.

32980107 and NPDES No. PA0234800. Fossil Fuel, Inc., 690 Weaver Road, Marion Center, PA 15759, permit renewal for reclamation only of a bituminous surface and auger mine in Grant Township, **Indiana County**, affecting 120.0 acres. Receiving streams: UNT to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 18, 2008. Permit issued August 14, 2008.

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

03020115 and NPDES Permit No. PA0250295. Bedrock Mines, LP (111 Freeport Road, Pittsburgh, PA 15215). Transfer of permit formerly issued to Walter L. Houser Coal Co., Inc., for continued operation and reclamation of a bituminous surface/auger mining site located in Sugarcreek Township, **Armstrong County**, affecting 195.6 acres. Receiving streams: UNTs to Snyder Run and Huling Run. Application received October 5, 2007. Transfer permit issued August 14, 2008.

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

10950103 and NPDES Permit No. PA0226963. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201) Renewal of an existing bituminous strip and auger operation in Concord Township, **Butler County** affecting 67.2 acres. This renewal is issued for reclamation only. Receiving streams: UNTs to Bear Creek and Bear Creek. Application received February 28, 2008. Permit issued August 13, 2008.

37900110 and NPDES Permit No. PA0207993. The Ambrosia Coal & Construction Co. (P. O. Box 422, Edinburg, PA 16116) Renewal of an existing bituminous strip and auger operation in North Beaver Township, **Lawrence County** affecting 133.0 acres. This renewal is issued for reclamation only. Receiving streams: one UNT to Edwards Run and Edwards Run. Application received June 23, 2008. Permit issued July 13, 2008.

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

17060101. Warquier Coal Company (P. O. Box 128, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine in Lawrence Township, **Clearfield County**, affecting 232.0 acres. Receiving streams: UNTs to Little Clearfield Creek, classified for the following use: HQF. Application received February 22, 2006. Permit issued August 8, 2008.

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

49773204C8. Gilberton Coal Company, (10 Gilberton Road, Gilberton, PA 17934), correction to an existing anthracite coal refuse reprocessing, surface mine, refuse disposal and preparation operation to include coal ash disposal in Mt. Carmel, Conyngham and Butler Townships, **Northumberland, Columbia and Schuylkill Counties** affecting 958.0 acres, receiving stream: none. Application received August 20, 2007. Correction issued August 14, 2008.

Noncoal Permits Actions

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

Permit No. 05080801. Stuart M. Shaffer, 3794 Hyndman Road, Hyndman, PA 15545, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Londonderry Township, **Bedford County**, affecting 2 acres. Receiving streams: UNT to Wills Creek. Application received April 22, 2008. Permit issued August 11, 2008.

Permit No. 11060301. Jigging Technologies, LLC, d/b/a Atoll, 1008 Club Drive, Johnstown, PA 15905, transfer of an existing noncoal surface mine from Rollock Company, 156 Rollock Road, Stoystown, PA 15563, located in City of Johnstown and East Taylor Township, **Cambria County**, affecting 70.0 acres. Receiving stream: Hinckston Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 13, 2008. Permit issued August 12, 2008.

Permit No. 28070801. James A. Murphy, 9271 Mercersburg, PA 17236, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Montgomery Township, **Franklin County**, affecting 5.0 acres. Receiving streams: UNT to West Branch Conococheague Creek. Application received December 14, 2007. Permit issued August 13, 2008.

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

26082802. Vanderbilt Aggregates, LLC (P. O. Box 125, Uniontown, PA 15401). Permit issued for commencement, operation and reclamation of a small noncoal (industrial mineral) surface mining site located in South Union Township, **Fayette County**, affecting 5.0 acres. Receiving streams: Coal Lick Run to Monongahela River. Application received March 26, 2008. Permit issued August 13, 2008.

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

10850306. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225-0347) Renewal of NPDES Permit No. PA0106453 in Marion Township, **Butler County**. Receiving streams: Two UNTs to Blacks Creek. Application received June 20, 2008. Permit issued July 13, 2008.

37880304. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225-0347) Renewal of NPDES Permit No. PA0204906 in Slippery Rock Township, **Lawrence County**. Receiving streams: UNT to Slippery Rock Creek. Application received June 20, 2008. Permit issued July 13, 2008.

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

8274SM6T and NPDES Permit No. PA0595349. Pennsy Supply, Inc., (P. O. Box 3331, Harrisburg, PA

17105), transfer of an existing quarry operation and NPDES Permit for discharge of treated mine drainage in East Hempfield Township, **Lancaster County** affecting 241.0 acres, receiving stream: UNT to Little Conestoga Creek. Application received January, 24, 2008. Transfer issued August 13, 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.

21084146. Newville Construction Service, Inc., 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for warehouse development in Dickinson Township, **Cumberland County**. Blasting activity permit end date is July 31, 2008. Permit issued August 5, 2008.

01084111. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for lagoon development in Reading Township, **Adams County**. Blasting activity permit end date is August 31, 2009. Permit issued August 8, 2008.

21084148. Keystone Blasting Services, 381 Reifsnyder Road, Lititz, PA 17543, blasting activity permit issued for single dwelling development in Southampton Township, **Cumberland County**. Blasting activity permit end date is October 30, 2008. Permit issued August 8, 2008.

28084120. David H. Martin Excavating, Inc., P. O. Box 608, Chambersburg, PA 17201-9655, blasting activity permit issued for commercial development in Washington Township, **Franklin County**. Blasting activity permit end date is August 5, 2008. Permit issued August 8, 2008.

21084147. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for gas station development in Middlesex Township, **Cumberland County**. Blasting activity permit end date is August 31, 2009. Permit issued August 8, 2008.

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

30084002. Custom Contracting (174 Freeman Falls Road, Acme, PA 15610). Blasting activity permit for construction at Evergreen Technology Park, Phase III, located in Franklin Township, **Greene County**, with an expected duration of 1 year. Permit issued August 12, 2008.

65054007. Coal Loaders, Inc. (P. O. Box 556, Ligonier, PA 15658). Blasting activity permit for re-mining and reclamation of an abandoned deep mine on the Pittsburgh coal seam, located in Derry Township, **Westmoreland County**, with an expected duration of 5 years. Permit issued August 12, 2008.

65084004. Mashuda Corp. (21101 Route 19, Cranberry Township, PA 16066). Blasting activity permit for construction on the Turnpike Mile Post 70.41–72.14,

located in Hempfield Township, **Westmoreland County**, with an expected duration of 10 months. Permit issued August 13, 2008.

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

17084005. PGM & T, Inc. (33 North Wickliffley Circle, Austintown, OH 44515), blasting for the Edward E. Flick Well Site, Flick No. 5, located in Ferguson Township, **Clearfield County**. Permit expires February 14, 2009. Permit issued August 14, 2008

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

06084119. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for commercial development in Perry Township, **Berks County** with an expiration date of August 7, 2009. Permit issued August 11, 2008.

06084120. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for Hearthstone at Amity in Amity Township, **Berks County** with an expiration date of August 8, 2009. Permit issued August 11, 2008.

06084121. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for Jim Dietrich Park in Muhlenberg Township, **Berks County** with an expiration date of August 8, 2009. Permit issued August 11, 2008.

67084121. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013), construction blasting for Wallace Tract Subdivision in East Prospect Borough and Lower Windsor Township, **York County** with an expiration date of August 31, 2009. Permit issued August 11, 2008.

36084195. Gerlach's Drilling & Blasting, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting at Greenfield Industrial Park in East Lampeter Township, **Lancaster County** with an expiration date of August 15, 2009. Permit issued August 13, 2008.

45084139. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Shawnee Ridge in Smithfield Township, **Monroe County** with an expiration date of August 9, 2009. Permit issued August 13, 2008.

45084141. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for South Ridge Estates in Price Township, **Monroe County** with an expiration date of August 31, 2009. Permit issued August 13, 2008.

67084122. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting for Addington Reserve in Manchester Township, **York County** with an expiration date of August 12, 2009. Permit issued August 13, 2008.

09084001. Explo-Craft, Inc., (P. O. Box 1332, West Chester, PA 19380), construction blasting at the Landis Service Area in West Rockhill Township, **Bucks County** with an expiration date of December 31, 2008. Permit issued August 14, 2008.

36084196. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Summerlynn Green in Ephrata Township, **Lancaster County** with an expiration date of December 30, 2009. Permit issued August 14, 2008.

38084122. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for a chicken house in Heidelberg Township, **Lebanon County** with an expiration date of October 30, 2008. Permit issued August 14, 2008.

67084123. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013), construction blasting for Weaver's Meats in Wellsville Borough, **York County** with an expiration date of August 31, 2009. Permit issued August 14, 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

Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E48-397. Wildlands Conservancy, 3701 Orchid Place, Emmaus, PA 18049. Lower Saucon Township, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a stream restoration project in a 1,000-foot reach of Saucon Creek (HQ-CWF) and a 100-foot reach of a tributary to Saucon Creek (HQ-CWF) using natural stream channel design techniques for the purpose of improving channel stability, water quality and aquatic habitat. Work will include regrading of the channel and floodplain; establishment of riparian buffers; and the placement of in-stream structures including rock cross vanes and j-hooks.

The project is located within the Saucon Valley Country Club beginning at Green Acres Drive and extending downstream approximately 1,000 feet (Hellertown, PA Quadrangle Latitude: 40° 33' 30", Longitude: 75° 21' 40"). (Subbasin: 2C)

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

E36-836: West Cocalico Township/Strickler/Greenville Roads: Norma Enck, 156B West Main Street, P. O. Box 244, Reinholds, PA 17569, United States Army Corps of Engineers, Baltimore District.

To remove 40.0 feet of 15.0-inch diameter SLCPP, 35.0 feet in length of 18.0-inch diameter SLCPP and to construct and maintain 195.0 feet in length of 18.0-inch SLCPP and 30.0 feet in length of 19.0-inch by 30.0-inch RCP for the purpose of relocating 205.0 feet of a UNT to Cocalico Creek (WWF) located at the intersection of Greenville and Strickler Roads (Womelsdorf, PA Quadrangle N: 22.67 inches; W: 3.52 inches, Latitude: 40° 15' 1.7"; N Longitude: 76° 9' 1.3" W) in West Cocalico Township, Lancaster County.

E22-525: Jeffrey Haste, County Bridge No. 42, P. O. Box 1295, Harrisburg, PA 17108, Washington Township, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To remove an existing county Bridge No. 42 and to construct and maintain a single span reinforced concrete spread box beam bridge having a clear span of 80.5 feet and an underclearance of 13.3 feet and width of 30.88 feet across the Wiconisco Creek (WWF) located on Matterstown Road (T-595) approximately 0.2 mile west of its intersection with LR 22037 (Elizabethville, PA Quadrangle N: 9.85 inches; W: 12.35 inches, Latitude 40° 33' 15"; Longitude 76° 50' 11") in Washington Township, Dauphin County.

E44-136: Municipal Authority of the Township of Union, P. O. Box 5625, Belleville, PA 17004-9701, Union Township, **Mifflin County**, United States Army Corps of Engineers, Baltimore District.

To relocate and maintain an 8.0-inch PVC sanitary sewer line crossing Little Kishacoquillas Creek approximately 3.05 feet downstream (Belleville, PA Quadrangle N: 19.0 inches; W: 15.4 inches, Latitude: 40° 36' 17.5"; Longitude 77° 44' 08.5") of the SR 0305, Segment 0080, Offset 0000 Bridge over Little Kishacoquillas Creek in Union Township, Mifflin County, for the purpose of replacing the SR 0305, Segment 0080, Offset 0000 Bridge over Little Kishacoquillas Creek.

E67-856: P.H. Glatfelter Company, Jackson Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To install and maintain approximately 480.0 feet of chain-link fencing in the floodway of Codorus Creek (WWF). The project is located at 228 South Main Street (Seven Valleys, PA Quadrangle N: 28.45 inches; W: 20.13

inches, Latitude: 39° 52' 17" N; Longitude: 76° 52' 22" W) in Jackson Township, York County. The purpose of the project is for site security.

E01-281: R & J Builders, Inc., Gary Jackson, 50 Citizens Way, Suite 200, Frederick, MD 21701, Cumberland Township, **Adams County**, United States Army Corps of Engineers, Baltimore District.

To fill in 0.06 acre of a de minimis wetland in order to construct a home located along the north side of Fairfield and Fairplay Roads (Fairfield, PA Quadrangle N: 13.5 inches; W: 2.75 inches, Latitude: 39° 49' 28"; Longitude: 77° 16' 11") in Cumberland Township, Adams County.

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

E18-432. Castanea Township, 347 Nittany Road, Castanea, PA 17745. Castanea Township Lower Creek Road Development Project in the Bald Eagle Creek 100-year floodplains, in Castanea Township, **Clinton County**, United States Army Corps of Engineers, Baltimore District (Lock Haven, PA Quadrangle Latitude: 41° 07' 30.55"; Longitude: 77° 26' 26.31").

The applicant proposes to remove existing structures and construct, operate and maintain new and additional public recreational facilities as a part of the development of the Lower Creek Road Park that is located within the 100-year floodplain of Bald Eagle Creek. New recreational facilities to be constructed are: (1) baseball field backstop; (2) outfield fence; (3) baseball team benches; (4) open-sided pavilion; (5) paved and stone parking areas; (6) walking trails; and (7) walking trail benches. The project is located along the western right-of-way of SR 0220 approximately 540-feet south of Lower Creek and Paul Mack Roads intersection. This permit does not authorize any wetland impact for any development, neither present nor future, of the Castanea Township Lower Creek Road Park. This permit was issued under Section 105.13(e) "Small Projects."

E60-194. Anna W. Gelnett, 1701 Monroe Avenue, Lewisburg, PA 17837. Gelnett Cabin Job, in Hartley Township, **Union County**, United States Army Corps of Engineers, Baltimore District (Weikert, PA Quadrangle Latitude: 40° 51' 17.7"; Longitude: 77° 17' 32.5").

To: 1) remove 15 existing 36-inch high house piers made of varying materials; 2) construct and maintain 15 12-inch diameter piers under a house with a first floor elevation of 726.5 feet in the left 100-year floodway of Penns Creek located at the second to last downstream cabin on Mitchell Lane. This permit was issued under Section 105.13(e) "Small Projects."

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

E04-321. Beaver County Commissioners, 810 3rd Street, Beaver, PA 15009. To replace a bridge over Brush Run in South Beaver Township, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District (New Galilee, PA Quadrangle N: 0.5 inch; W: 10.3 inches, Latitude: 40° 45' 11"; Longitude: 80° 26' 57"). To remove the existing structure (Sportsman's Club Bridge) and to construct and maintain a new concrete box culvert having a span of 12.0 feet with an underclearance of 7.5 feet (1.0 foot depressed below the natural stream bed) in and across the channel of and UNT to Brush Run (HQ-CWF) for the purpose of improving highway safety. The project is located on Martin Road (T-582), just north from the

intersection of Martin Road (T-582) and Blackhawk Road (SR 0251) and will impact approximately 80.0 linear feet of stream channel.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, 16335.

E16-134, Donald L. Shirey, 127 West Garfield Street, New Bethlehem, PA 16242. Private Residence in Floodway of Leisure Run, in New Bethlehem Borough, **Clarion County**, United States Army Corps of Engineers, Pittsburgh District (New Bethlehem, PA Quadrangle N: 41° 00' 14"; W: 79° 19' 43").

To complete construction and maintain a private residence and associated grading and landscaping within the assumed right floodway (50 feet from top of bank) of Leisure Run extending approximately 175 feet upstream from Penn Street.

E20-566, Stanley and Darlene Bradshaw. Stream Restoration UNT Woodcock Creek, in Woodcock Township, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Blooming Valley, PA Quadrangle N: 41° 40' 52.4"; W: 80° 4' 9.5").

The applicant proposes construct and maintain an approximately 1,400-foot long stream restoration project of a UNT Woodcock Creek (Blooming Valley, PA Quadrangle N: 41° 40' 52.4"; W: 80° 4' 9.5") in Woodcock Township, Crawford County approximately 0.6 mile North of the intersection of SR 77 and Bradshaw Road involving: 1) to construct three stream relocations having a total length of 300 feet; 2) to construct two floodplain excavations removing 475 cubic yards of material and having a total length of 400 feet; 3) to establish a vegetated riparian buffer; 4) to construct rock crossvane structures; 5) to construct a ford crossing with cow slats; 6) to install stream bank fencing; and 7) to establish wetlands adjacent to the stream. The UNT Woodcock Creek is a perennial stream classified as a HQ-WWF.

E25-721, Universal Well Services, Inc., 16540 Route 8, Union City, PA 16438-9108. Eastern Reservoir Services Development, in Union Township, **Erie County**, United States Army Corps of Engineers, Pittsburgh District (Union City, PA Quadrangle N: 41° 53' 09"; W: 79° 50' 45").

The applicant proposes to construct and maintain an expansion of an existing facility including a 7,600 square foot building, associated parking and staging areas, utilities and stormwater management facilities approximately 1,000 feet SE of the intersection of SR 6 and SR 8 (Union City, PA Quadrangle N: 41° 53' 09"; W: 79° 50' 45") in Union Township, Erie County involving to fill 0.24 acre of PEM wetlands and to construct 0.27 acre of PSS wetland onsite. The applicant proposes to directly impact 0.24 acre of PEM wetland onsite.

E37-176, Mahoning Township, 4538 West State Street, Hillsville, PA 16132. Mahoning Township WWTP and Sewer Line Project, in Mahoning Township, **Lawrence County**, United States Army Corps of Engineers, Pittsburgh District (Edinburg, PA Quadrangle N: 40.0081°; W: 80.4678°).

The applicant proposes to construct and maintain a 0.36 mgd wastewater treatment plant and a sewage collection system consisting of grinder pumps, lift stations, gravity lines and low-pressure sewers and having a length of approximately 102,000 feet to correct malfunctioning onlot systems in Mahoning Township, Lawrence

County (Edinburg, PA Quadrangle N: 40.0081°; W: 80.4678°) involving to construct and maintain: 1) an approximately 150-foot long sewer line stream crossing of the Mahoning River (inverted siphon pipe consisting of 6-inch diameter pipe and a 10-inch diameter pipe) by open trenching or directional bore; 2) 26 sewer line stream crossings of UNTs to the Mahoning River; 3) four sewer line wetland crossings; 4) an outfall having a 1.5-foot diameter ductile iron pipe; and 5) to permanently fill 0.04 acre of wetland for construction of a wastewater treatment plant approximately 250 feet SW of the intersection of SR 224 and SR 551. The Mahoning River and tributaries are classified as WWF.

DAM SAFETY

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

D45-291. Pleasant Valley Estates Dam. Pleasant Valley Estates Civic Association, Inc., c/o Thomas Milewski, R. R. 4, Box 4336, Kunkletown, PA 18058. To reconstruct, operate and maintain the Pleasant Valley Estates Dam across a tributary to Jonas Creek (EV), impacting 0.01 acre of wetlands (PEM) with no proposed impacts to the stream channel, for the purpose of reconstructing the previously breached dam to restore the approximate 6-acre recreational lake (Pohopoco Mountain, PA Quadrangle N: 15.2 inches; W: 1.7 inches) in Polk Township, **Monroe County**.

SPECIAL NOTICES

Notice of Planning Grant Awards under section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 901 and section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southeast				
Northeast				
Southcentral				
Northcentral				
Southwest	Somerset Fayette	Somerset County Fayette County	Plan Revision Plan Revision	\$79,881 \$42,070
Northwest				

Bureau of Mine Safety

Approval of Request For Variance

The Department of Environmental Protection (Department), Bureau of Mine Safety (BMS) has approved RoxCoal, Inc.'s request for a variance from the requirements of section 242(c) of the Pennsylvania Bituminous Coal Mine Act (act) at the Kimberly Run Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Cathy Dunn by calling (724) 439-7469 or from the BMS web site at www.depweb.state.pa.us/deepminesafety/site/default.asp.

Summary of the Request: RoxCoal, Inc. requested a variance from section 242(c) of the act to allow for the common ventilation of belt conveyor entry with other entries at the Kimberly Run Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements set forth in the act.

The basis for the Bureau's approval is summarized as follows:

The investigation committee has reviewed the section 702 variance and compared it to the Bureau of Mine Safety Guidelines. The section 702 variance request submitted for Kimberly Run Mine meets the Bureau of Mine Safety Guidelines. Most importantly, as detailed in this report, protections will be provided to the employees that meet or exceed the protections under the existing requirement. Specifically, these protections are provided by Federal Fire Protection Standards (30 CFR 75.1100), Federal Fire Defense and Evacuation Plan, installation of a CO Monitoring system according to Federal Standard (30 CFR 75.351), ease of access to the belt line for maintenance and inspection purposes, the requirement to maintain the intake escapeway entry at a higher ventilation pressure than the belt entry according to Federal Standard 30 CFR 75.350(7)(c)(d) and the requirement to maintain the integrity of the primary intake escapeway according to Federal Standard (30 CFR 75.380). Since CO monitoring has been widely implemented by the industry, many fires and hazardous conditions have been detected early, thus greatly enhancing the safety of the workplace.

This approval is limited to a variance from the requirements in section 242(c) requiring that the belt entry is isolated from other entries. All other terms and requirements of section 242(c) shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in the plan and the following conditions:

1. The investigative committee shall conduct an underground ventilation survey when the belt and common entries are established to verify pressure differential between the intake escapeway and the common entries.
2. The investigative committee shall evaluate the visual and audible alarms during the installation process.

3. The operator must ascertain whether or not the belt compounds used in the mine produce CO when burnt. Should the operator use a non-CO producing compound in the mine, additional sensors must be used in conjunction with the CO detectors to provide the early warning benefits of the monitoring system.

4. The operator shall comply with the Federal Fire Defense and Evacuation Plan and the following Federal Standards:

- 30 CFR 75.350(7)(c)(d)
- 30 CFR 75.351
- 30 CFR 75.380
- 30 CFR 75.1100

Request for Comment and Notice of Public Meeting For the Proposed Total Maximum Daily Load (TMDL) for Nesquehoning Creek Watershed in Carbon and Schuylkill Counties

The Department of Environmental Protection (Department) is holding a public meeting on September 10, 2008, beginning at 1 p.m. at the Pottsville District Office in Pottsville, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. The Nesquehoning Creek Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals.

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and pH, and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 19th and 20th centuries. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow

condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals, sediment and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data between 2005 and 2008.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact James Andrews at (570) 621-3118 between 8 a.m. and 4 p.m., Monday through Friday, at Pottsville District Mining Office, 5 West Laurel Boulevard, Pottsville, PA 17901. E-mail will be received at jameandrew@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by October 23, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Friday, September 5th. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

**Request for Comment and Notice of Public Meeting
For the Proposed Total Maximum Daily Load
(TMDL) for Pine Creek Watershed in Dauphin and
Schuylkill Counties**

The Department of Environmental Protection (Department) is holding a public meeting on September 10, 2008, beginning at 10 a.m. at the Pottsville District Office in Pottsville, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. The Pine Creek Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals.

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 19th and 20th centuries. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water

quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals, sediment and acidity at specified points in the watershed.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact James Andrews at (570) 621-3118 between 8 a.m. and 4 p.m., Monday through Friday, at Pottsville District Mining Office, 5 West Laurel Boulevard, Pottsville, PA 17901. E-mail will be received at jameandrew@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by October 23, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Friday, September 5th. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

**Request for Comment and Notice of Public Meeting
For the Proposed Total Maximum Daily Load
(TMDL) for Shade Creek Watershed in
Somerset County**

Cambria District Mining Office: 286 Industrial Road, Ebensburg, PA 15931.

The Department of Environmental Protection (Department) is holding a public meeting on September 3, 2008, beginning at 1 p.m. at the Cambria District Office in Ebensburg, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. One stream segment in the Shade Creek Watershed, one segment in the Dark Shade Creek Watershed, and one segment in the UNT to Dark Shade Creek Watershed have been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals; additional segments were identified in 1998, 2002, 2004 and 2006. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
45270	Shade Creek	9.62
45330	Dark Shade Crreek	6.41
45354	UNT to Dark Shade Creek	0.60

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals, sediment and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data between 2004 and 2007.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Jeff Miller at (814) 472-1893 between 8 a.m. and 3 p.m., Monday through Friday, at Cambria District Mining Office, 286 Industrial Park Road, Ebensburg, PA 15931. E-mail will be received at jeffreymil@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by October 22, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 3 p.m. Friday, August 29th. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

[Pa.B. Doc. No. 08-1596. Filed for public inspection August 29, 2008, 9:00 a.m.]

Solar Workgroup Meeting

The Solar Workgroup (Workgroup) will hold a meeting on September 4, 2008, at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

The agenda and materials for the September 4, 2008, meeting will be available at the meeting. Questions concerning this meeting should be directed to Libby Dodson, Office of Energy and Technology Deployment, Division of Energy Promotion, 400 Market Street, Harrisburg, PA 17101, (717) 772-8907, ldodson@state.pa.us.

Persons with a disability who require accommodations to attend the September 4, 2008, meeting of the Workgroup should contact Angela Rothrock at (717) 772-8911 or through the Pennsylvania AT&T Relay Services

at (800) 654-5984 (TDD) to discuss how the Department of Environmental Protection may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1597. Filed for public inspection August 29, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Alle-Kiski Medical Center, Allegheny Valley Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Alle-Kiski Medical Center, Allegheny Valley Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 3.9.2.4.1.4 (relating to staff shower) and 3.9.2.5.1 (relating to patient change area).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1598. Filed for public inspection August 29, 2008, 9:00 a.m.]

Application of Bethlehem Endoscopy Center, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Bethlehem Endoscopy Center, LLC has requested an exception to the requirements of 28 Pa. Code § 555.31(a) (relating to principle).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1599. Filed for public inspection August 29, 2008, 9:00 a.m.]

Application of Ephrata Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Ephrata Community Hospital has requested an exception to the requirements of 28 Pa. Code § 139.12 (relating to neonatal care units).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1600. Filed for public inspection August 29, 2008, 9:00 a.m.]

Application of Hamot Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Hamot Medical Center has requested an exception to the requirements of 28 Pa. Code § 107.62 (relating to oral orders).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1601. Filed for public inspection August 29, 2008, 9:00 a.m.]

Application of Springfield Ambulatory Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Springfield Ambulatory Surgical Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or

hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1602. Filed for public inspection August 29, 2008, 9:00 a.m.]

Application of Susquehanna Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Susquehanna Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 555.31(a) (relating to principle).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1603. Filed for public inspection August 29, 2008, 9:00 a.m.]

Application of The Washington Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Washington Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.4-3.1.1.1 (relating to dining space).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of

Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1604. Filed for public inspection August 29, 2008, 9:00 a.m.]

Immunization Practices for Children in Child Care Group Settings

In accordance with 28 Pa. Code § 27.77(c) (relating to immunization requirements for children in child care group settings), the Department of Health (Department), Bureau of Communicable Diseases, Division of Immunization, is updating the list of Morbidity and Mortality Weekly Report (MMWR) publications that contain the Advisory Committee on Immunization Practices (ACIP) recommendations that meet the standards of 28 Pa. Code § 27.77(c). Children in child care group settings as defined by 28 Pa. Code § 27.77(c) are required to be immunized in accordance with the recommendations included in the following publications. The Department is providing a summary of the publications for the ease of reference of the public:

Publications

Summary of Selected MMWR Articles on Pediatric/Adolescent Immunizations (Morbidity and Mortality Weekly Report) (www.cdc.gov/mmwr/)

January 11, 2008/Vol. 57/No. 1

Recommended Immunization Schedules for Persons Aged 0—18 Years—United States, 2008

The ACIP annually publishes a recommended immunization schedule for persons aged 0—18 years to reflect changes in vaccine formulations and current recommendations for the use of licensed vaccines. Visit the following link to view or download the updated schedule: www.cdc.gov/vaccines/recs/schedules/child-schedule.htm#printable.

February 22, 2008/Vol. 57/No. 7

Multistate Measles Outbreak Associated with an International Youth Sporting Event—Pennsylvania, Michigan and Texas, August—September 2007

Measles, a highly infectious viral illness, is no longer endemic in the United States because of high coverage rates with an effective vaccine. However, imported cases continue to cause illness and outbreaks among susceptible United States residents. In August 2007, a participant in an international youth sporting event who traveled from Japan to the United States became ill with measles. Because he traveled while infectious to an event with thousands of participants and spectators, an outbreak investigation was conducted in multiple states by state and local health departments in coordination with CDC, using standard measles surveillance case definitions and classifications. This report summarizes the results of that investigation, which identified six additional measles cases that were linked epidemiologically to the index case and two generations of secondary transmission.

February 22, 2008/Vol. 57/No. 7

Update: Influenza Activity—United States, September 30, 2007—February 9, 2008

This report summarizes United States influenza activity since the beginning of the 2007-2008 influenza season (September 30, 2007) and updates the previous summary. From September through early December, influenza activity remained low in the United States. Activity increased from early December through the end of the year and has continued to increase in January and February.

March 14, 2008/Vol. 57/No. 10

Update: Recommendations from the ACIP Regarding Administration of Combination MMRV Vaccine

On February 27, 2008, new information was presented to the ACIP regarding the risk for febrile seizures among children aged 12–23 months after administration of the combination measles, mumps, rubella and varicella (MMRV) vaccine (ProQuad®, Merck & Co., Inc., Whitehouse Station, NJ). This report summarizes current knowledge regarding the risk for febrile seizures after MMRV vaccination and presents updated ACIP recommendations that were issued after presentation of the new information. These updated recommendations remove ACIP's previous preference for administering combination MMRV vaccine over separate injections of equivalent component vaccines (that is, measles, mumps, and rubella (MMR) vaccine and varicella vaccine).

April 4, 2008/Vol. 57/No. 13

Updated Recommendation from the ACIP for Use of 7-Valent Pneumococcal Conjugate Vaccine (PCV7) in Children Aged 24–59 Months Who Are Not Completely Vaccinated

This notice updates the recommendation for use of PCV7 among children aged 24–59 months who are either unvaccinated or who have a lapse in PCV7 administration. In February 2000, PCV7, marketed as Prevnar® and manufactured by Wyeth Vaccines (Collegeville, PA), was approved by the Food and Drug Administration for use in infants and young children. At that time, the ACIP recommended that children aged 24–59 months who have certain underlying medical conditions or are immunocompromised receive PCV7. In addition, ACIP recommended that PCV7 be considered for all other children aged 24–59 months, with priority given to those who are American Indian/Alaska Native or of African-American descent, and to children who attend group day care centers.

April 18, 2008/Vol. 57/No. 15

Rotavirus Vaccination Coverage and Adherence to the ACIP—Recommended Vaccination Schedule—United States, February 2006—May 2007

Worldwide, rotavirus is the leading cause of severe gastroenteritis in children aged <5 years. In February 2006, a new human-bovine rotavirus vaccine, RotaTeq® (Merck & Co., Inc., Whitehouse Station, NJ), was recommended by the ACIP for routine vaccination of United States infants.

May 2, 2008/Vol. 57/No. 17

Syncope After Vaccination—United States, January 2005—July 2007

Syncope (vasovagal reaction), or fainting, can be triggered by various stimuli, including medical procedures. Syncope has been documented to occur after vaccination, most commonly among adolescents, and can result in hospitalization for a medical evaluation or because of injury.

Report from the ACIP: Decision Not to Recommend Routine Vaccination of All Children Aged 2–10 Years with Quadrivalent Meningococcal Conjugate Vaccine

At its February 2008 meeting, the ACIP decided not to recommend routine vaccination of children aged 2–10 years against meningococcal disease unless the child is at increased risk for the disease. This report summarizes the deliberations of ACIP and the rationale for its decision and restates existing recommendations for meningococcal vaccination among children aged 2–10 years at increased risk for meningococcal disease. ACIP continues to recommend routine vaccination against meningococcal disease for all persons aged 11–18 years and those persons aged 2–55 years who are at increased risk for meningococcal disease.

May 9, 2008/Vol. 57/No. 18

Measles—United States, January 1—April 25, 2008

Measles, a highly contagious acute viral disease, can result in serious complications and death. As a result of a successful U.S. vaccination program, measles elimination (that is, interruption of endemic measles transmission) was declared in the United States in 2000.

June 27, 2008/Vol. 57/No. 25

Influenza Activity—United States and Worldwide, 2007–2008 Season

During the 2007–2008 influenza season, influenza activity peaked in mid-February in the United States and was associated with greater mortality and higher rates of hospitalization of children aged 0–4 years, compared with each of the previous three seasons.

Delayed Onset and Diminished Magnitude of Rotavirus Activity—United States, November 2007—May 2008

On June 25, this report was posted as an MMWR Early Release on the MMWR web site www.cdc.gov/mmwr.

Rotavirus is the leading cause of severe acute gastroenteritis among infants and young children, accounting for an estimated 527,000 deaths among children aged <5 years worldwide in 2004. In the United States, rotavirus causes few deaths (20–60) each year, but remains a substantial cause of morbidity among children, resulting in approximately 55,000–70,000 hospitalizations, 205,000–272,000 emergency department visits, and 410,000 physician office visits.

July 25, 2008/Vol. 57/No. 29

Use of Mass Tdap Vaccination to Control an Outbreak of Pertussis in a High School—Cook County, Illinois, September 2006—January 2007

On September 6, 2006, the Cook County Department of Public Health was notified that a local high school student aged 17 years had pertussis. During September 2006—January 2007, 36 pertussis cases directly linked to the high school were identified. Because *Bordetella pertussis* immunity from childhood vaccinations wanes over time, outbreaks of pertussis can periodically occur among students and staff at middle and high schools.

August 1, 2008/Vol. 57/No. 30

Newborn Hepatitis B Vaccination Coverage Among Children Born January 2003—June 2005—United States

Hepatitis B vaccine was first recommended for administration to all infants in 1991 by the ACIP as the primary focus of a strategy to eliminate hepatitis B virus (HBV) transmission in the United States.

Additional information relating to vaccinations may be obtained from the Department's web site at www.dsf.health.state.pa.us/health and from the National Immunization Program of the Centers for Disease Control and Prevention at the following web site www.cdc.gov/nip/default.htm.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact Heather Stafford, Director, Department of Health, Division of Immunization, Room 1026, Health and Welfare Building, Harrisburg, PA 17120-0701, (717) 787-5681 or for speech and/or hearing impaired persons at V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1605. Filed for public inspection August 29, 2008, 9:00 a.m.]

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52), will hold a public meeting on Thursday, September 4, 2008, from 10 a.m. to 3 p.m., in the Administration Building, Conference Room B/C, at

the Dixon University Center located at 2986 North Second Street, Harrisburg, PA 17110.

For additional information, or if you are a person with a disability and desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so contact Wendy Queen, Public Health Program Administrator, Division of Child and Adult Health Services at (717) 772-2762 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-1606. Filed for public inspection August 29, 2008, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Medical Assistance Program Fee Increases and Additions to the Medical Assistance Program Fee Schedule

Purpose of Notice

The Department of Public Welfare (Department) announces several changes to the Medical Assistance (MA) Program Fee Schedule, effective with dates of service on and after July 1, 2008. Consistent with the commitment of the Governor's Prescription for Pennsylvania to promote quality primary and preventive health care for all Pennsylvanians, the changes include fee increases for select office visits and consultations; vision and dental services; private duty nursing and home health agency services; and Healthy Beginnings Plus services. The Department has also added a new laboratory service and screening for developmental delay and Autism Spectrum Disorder to the Fee Schedule. The Department consulted with individual provider associations, medical and dental providers, the Medical Assistance Advisory Committee and other key stakeholders in determining which fees to increase as well as which new services to add to the Fee Schedule to support continued access to services by MA recipients.

Fee Increases

The Department has increased the fees for the following select procedure codes:

Office Visits and Consultations

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
99202	Office or other outpatient visit for the evaluation and management of a new patient, which requires these three key components: an expanded problem focused history; an expanded problem focused examination; straightforward medical decision making. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 20 minutes face-to-face with the patient and/or family.	\$30.00	\$35.33

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
99203	Office or other outpatient visit for the evaluation and management of a new patient, which requires these three key components: a detailed history; a detailed examination; medical decision making of low complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate severity. Physicians typically spend 30 minutes face-to-face with the patient and/or family.	\$50.00	\$54.25
99204	Office or other outpatient visit for the evaluation and management of a new patient, which requires these three key components: a comprehensive history; a comprehensive examination; medical decision making of moderate complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 45 minutes face-to-face with the patient and/or family.	\$60.00	\$90.37
99205	Office or other outpatient visit for the evaluation and management of a new patient, which requires these three key components: a comprehensive history; a comprehensive examination; medical decision making of high complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 60 minutes face-to-face with the patient and/or family.	\$80.00	\$117.54
99214	Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: a detailed history; a detailed examination; medical decision making of moderate complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 25 minutes face-to-face with the patient and/or family.	\$43.00	\$54.42
99215	Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: a comprehensive history; a comprehensive examination; medical decision making of high complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 40 minutes face-to-face with the patient and/or family.	\$70.00	\$78.05
99242	Office consultation for a new or established patient, which requires these three key components: an expanded problem focused history; an expanded problem focused examination; straightforward medical decision making. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low severity. Physicians typically spend 30 minutes face-to-face with the patient and/or family.	\$40.00	\$55.15

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
99243	Office consultation for a new or established patient, which requires these three key components: a detailed history; a detailed examination; medical decision making of low complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate severity. Physicians typically spend 40 minutes face-to-face with the patient and/or family.	\$50.00	\$76.93
99244	Office consultation for a new or established patient, which requires these three key components: a comprehensive history; a comprehensive examination; medical decision making of moderate complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 60 minutes face-to-face with the patient and/or family.	\$60.00	\$120.56
99245	Office consultation for a new or established patient, which requires these three key components: a comprehensive history; a comprehensive examination; medical decision making of high complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 80 minutes face-to-face with the patient and/or family.	\$80.00	\$151.44

Vision Services

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
92002	Ophthalmological services: medical examination and evaluation with initiation of diagnostic and treatment program; intermediate, new patient	\$17.00	\$28.34
92004	Ophthalmological services: medical examination and evaluation with initiation of diagnostic and treatment program; comprehensive, new patient, one or more visits	\$17.00	\$58.77
92012	Ophthalmological services: medical examination and evaluation, with initiation or continuation of diagnostic and treatment program; intermediate, established patient	\$17.00	\$29.41
92014	Ophthalmological services: medical examination and evaluation, with initiation or continuation of diagnostic and treatment program; comprehensive, established patient, one or more visits	\$17.00	\$45.28

Dental Services

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
D2140	Amalgam—one surface, primary or permanent	\$40.00	\$45.00
D2150	Amalgam—two surfaces, primary or permanent	\$50.00	\$55.00
D2160	Amalgam—three surfaces, primary or permanent	\$60.00	\$65.00
D2161	Amalgam—four or more surfaces, primary or permanent	\$60.00	\$65.00
D2330	Resin-based composite—one surface, anterior	\$45.00	\$50.00
D2331	Resin-based composite—two surfaces, anterior	\$55.00	\$60.00
D2332	Resin-based composite—three surfaces, anterior	\$60.00	\$65.00
D2335	Resin-based composite—four or more surfaces or involving incisal angle (anterior)	\$60.00	\$65.00

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
D2390	Resin-based composite crown, anterior	\$145.00	\$150.00
D2391	Resin-based composite—one surface, posterior	\$45.00	\$50.00
D2392	Resin-based composite—two surfaces, posterior	\$55.00	\$60.00
D2393	Resin-based composite—three surfaces, posterior	\$60.00	\$65.00
D2394	Resin-based composite—four or more surfaces, posterior	\$60.00	\$65.00
D2740	Crown—porcelain/ceramic substrate	\$350.00	\$500.00
D2751	Crown—porcelain fused to predominantly base metal	\$350.00	\$500.00
D2791	Crown—full cast predominantly base metal	\$350.00	\$475.00
D2934	Prefabricated esthetic coated stainless steel crown—primary tooth	\$99.00	\$145.00
D2952	Cast post and core in addition to crown	\$75.00	\$80.00
D2954	Prefabricated post and core in addition to crown	\$75.00	\$80.00
D3220	Therapeutic pulpotomy (excluding final restoration)—removal of pulp coronal to the dentinocemental junction and application of medicament	\$57.00	\$75.00
D3310	Anterior (excluding final restoration)	\$210.00	\$275.00
D3320	Bicuspid (excluding final restoration)	\$270.00	\$375.00
D3330	Molar (excluding final restoration)	\$345.00	\$500.00
D5110	Complete denture—maxillary	\$355.00	\$525.00
D5120	Complete denture—mandibular	\$355.00	\$525.00
D5130	Immediate denture—maxillary	\$355.00	\$525.00
D5140	Immediate denture—mandibular	\$355.00	\$525.00
D5211	Maxillary partial denture—resin base (including any conventional clasps, rests and teeth)	\$250.00	\$375.00
D5212	Mandibular partial denture—resin base (including any conventional clasps, rests and teeth)	\$250.00	\$375.00
D5213	Maxillary partial denture—cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	\$370.00	\$550.00
D5214	Mandibular partial denture—cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	\$370.00	\$550.00
D7140	Extraction, erupted tooth or exposed root (elevation and/or forceps removal)	\$60.00	\$65.00
D7210	Surgical removal of erupted tooth requiring elevation of mucoperitoseal flap and removal of bone and/or section of tooth	\$60.00	\$65.00
D7220	Removal of impacted tooth—soft tissue	\$65.00	\$90.00
D7230	Removal of impacted tooth—partially bony	\$120.00	\$170.00
D7240	Removal of impacted tooth—completely bony	\$140.00	\$200.00
D7250	Surgical removal of residual tooth roots (cutting procedure)	\$60.00	\$100.00
D8080	Comprehensive orthodontic treatment of the adolescent dentition (includes initial periodic treatment)	\$600.00	\$1,000.00
D8670	Periodic orthodontic treatment (as part of contract)	\$250.00	\$350.00

Private Duty (Shift) Nursing Services

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
S9123	Nursing care, in the home, by Registered Nurse, per hour	\$35.00	\$40.00
S9124	Nursing care, in the home, by Licensed Practical Nurse, per hour	\$35.00	\$40.00

Home Health Agency Services

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
99500	Home visit for prenatal monitoring and assessment to include fetal heart rate, nonstress test, uterine monitoring and gestational diabetes monitoring	\$77.00	\$88.00
99501	Home visit for postnatal assessment and follow-up care	\$77.00	\$88.00
G0151	Services of physical therapist in home health setting	\$77.00	\$88.00
G0152	Services of occupational therapist in home health setting	\$77.00	\$88.00
G0153	Services of speech and language pathologist in home health setting	\$77.00	\$88.00
G0154	Services of skilled nurse in home health setting	\$77.00	\$88.00
G0156	Services of home health aide in home health setting	\$40.00	\$46.00

Family Planning Clinic Visits

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
99202	Office or other outpatient visit for the evaluation and management of a new patient, which requires these three key components: an expanded problem focused history; an expanded problem focused examination; straightforward medical decision making. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 20 minutes face-to-face with the patient and/or family.	\$20.00	\$35.33
99203	Office or other outpatient visit for the evaluation and management of a new patient, which requires these three key components: a detailed history; a detailed examination; medical decision making of low complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate severity. Physicians typically spend 30 minutes face-to-face with the patient and/or family.	\$20.00	\$54.25
99213	Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: an expanded problem focused history; an expanded problem focused examination; medical decision making of low complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 15 minutes face-to-face with the patient and/or family.	\$20.00	\$35.00
99214	Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: a detailed history; a detailed examination; medical decision making of moderate complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 25 minutes face-to-face with the patient and/or family.	\$20.00	\$54.42

Healthy Beginnings Plus Services

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>MA Fee Effective July 1, 2008</i>
99203	Second Trimester Basic Maternity Care Visit	\$40.00	\$54.25
99204	Second Trimester High Risk Maternity Care Visit	\$40.00	\$90.37
99205	Third Trimester Basic Maternity Care Visit	\$40.00	\$117.54
99205	Third Trimester High Risk Maternity Care Visit	\$40.00	\$117.54
99214	Second Trimester High Risk Maternity Care Visit	\$40.00	\$54.42
99215	Third Trimester Basic Maternity Care Visit	\$40.00	\$78.05
99215	Third Trimester High Risk Maternity Care Visit	\$40.00	\$78.05
99384	First Trimester Basic Maternity Care Package	\$121.00	\$221.00
99384	First Trimester High Risk Maternity Care Package	\$159.00	\$259.00
99384	Second Trimester Basic Maternity Care Package	\$183.00	\$283.00
99384	Second Trimester High Risk Maternity Care Package	\$297.00	\$397.00
99385	First Trimester Basic Maternity Care Package	\$121.00	\$221.00
99385	First Trimester High Risk Maternity Care Package	\$159.00	\$259.00
99385	Second Trimester Basic Maternity Care Package	\$183.00	\$283.00
99385	Second Trimester High Risk Maternity Care Package	\$297.00	\$397.00
99386	First Trimester Basic Maternity Care Package	\$121.00	\$221.00
99386	First Trimester High Risk Maternity Care Package	\$159.00	\$259.00
99386	Second Trimester Basic Maternity Care Package	\$183.00	\$283.00
99386	Second Trimester High Risk Maternity Care Package	\$297.00	\$397.00
99394	First Trimester Basic Maternity Care Package	\$121.00	\$221.00
99394	First Trimester High Risk Maternity Care Package	\$159.00	\$259.00
99394	Second Trimester Basic Maternity Care Package	\$183.00	\$283.00
99394	Second Trimester High Risk Maternity Care Package	\$297.00	\$397.00
99395	First Trimester Basic Maternity Care Package	\$121.00	\$221.00
99395	First Trimester High Risk Maternity Care Package	\$159.00	\$259.00
99395	Second Trimester Basic Maternity Care Package	\$183.00	\$283.00
99395	Second Trimester High Risk Maternity Care Package	\$297.00	\$397.00
99396	First Trimester Basic Maternity Care Package	\$121.00	\$221.00
99396	First Trimester High Risk Maternity Care Package	\$159.00	\$259.00
99396	Second Trimester Basic Maternity Care Package	\$183.00	\$283.00
99396	Second Trimester High Risk Maternity Care Package	\$297.00	\$397.00
99429	Outreach Bonus for First Trimester Recruitment	\$100.00	\$200.00
H1002	Outreach Visit	\$45.00	\$100.00

Additions to Fee Schedule

The Department has added the following procedure codes to the Fee Schedule:

Laboratory Service

<i>Procedure Code</i>	<i>Description</i>	<i>MA Fee</i>
81007	Urinalysis; bacteriuria screen, except by culture or dipstick	\$3.00

Screening for Developmental Delays and Autism Spectrum Disorder

<i>Procedure Code</i>	<i>Description</i>	<i>MA Fee</i>
96110	Developmental testing, limited (such as, Developmental Screening Test II, Early Language Milestone Screen), with interpretation and report, each 15 minutes	\$11.00

The Department has issued MA Bulletins to affected providers with instructions for billing the procedure codes specified previously.

Fiscal Impact

These changes are expected to result in increased costs of \$ 15.279 million (\$7.138 million in State funds) in the MA Outpatient Program in Fiscal Year (FY) 2008-2009 and projected costs of \$18.335 million (\$8.544 million in State funds) in FY 2009-2010.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision to the MA Program Fee Schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-566. (1) General Fund; (2) Implementing year 2008-09 is \$7.138 million; (3) 1st Succeeding Year 2009-10 is \$8.544 million; 2nd Succeeding Year 2010-11 \$8.544 million; 3rd Succeeding Year is \$8.544 million; 4th Succeeding Year 2012-13 is \$8.544 million; 5th Succeed Year 2013-14 is \$8.544 million; (4) 2007-08 Program \$593.992 million; 2006-07 Program \$671.472 million; 2005-06 Program \$945.950 million; (7) Medical Assistance—Outpatient; (8) recommends adoption.

[Pa.B. Doc. No. 08-1607. Filed for public inspection August 29, 2008, 9:00 a.m.]

Medical Assistance Program Fee Increases for Complete Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Screens

Purpose of Notice

The Department of Public Welfare (Department) announces that it will increase the fees paid by the Medical Assistance (MA) Program for complete EPSDT screens for MA recipients under 21 years of age, effective with dates of service on and after September 1, 2008. The Department consulted with the Pennsylvania Chapter of the American Academy of Pediatrics, the Pennsylvania Medical Society, the Medical Assistance Advisory Committee, medical providers and other key stakeholders in developing the fee increases for complete EPSDT screens. Complete EPSDT screens are those that include all of the screening components listed on the Department's EPSDT Periodicity Schedule. To encourage providers to perform a complete EPSDT screen at each interval on the EPSDT Periodicity Schedule, the fees for the complete EPSDT screens are higher than the combined fees for each component of each periodic screen.

The Department is increasing the fees for complete EPSDT screens which include all of the components and at intervals listed on the EPSDT Periodicity Schedule as follows:

<i>Screening Period</i>	<i>Description*</i>	<i>Current Fee For Complete Screen</i>	<i>Fee For Complete Screen Effective September 1, 2008</i>
Newborn	Office Visit, developmental surveillance, psychosocial/behavioral assessment, oral health	\$65.00	\$80.00
by 1 month of age	Office Visit, developmental surveillance, psychosocial/behavioral assessment, oral health	\$65.00	\$80.00
2-3 months of age	Office Visit, developmental surveillance, psychosocial/behavioral assessment, oral health	\$65.00	\$80.00
4-5 months of age	Office Visit, developmental surveillance, psychosocial/behavioral assessment, oral health	\$65.00	\$80.00
6-8 months of age	Office Visit, developmental surveillance, psychosocial/behavioral assessment, oral health	\$65.00	\$80.00
9-11 months of age	Office visit, developmental screen, psychosocial/behavioral assessment, lead screen, anemia screen, oral health	\$65.00	\$105.00
12 months of age	Office Visit, developmental surveillance, psychosocial/behavioral assessment, oral health	\$65.00	\$80.00
15 months of age	Office Visit, developmental surveillance, psychosocial/behavioral assessment, oral health	\$65.00	\$80.00
18 months of age	Office visit, developmental screen, autism screen, psychosocial/behavioral assessment, lead screen, oral health	\$65.00	\$125.00

<i>Screening Period</i>	<i>Description*</i>	<i>Current Fee For Complete Screen</i>	<i>Fee For Complete Screen Effective September 1, 2008</i>
24 months of age	Office Visit, autism screen, developmental surveillance, psychosocial/behavioral assessment, lead screen, oral health	\$65.00	\$105.00
30 months of age	Office Visit, developmental screen, psychosocial/behavioral assessment, lead screen, oral health	\$65.00	\$105.00
3 years of age and older	Office visit, oral health, age appropriate screens/surveillance	\$65.00	\$90.00

*Descriptions do not include all activities associated with each periodic EPSDT screen. A complete listing of all activities is included on the Department's EPSDT Periodicity Schedule.

The Department has issued an MA Bulletin to affected providers with the new EPSDT Periodicity Schedule, which describes each component of each periodic screen in more detail, and instructions explaining how to bill the increased fees.

Fiscal Impact

The fee increases are estimated to result in increased costs of \$2.068 million (\$0.941 million in State funds) in the Medical Assistance Outpatient Program in Fiscal Year (FY) 2008-2009 and annualized costs of \$3.102 million (\$1.409 million in State funds) in FY 2009-2010.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, Attention: c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revisions to the MA Program fees for complete EPSDT screens.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-567. (1) General Fund; (2) Implementing Year 2008-09 is \$0.941 million; (3) 1st Succeeding Year 2009-10 is \$1.409 million; 2nd Succeeding Year 2010-11 is \$1.409 million; 3rd Succeeding Year 2011-12 is \$1.409 million; 4th Succeeding Year is 2012-13 is \$1.409 million; 5th Succeeding Year is \$1.409 million; (4) 2007-08 Program \$593.992 million; 2006-07 Program \$671.472 million; 2005-06 Program \$945.950 million; (7) Medical Assistance—Outpatient; (8) recommends adoption.

[Pa.B. Doc. No. 08-1608. Filed for public inspection August 29, 2008, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Sultan's Palace Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Sultan's Palace.

2. *Price:* The price of a Pennsylvania Sultan's Palace instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Sultan's Palace instant lottery game ticket will contain one play area featuring a "PALACE NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "PALACE NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN),

12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), Coin symbol (COIN) and a Genie symbol (GENIE).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$2.⁰⁰ (TWO DOL), \$5.⁰⁰ (FIV DOL), \$10.⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$50,000 (FTY THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$5, \$10, \$20, \$40, \$50, \$100, \$500, \$1,000, \$10,000, \$50,000 and \$100,000. A player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania Sultan's Palace instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Coin symbol (COIN), and a prize symbol of \$500 (FIV HUN) appears under the Coin symbol (COIN), on a single ticket, shall be entitled to a prize of \$500.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Genie symbol (GENIE), and a prize symbol of \$100 (ONE HUN) appears under the Genie symbol (GENIE), on a single ticket, shall be entitled to a prize of \$200.

(h) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Coin symbol (COIN), and a prize symbol of \$100 (ONE HUN) appears under the Coin symbol (COIN), on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Genie symbol (GENIE), and a prize symbol of \$50\$ (FIFTY) appears under the Genie symbol (GENIE), on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Coin symbol (COIN), and a prize symbol of \$50\$ (FIFTY) appears under the Coin symbol (COIN), on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Coin symbol (COIN), and a prize symbol of \$40\$ (FORTY) appears under the Coin symbol (COIN), on a single ticket, shall be entitled to a prize of \$40.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Genie symbol (GENIE), and a prize symbol of \$20\$ (TWENTY) appears under the Genie symbol (GENIE), on a single ticket, shall be entitled to a prize of \$40.

(p) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Coin symbol (COIN), and a prize symbol of \$20\$ (TWENTY) appears under the Coin symbol (COIN), on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Genie symbol (GENIE), and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the Genie symbol (GENIE), on a single ticket, shall be entitled to a prize of \$20.

(s) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Coin symbol (COIN), and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the Coin symbol (COIN), on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Genie symbol (GENIE), and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the Genie symbol (GENIE), on a single ticket, shall be entitled to a prize of \$10.

(v) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Coin symbol (COIN), and a prize symbol of \$5^{.00} (FIV DOL) appears under the Coin symbol (COIN), on a single ticket, shall be entitled to a prize of \$5.

(x) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "PALACE NUMBERS" play symbols and a prize symbol of \$2^{.00}

(TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

When Any Of Your Numbers Match Any Of The Palace Numbers, Win With Prize(s) Of:

	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets</i>
\$5 w/COIN	\$5	17.14	280,000
\$5	\$5	17.14	280,000
\$2 x 5	\$10	120	40,000
\$5 x 2	\$10	120	40,000
\$5 w/GENIE	\$10	120	40,000
\$10 w/COIN	\$10	120	40,000
\$10	\$10	60	80,000
\$5 x 4	\$20	150	32,000
\$10 x 2	\$20	150	32,000
\$10 w/GENIE	\$20	150	32,000
\$20 w/COIN	\$20	150	32,000
\$20	\$20	150	32,000
\$5 x 8	\$40	600	8,000
\$10 x 4	\$40	600	8,000
\$20 w/GENIE	\$40	600	8,000
\$40 w/COIN	\$40	600	8,000
\$40	\$40	600	8,000
\$5 x 10	\$50	600	8,000
\$10 x 5	\$50	600	8,000
(\$20 w/GENIE) + \$10	\$50	600	8,000
\$50 w/COIN	\$50	600	8,000
\$50	\$50	600	8,000
\$10 x 10	\$100	1,200	4,000
\$20 x 5	\$100	1,200	4,000
\$50 w/GENIE	\$100	1,200	4,000
\$100 w/COIN	\$100	1,263	3,800
\$100	\$100	1,200	4,000
\$50 x 10	\$500	24,000	200
\$100 x 5	\$500	24,000	200
(\$100 w/GENIE) + (\$100 x 3)	\$500	24,000	200
\$500 w/COIN	\$500	24,000	200
\$500	\$500	24,000	200
\$100 x 10	\$1,000	20,000	240
\$500 x 2	\$1,000	20,000	240
(\$100 w/GENIE) + (\$100 x 8)	\$1,000	20,000	240
\$1,000	\$1,000	20,000	240
\$10,000	\$10,000	480,000	10
\$50,000	\$50,000	480,000	10
\$100,000	\$100,000	480,000	10

Coin (COIN) = Win prize shown under it automatically.
Genie (GENIE) = Win double the prize shown under it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Sultan's Palace instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Sultan's Palace, prize money from winning Pennsylvania Sultan's Palace instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Sultan's Palace instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Sultan's Palace or through normal communications methods.

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 08-1609. Filed for public inspection August 29, 2008, 9:00 a.m.]

Pennsylvania \$2.5 Million Joker's Wild '08 Instant Lottery Game

[Correction]

An error occurred in Section 8 of the document which appeared at 38 Pa.B. 4688, 4691—4693 (August 23, 2008). The correct version of Section 8 is as follows:

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amount of prizes and approximate odds of winning:

<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Fast \$50</i>	<i>Fast \$100</i>	<i>Win</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 5,760,000 Tickets</i>
\$25 w/JOKER					\$25	20	288,000
\$25	\$25				\$25	20	288,000
		\$25			\$25	20	288,000
\$25 × 2					\$25	27.27	211,200
\$50 w/JOKER					\$50	120	48,000
\$50					\$50	120	48,000
	\$25 w/JOKER				\$50	120	48,000
	\$50				\$50	120	48,000
		\$25 × 2			\$50	120	48,000
		\$50			\$50	120	48,000
			\$50		\$50	24	240,000
\$25 × 4					\$100	600	9,600
\$100 w/JOKER					\$100	600	9,600
\$100					\$100	300	19,200
	\$25 × 4				\$100	300	19,200
	\$50 w/JOKER				\$100	300	19,200
	\$100				\$100	300	19,200
		\$50 × 2			\$100	300	19,200
		\$100			\$100	300	19,200
\$50			\$50		\$100	200	28,800
				\$100	\$100	120	48,000
\$50 × 4					\$200	3,429	1,680
\$100 × 2					\$200	3,429	1,680
\$200 w/JOKER					\$200	3,429	1,680
\$200					\$200	3,429	1,680
	\$50 × 4				\$200	3,429	1,680
	\$100 × 2				\$200	3,429	1,680
	\$100				\$200	3,429	1,680
	w/JOKER				\$200	3,429	1,680
	\$200				\$200	3,429	1,680
		\$200			\$200	3,429	1,680
		JOKER	\$50		\$200	3,429	1,680
		w/\$25 × 6			\$200	3,429	1,680
	\$50	JOKER			\$200	3,429	1,680
		w/\$25 × 6			\$200	3,429	1,680
\$50	\$50	\$50	\$50		\$200	3,429	1,680
	\$50	\$50		\$100	\$200	3,429	1,680
		\$50	\$50	\$100	\$200	3,429	1,680

NOTICES

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Approximate No. of Winners Per 5,760,000 Tickets

Game 1	Game 2	Game 3	Fast \$50	Fast \$100	Win	Approximate Odds Are 1 In:	Approximate No. of Winners Per 5,760,000 Tickets
\$200 × 2					\$400	4,800	1,200
\$400					\$400	4,800	1,200
w/JOKER					\$400	4,800	1,200
\$400	\$200				\$400	4,800	1,200
	w/JOKER				\$400	4,800	1,200
	\$400				\$400	4,800	1,200
		\$200 × 2			\$400	4,800	1,200
		\$400			\$400	4,800	1,200
\$25 × 2	\$25 × 12	\$25 × 2			\$400	4,800	1,200
\$25	\$25	JOKER	\$50		\$400	4,800	1,200
		w/\$50 × 6			\$400	4,800	1,200
		JOKER		\$100	\$400	4,800	1,200
		w/\$50 × 6			\$400	4,800	1,200
\$100	\$100	\$100		\$100	\$400	4,800	1,200
\$100 × 5					\$500	8,000	720
\$500					\$500	8,000	720
w/JOKER					\$500	8,000	720
\$500					\$500	8,000	720
	(\$200				\$500	8,000	720
	w/JOKER) +				\$500	8,000	720
	\$100				\$500	8,000	720
	\$500				\$500	8,000	720
		\$100 × 5			\$500	8,000	720
		\$500			\$500	8,000	720
\$100	\$100	JOKER			\$500	8,000	720
		w/\$50 × 6			\$500	8,000	720
\$50	\$50 × 2	JOKER	\$50		\$500	8,000	720
		w/\$50 × 6			\$500	8,000	720
\$25 × 2	\$25 × 12		\$50	\$100	\$500	8,000	720
\$1,000					\$1,000	8,000	720
w/JOKER					\$1,000	8,000	720
\$1,000					\$1,000	8,000	720
	\$1,000				\$1,000	8,000	720
	\$400	\$100 × 2			\$1,000	8,000	720
	w/JOKER				\$1,000	8,000	720
\$50	\$50 × 12	\$1,000	\$50		\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
\$50 × 4	\$50 × 3	w/\$50 × 6	\$50		\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
\$50 × 6	\$50 × 6	w/\$100 × 6		\$100	\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
\$100 × 2	\$100 × 2	w/\$50 × 6			\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
		w/\$100 × 6			\$1,000	8,000	720
\$2,500					\$2,500	120,000	48
	\$2,500				\$2,500	120,000	48
		\$2,500			\$2,500	120,000	48
\$50,000					\$50,000	2,880,000	2
	\$50,000				\$50,000	2,880,000	2
		\$50,000			\$50,000	2,880,000	2
\$250,000					\$250,000	2,880,000	2
	\$250,000				\$250,000	5,760,000	1
		\$250,000			\$250,000	5,760,000	1
\$2,500,000					\$2,500,000	2,880,000	2
	\$2,500,000				\$2,500,000	2,880,000	2
		\$2,500,000			\$2,500,000	5,760,000	1

Game 1—Reveal 2 identical cards in same hand, win prize shown below that hand.

Joker (JKR) = Win prize shown below that symbol automatically.

Game 2—Match any of your cards to the winning card, win prize shown below matching card(s).

Joker (JKR) = Win double the prize shown below that symbol automatically.

Game 3—When any of your cards in any hand beat the dealer's card, win prize shown for that hand.

Joker (JKR) = Get a Joker symbol in any hand, win all 6 prizes shown.

<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Fast \$50</i>	<i>Fast \$100</i>	<i>Win</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 5,760,000 Tickets</i>
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Fast \$50: Get a "Joker" (JKR) symbol, win \$50 automatically.
 Fast \$100: Get a "Joker" (JKR) symbol, win \$100 automatically.

Prizes, including the top prizes, are subject to availability at the time of purchase.

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 08-1542. Filed for public inspection August 22, 2008, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The following meetings of the Health Care Cost Containment Council have been scheduled for Wednesday, September 3, 2008, Audit Committee Meeting—9 a.m., Data Systems Committee—10 a.m., Education Committee—1 p.m. and Executive Committee Meeting—3 p.m.; Thursday, September 4, 2008, Council Meeting—10 a.m. Additional Council meeting is scheduled for November 6, 2008. The meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons in need of accommodations due to a disability and want to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

DAVID H. WILDERMAN,
Acting Executive Director

[Pa.B. Doc. No. 08-1610. Filed for public inspection August 29, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are 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>
6-307	State Board of Education Special Education for Gifted Students	8/12/08	9/18/08
11-235	Insurance Department Actuarial Opinion and Memorandum	8/18/08	9/18/08

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1611. Filed for public inspection August 29, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Applications for Approval of the Consolidation of Highmark, Inc. and Independence Blue Cross and to Acquire Control of the Pennsylvania Domiciled Insurance Subsidiaries of Highmark, Inc. and Independence Blue Cross

Conclusion of Public Comment Period

The Insurance Department (Department) published notice of receipt of the previous-referenced filings at 37 Pa.B. 2273 (May 12, 2007). The notice afforded persons the opportunity to provide written comments on the filings to the Department on the grounds of public or private interest for a period to expire no earlier than July 11, 2007. Through a subsequent notice, the public comment period was extended for an indefinite period of time to afford persons ample opportunity to provide written comments on the filings to the Department. (See 37 Pa.B. 3141 (July 7, 2007).) Within that July 7 notice, the Insurance Commissioner committed to a subsequent notice in the *Pennsylvania Bulletin* announcing the closing of the comment period. The Department subsequently held public informational hearings on the filings on July 8, 2008 (Pittsburgh), July 10, 2008 (Harrisburg) and July 15 and 16 (Philadelphia). At the conclusion of the public information hearings, the Department announced that it was considering closing the public comment period at the end of August.

To maximize public input, the Department intends to extend the public comment period for an additional month and close the public comment period on September

30. This affords the public more than 60 days after the close of the public hearings to consider all issues presented at the hearings, as well as the applicants' responses to the public comments made at the hearings and other information posted to the Department's web site www.ins.state.pa.us after the hearings.

Persons wishing to comment on the grounds of public or private interest are invited to submit a written statement to the Department on or before September 30, 2008. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us. Be advised that all comments received will be part of the public record regarding this filing.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1612. Filed for public inspection August 29, 2008, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule for All Milk Marketing Areas; Adjustments to Resale Prices Interaction Between High Milk Prices and Percentage Discounts

Under the Milk Marketing Law (31 P. S. § 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on October 1, 2008, at 11 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning the interaction between milk prices and percentage discounts that milk dealers may provide to their customers and to consider adjustments to in- and out-of-store prices to address that interaction.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on September 10, 2008, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on September 10, 2008, notification of their desire to be included as a party. Parties may indicate in their notices of appearance if alternate means of service, that is, email or fax, are acceptable.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on September 12, 2008, the petitioner shall file with the Board, in person or by mail, one original and eight copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on September 19, 2008, responding parties shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on September 26, 2008, parties shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on September 22, 2008.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 08-1613. Filed for public inspection August 29, 2008, 9:00 a.m.]

PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY

Application for the Volunteer Fire Company and Volunteer Ambulance Services Grant Program

This notice provides information about the Volunteer Fire Company and Volunteer Ambulance Services Grant Program. Volunteer fire companies and volunteer ambulance services seeking grants under the Volunteer Fire Company and Volunteer Ambulance Services Program Act (72 P. S. §§ 3943.1—3944.5) shall submit completed applications no later than 4 p.m. Eastern Daylight Saving Time on October 17, 2009. Written instructions and guidelines for the grant program will be available on line at the Office of State Fire Commissioner web site www.sfc.state.pa.us

w.osfc.state.pa.us no later than September 1, 2009. Grant applications will be available on line at the Office of State Fire Commissioner web site www.osfc.state.pa.us no later than September 2, 2009.

ROBERT P. FRENCH,
Director

[Pa.B. Doc. No. 08-1614. Filed for public inspection August 29, 2008, 9:00 a.m.]

PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

Interest Rates and Participation Rates

The Pennsylvania Industrial Development Authority (PIDA) gives notice of the change in participation rates for loans approved by the PIDA Board of Directors.

Beginning with the September 2008 PIDA Board meeting, and until further notice, all applications approved will be subject to the participation rate schedule attached to this Notice as Annex A, which was approved at the August 6, 2008, PIDA Board of Directors meeting. Participation rates for the respective counties have been determined by the most recent applicable unemployment statistics.

This interest rate on PIDA loans remains unchanged at 4.00% Statewide.

Further information can be obtained from the Pennsylvania Industrial Development Authority, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120, (717) 787-6245.

DENNIS YABLONSKY,
Chairperson

PIDA PIDA Participation and Interest Rates for Counties and Municipalities* Over 25,000 Population Effective September 2008 and forward (until further notice)

	<i>Maximum PIDA Participation</i>		<i>Interest Rate **</i>
	<i>(S)</i>	<i>(L)</i>	<i>%</i>
ADAMS	30 * * * *	30 * * * *	4.00
ALLEGHENY	40 * * *	30 * * * *	4.00
ARMSTRONG	40 * * *	40 * * *	4.00
BEAVER	40 * * *	30 * * * *	4.00
BEDFORD	40 * * *	40 * * *	4.00
BERKS	40 * * *	30 * * * *	4.00
Reading City	50	30 * * * *	4.00
BLAIR	40 * * *	40 * * *	4.00
BRADFORD	40 * * *	30 * * * *	4.00
BUCKS	40 * * *	30 * * * *	4.00
BUTLER	40 * * *	30 * * * *	4.00
CAMBRIA	40 * * *	40 * * *	4.00
Johnstown City	50	40 * * *	4.00
CAMERON	40 * * *	40 * * *	4.00
CARBON	40 * * *	40 * * *	4.00
CENTRE	40 * * *	40 * * *	4.00
CHESTER	30 * * * *	30 * * * *	4.00
CLARION	40 * * *	40 * * *	4.00
CLEARFIELD	40 * * *	40 * * *	4.00
Clearfield Borough	60	50	4.00
CLINTON	40 * * *	40 * * *	4.00
COLUMBIA	40 * * *	40 * * *	4.00
CRAWFORD	40 * * *	40 * * *	4.00
CUMBERLAND	30 * * * *	30 * * * *	4.00
DAUPHIN	40 * * *	30 * * * *	4.00
DELAWARE	40 * * *	30 * * * *	4.00
Chester City	50	30 * * * *	4.00
ELK	40 * * *	40 * * *	4.00
ERIE	40 * * *	40 * * *	4.00
FAYETTE	40 * * *	40 * * *	4.00
FOREST	50	40 * * *	4.00
FRANKLIN	40 * * *	30 * * * *	4.00
FULTON	40 * * *	30 * * * *	4.00
GREENE	40 * * *	40 * * *	4.00
HUNTINGDON	40 * * *	40 * * *	4.00
INDIANA	40 * * *	40 * * *	4.00
JEFFERSON	40 * * *	40 * * *	4.00
JUNIATA	40 * * *	30 * * * *	4.00
LACKAWANNA	40 * * *	30 * * * *	4.00
LANCASTER	30 * * * *	30 * * * *	4.00
Lancaster City	40 * * *	30 * * * *	4.00
LAWRENCE	40 * * *	40 * * *	4.00
New Castle City	50	40 * * *	4.00
LEBANON	40 * * *	30 * * * *	4.00
LEHIGH	40 * * *	30 * * * *	4.00
LUZERNE	40 * * *	40 * * *	4.00
Hazleton City	50	40 * * *	4.00
LYCOMING	40 * * *	30 * * * *	4.00
MCKEAN	40 * * *	40 * * *	4.00
MERCER	40 * * *	40 * * *	4.00
Sharon City	50	40 * * *	4.00
MIFFLIN	40 * * *	40 * * *	4.00
MONROE	40 * * *	30 * * * *	4.00
MONTGOMERY	40 * * *	30 * * * *	4.00
MONTOUR	40 * * *	30 * * * *	4.00
NORTHAMPTON	40 * * *	30 * * * *	4.00
NORTHUMBERLAND	40 * * *	40 * * *	4.00

	Maximum PIDA Participation		Interest Rate ** %
	(S)	(L)	
PERRY	40 ***	30 *****	4.00
PHILADELPHIA	50	40 ***	4.00
PIKE	40 ***	30 *****	4.00
POTTER	50	40 ***	4.00
SCHUYLKILL	40 ***	40 ***	4.00
SNYDER	40 ***	30 *****	4.00
SOMERSET	40 ***	40 ***	4.00
SULLIVAN	40 ***	40 ***	4.00
SUSQUEHANNA	40 ***	30 *****	4.00
TIOGA	40 ***	40 ***	4.00
UNION	40 ***	30 *****	4.00
VENANGO	40 ***	40 ***	4.00
WARREN	40 ***	40 ***	4.00
WASHINGTON	40 ***	40 ***	4.00
WAYNE	40 ***	30 *****	4.00
WESTMORELAND	40 ***	40 ***	4.00
WYOMING	40 ***	40 ***	4.00
YORK	30 *****	30 *****	4.00
York City	50	30 *****	4.00

* Municipalities are listed only if PIDA rate differs from County rate.

** Based on calendar year 2007 unemployment rate. Subject to change at discretion of the PIDA Board.

(S) Small Business (Less than 50 existing employees, including parent, subsidiaries and affiliates.)

(L) Large Business.

Special Note: Projects located in Designated Enterprise Zones, Financially Distressed Municipalities under Act 47 (Over), Federal Empowerment Zones, Federal Enterprise Communities, Keystone Opportunity Zones, Keystone Opportunity Expansion Zones, Keystone Opportunity Improvement Zones, Keystone Innovation Zones, Brownfield Sites and Companies Designated as Advanced Tech Firms will receive an interest rate of 4%.

Also, projects located in Keystone Innovation Zones are eligible to receive participation rates of up to 75% at the discretion of the PIDA Board.

*** 10% Equity required
**** 20% Equity required

[Pa.B. Doc. No. 08-1615. Filed for public inspection August 29, 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 September 15, 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.

Application of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2008-2058098. Robert P. Heller (174 Billman Road, Mill Hall, Clinton County, PA 17751)—persons, in paratransit service, whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Clinton, Centre and Lycoming, to points in Pennsylvania and return.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Thompson Travel Bureau, Inc.; Doc. No. C-2008-2048183

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 Thompson Travel Bureau, Inc. (respondent) is under suspension effective October 1, 2002 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 621 Lackawanna Avenue, Scranton, PA 18503.
3. That respondent was issued a Certificate of Public Convenience by this Commission on October 1, 1969 at Application Docket No. A-00081141.
4. That respondent has failed to maintain evidence of Surety 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

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.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. GP Cab Co.;*
Doc. No. A-00121185C0501

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 GP Cab Co. (respondent) is under suspension effective June 25, 2005 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 553 Snow Din Road, Upper Darby, PA 19082.

3. That respondent was issued a Certificate of Public Convenience by this Commission on December 21, 2004 at Application Docket No. A-00121185.

4. That respondent has failed to maintain evidence of Liability 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.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Shawn T. Hamiel;
Doc. No. C-2008-2043423*

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 Shawn T. Hamiel (respondent) is under suspension effective 12/20/2007 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 6001 North Water Street, Philadelphia, PA 19120.

3. That respondent was issued a Certificate of Public Convenience by this Commission on October 30, 2006 at Application Docket No. A-00123215.

4. That respondent has failed to maintain evidence of Liability 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 A-00123215 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.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. M.J.B. Services, Inc.;
Doc. No. C-2008-2057771

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 M.J.B. Services, Inc. (respondent) is under suspension effective July 4, 2008 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 6 Township Line Road, Apartment 6B, Elkins Park, PA 19027.

3. That respondent was issued a Certificate of Public Convenience by this Commission on December 02, 1997, at Application Docket No. A-00113475.

4. That respondent has failed to maintain evidence of Liability 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. A-00113475 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. 08-1616. Filed for public inspection August 29, 2008, 9:00 a.m.]

Telecommunications

A-2008-2056948. Windstream Pennsylvania, LLC and Comcast Business Communications, LLC, d/b/a Comcast Long Distance. Joint petition of Windstream Pennsylvania, LLC and Comcast Business Communications, LLC, d/b/a Comcast Long Distance for approval of an adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Windstream Pennsylvania, LLC and Comcast Business Communications, LLC, d/b/a Comcast Long Distance, by its counsel, filed on August 12, 2008, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Windstream Pennsylvania, LLC and Comcast Business Communications, LLC, d/b/a Comcast Long Distance joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1617. Filed for public inspection August 29, 2008, 9:00 a.m.]

Telecommunications Services

A-2008-2058144 and A-2008-2058146. Comcast Business Communications, LLC, d/b/a Comcast Long Distance. Application of Comcast Business Communications, LLC, d/b/a Comcast Long Distance, for approval to offer, render, furnish or supply telecommunications services as a facilities-based competitive local exchange carrier in the service territories of Frontier Communications of Breezewood, LLC and Frontier Communications of Pennsylvania, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before September 15, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Comcast Business Communications, LLC, d/b/a Comcast Long Distance

Through and By Counsel: Alan Kohler, Esquire, Deanne O'Dell, Esquire, Wolf, Block, Schorr & Solis-Cohen, LLC, 213 Market Street, 9th Floor, Harrisburg, PA 17108-0865

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1618. Filed for public inspection August 29, 2008, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Capelli Salon; Doc. No. 1308-45-2008

On July, 10, 2008, Capelli Salon, of Fogelsville, Lehigh County, had their license suspended for failure to comply with a previously issued State Board of Cosmetology (Board) order.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 08-1619. Filed for public inspection August 29, 2008, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing and Meeting

The Susquehanna River Basin Commission (Commission) will hold a public hearing as part of its regular business meeting beginning at 1 p.m. on September 11, 2008, at Bucknell University, Elaine Langone Center, Center Room, Lewisburg, PA. At the public hearing, the Commission will consider: 1) approval of certain water resources projects; 2) enforcement actions for six projects; and 3) a request for extension of an emergency certificate issued on July 24, 2008. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net or Stephanie L. Richardson, Executive Assistant, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net.

Supplementary Information

In addition to the public hearing and its related action items identified, the business meeting also includes the following items on the agenda: 1) a special presentation on Bucknell University's Susquehanna River Initiative by Dr. Benjamin Hayes; 2) a special presentation on Environmental Flows by Mark Breyer of the Nature Conservancy; 3) a report on the present hydrologic conditions of the basin; 4) consideration of a health insurance trust fund; 5) approval/ratification of various grants and contracts; 6) consideration of a proposed rulemaking action regarding consumptive use by gas well development projects; 7) establishment of a "Compliance Reserve Fund" to hold the proceeds of settlements and civil penalty assessments; 8) adoption of an errata sheet to the March 13, 2008, public hearing transcript; 9) discussion of the funding status of the basin streamgage network; 10) appointment of a new Secretary to the Commission; and 11) adoption of a 2009 Commission meeting schedule. The Commission will also hear a Legal Counsel's report.

Public Hearing—Projects Scheduled for Action

1. Project Sponsor and Facility: East Resources, Inc. (Seeley Creek), Town of Southport, Chemung County, NY. Application for surface water withdrawal of up to 0.036 mgd.

2. Project Sponsor and Facility: Chesapeake Appalachia, LLC (for operations in Chemung and Tioga Counties, NY, and Bradford, Susquehanna and Wyoming Counties, PA). Application for consumptive water use of up to 2.075 mgd from various surface water sources and the following public water suppliers: Towanda Municipal Authority, Aqua Pennsylvania, Inc.—Susquehanna Division, Canton Borough Authority, Borough of Troy and Village of Horseheads, NY.

3. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Town of Owego, Tioga County, NY. Application for surface water withdrawal of up to 0.999 mgd.

4. Project Sponsor and Facility: Cabot Oil and Gas Corporation (for operations in Susquehanna and Wyoming Counties, PA). Application for consumptive water use of up to 3.039 mgd from various surface water sources and the following public water suppliers: Tunkhannock Borough Municipal Authority, Pennsylvania American Water Company—Montrose System, and Meshoppen Borough Council.

5. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Susquehanna River), Great Bend Borough, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

6. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Athens Township, Bradford County, PA. Application for surface water withdrawal of up to 0.999 mgd.

7. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Oakland Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.999 mgd.

8. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Susquehanna River), Susquehanna Depot Borough, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

9. Project Sponsor and Facility: Fortuna Energy, Inc. (Susquehanna River), Sheshequin Township, Bradford County, PA. Application for surface water withdrawal of up to 0.250 mgd.

10. Project Sponsor and Facility: East Resources, Inc. (Crooked Creek), Middlebury Township, Tioga County, PA. Application for surface water withdrawal of up to 0.036 mgd.

11. Project Sponsor and Facility: Chief Oil and Gas, LLC (for operations in Bradford County, PA). Application for consumptive use of water of up to 5.000 mgd.

12. Project Sponsor and Facility: Chief Oil and Gas, LLC (Sugar Creek), West Burlington Township, Bradford County, PA. Application for surface water withdrawal of up to 0.053 mgd.

13. Project Sponsor and Facility: Fortuna Energy, Inc. (Sugar Creek), West Burlington Township, Bradford County, PA. Application for surface water withdrawal of up to 0.250 mgd.

14. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Wysox Township, Bradford County, PA. Application for surface water withdrawal of up to 0.999 mgd.

15. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Unnamed Tributary to Meshoppen Creek), Dimock Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

16. Project Sponsor and Facility: Fortuna Energy, Inc. (Towanda Creek), Franklin Township, Bradford County, PA. Application for surface water withdrawal of up to 0.250 mgd.

17. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Martins Creek), Lathrop Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

18. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Tunkhannock Creek), Lennox Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

19. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Meshoppen Creek-2), Lemon Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

20. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Meshoppen Creek-1), Lemon Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

21. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (operations in Potter and McKean Counties, PA). Application for consumptive water use of up to 4.900 mgd from various surface water sources and the following public water suppliers: Jersey Shore Joint Water Authority, Williamsport Municipal Water Authority, and Borough of Montoursville.

22. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (East Fork Sinnemahoning Creek—Horton), East Fork Township, Potter County, PA. Application for surface water withdrawal of up to 0.008 mgd.

23. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Mehoopany Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.999 mgd.

24. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (First Fork Sinnemahoning Creek), Sylvania Township, Potter County, PA. Application for surface water withdrawal of up to 0.107 mgd.

25. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (East Fork Sinnemahoning Creek—East Fork), East Fork Township, Potter County, PA. Application for surface water withdrawal of up to 0.025 mgd.

26. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (East Fork Sinnemahoning Creek), Wharton Township, Potter County, PA. Application for surface water withdrawal of up to 0.027 mgd.

27. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Susquehanna River), Tunkhannock Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

28. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (First Fork Sinnemahoning Creek), Wharton Township, Potter County, PA. Application for surface water withdrawal of up to 0.231 mgd.

29. Project Sponsor and Facility: Cabot Oil and Gas Corporation (Bowmans Creek), Eaton Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

30. Project Sponsor and Facility: Neptune Industries, Inc. (Lackawanna River), Borough of Archbald, Lackawanna County, PA. Application for surface water withdrawal of up to 0.499 mgd.

31. Project Sponsor and Facility: PEI Power Corporation, Borough of Archbald, Lackawanna County, PA. Modification to consumptive water use and surface water withdrawal approval (Docket No. 20010406) for addition of up to 0.530 mgd from a public water supplier as a secondary supply source, and settlement of an outstanding compliance matter.

32. Project Sponsor and Facility: Range Resources—Appalachia, LLC (for operations in Bradford, Centre, Clinton, Lycoming, Sullivan and Tioga Counties, PA). Application for consumptive water use of up to 5.000 mgd from various surface water sources and the following public water suppliers: Jersey Shore Joint Water Authority—Pine Creek and Anthony Facilities, Williamsport Municipal Water Authority, City of Lock Haven Water Department, Borough of Bellefonte, Borough of Montoursville, Milesburg Water System and Towanda Municipal Authority.

33. Project Sponsor and Facility: Range Resources—Appalachia, LLC (Lycoming Creek), Lewis Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.200 mgd.

34. Project Sponsor and Facility: Range Resources—Appalachia, LLC (Lycoming Creek), Lycoming Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.200 mgd.

35. Project Sponsor and Facility: Chief Oil and Gas, LLC (for operations in Lycoming County, PA). Application for consumptive water use of up to 5.000 mgd from various surface water sources and the following public water suppliers: Jersey Shore Joint Water Authority—Pine Creek and Anthony Facilities, Williamsport Municipal Water Authority, Borough of Montoursville, and Towanda Municipal Authority.

36. Project Sponsor and Facility: Chief Oil and Gas, LLC (Muncy Creek), Penn Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

37. Project Sponsor and Facility: Chief Oil and Gas, LLC (Larrys Creek), Mifflin Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

38. Project Sponsor and Facility: Chief Oil and Gas, LLC (Pine Creek), Cummings Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

39. Project Sponsor and Facility: Chief Oil and Gas, LLC (Muncy Creek), Picture Rocks Borough, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

40. Project Sponsor and Facility: Chief Oil and Gas, LLC (Loyalsock Creek), Montoursville Borough, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

41. Project Sponsor and Facility: Range Resources—Appalachia, LLC (West Branch Susquehanna River), Colebrook Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.200 mgd.

42. Project Sponsor and Facility: Rex Energy Corporation (for operations in Centre and Clearfield Counties, PA). Application for consumptive water use of up to 5.000 mgd from various surface water sources and the following public water supplier: Clearfield Municipal Authority.

43. Project Sponsor and Facility: Rex Energy Corporation (Upper Little Surveyor Run), Girard Township, Clearfield County, PA. Application for surface water withdrawal of up to 0.400 mgd.

44. Project Sponsor and Facility: Rex Energy Corporation (Lower Little Surveyor Run), Girard Township, Clearfield County, PA. Application for surface water withdrawal of up to 0.400 mgd.

45. Project Sponsor and Facility: Rex Energy Corporation (West Branch Susquehanna River), Goshen Township, Clearfield County, PA. Application for surface water withdrawal of up to 5.000 mgd.

46. Project Sponsor and Facility: Range Resources—Appalachia, LLC (Beech Creek), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 0.200 mgd.

47. Project Sponsor and Facility: Rex Energy Corporation (Moshannon Creek—Route 53), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 2.000 mgd.

48. Project Sponsor and Facility: Rex Energy Corporation (Moshannon Creek Outfall), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 2.000 mgd.

49. Project Sponsor and Facility: Rex Energy Corporation (Moshannon Creek—Peale), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 2.000 mgd.

50. Project Sponsor: Suez Energy North America, Inc. Project Facility: Viking Energy of Northumberland, Point Township, Northumberland County, PA. Modification to consumptive water use approval (Docket No. 19870301).

51. Project Sponsor: New Enterprise Stone and Lime Co., Inc. Project Facility: Tyrone Quarry, Warriors Mark Township, Huntingdon County and Snyder Township, Blair County, PA. Modification to consumptive water use and groundwater withdrawal approval (Docket No. 20031205) for groundwater withdrawals of 0.095 mgd from Well 1, 0.006 mgd from Well 2, and 0.050 mgd from Well 3 and 0.003 mgd from Well 5.

52. Project Sponsor and Facility: Papetti's Hygrade Egg Products, Inc., d/b/a Michael Foods Egg Products Co., Upper Mahantango Township, Schuylkill County, PA.

Modification of consumptive water use approval (Docket No. 19990903) and a new groundwater withdrawal of 0.450 mgd from Well 3.

53. Project Sponsor: Old Castle Materials, Inc. Project Facility: Pennsy Supply, Inc.—Hummelstown Quarry, South Hanover Township, Dauphin County, PA. Application for surface water withdrawal of up to 29.952 mgd.

54. Project Sponsor and Facility: Dart Container Corporation of Pennsylvania, Upper Leacock Township, Lancaster County, PA. Modification of groundwater approval (Docket No. 20040910).

55. Project Sponsor: East Berlin Area Joint Authority. Project Facility: Buttercup Farms, Hamilton Township, Adams County, PA. Applications for groundwater withdrawals (30-day averages) of 0.144 mgd from Well TW-1, 0.029 mgd from Well TW-2, and a total system withdrawal limit of 0.173 mgd.

56. Project Sponsor: Project Sponsor: PPL Holtwood, LLC. Project Facility: Holtwood Hydroelectric Station, Martic and Conestoga Townships, Lancaster County, and Chanceford and Lower Chanceford Townships, York County, PA. Applications for amendment to existing FERC license (FERC Project No. 1881) and for redevelopment of the project with modification of its operations on the lower Susquehanna River, including the addition of a second power station and associated infrastructure.

Public Hearing—Projects Scheduled for Enforcement Action

1. Project Sponsor and Facility: Cabot Oil and Gas Corporation; Teel, Greenwood, Ely, Lewis and Black Wells; Dimock and Springfield Townships, Susquehanna County, PA.

2. Project Sponsor and Facility: Chief Oil and Gas, LLC; Kensinger, Spotts and Poor Shot Wells; Mifflin, Penn and Anthony Townships, Lycoming County, PA.

3. Project Sponsor and Facility: EOG Resources, Inc.; Houseknecht, Olsyn and Pierce Wells; Springfield Township, Bradford County, PA; PHC Well, Lawrence Township, Clearfield County, PA; Leasgang and Pichler Wells, Jay Township, Elk County, PA.

4. Project Sponsor and Facility: North Coast Energy, Inc.; Litke Wells, Burnside Township, Centre County, PA.

5. Project Sponsor and Facility: Range Resources—Appalachia LLC; McWilliams, Bobst Mountain, Ogontz and Ulmer Wells; Cogan House, Cummings and Lycoming Townships, Lycoming County, PA; Gulf USA Well, Snow Shoe Township, Centre County, PA; Duffey Well, Ridgebury Township, Bradford County, PA.

6. Project Sponsor and Facility: Turm Oil, Inc., LaRue Well, Rush Township, Susquehanna County, PA.

Public Hearing—Request to Extend Emergency Certificate

1. CAN DO, Inc., Hazle Township, Luzerne County, PA—Request to extend the use of Site 14 Test Well to serve Humbolt Industrial Park.

Authority: Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808. Dated: August 12, 2008.

PAUL O. SWARTZ,
Executive Director

[Pa.B. Doc. No. 08-1620. Filed for public inspection August 29, 2008, 9:00 a.m.]

TURNPIKE COMMISSION

Mon-Fayette Expressway and Southern Beltway; Public Private Partnership; Informational Meeting

The Turnpike Commission will host a meeting to provide information to potential private partners interested in financing, designing, constructing, operating and/or maintaining all or portions of the Mon-Fayette Expressway and Southern Beltway projects in Fayette, Washington and Allegheny Counties in southwestern Pennsylvania. The informational meeting will be held on Wednesday, September 17, 2008, from 1 p.m. to 4 p.m. at the Holiday Inn Harrisburg East, 4757 Lindle Road, Harrisburg, PA 17111.

The informational meeting will focus on available opportunities associated with the completion of the unfinished segments of the Mon-Fayette Expressway and Southern Beltway and details of the solicitation.

The 50 miles of limited access tolled expressway not yet under construction include the 24-mile Mon-Fayette Expressway project in Allegheny County north from PA Route 51 in Jefferson Hills to Interstate 376 in Pittsburgh and Monroeville and two independent but interconnected Southern Beltway projects that would extend the beltway system another 26 miles south and east of US Route 22 in Robinson Township to the existing Mon-Fayette Expressway in Union Township, Washington County.

Environmental clearance has been obtained for the Mon-Fayette Expressway project and is expected to be obtained for one of the Southern Beltway projects within the next month. Environmental clearance for the other Southern Beltway project is expected to occur in late 2008 or early 2009.

These sections are contiguous with other sections of the Mon-Fayette Expressway and Southern Beltway that are open to traffic and currently being operated by the Turnpike Commission.

Participants are encouraged to preregister for the meeting by September 12, 2008, by means of the Turnpike web site at www.paturnpike.com by selecting the "P3 Project" menu item on the left side of the main page.

For additional information on the Mon-Fayette and Southern Beltway projects visit the Turnpike's web site at www.paturnpike.com/MonFaySB/. For any other information, contact Bill Capone at (717) 939-9551, extension 3040.

MITCHELL RUBIN,
Chairperson

[Pa.B. Doc. No. 08-1621. Filed for public inspection August 29, 2008, 9:00 a.m.]

STATEMENTS OF POLICY

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

HOUSING FINANCE AGENCY [12 PA. CODE CH. 31]

Homeowner's Emergency Mortgage Assistance Program; Revised Policy Statement, Uniform Notice and Current List of Consumer Credit Counseling Agencies

The Housing Finance Agency (Agency) proposes to make revisions to the Homeowner's Emergency Mortgage Assistance Program Policy Statement in 12 Pa. Code Chapter 31, Subchapter B (relating to policy statement on homeowner's emergency mortgage assistance program).

History

The Homeowner's Emergency Mortgage Assistance Program (HEMAP) was established by the General Assembly with the passage of P. L. 385, No. 91 (Act 91) signed into law on December 12, 1983. The HEMPA is designed to provide emergency mortgage assistance to homeowners facing foreclosure because of circumstances beyond their control. Assistance is provided in the form of a loan. The amount of the loan will be sufficient to bring the homeowner's delinquent mortgages current, and in addition, the Agency may provide continuing monthly mortgage assistance, as needed by the homeowner, for a period of time as prescribed by the law. Act 91 contains notice requirements that lenders must follow prior to foreclosure; prescribes procedures that a homeowner must follow in applying to the Agency for mortgage assistance; and prohibits a lender from conducting foreclosure proceedings during the application process. Act 91 requires repayment of the mortgage assistance loan, based upon the financial ability of the homeowner.

On February 21, 1984, the members of the Agency adopted initial guidelines to implement the HEMAP under the authority of section 401-C(b) of the Housing Finance Agency Law (35 P. S. § 1680.401c(b), which provides in part, that the Agency shall adopt initial program guidelines and may revise the Guidelines whenever appropriate. The members of the Agency adopted revisions to the guidelines on October 18, 1985, which were published at 16 Pa.B. 2126 (June 14, 1986). The members of the Board of the Agency adopted revisions to the guidelines on May 12, 1994, which were published at 24 Pa.B. 3224 (July 2, 1994). The members of the Board of the Agency adopted additional revisions to the guidelines, which were published at 29 Pa.B. 2859 (June 5, 1999). Under the Agency's authority to revise the policy statement, the Agency proposes to make further revisions in the policy statement, the uniform notice and the list of consumer credit counseling agencies.

Summary of Changes

In general, the revisions to the revised policy statement incorporate the amendments to Act 91, which were enacted by Act 60 of 2008. The amendments can be summarized as follows:

- Require lenders to send the Agency information about every Act 91 notice they send to homeowners so that

foreclosure activity can be monitored as it occurs and trends and patterns can be analyzed by the Agency.

- Clarify that homeowners have 33 days from the postmark date of the Act 91 Notice to file an application for mortgage assistance, and that the Agency can accept "late" applications.
- Penalize lenders that do not respond to the Agency's requests for information, including reinstatement figures.
- Change the interest rate on HEMAP loans made by the Agency from the current 9% to a rate which will be determined each year by the Agency. (*Note:* Only applies to loans closed on or after January 1, 2009.)
- Make it a violation of the Unfair Trade Practices and Consumer Protection Act (73 P. S. §§ 201-1—209-6) for a lender to attempt to collect fees and costs that were disallowed by the Agency.

Effective Date and Order

The provisions of Act 60 will take effect on September 6, 2008. The provisions of the revised policy statement will be effective as follows:

- (1) The revisions to §§ 31.203(b) and 31.209(e) and Appendix B and C shall take effect without further action by the Agency on September 6, 2008.
- (2) The provisions of § 31.211 shall take effect without further action by the Agency on September 6, 2008, but shall only apply to notices issued on or after October 1, 2009.
- (3) The revised Appendix A will be effective for notices issued on or after January 1, 2009. Prior to that date, either the revised notice or the previously published notice can be used.

BRIAN A. HUDSON,
Executive Director

(Editor's Note: Title 12 of the Pa. Code is amended by amending Statements of Policy in §§ 31.201, 31.204, 31.207, 31.209 and Appendix A and B and by adding § 31.211 to read as set forth in Annex A, with ellipsis referring to the existing text)

Fiscal Note: 39-NOT-10. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART I. GENERAL ADMINISTRATION

Subchapter D. HOUSING FINANCE AGENCY

CHAPTER 31. HOUSING FINANCE AGENCY

Subchapter B. POLICY STATEMENT ON HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE PROGRAM

§ 31.201. Definitions.

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

Act 91 Notice—The notice of intention to foreclose required to be sent to a mortgagor prior to the filing of a foreclosure action under the act in the form prescribed in this subchapter.

* * * * *

Consumer credit counseling agency—A nonprofit corporation or governmental entity located in this Commonwealth which has been designated by the Agency to provide Homeowner's Emergency Mortgage Assistance Program counseling. A qualified consumer credit counseling agency shall either be certified as a housing counseling agency by the Department of Housing and Urban Development or otherwise be determined acceptable by the Agency. A list of counseling agencies approved by the Agency is set forth in Appendix C. This list was last updated and includes all changes through August 1, 2008. Future updates of this list will only appear on the Agency's web site, www.phfa.org, and will be updated on a regular basis as changes occur.

* * * * *

§ 31.203. Notice; application procedures.

* * * * *

(b) When the homeowner has been sent a notice as required by this subchapter—see Appendix A—by the lender holding the mortgage, the following apply:

(1) The homeowner shall arrange for and attend a face-to-face meeting with a consumer credit counseling agency listed in the notice. The meeting shall be held within 30 days of the postmark date of the notice, plus an additional 3 days to allow for mailing period. For example, a notice mailed on March 9 is presumed to have been delivered on March 12. Therefore, the homeowner shall hold a face-to-face meeting within 30 days of March 12, or on or before April 11.

(2) If the homeowner meets with a consumer credit counseling agency within the period specified in paragraph (1), notice of the holding of and date of the meeting shall be given within 5 business days of the meeting by the consumer credit counseling agency to known mortgagees holding a mortgage on the principal residence of the homeowner. For the purpose of this subchapter, it is the obligation of the mortgagor to notify the consumer credit counseling agency of the name and address of all mortgagees. A mortgagee may not pursue legal action against the homeowner's property if the homeowner meets with the consumer credit counseling agency within 33 days of the postmark date of the notice and for an additional period of 30 days subsequent to the meeting between the homeowner and the consumer credit counseling agency, while the application is being prepared to be sent to the Agency. A mortgagee may not proceed with legal action against the homeowner once an application has been approved by the Agency and shall cooperate with the Agency in obtaining reinstatement figures and executing a reinstatement agreement.

(3) The consumer credit counseling agency notice—see Appendix B—to the mortgagee will indicate that the homeowner intends to apply for homeowner's emergency mortgage assistance payments.

* * * * *

(5) An application for assistance may only be obtained from a consumer credit counseling agency. The consumer credit counseling agency will assist the homeowner in preparing and submitting an application. This application shall be postmarked or filed at the offices of the Agency or at a location designated by the Agency within 30 days of the initial meeting between the homeowner and the consumer credit counseling agency.

* * * * *

(11) If the homeowner fails to meet with an approved consumer credit counseling agency within the period

specified or fails to meet other time limitations in this subchapter, the mortgagee may take legal action to enforce the mortgage provided, however, that an application for mortgage assistance may be submitted beyond the time periods specified (that is, a "late application") and in that case the Agency will make a determination within 60-calendar days of receipt of the application. A late application will not prevent the lender from starting and pursuing a foreclosure action, but if the application is eventually approved at any time before a sheriff's sale, the foreclosure must be stopped.

* * * * *

§ 31.204. Agency review.

* * * * *

(h) A mortgagee entitled to payments under this subchapter shall provide to the Agency, within 30 days of the Agency's request, the following documents and information:

(1) An itemized statement of the amounts due under the mortgage including all corporate advances incurred for which reimbursement from the mortgagor is demanded by the mortgagee. Demands for attorney fees, court costs and other advances shall be reasonable and reflect the amount of work and expenses actually expended and may not include any amounts incurred during the period a stay is in effect under this subchapter.

(2) Copies of the following documents from the original mortgage transaction:

- (i) The HUD 1 Settlement Statement
(ii) The mortgage and note
(iii) The appraisal, if an appraisal has been performed during the last 5 years

(3) Failure to provide in a timely fashion the documents and information required under this subsection, will result in the mortgagee's forfeiture of the right to receive any late fees and attorney fees, costs and expenses.

(i) Upon the Agency's payment of the initial payment to the mortgagee, including any corporate advances allowed by the Agency, the mortgagee shall adjust its accounts to reflect that the mortgage obligation is, as of the date of receipt of the funds, reinstated and current for all purposes. The subsequent imposition by a mortgagee, its successors or assigns, of any charges, fees or other amounts that were paid or disallowed by the Agency, or waived by the mortgagee, shall be in violation of the Unfair Trade and Consumer Protection Law (73 P. S. §§ 201-1—209-6).

§ 31.207. Repayment.

* * * * *

(b) The Agency will enter into an agreement with the homeowner for repayment of mortgage assistance plus interest.

(1) Interest shall accrue at the rate of 9% per year except for loans closed starting January 1, 2009, and thereafter, in which case the rate of interest will be determined by the Agency under the provisions of section 406-C(5) of the act (35 P. S. § 1680.406c(5)).

* * * * *

§ 31.209. Appeals.

* * * * *

(e) The hearing examiner will notify the appellant as to the time and place of the hearing. The Agency will attempt to schedule hearings within 30 days after the request is received. The hearing may be conducted by a telephone conference call. The hearing examiner shall also provide notice to the mortgagees that an administrative appeal has been filed.

* * * * *

§ 31.211. Act 91 Notices; information to be supplied to the Agency.

(a) *General.*

(1) *Notification.* The mortgagee or other person sending the Act 91 Notice shall either send a copy of the notice or information concerning notices sent to the Agency, in the following manner:

(i) *Sending a copy of the notice.* The mortgagee may send an actual copy of each notice sent to the Agency, by one of the following methods:

(A) Regular mail addressed as follows:

PHFA-HEMAP
211 North Front Street
P. O. Box 15530
Harrisburg, PA 17105-5530

(B) Facsimile: sent to either of the following fax numbers:

Toll Free: (877) 207-0205
Local calls: (780) 4340

(ii) *Electronic mail.* (email): Send a scanned copy to: Act91@phfa.org.

(2) *Electronic reporting.* In lieu of sending an actual copy of each notice as set forth in subparagraph (i), the

mortgagee or other person sending the Act 91 Notice may provide the Agency with a report of notices sent listing at least the following information:

(i) The date Act 91 Notice was mailed.

(ii) The name of lender/servicer on whose behalf it was sent.

(3) *Multiple notices.* Street address of the property being foreclosed upon including its 5 digit or 9 digit zip code (as applicable).

(b) If more than one notice is sent (such as, when the mortgagors live somewhere other than the mortgaged property or when there are multiple mortgagors and individual notices are sent to each) only one entry should be made in the report since only one property is being foreclosed upon.

(c) *Frequency of reports.* The mortgagee may send a report as set forth in paragraph (2) on a monthly basis, for notices sent during the previous month, or they may send a report on a quarterly basis listing the notices sent during the prior calendar quarter. Quarterly reports shall be sent within 30 days after the end of each calendar quarter.

(d) *Format of reports.* Electronic reports sent under paragraph (2), shall be sent as an attachment, by means of an email sent to the above email address using the latest version of EXCEL[®] with the following headings:

Date of Notice	Lender/Servicer	Property Address
----------------	-----------------	------------------

(d) *Effective date.* Copies of notices or reports, or both, as set forth in this section shall be sent for notices sent on or after October 1, 2008.

APPENDIX A

PENNSYLVANIA HOUSING FINANCE AGENCY

HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE PROGRAM

CONSUMER CREDIT COUNSELING AGENCIES BY COUNTY REVISED AUGUST 1, 2008

Date: _____

**ACT 91 NOTICE
TAKE ACTION TO SAVE YOUR HOME FROM FORECLOSURE***

This is an official notice that the mortgage on your home is in default, and the lender intends to foreclose. Specific information about the nature of the default is provided in the attached pages.

The HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE PROGRAM (HEMAP) may be able to help to save your home. This Notice explains how the program works. To see if HEMAP can help, you must MEET WITH A CONSUMER CREDIT COUNSELING AGENCY WITHIN 33 DAYS OF THE DATE OF THIS NOTICE.

Take this Notice with you when you meet with the Counseling Agency.

The name, address and phone number of Consumer Credit Counseling Agencies serving your County are listed at the end of this Notice. If you have any questions, you may call the Pennsylvania Housing Finance Agency toll free at 1-800-342-2397. (Persons with impaired hearing can call (717) 780-1869).

This Notice contains important legal information. If you have any questions, representatives at the Consumer Credit Counseling Agency may be able to help explain it. You may also want to contact an attorney in your area. The local bar association may be able to help you find a lawyer.

LA NOTIFICACIÓN EN ADJUNTO ES DE SUMA IMPORTANCIA, PUES AFECTA SU DERECHO A CONTINUAR VIVIENDO EN SU CASA. SI NO COMPRENDE EL CONTENIDO DE ESTA NOTIFICACIÓN OBTENGA UNA TRADUCCIÓN INMEDIATAMENTE LLAMANDO ESTA AGENCIA (PENNSYLVANIA HOUSING FINANCE AGENCY) SIN CARGOS AL NUMERO MENCIONADO ARRIBA. PUEDE SER ELEGIBLE PARA UN PRÉSTAMO POR EL PROGRAMA LLAMADO "HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE PROGRAM" EL CUAL PUEDE SALVAR SU CASA DE LA PERDIDA DEL DERECHO A REDIMIR SU HIPOTECA.

* (Must be at least 30 point type)

HOMEOWNER'S NAME(S): _____

 PROPERTY ADDRESS: _____

 LOAN ACCT. NO.: _____
 ORIGINAL LENDER: _____
 CURRENT LENDER/SERVICER: _____

HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE PROGRAM

YOU MAY BE ELIGIBLE FOR FINANCIAL ASSISTANCE WHICH CAN SAVE YOUR HOME FROM FORECLOSURE AND HELP YOU MAKE FUTURE MORTGAGE PAYMENTS

IF YOU COMPLY WITH THE PROVISIONS OF THE HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE ACT OF 1983 (THE "ACT"), YOU MAY BE ELIGIBLE FOR EMERGENCY MORTGAGE ASSISTANCE:

- **IF YOUR DEFAULT HAS BEEN CAUSED BY CIRCUMSTANCES BEYOND YOUR CONTROL,**
- **IF YOU HAVE A REASONABLE PROSPECT OF BEING ABLE TO PAY YOUR MORTGAGE PAYMENTS, AND**
- **IF YOU MEET OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE PENNSYLVANIA HOUSING FINANCE AGENCY.**

TEMPORARY STAY OF FORECLOSURE—Under the Act, you are entitled to a temporary stay of foreclosure on your mortgage for thirty (30) days from the date of this Notice (plus three (3) days for mailing). During that time you must arrange and attend a "face-to-face" meeting with one of the consumer credit counseling agencies listed at the end of this Notice. **THIS MEETING MUST OCCUR WITHIN THIRTY-THREE (33) DAYS OF THE DATE OF THIS NOTICE.** **IF YOU DO NOT APPLY FOR EMERGENCY MORTGAGE ASSISTANCE, YOU MUST BRING YOUR MORTGAGE UP TO DATE. THE PART OF THIS NOTICE CALLED "HOW TO CURE YOUR MORTGAGE DEFAULT", EXPLAINS HOW TO BRING YOUR MORTGAGE UP TO DATE.**

CONSUMER CREDIT COUNSELING AGENCIES—If you meet with one of the consumer credit counseling agencies listed at the end of this notice, the lender may NOT take action against you for thirty (30) days after the date of this meeting. The names, addresses and telephone numbers of designated consumer credit counseling agencies for the county in which the property is located are set forth at the end of this Notice. It is only necessary to schedule one face-to-face meeting. Advise your lender immediately of your intentions.

APPLICATION FOR MORTGAGE ASSISTANCE—Your mortgage is in default for the reasons set forth later in this Notice (see following pages for specific information about the nature of your default). You have the right to apply for financial assistance from the Homeowner's Emergency Mortgage Assistance Program. To do so, you must fill out, sign and file a completed Homeowner's Emergency Assistance Program Application with one of the designated consumer credit counseling agencies listed at the end of this Notice. Only consumer credit counseling agencies have applications for the program and they will assist you in submitting a complete application to the Pennsylvania Housing Finance Agency. To temporarily stop the lender from filing a foreclosure action, your application **MUST** be forwarded to PHFA and received within thirty (30) days of your face-to-face meeting with the counseling agency.

YOU SHOULD FILE A HEMAP APPLICATION AS SOON AS POSSIBLE. IF YOU HAVE A MEETING WITH A COUNSELING AGENCY WITHIN 33 DAYS OF THE POSTMARK DATE OF THIS NOTICE AND FILE AN APPLICATION WITH PHFA WITHIN 30 DAYS OF THAT MEETING, THEN THE LENDER WILL BE TEMPORARILY PREVENTED FROM STARTING A FORECLOSURE AGAINST YOUR PROPERTY, AS EXPLAINED ABOVE, IN THE SECTION CALLED "TEMPORARY STAY OF FORECLOSURE."

YOU HAVE THE RIGHT TO FILE A HEMAP APPLICATION EVEN BEYOND THESE TIME PERIODS. A LATE APPLICATION WILL NOT PREVENT THE LENDER FROM STARTING A FORECLOSURE ACTION, BUT IF YOUR APPLICATION IS EVENTUALLY APPROVED AT ANY TIME BEFORE A SHERIFF'S SALE, THE FORECLOSURE WILL BE STOPPED.

AGENCY ACTION—Available funds for emergency mortgage assistance are very limited. They will be disbursed by the Agency under the eligibility criteria established by the Act. The Pennsylvania Housing Finance Agency has sixty (60) days to make a decision after it receives your application. During that time, no foreclosure proceedings will be pursued against you if you have met the time requirements set forth above. You will be notified directly by the Pennsylvania Housing Finance Agency of its decision on your application.

**NOTE: IF YOU ARE CURRENTLY PROTECTED BY THE FILING OF A PETITION IN BANKRUPTCY, THE FOLLOWING PART OF THIS NOTICE IS FOR INFORMATION PURPOSES ONLY AND SHOULD NOT BE CONSIDERED AS AN ATTEMPT TO COLLECT THE DEBT.
(If you have filed bankruptcy you can still apply for Emergency Mortgage Assistance.)**

HOW TO CURE YOUR MORTGAGE DEFAULT (Bring it up to date).

NATURE OF THE DEFAULT—The MORTGAGE debt held by the above lender on your property located at:

IS SERIOUSLY IN DEFAULT because:

A. YOU HAVE NOT MADE MONTHLY MORTGAGE PAYMENTS for the following months and the following amounts are now past due:

Other charges (explain/itemize): _____

TOTAL AMOUNT PAST DUE: _____

B. YOU HAVE FAILED TO TAKE THE FOLLOWING ACTION: (Do not use if not applicable.)

HOW TO CURE THE DEFAULT—You may cure the default within THIRTY (30) DAYS of the date of this notice **BY PAYING THE TOTAL AMOUNT PAST DUE TO THE LENDER, WHICH IS \$ _____, PLUS ANY MORTGAGE PAYMENTS AND LATE CHARGES WHICH BECOME DUE DURING THE THIRTY (30) DAY PERIOD.** Payments must be made either by cash, cashier's check, certified check or money order made payable and sent to:

You can cure any other default by taking the following action within THIRTY (30) DAYS of the date of this letter: (Do not use if not applicable.)

IF YOU DO NOT CURE THE DEFAULT—If you do not cure the default within THIRTY (30) DAYS of the date of this Notice, **the lender intends to exercise its rights to accelerate the mortgage debt.** This means that the entire outstanding balance of this debt will be considered due immediately and you may lose the chance to pay the mortgage in monthly installments. If full payment of the total amount past due is not made within THIRTY (30) DAYS, the lender also intends to instruct its attorneys to start legal action to **foreclose upon your mortgaged property.**

IF THE MORTGAGE IS FORECLOSED UPON—The mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If the lender refers your case to its attorneys, but you cure the delinquency before the lender begins legal proceedings against you, you will still be required to pay the reasonable attorney's fees that were actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay all reasonable attorney's fees actually incurred by the lender even if they exceed \$50.00. Any attorney's fees will be added to the amount you owe the lender, which may also include other reasonable costs. **If you cure the default within the THIRTY (30) DAY period, you will not be required to pay attorney's fees.**

OTHER LENDER REMEDIES—The lender may also sue you personally for the unpaid principal balance and all other sums due under the mortgage.

RIGHT TO CURE THE DEFAULT PRIOR TO SHERIFF'S SALE—If you have not cured the default within the THIRTY (30) DAY period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's Sale. You may do so by paying the total amount then past due, plus any late or other charges then due, reasonable attorney's fees and costs connected with the foreclosure sale and any other costs connected with the Sheriff's Sale as specified in writing by the lender and by performing any other requirements under the mortgage. Curing your default in the manner set forth in this notice will restore your mortgage to the same position as if you had never defaulted.

EARLIEST POSSIBLE SHERIFF'S SALE DATE—It is estimated that the earliest date that such a Sheriff's Sale of the mortgaged property could be held would be **approximately _____ months from the date of this Notice**. A notice of the actual date of the Sheriff's Sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment or action will be by contacting the lender.

HOW TO CONTACT THE LENDER:

Name of Lender: _____
Address: _____

Phone Number: _____
Fax Number: _____
Contact Person: _____
E-Mail Address: _____

EFFECT OF SHERIFF'S SALE—You should realize that a Sheriff's Sale will end your ownership of the mortgaged property and your right to occupy it. If you continue to live in the property after the Sheriff's Sale, a lawsuit to remove you and your furnishings and other belongings could be started by the lender at any time.

ASSUMPTION OF MORTGAGE—You _____ **may** or _____ **may not** (CHECK ONE) sell or transfer your home to a buyer or transferee who will assume the mortgage debt, provided that all the outstanding payments, charges and attorney's fees and costs are paid prior to or at the sale and that the other requirements of the mortgage are satisfied.

YOU MAY ALSO HAVE THE RIGHT:

- TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT.
- TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.
- TO HAVE THE MORTGAGE RESTORED TO THE SAME POSITION AS IF NO DEFAULT HAD OCCURRED, IF YOU CURE THE DEFAULT. (HOWEVER, YOU DO NOT HAVE THIS RIGHT TO CURE YOUR DEFAULT MORE THAN THREE TIMES IN ANY CALENDAR YEAR.)
- TO ASSERT THE NONEXISTENCE OF A DEFAULT IN ANY FORECLOSURE PROCEEDING OR ANY OTHER LAWSUIT INSTITUTED UNDER THE MORTGAGE DOCUMENTS.
- TO ASSERT ANY OTHER DEFENSE YOU BELIEVE YOU MAY HAVE TO SUCH ACTION BY THE LENDER.
- TO SEEK PROTECTION UNDER THE FEDERAL BANKRUPTCY LAW.

CONSUMER CREDIT COUNSELING AGENCIES SERVING YOUR COUNTY

(Fill in a list of all Counseling Agencies listed in Appendix C, FOR THE COUNTY in which the property is located, using additional pages if necessary).

(Rev.9/2008)

APPENDIX B

**Consumer Credit Counseling Agency
Notification of Face-to-Face Meeting**

Date: _____

Mortgagee Name & Address

In accordance with the Pennsylvania Housing Finance Agency's Homeowner's Emergency Mortgage Assistance Program (PHFA-HEMAP) (Act 91 of 1983), this is to inform you that we have been approached for mortgage counseling assistance by:

(Name and Address of Applicant)

Mortgage Loan Number

This counseling agency has had a face-to-face meeting with the above-named applicant on _____, who indicated that they are more than sixty (60) days delinquent on their mortgage payments and have received an Act 91 Notice of Intention to Foreclose dated _____ from:

Name and Address of Mortgagee

In accordance with the Homeowner's Emergency Mortgage Assistance Program, this is to inform you that:

- 1. Within 30 days from the date of this notice, we intend to forward an application to the Pennsylvania Housing Finance Agency, Homeowner's Emergency Mortgage Assistance Program on behalf of the above-mentioned applicant(s).
- 2. By a copy of this Notice, we are notifying any other mortgagees, identified by the applicant(s) as also having a mortgage on the property identified above.

3. No legal action to enforce the mortgage may occur if a timely application is filed. The homeowner(s) must have a face-to-face meeting with a Consumer Credit Counseling Agency within 33 days from the date of the Act 91 Notice and an application must be received by PHFA-HEMAP within 30 days of the face-to-face meeting in order to be protected by this forbearance period.

Name of Counseling Agency: _____

Address: _____

Telephone Number: _____

The Pennsylvania Housing Finance Agency can be reached TOLL FREE at 1(800) 342-2397 or 1-717-780-3940

APPENDIX C

HEMAP Consumer Credit Counseling Agencies

Report last updated: 8/1/2008 10:08:21 AM

ADAMS County

Adams County Interfaith Housing Authority

40 E High Street
Gettysburg, PA 17325
717.334.1518

American Red Cross - Hanover Chapter

529 Carlisle Street
Hanover, PA 17331
717.637.3768

CCCS of Western PA

2000 Linglestown Road
Harrisburg, PA 17102
888.511.2227
888.511.2227

Maranatha

43 Philadelphia Avenue
Waynesboro, PA 17268
717.762.3285

ALLEGHENY County

Acorn of Allegheny County

5907 Penn Avenue
Suite 300

Pittsburgh, PA 15206
412.441.6551

Action Housing, Inc

425 6th Avenue
Suite 950
Pittsburgh, PA 15219
412.281.2102
800.792.2801

CCCS of Western PA

River Park Commons
2403 Sidney Street, Suite 400
Pittsburgh, PA 15203
888.511.2227
888.511.2227

Community Action Southwest

58 East Greene Street
Waynesburg, PA 15370
724.852.2893

Fair Housing Partnership of Greater Pittsburgh, Inc.

2840 Liberty Avenue
Suite 205
Pittsburgh, PA 15222
412.391.2535

Garfield Jubilee Associates

5138 Penn Avenue
Pittsburgh, PA 15224
412.665.5200

Mon Valley Unemployment Committee

1800 West Street
3rd Floor
Homestead, PA 15120
412.462.9962

Nazareth Housing Services

301 Bellevue Road
Pittsburgh, PA 15229
412.931.6996

Neighborhood Housing Services, Inc.

710 5th Avenue
Suite 1000
Pittsburgh, PA 15219
412.281.9773

Pennsylvania Housing Finance Agency

2275 Swallow Hill Road
Bldg 200
Pittsburgh, PA 15220
412.429.2842

Urban League Of Pittsburgh

610 Wood Street
Pittsburgh, PA 15222
412.227.4802

ARMSTRONG County

Armstrong County Community Action Agency

124 Armsdale Road
Suite 211
Kittanning, PA 16201
724.548.3405

CCCS of Western PA

Royal Remax Plaza
917 A Logan Boulevard
Altoona, PA 16602
888.511.2227
888.511.2227

Indiana Co. Community Action Program

827 Water Street
Box 187
Indiana, PA 15701
724.465.2657

BEAVER County

Action Housing, Inc

425 6th Avenue
Suite 950
Pittsburgh, PA 15219
412.281.2102
800.792.2801

CCCS of Western PA
 971 Third Street
 Beaver, PA 15009
 888.511.2227
 888.511.2227

Housing Opportunities of Beaver County
 320 College Avenue
 Unit 1
 Beaver, PA 15009
 724.728.7511

BEDFORD County

CCCS of Western PA
 Royal Remax Plaza
 917 A Logan Boulevard
 Altoona, PA 16602
 888.511.2227
 888.511.2227

Tableland Services Inc.
 535 East Main Street
 Somerset, PA 15501
 814.445.9628
 800.452.0148

BERKS County

American Credit Counseling Institute
 937 North Hanover Street
 Pottstown, PA 19460
 888.212.6741
 888.212.6741

American Credit Counseling Institute
 300 North Pottstown Pike
 Suite 210
 Exton, PA 19341
 888.212.6741
 888.212.6741

American Financial Counseling Services
 2880 Bergey Road
 Suite 4
 Hatfield, PA 19440
 267.228.7903

American Financial Counseling Services
 906 Penn Avenue
 Wyomissing, PA 19610
 267.228.7903
 800.490.3039

Budget Counseling Center
 247 North Fifth Street
 Reading, PA 19601
 610.375.7866

CCCS of Lehigh Valley
 3671 Crescent Court East
 Whitehall, PA 18052
 610.821.4011
 800.837.9815

**Community Action Committee
 of the Lehigh Valley**
 1337 East Fifth Street
 Bethlehem, PA 18015
 610.691.5620

Neighborhood Housing Services of Reading
 213 N 5th Street
 Suite 1030
 Reading, PA 19601
 610.372.8433

Schuylkill Community Action
 225 N. Centre Street
 Pottsville, PA 17901
 570.622.1995

BLAIR County

Blair County Community Action Agency
 2100 6th Avenue Suite 102
 PO Box 1833
 Altoona, PA 16602
 814.946.3651

CCCS of Northeastern PA
 202 W. Hamilton Avenue
 State College, PA 16801
 814.238.3668
 800.922.9537

CCCS of Western PA
 Royal Remax Plaza
 917 A Logan Boulevard
 Altoona, PA 16602
 888.511.2227
 888.511.2227

BRADFORD County

CCCS of Northeastern PA
 411 Main Street
 Suite 104
 Stroudsburg, PA 18360
 570.420.8980
 800.922.9537

CCCS of Northeastern PA
 401 Laurel Street
 Pittston, PA 18640
 570.602.2227
 800.922.9537

The Trehab Center of Northeastern PA
 1225 Main Street
 Honesdale, PA 18431
 570.253.8941
 800.982.4045

The Trehab Center of Northeastern PA
 The Enterprise Center
 703 S. Elmer Avenue Suite M.6
 Sayre, PA 18840
 570.888.0412
 800.982.4045

BUCKS County

Acorn Housing Corporation
 846 North Broad Street
 Philadelphia, PA 19130
 215.765.1221

American Credit Counseling Institute
 937 North Hanover Street
 Pottstown, PA 19460
 888.212.6741
 888.212.6741

American Credit Counseling Institute
 530 West Street Road
 Suite 201
 Warminster, PA 18974
 215.444.9429
 888.212.6741

American Credit Counseling Institute
 300 North Pottstown Pike
 Suite 210
 Exton, PA 19341
 888.212.6741
 888.212.6741

American Credit Counseling Institute
 845 Coates Street
 Coatesville, PA 19320
 888.212.6741
 888.212.6741

American Financial Counseling Services
 175 Trafford Avenue
 Suite One
 Wayne, PA 19087
 267.228.7903
 800.490.3039

American Financial Counseling Services
 1917 Welsh Road
 Philadelphia, PA 19115
 267.228.7903

Bucks County Housing Group
 470 Old Dublin Pike
 Doylestown, PA 18901
 866.866.0280
 866.866.0280

Bucks County Housing Group
 515 West End Boulevard
 Quakertown, PA 18951
 866.866.0280
 866.866.0280

Bucks County Housing Group
 349 Durham Road
 Penndel, PA 19047
 866.866.0280
 866.866.0280

Bucks County Housing Group
 200 West Bridge Street
 Morrisville, PA 19067
 866.866.0280
 866.866.0280

Bucks County Housing Group
 2324 Second Street Pike
 Suite 17
 Wrightstown, PA 18940
 866.866.0280
 866.866.0280

CCCS of Delaware Valley
 Catholic Social Services Building
 7340 Jackson Street
 Philadelphia, PA 19136
 215.563.5665

CCCS of Delaware Valley
 1608 Walnut Street
 10th Floor
 Philadelphia, PA 19107
 215.563.5665

CCCS of Delaware Valley
 1230 New Rodgers Road
 Suite F1
 Bristol, PA 19007
 215.563.5665

CCCS of Lehigh Valley
 3671 Crescent Court East
 Whitehall, PA 18052
 610.821.4011
 800.837.9815

Credit Counseling Center
 832 Second Street Pike
 Richboro, PA 18954
 215.396.1880

Diversified Community Services

Dixon House
1920 South 20th Street
Philadelphia, PA 19145
215.336.3511

FOB CDC

1201 West Olney Avenue
Philadelphia, PA 19141
215.549.8755

Germantown Settlement

5538 Wayne Avenue
Bldg C
Philadelphia, PA 19144
215.849.3104

HACE

167 W. Allegheny Avenue
2nd Fl
Philadelphia, PA 19140
215.426.8025

Northwest Counseling Service

5001 North Broad Street
Philadelphia, PA 19141
215.324.7500

Urban League of Philadelphia

1818 Market Street
20th Floor
Philadelphia, PA 19103
215.561.6070

BUTLER County

Action Housing, Inc
425 6th Avenue
Suite 950
Pittsburgh, PA 15219
412.281.2102
800.792.2801

CCCS of Western PA

Butler County Career Link Pullman Commerce Center
112 Hollywood Drive
Butler, PA 16001
888.511.2227
888.511.2227

CAMBRIA County

CCCS of Western PA
Royal Remax Plaza
917 A Logan Boulevard
Altoona, PA 16602
888.511.2227
888.511.2227

Indiana Co. Community Action Program

827 Water Street
Box 187
Indiana, PA 15701
724.465.2657

Tableland Services Inc.

535 East Main Street
Somerset, PA 15501
814.445.9628
800.452.0148

The NORCAM Group

4200 Crawford Avenue
Suite 200
Northern Cambria, PA 15714
814.948.4444

CAMERON County**CCCS of Western PA**

The Franklin Center
524 Franklin Avenue
Aliquippa, PA 15001
888.511.2227
888.511.2227

Northern Tier Community Action Corp.

P.O. Box 389
135 West 4th Street
Emporium, PA 15834
814.486.1161

CARBON County**CCCS of Lehigh Valley**

3671 Crescent Court East
Whitehall, PA 18052
610.821.4011
800.837.9815

CCCS of Northeastern PA

401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

CCCS of Northeastern PA

411 Main Street
Suite 104
Stroudsburg, PA 18360
570.420.8980
800.922.9537

Comm. on Econ Opportunity of Luzerne County

163 Amber Lane
Wilkes-Barre, PA 18702
570.826.0510
800.822.0359

**Community Action Committee
of the Lehigh Valley**
1337 East Fifth Street
Bethlehem, PA 18015
610.691.5620

Schuylkill Community Action
225 N. Centre Street
Pottsville, PA 17901
570.622.1995

CENTRE County

CCCS of Northeastern PA
201 Basin Street
Suite 6
Williamsport, PA 17701
570.323.6627
800.922.9537

CCCS of Northeastern PA
202 W. Hamilton Avenue
State College, PA 16801
814.238.3668
800.922.9537

CCCS of Western PA
Royal Remax Plaza
917 A Logan Boulevard
Altoona, PA 16602
888.511.2227
888.511.2227

Lycm.Clntn Co Comm fo Comm Action
2138 Lincoln Street
P.O. Box 3568
Williamsport, PA 17703
570.326.0587

CHESTER County

Acorn Housing Corporation
846 North Broad Street
Philadelphia, PA 19130
215.765.1221

American Credit Counseling Institute
21 South Church Street
West Chester, PA 19380
888.212.6741
888.212.6741

American Credit Counseling Institute
845 Coates Street
Coatesville, PA 19320
888.212.6741
888.212.6741

American Financial Counseling Services
2880 Bergey Road
Suite 4
Hatfield, PA 19440
267.228.7903

American Financial Counseling Services
175 Trafford Avenue
Suite One
Wayne, PA 19087
267.228.7903
800.490.3039

American Red Cross of Chester
1729 Edgemont Avenue
Chester, PA 19013
610.874.1484

APM
2147 North Sixth Street
Philadelphia, PA 19122
215.235.6788

Budget Counseling Center
247 North Fifth Street
Reading, PA 19601
610.375.7866

Carroll Park Community Council, Inc.
5218 Master Street
Philadelphia, PA 19131
215.877.1157

CCCS of Delaware Valley
790 E. Market St.
Suite 170, Marshall Building
West Chester, PA 19382
215.563.5665

Chester Community Improvement Project
412 Avenue of the States
PO Box 541
Chester, PA 19016
610.876.8663

Diversified Community Services
Dixon House
1920 South 20th Street
Philadelphia, PA 19145
215.336.3511

FOB CDC
1201 West Olney Avenue
Phialdelphia, PA 19141
215.549.8755

Germantown Settlement
5538 Wayne Avenue
Bldg C
Philadelphia, PA 19144
215.849.3104

HACE

167 W. Allegheny Avenue
2nd Fl
Philadelphia, PA 19140
215.426.8025

Housing Partnership of Chester County

41 West Lancaster Ave
Downingtown, PA 19335
610.518.1522

Media Fellowship House

302 South Jackson Street
Media, PA 19063
610.565.0434

Northwest Counseling Service

5001 North Broad Street
Philadelphia, PA 19141
215.324.7500

Phila Council For Community Advmnt

100 North 17th Street
Suite 600
Philadelphia, PA 19103
215.567.7803
800.930.4663

Tabor Community Services, Inc.

308 E King Street
Suite 1
Lancaster, PA 17602
717.397.5182
800.788.5062

Urban League of Philadelphia

1818 Market Street
20th Floor
Philadelphia, PA 19103
215.561.6070

CLARION County**CCCS of Western PA**

Butler County Career Link Pullman Commerce Center
112 Hollywood Drive
Butler, PA 16001
888.511.2227
888.511.2227

CLEARFIELD County**CCCS of Northeastern PA**

202 W. Hamilton Avenue
State College, PA 16801
814.238.3668
800.922.9537

CCCS of Western PA

Royal Remax Plaza
917 A Logan Boulevard
Altoona, PA 16602
888.511.2227
888.511.2227

Indiana Co. Community Action Program

827 Water Street
Box 187
Indiana, PA 15701
724.465.2657

The NORCAM Group

4200 Crawford Avenue
Suite 200
Northern Cambria, PA 15714
814.948.4444

CLINTON County**CCCS of Northeastern PA**

201 Basin Street
Suite 6
Williamsport, PA 17701
570.323.6627
800.922.9537

CCCS of Northeastern PA

202 W. Hamilton Avenue
State College, PA 16801
814.238.3668
800.922.9537

Lycom.Clntn Co Comm fo Comm Action

2138 Lincoln Street
P.O. Box 3568
Williamsport, PA 17703
570.326.0587

COLUMBIA County**CCCS of Northeastern PA**

401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

CRAWFORD County**Booker T. Washington Center**

1720 Holland Street
Erie, PA 16503
814.453.5744

CCCS of Western PA

4402 Peach Street
Erie, PA 16509
888.511.2227 ext
108
888.511.2227 ext
108

Center for Family Services, Inc.
213 Center Street
Meadville, PA 16335
814.337.8450

Greater Erie Community Action Committee
18 West 9TH Street
Erie, PA 16501
814.459.4581

Shenango Valley Urban League, Inc.
601 Indiana Avenue
Farrell, PA 16121
724.981.5310

St. Martin Center
1701 Parade Street
Erie, PA 16503
814.452.6113

CUMBERLAND County

Adams County Interfaith Housing Authority
40 E High Street
Gettysburg, PA 17325
717.334.1518

CCCS of Western PA
2000 Linglestown Road
Harrisburg, PA 17102
888.511.2227
888.511.2227

Community Action Commission of Captial Region
1514 Derry Street
Harrisburg, PA 17104
717.232.9757

Loveship, Inc.
2320 North 5th Street
Harrisburg, PA 17110
717.232.2207

Maranatha
43 Philadelphia Avenue
Waynesboro, PA 17268
717.762.3285

PHFA
211 North Front Street
Harrisburg, PA 17110
717.780.3940
800.342.2397

DAUPHIN County
CCCS of Western PA
2000 Linglestown Road
Harrisburg, PA 17102
888.511.2227
888.511.2227

Community Action Commission of Captial Region
1514 Derry Street
Harrisburg, PA 17104
717.232.9757

Loveship, Inc.
2320 North 5th Street
Harrisburg, PA 17110
717.232.2207

PHFA
211 North Front Street
Harrisburg, PA 17110
717.780.3940
800.342.2397

DELAWARE County

Acorn Housing Corporation
846 North Broad Street
Philadelphia, PA 19130
215.765.1221

Advocates for Financial Independence
202 East Hinkley Avenue
Ridley Park, PA 19078
215.389.2810

American Credit Counseling Institute
175 Strafford Avenue
Suite 1
Wayne, PA 19087
610.971.2210
888.212.6741

American Financial Counseling Services
175 Trafford Avenue
Suite One
Wayne, PA 19087
267.228.7903
800.490.3039

American Red Cross of Chester
1729 Edgemont Avenue
Chester, PA 19013
610.874.1484

APM
2147 North Sixth Street
Philadelphia, PA 19122
215.235.6788

Carroll Park Community Council, Inc.
5218 Master Street
Philadelphia, PA 19131
215.877.1157

CCCS of Delaware Valley
1608 Walnut Street
10th Floor
Philadelphia, PA 19107
215.563.5665

CCCS of Delaware Valley
280 North Providence Road
Media, PA 19063
215.563.5665

CCCS of Delaware Valley
790 E. Market St.
Suite 170, Marshall Building
West Chester, PA 19382
215.563.5665

Chester Community Improvement Project
412 Avenue of the States
PO Box 541
Chester, PA 19016
610.876.8663

Diversified Community Services
Dixon House
1920 South 20th Street
Philadelphia, PA 19145
215.336.3511
FOB CDC
1201 West Olney Avenue
Phialdelphia, PA 19141
215.549.8755

Germantown Settlement
5538 Wayne Avenue
Bldg C
Philadelphia, PA 19144
215.849.3104
HACE
167 W. Allegheny Avenue
2nd Fl
Philadelphia, PA 19140
215.426.8025

Housing Partnership of Chester County
41 West Lancaster Ave
Downingtown, PA 19335
610.518.1522

Media Fellowship House
302 South Jackson Street
Media, PA 19063
610.565.0434

Northwest Counseling Service
5001 North Broad Street
Philadelphia, PA 19141
215.324.7500

Phila Council For Community Advmnt
100 North 17th Street
Suite 600
Philadelphia, PA 19103
215.567.7803
800.930.4663

Urban League of Philadelphia
1818 Market Street
20th Floor
Philadelphia, PA 19103
215.561.6070

ELK County

Northern Tier Community Action Corp.
P.O. Box 389
135 West 4th Street
Emporium, PA 15834
814.486.1161

ERIE County

Booker T. Washington Center
1720 Holland Street
Erie, PA 16503
814.453.5744
CCCS of Western PA
4402 Peach Street
Erie, PA 16509
888.511.2227 ext
108

888.511.2227 ext
108

Greater Erie Community Action Committee
18 West 9TH Street
Erie, PA 16501
814.459.4581

St. Martin Center
1701 Parade Street
Erie, PA 16503
814.452.6113

Voices for Independence
1107 Payne Avenue
Erie, PA 16503
814.874.0064
800.838.9890

FAYETTE County

Action Housing, Inc
425 6th Avenue
Suite 950
Pittsburgh, PA 15219
412.281.2102
800.792.2801

CCCS of Western PA
 1 North Gate Square
 #2 Garden Center Drive
 Greensburg, PA 15601
 888.511.2227
 888.511.2227

Community Action Southwest
 58 East Greene Street
 Waynesburg, PA 15370
 724.852.2893

Fayette Co. Community Action Agency, Inc.
 137 North Beeson Avenue
 Uniontown, PA 15401
 724.437.6050
 800.427.INFO

Tableland Services Inc.
 535 East Main Street
 Somerset, PA 15501
 814.445.9628
 800.452.0148

FOREST County

Warren-Forest Counties Economic Opportunity Council
 1209 Pennsylvania Ave, West
 P.O. Box 547
 Warren, PA 16365
 814.726.2400

FRANKLIN County

Adams County Interfaith Housing Authority
 40 E High Street
 Gettysburg, PA 17325
 717.334.1518

American Red Cross - Hanover Chapter
 529 Carlisle Street
 Hanover, PA 17331
 717.637.3768

CCCS of Western PA
 2000 Linglestown Road
 Harrisburg, PA 17102
 888.511.2227
 888.511.2227

CCCS of Western PA
 Colonial Shopping Center
 970 S. George St
 York, PA 17403
 888.511.2227
 888.511.2227

Community Action Commission of Captial Region
 1514 Derry Street
 Harrisburg, PA 17104
 717.232.9757

Maranatha
 43 Philadelphia Avenue
 Waynesboro, PA 17268
 717.762.3285

FULTON County

CCCS of Western PA
 Colonial Shopping Center
 970 S. George St
 York, PA 17403
 888.511.2227
 888.511.2227

Maranatha
 43 Philadelphia Avenue
 Waynesboro, PA 17268
 717.762.3285

GREENE County

Action Housing, Inc
 425 6th Avenue
 Suite 950
 Pittsburgh, PA 15219
 412.281.2102
 800.792.2801

CCCS of Western PA
 1 North Gate Square
 #2 Garden Center Drive
 Greensburg, PA 15601
 888.511.2227
 888.511.2227

Community Action Southwest
 58 East Greene Street
 Waynesburg, PA 15370
 724.852.2893

HUNTINGDON County

CCCS of Northeastern PA
 202 W. Hamilton Avenue
 State College, PA 16801
 814.238.3668
 800.922.9537

CCCS of Western PA
 Royal Remax Plaza
 917 A Logan Boulevard
 Altoona, PA 16602
 888.511.2227
 888.511.2227

INDIANA County

CCCS of Western PA
 1 North Gate Square
 #2 Garden Center Drive
 Greensburg, PA 15601
 888.511.2227
 888.511.2227

Indiana Co. Community Action Program
 827 Water Street
 Box 187
 Indiana, PA 15701
 724.465.2657

JEFFERSON County

CCCS of Western PA
 Butler County Career Link Pullman Commerce Center
 112 Hollywood Drive
 Butler, PA 16001
 888.511.2227
 888.511.2227

Indiana Co. Community Action Program
 827 Water Street
 Box 187
 Indiana, PA 15701
 724.465.2657

JUNIATA County

CCCS of Northeastern PA
 202 W. Hamilton Avenue
 State College, PA 16801
 814.238.3668
 800.922.9537

CCCS of Western PA
 Royal Remax Plaza
 917 A Logan Boulevard
 Altoona, PA 16602
 888.511.2227
 888.511.2227

LACKAWANNA County

Catholic Social Services
 Saint Catherine Manor
 5 Knox Road
 Scranton, PA 18505
 570.558.3019

CCCS of Northeastern PA
 401 Laurel Street
 Pittston, PA 18640
 570.602.2227
 800.922.9537

United Neighborhood Centers of Northeastern PA
 425 Alder Street
 Scranton, PA 18505
 570.346.0759

LANCASTER County

Base, Inc.
 447 South Prince Street
 Lancaster, PA 17603
 717.392.5467

CCCS of Lehigh Valley
 3671 Crescent Court East
 Whitehall, PA 18052
 610.821.4011
 800.837.9815

CCCS of Western PA
 Colonial Shopping Center
 970 S. George St
 York, PA 17403
 888.511.2227
 888.511.2227

Opportunity Inc.
 301 East Market Street
 York, PA 17403
 717.424.3645

Tabor Community Services, Inc.
 308 E King Street
 Suite 1
 Lancaster, PA 17602
 717.397.5182
 800.788.5062

LAWRENCE County

CCCS of Western PA
 312 Chestnut Street
 Suite 227
 Meadville, PA 16335
 888.511.2227
 888.511.2227

Housing Opportunities of Beaver County
 320 College Avenue
 Unit 1
 Beaver, PA 15009
 724.728.7511

Lawrence County Social Services, Inc.
 PO Box 189
 241 West Grant Street
 New Castle, PA 16103
 724.658.7258
 724.658.7664

Shenango Valley Urban League, Inc.
601 Indiana Avenue
Farrell, PA 16121
724.981.5310

LEBANON County

Schuylkill Community Action
225 N. Centre Street
Pottsville, PA 17901
570.622.1995

Tabor Community Services, Inc.
308 E King Street
Suite 1
Lancaster, PA 17602
717.397.5182
800.788.5062

LEHIGH County

CCCS of Lehigh Valley
3671 Crescent Court East
Whitehall, PA 18052
610.821.4011
800.837.9815

**Community Action Committee
of the Lehigh Valley**
1337 East Fifth Street
Bethlehem, PA 18015
610.691.5620

Schuylkill Community Action
225 N. Centre Street
Pottsville, PA 17901
570.622.1995

LUZERNE County

CCCS of Northeastern PA
401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

Comm. on Econ Opportunity of Luzerne County
163 Amber Lane
Wilkes.Barre, PA 18702
570.826.0510
800.822.0359

Schuylkill Community Action
225 N. Centre Street
Pottsville, PA 17901
570.622.1995

United Neighborhood Centers of Northeastern PA
425 Alder Street
Scranton, PA 18505
570.346.0759

LYCOMING County

CCCS of Northeastern PA
401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

CCCS of Northeastern PA
201 Basin Street
Suite 6
Williamsport, PA 17701
570.323.6627
800.922.9537

Lycom.Clntn Co Comm fo Comm Action
2138 Lincoln Street
P.O. Box 3568
Williamsport, PA 17703
570.326.0587

MCKEAN County

Northern Tier Community Action Corp.
P.O. Box 389
135 West 4th Street
Emporium, PA 15834
814.486.1161

MERCER County

CCCS of Western PA
Butler County Career Link Pullman Commerce Center
112 Hollywood Drive
Butler, PA 16001
888.511.2227
888.511.2227

Shenango Valley Urban League, Inc.
601 Indiana Avenue
Farrell, PA 16121
724.981.5310

MIFFLIN County

CCCS of Northeastern PA
202 W. Hamilton Avenue
State College, PA 16801
814.238.3668
800.922.9537

CCCS of Western PA
Royal Remax Plaza
917 A Logan Boulevard
Altoona, PA 16602
888.511.2227
888.511.2227

MONROE County

Catholic Social Services
 Saint Catherine Manor
 5 Knox Road
 Scranton, PA 18505
 570.558.3019

CCCS of Northeastern PA
 401 Laurel Street
 Pittston, PA 18640
 570.602.2227
 800.922.9537

CCCS of Northeastern PA
 411 Main Street
 Suite 104
 Stroudsburg, PA 18360
 570.420.8980
 800.922.9537

**Community Action Committee
 of the Lehigh Valley**
 1337 East Fifth Street
 Bethlehem, PA 18015
 610.691.5620

MONTGOMERY County

Acorn Housing Corporation
 846 North Broad Street
 Philadelphia, PA 19130
 215.765.1221

American Credit Counseling Institute
 937 North Hanover Street
 Pottstown, PA 19460
 888.212.6741
 888.212.6741

American Credit Counseling Institute
 300 North Pottstown Pike
 Suite 210
 Exton, PA 19341
 888.212.6741
 888.212.6741

American Credit Counseling Institute
 528 Dekalb Street
 Norristown, PA 19401
 610.971.2210
 888.212.6741

American Credit Counseling Institute
 530 West Street Road
 Suite 201
 Warminster, PA 18974
 215.444.9429
 888.212.6741

American Credit Counseling Institute
 845 Coates Street
 Coatesville, PA 19320
 888.212.6741
 888.212.6741

American Financial Counseling Services
 175 Trafford Avenue
 Suite One
 Wayne, PA 19087
 267.228.7903
 800.490.3039

American Financial Counseling Services
 1917 Welsh Road
 Philadelphia, PA 19115
 267.228.7903

American Financial Counseling Services
 871 N Easton Road
 Glenside, PA 19038
 267.228.7903

American Financial Counseling Services
 2880 Bergey Road
 Suite 4
 Hatfield, PA 19440
 267.228.7903

American Financial Counseling Services
 405 West Germantown Pike
 Norristown, PA 19403
 267.228.7903

CCCS of Delaware Valley
 1608 Walnut Street
 10th Floor
 Philadelphia, PA 19107
 215.563.5665

CCCS of Delaware Valley
 1777 Sentry Parkway West
 Suite 200
 Blue Bell, PA 19422
 215.563.5665

Chester Community Improvement Project
 412 Avenue of the States
 PO Box 541
 Chester, PA 19016
 610.876.8663

Community Action Development Comm
 CADCOM
 113 E Main St
 Norristown, PA 19401
 610.277.6363

Germantown Settlement
5538 Wayne Avenue
Bldg C
Philadelphia, PA 19144
215.849.3104

Housing Partnership of Chester County
41 West Lancaster Ave
Downingtown, PA 19335
610.518.1522

Media Fellowship House
302 South Jackson Street
Media, PA 19063
610.565.0434

Northwest Counseling Service
5001 North Broad Street
Philadelphia, PA 19141
215.324.7500

Phila Council For Community Advmnt
100 North 17th Street
Suite 600
Philadelphia, PA 19103
215.567.7803
800.930.4663

MONTOUR County

CCCS of Northeastern PA
401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

NORTHAMPTON County

CCCS of Lehigh Valley
3671 Crescent Court East
Whitehall, PA 18052
610.821.4011
800.837.9815

**Community Action Committee
of the Lehigh Valley**
1337 East Fifth Street
Bethlehem, PA 18015
610.691.5620

NORTHUMBERLAND County

CCCS of Northeastern PA
401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

CCCS of Northeastern PA
201 Basin Street
Suite 6
Williamsport, PA 17701
570.323.6627
800.922.9537

Schuylkill Community Action
225 N. Centre Street
Pottsville, PA 17901
570.622.1995

PERRY County

CCCS of Western PA
2000 Linglestown Road
Harrisburg, PA 17102
888.511.2227
888.511.2227

Community Action Commission of Captial Region
1514 Derry Street
Harrisburg, PA 17104
717.232.9757

Loveship, Inc.
2320 North 5th Street
Harrisburg, PA 17110
717.232.2207

Maranatha
43 Philadelphia Avenue
Waynesboro, PA 17268
717.762.3285

PHILADELPHIA County

Acorn Housing Corporation
846 North Broad Street
Philadelphia, PA 19130
215.765.1221

Advocates for Financial Independence
1806 South Broad Street
Suite 1 B
Philadelphia, PA 19145
215.389.2810

American Credit Counseling Institute
845 Coates Street
Coatesville, PA 19320
888.212.6741
888.212.6741

American Credit Counseling Institute
530 West Street Road
Suite 201
Warminster, PA 18974
215.444.9429
888.212.6741

American Financial Counseling Services

175 Trafford Avenue
Suite One
Wayne, PA 19087
267.228.7903
800.490.3039

American Financial Counseling Services

1917 Welsh Road
Philadelphia, PA 19115
267.228.7903

APM

2147 North Sixth Street
Philadelphia, PA 19122
215.235.6788

Carroll Park Community Council, Inc.

5218 Master Street
Philadelphia, PA 19131
215.877.1157

CCCS of Delaware Valley

1608 Walnut Street
10th Floor
Philadelphia, PA 19107
215.563.5665

CCCS of Delaware Valley

One Cherry Hill
Suite 215
Cherry Hill, PA 08002
215.563.5665

CCCS of Delaware Valley

Catholic Social Services Building
7340 Jackson Street
Philadelphia, PA 19136
215.563.5665

Centro Pedro Claver, Inc.

627 West Erie Avenue
Philadelphia, PA 19140
215.227.7111

Chester Community Improvement Project

412 Avenue of the States
PO Box 541
Chester, PA 19016
610.876.8663

Congreso

216 West Somerset Street
Philadelphia, PA 19133
215.763.8870

Council of Spanish Speaking Organization

705-09 North Franklin Street
Philadelphia, PA 19123
215.627.3100

Diversified Community Services

Dixon House
1920 South 20th Street
Philadelphia, PA 19145
215.336.3511

Esperanza

4261 North 5th Street
Philadelphia, PA 19140
215.324.0746

FOB CDC

1201 West Olney Avenue
Philadelphia, PA 19141
215.549.8755

Germantown Settlement

5538 Wayne Avenue
Bldg C
Philadelphia, PA 19144
215.849.3104

HACE

167 W. Allegheny Avenue
2nd Fl
Philadelphia, PA 19140
215.426.8025

Hispanic Alliance for Community Advancement

2740 North Front Street
Philadelphia, PA 19133
215.667.8932

Housing Association of Delaware Valley

1500 Walnut Street
Suite 601
Philadelphia, PA 19102
215.545.6010

Housing Association of Delaware Valley

658 North Watts Street
Philadelphia, PA 19123
215.978.0224

Intercultural Family Services, Inc.

4225 Chestnut Street
Philadelphia, PA 19104
215.386.1298

Korean Community Development Services Center

6055 North 5th Street
Philadelphia, PA 19120
215.276.8830

Liberty Resources

714 Market Street
Suite 100
Philadelphia, PA 19106
215.634.2000

Mt. Airy, USA

6703 Germantown Avenue
Suite 200
Philadelphia, PA 19119
215.844.6021

New Kensington Community Development Corp

2515 Frankford Avenue
Philadelphia, PA 19125
215.427.0350

Northwest Counseling Service

5001 North Broad Street
Philadelphia, PA 19141
215.324.7500

Phila Council For Community Advmnt

100 North 17th Street
Suite 600
Philadelphia, PA 19103
215.567.7803
800.930.4663

Philadelphia Senior Center

509 South Broad Street
Philadelphia, PA 19147
215.546.5879

South Philadelphia H.O.M.E.S.

1444 Point Breeze Avenue
Philadelphia, PA 19146
215.334.4430

Southwest Community Development Corporation

6328 Paschall Avenue
Philadelphia, PA 19142
215.729.0800

The Partnership CDC

4020 Market Street
Suite 100

Philadelphia, PA 19104
215.662.1612

United Communities Southeast Philadelphia

2029 South 8th Street

Philadelphia, PA 19148
215.467.8700

Urban League of Philadelphia

1818 Market Street
20th Floor
Philadelphia, PA 19103
215.561.6070

West Oak Lane CDC

6259 Limekiln Pike
Philadelphia, PA 19141
215.224.0880

PIKE County**CCCS of Northeastern PA**

401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

CCCS of Northeastern PA

411 Main Street
Suite 104
Stroudsburg, PA 18360
570.420.8980
800.922.9537

POTTER County**Northern Tier Community Action Corp.**

P.O. Box 389
135 West 4th Street
Emporium, PA 15834
814.486.1161

SCHUYLKILL County**Budget Counseling Center**

247 North Fifth Street
Reading, PA 19601
610.375.7866

CCCS of Lehigh Valley

3671 Crescent Court East
Whitehall, PA 18052
610.821.4011
800.837.9815

Comm. on Econ Opportunity of Luzerne County

163 Amber Lane
Wilkes-Barre, PA 18702
570.826.0510
800.822.0359

Schuykill Community Action

225 N. Centre Street
Pottsville, PA 17901
570.622.1995

SNYDER County**CCCS of Western PA**

2000 Linglestown Road
Harrisburg, PA 17102
888.511.2227
888.511.2227

Community Action Commission of Captial Region

1514 Derry Street
Harrisburg, PA 17104
717.232.9757

SOMERSET County

CCCS of Western PA
 1 North Gate Square
 #2 Garden Center Drive
 Greensburg, PA 15601
 888.511.2227
 888.511.2227

Fayette Co. Community Action Agency, Inc.
 137 North Beeson Avenue
 Uniontown, PA 15401
 724.437.6050
 800.427.INFO

Tableland Services Inc.
 535 East Main Street
 Somerset, PA 15501
 814.445.9628
 800.452.0148

SULLIVAN County
CCCS of Northeastern PA
 401 Laurel Street
 Pittston, PA 18640
 570.602.2227
 800.922.9537

The Trehab Center of Northeastern PA
 1225 Main Street
 Honesdale, PA 18431
 570.253.8941
 800.982.4045

The Trehab Center of Northeastern PA
 German Street
 P.O. Box 389
 Dushore, PA 18614
 570.928.9667
 800.982.4045

SUSQUEHANNA County

The Trehab Center of Northeastern PA
 10 Public Avenue
 PO Box 366
 Montrose, PA 18801
 570.278.3338
 800.982.4045

The Trehab Center of Northeastern PA
 1225 Main Street
 Honesdale, PA 18431
 570.253.8941
 800.982.4045

TIOGA County

CCCS of Northeastern PA
 401 Laurel Street
 Pittston, PA 18640
 570.602.2227
 800.922.9537

The Trehab Center of Northeastern PA
 144 E. East Avenue
 Wellsboro, PA 16901
 570.724.5252
 800.982.4045

The Trehab Center of Northeastern PA
 1225 Main Street
 Honesdale, PA 18431
 570.253.8941
 800.982.4045

UNION County

CCCS of Northeastern PA
 401 Laurel Street
 Pittston, PA 18640
 570.602.2227
 800.922.9537

CCCS of Northeastern PA
 201 Basin Street
 Suite 6
 Williamsport, PA 17701
 570.323.6627
 800.922.9537

CCCS of Western PA
 Royal Remax Plaza
 917 A Logan Boulevard
 Altoona, PA 16602
 888.511.2227
 888.511.2227

Lycom.Clntn Co Comm fo Comm Action
 2138 Lincoln Street
 P.O. Box 3568
 Williamsport, PA 17703
 570.326.0587

VENANGO County

CCCS of Western PA
 Butler County Career Link Pullman Commerce Center
 112 Hollywood Drive
 Butler, PA 16001
 888.511.2227
 888.511.2227

Center for Family Services, Inc.
 213 Center Street
 Meadville, PA 16335
 814.337.8450

Greater Erie Community Action Committee
 18 West 9TH Street
 Erie, PA 16501
 814.459.4581

St. Martin Center
 1701 Parade Street
 Erie, PA 16503
 814.452.6113

WARREN County

Booker T. Washington Center
 1720 Holland Street
 Erie, PA 16503
 814.453.5744

CCCS of Western PA
 4402 Peach Street
 Erie, PA 16509
 888.511.2227 ext
 108
 888.511.2227 ext
 108

Greater Erie Community Action Committee
 18 West 9TH Street
 Erie, PA 16501
 814.459.4581

St. Martin Center
 1701 Parade Street
 Erie, PA 16503
 814.452.6113

Warren-Forest Counties Economic Opportunity Council
 1209 Pennsylvania Ave, West
 P.O. Box 547

Warren, PA 16365
 814.726.2400

WASHINGTON County

Action Housing, Inc
 425 6th Avenue
 Suite 950
 Pittsburgh, PA 15219
 412.281.2102
 800.792.2801

CCCS of Western PA
 1 North Gate Square
 #2 Garden Center Drive
 Greensburg, PA 15601
 888.511.2227
 888.511.2227

CCCS of Western PA
 41 East Chestnut Street
 Washington, PA 15301
 888.511.2227
 888.511.2227

Community Action Southwest
 58 East Greene Street
 Waynesburg, PA 15370
 724.852.2893

Community Action Southwest
 150 West Beau Street
 Suite 304
 Washington, PA 15301
 724.225.9550

Mon Valley Unemployment Committee
 1800 West Street
 3rd Floor
 Homestead, PA 15120
 412.462.9962

WAYNE County

Catholic Social Services
 Saint Catherine Manor
 5 Knox Road
 Scranton, PA 18505

570.558.3019

CCCS of Northeastern PA
 411 Main Street
 Suite 104
 Stroudsburg, PA 18360
 570.420.8980
 800.922.9537

CCCS of Northeastern PA
 401 Laurel Street
 Pittston, PA 18640
 570.602.2227
 800.922.9537

The Trehab Center of Northeastern PA
 1225 Main Street
 Honesdale, PA 18431
 570.253.8941
 800.982.4045

United Neighborhood Centers of Northeastern PA
 425 Alder Street
 Scranton, PA 18505
 570.346.0759

WESTMORELAND County

Action Housing, Inc
 425 6th Avenue
 Suite 950
 Pittsburgh, PA 15219
 412.281.2102
 800.792.2801

CCCS of Western PA
1 North Gate Square
#2 Garden Center Drive
Greensburg, PA 15601
888.511.2227
888.511.2227

Community Action Southwest
58 East Greene Street
Waynesburg, PA 15370
724.852.2893

Indiana Co. Community Action Program
827 Water Street
Box 187
Indiana, PA 15701
724.465.2657

Mon Valley Unemployment Committee
1800 West Street
3rd Floor

Homestead, PA 15120
412.462.9962

Tableland Services Inc.
535 East Main Street
Somerset, PA 15501

814.445.9628
800.452.0148

WYOMING County

Catholic Social Services
Saint Catherine Manor
5 Knox Road
Scranton, PA 18505
570.558.3019

CCCS of Northeastern PA
401 Laurel Street
Pittston, PA 18640
570.602.2227
800.922.9537

Comm. on Econ Opportunity of Luzerne County
163 Amber Lane
Wilkes.Barre, PA 18702
570.826.0510
800.822.0359

The Trehab Center of Northeastern PA
115 SR 92S
Tunkhannock, PA 18657
570.836.6840
800.982.4045

The Trehab Center of Northeastern PA
1225 Main Street
Honesdale, PA 18431
570.253.8941
800.982.4045

United Neighborhood Centers of Northeastern PA
425 Alder Street
Scranton, PA 18505
570.346.0759

YORK County

Adams County Interfaith Housing Authority
40 E High Street
Gettysburg, PA 17325
717.334.1518

American Red Cross - Hanover Chapter
529 Carlisle Street
Hanover, PA 17331
717.637.3768

Base, Inc.
447 South Prince Street
Lancaster, PA 17603
717.392.5467

CCCS of Western PA
2000 Linglestown Road
Harrisburg, PA 17102
888.511.2227
888.511.2227

CCCS of Western PA
Colonial Shopping Center
970 S. George St
York, PA 17403
888.511.2227
888.511.2227

Housing Alliance of York
35 South Duke Street
York, PA 17401
717.854.1541

Opportunity Inc.
301 East Market Street
York, PA 17403
717.424.3645

