

PENNSYLVANIA BULLETIN

Volume 38
Saturday, September 6, 2008 • Harrisburg, PA

Number 36
Pages 4885—5022

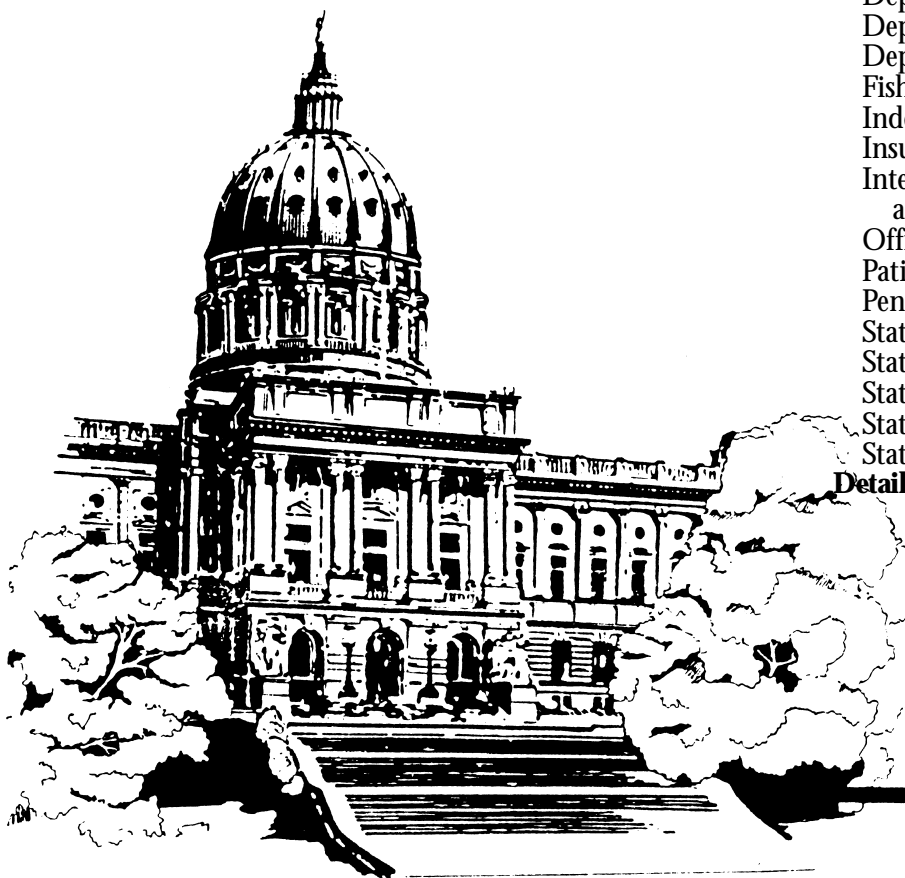
See Part II page 4971
Commission on Sentencing
Adoption of Sentencing
Guidelines

Part I

Agencies in this issue

The General Assembly
Department of Banking
Department of Community and Economic
Development
Department of Education
Department of Environmental Protection
Department of Health
Department of Labor and Industry
Department of Public Welfare
Department of State
Fish and Boat Commission
Independent Regulatory Review Commission
Insurance Department
Interbranch Commission for Gender, Racial
and Ethnic Fairness
Office of Attorney General
Patient Safety Authority
Pennsylvania Public Utility Commission
State Board of Cosmetology
State Board of Dentistry
State Board of Pharmacy
State Employees' Retirement Board
State Ethics Commission

Detailed list of contents appears inside.



PRINTED ON 100% RECYCLED PAPER



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

No. 406, September 2008

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

CHANGE NOTICE

If information on mailing label is incorrect, please make changes in space provided below and mail to:

FRY COMMUNICATIONS, INC.

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, PA 17055-3198

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City)

(State)

(Zip Code)

TYPE OR PRINT LEGIBLY

PENNSYLVANIA



BULLETIN

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "*Fry Communications, Inc.*" Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

FRY COMMUNICATIONS

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, Pennsylvania 17055-3198

(717) 766-0211 ext. 2340

(800) 334-1429 ext. 2340 (toll free, out-of-State)

(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, PA 17055-3198

Copyright © 2008 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

CONTENTS

THE GENERAL ASSEMBLY

COMMISSION ON SENTENCING

Adoption of sentencing guidelines..... 4971

EXECUTIVE AGENCIES

DEPARTMENT OF BANKING

Notices

Actions on applications..... 4919

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Statements of Policy

Community Revitalization Program; statement of policy 4915

DEPARTMENT OF EDUCATION

Notices

Availability of 2008-2009 Career and Technical Education Federal Tech Prep Grants 4920

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices..... 4921

Availability of technical guidance 4958

Bid opportunity..... 4958

General NPDES permit for wet weather overflow discharges from combined sewer systems (PAG-06); public notice of availability..... 4959

Statewide Water Resources Committee; meeting cancellation 4959

Storage Tank Advisory Committee; meeting cancellation 4959

DEPARTMENT OF HEALTH

Notices

Bureau of Managed Care; address change 4959

Long-term care nursing facilities; request for exception..... 4960

DEPARTMENT OF LABOR AND INDUSTRY

Proposed Rulemaking

Special rules of administrative practice and procedure before the Workers' Compensation Appeals Board; special rules of administrative practice and procedure before Workers' Compensation Judges 4902

DEPARTMENT OF PUBLIC WELFARE

Rules and Regulations

Clinical laboratory improvement amendments 4898

Notices

Medical Assistance Program; prior authorization list..... 4960

DEPARTMENT OF STATE

Notices

Patricia and Raynard Spaide, petitioners v. Ira Troy Huntington, Jr., respondent; doc. no. 0001-97-07 4960

FISH AND BOAT COMMISSION

Rules and Regulations

Fishing 4900

Proposed Rulemaking

Fishing 4910

General provisions, boating..... 4909

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Action taken by the Commission..... 4961

INSURANCE DEPARTMENT

Notices

Blue Cross of Northeastern Pennsylvania and Highmark Blue Shield BlueCare Major Medical Plan; rate filing..... 4963

Robert E. Jackson; prehearing..... 4964

Notice to medical malpractice insurance carriers and self-insured health care providers..... 4964

7-Eleven #21110; prehearing..... 4965

INTERBRANCH COMMISSION FOR GENDER, RACIAL AND ETHNIC FAIRNESS

Notices

Annual public meeting 4965

OFFICE OF ATTORNEY GENERAL

Notices

Public meeting 4966

PATIENT SAFETY AUTHORITY

Notices

Public meeting 4966

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Local exchange carrier services 4966

Service of notice of motor carrier applications..... 4966

STATE BOARD OF COSMETOLOGY

Notices

Bureau of Professional and Occupational Affairs v.: Hair.com Styling and Tanning Salon; doc. no. 1341-45-2008 4967

Sony Huynh; doc. no. 0490-45-2008 4967

Tam Minh Thi Huynh; doc. no. 0497-45-2008..... 4967

Minh Tuyet Thi Le; doc. no. 0544-45-2008 4967

Thanh Minh Ly; doc. no. 0559-45-2008 4968

STATE BOARD OF DENTISTRY

Notices

Bureau of Professional and Occupational Affairs v. William P. Kardos, DMD; doc. no. 0175-46-2006 4968

Now Available Online at <http://www.pabulletin.com>

4888

STATE BOARD OF PHARMACY

Rules and Regulations

Supplies and equipment..... 4895

STATE EMPLOYEES' RETIREMENT BOARD

Notices

Hearings scheduled 4968

STATE ETHICS COMMISSION

Notices

Public meeting 4968

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.

**SUBSCRIPTION INFORMATION: (717) 766-0211
GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

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.

Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

§ 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2008.

4 Pa. Code (Administration)

Adopted Rules

6 741, 2146, 2148, 2231, 2234, 2236, 2647
 7 474, 2230

Proposed Rules

191 4628
 241 613, 614
 247 612, 615, 2062, 4396
 255 2268

Statements of Policy

9 2659, 2660, 2661, 3360, 3660, 4528

7 Pa. Code (Agriculture)

Adopted Rules

145 2654
 146 2654
 147 2654

Proposed Rules

21 2268
 23 2268
 25 2268
 27 2268
 111 2256
 113 2253
 115 2262
 139 1830
 143 3819

12 Pa. Code (Commerce, Trade and Local Government)

Statements of Policy

123 4915

19 Pa. Code (Corporations and Business Associations)

Notices..... 2199

22 Pa. Code (Education)

Adopted Rules

4 872, 1148
 14 3575
 36 339
 201 4083
 211 4083
 213 4083
 215 4083
 338 76
 339 2485
 711 3593

Proposed Rules

4 2270
 42 1961
 171 2052

Statements of Policy

52 1727

25 Pa. Code (Environmental Protection)

Adopted Rules

77 4355
 86 4742
 87 4355
 88 4355
 89 4355

93 1357, 4364
 121 1705
 127 2365
 129 1705
 145 1705
 209 4368
 209a 4368
 210 4355
 215 2243
 221 2243
 225 2243
 230 2243
 240 2243
 271 1357
 279 1357
 287 1357
 293 1357
 806 610
 808 610

Proposed Rules

85 4617
 85 (correction) 4776
 86 80
 93 (correction) 236, 612, 976
 121 229, 1831, 1838
 126 229
 129 1831, 1838
 130 (correction) 1150
 145 1838
 218 1246
 240 1246
 901 4373

Statements of Policy

16 258
 83 889

28 Pa. Code (Health and Safety)

Adopted Rules

101 573
 117 573

Proposed Rules

11 4767
 23 750, 1150
 27 750, 1150

31 Pa. Code (Insurance)

Proposed Rules

84b 1949
 139 1960
 146d 4101

34 Pa. Code (Labor and Industry)

Proposed Rules

111 4902
 131 4902

37 Pa. Code (Law)

Adopted Rules

23 1587

Proposed Rules

221 1486

Statements of Policy

200 4632

40 Pa. Code (Liquor)

Adopted Rules

3 2250
 5 2250
 7 2250
 13 2250

Proposed Rules

5 499
 13 4629

43 Pa. Code (Military Affairs)

Adopted Rules

9 1823

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

9 4764
 13 3794
 21 3656, 3796, 3806
 27 4895
 39 3811
 40 1829, 3658
 43b 3654
 47 484, 4509
 49 484

Proposed Rules

18 2059
 21 344, 3246
 27 350, 351, 4784
 33 4777
 39 1168
 47 3253
 48 3253
 49 3253

Statements of Policy

16 2661

51 Pa. Code (Public Officers)

Proposed Rules

31 435, 1253
 33 435, 1253
 35 435, 1253
 37 435, 1253
 39 435, 1253
 41 435, 1253
 43 435, 1253
 45 435, 1253
 51 435, 1253
 53 435, 1253
 55 435, 1253
 57 435, 1253
 59 435, 1253
 61 435
 63 435
 65 435, 1253

52 Pa. Code (Public Utilities)

Adopted Rules

5 4608
 63 488
 102 4608

Proposed Rules

54 776, 1843
 62 776, 1843
 63 758, 2056

64 2658
 76 776, 1843
 Unclassified 3245, 3246

Statements of Policy

69 4107

55 Pa. Code (Public Welfare)

Adopted Rules

1150 4898
 1243 4898
 3270 2437
 3280 2437
 3290 2437
 3300 2437

Proposed Rules

108 4514
 187 4514
 2380 1937
 2390 1937
 2800 4459, 4514
 6400 1937
 6500 1937

Statements of Policy

3270 2469
 3280 2469
 3290 2469

58 Pa. Code (Recreation)

Adopted Rules

53 1584
 63 1584, 4900
 65 1468
 69 4765
 91 1725
 111 1468
 137 3490, 3499
 139 3490, 3491, 4615
 141 1471, 1472, 3489, 4511, 4615
 143 1469, 1470, 3489
 147 1472, 1473, 3497, 4512
 405a 1474
 421a 1585, 1965
 423a 1585
 437a 2251
 441a 3978
 461a 1474

Proposed Rules

29 2155
 51 4909
 63 3241, 4776, 4910
 65 1588
 69 1589, 4910
 71 4910
 73 4910
 101 4909
 137 1484
 139 1591, 1597, 3243
 141 1482, 1590, 3242, 3243
 143 1477, 1482, 4520
 147 1477, 1483, 3244, 4521, 4523, 4526
 401a 1151, 2053, 3980
 405a 2054
 421a 2054
 433a 2054
 434a 3980
 435a 1151, 2054, 3505
 438a 3980

439a 1151
 441a 1039, 1041, 1151, 2269, 3505, 3980
 443a 3820
 461a 343, 1151, 3507
 461b 1151
 463a 1151, 3507
 465a 1151, 3505, 3507
 467a 3507

Statements of Policy

57 1965
 421b 977
 436b 2279
 461b 354

61 Pa. Code (Revenue)

Adopted Rules

32 1148
 113 1476

Proposed Rules

73 4624
 74 4624

Statements of Policy

60 977

67 Pa. Code (Transportation)

Proposed Rules

71 3501
 83 3503
 471 4375
 473 4375
 479 4375

201 Pa. Code (Judicial Administration)

Adopted Rules

2 220
 5 3613
 7 220

Proposed Rules

30 1924

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

83 1701
 85 1812
 87 1812
 91 1812
 93 1812
 303 4971

Proposed Rules

83 4504
 213 1438
 303 9

207 Pa. Code (Judicial Conduct)

Adopted Rules

33 1445
 51 4353
 61 1445

Proposed Rules

1 4353
 61 865, 1037

210 Pa. Code (Judicial Conduct)

Adopted Rules

15 2359
 17 2359

19 4728
 21 3355, 3970

Proposed Rules

1 4723
 3 2480
 9 4723
 11 4723
 17 1445
 19 4723
 21 1446, 4723
 25 4723

225 Pa. Code (Rules of Evidence)

Proposed Rules

803 3789

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules

200 1349, 3970
 1000 3481
 1900 4729
 1910 4735, 4736
 1915 1815
 1920 4738

Proposed Rules

200 337, 3236, 3650
 1000 1701
 1910 1447, 3617
 1915 3614
 2950 3236
 3000 3650
 4000 1814

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1 745, 3971
 2 3651
 5 3971
 6 4506, 4606

Proposed Rules

1 61, 865
 6 1816

237 Pa. Code (Juvenile Rules)

Adopted Rules

1 2360
 2 2360
 5 3238
 11 2360
 13 2360
 100 1142
 150 1146
 300 1142
 600 1146
 800 1142

Proposed Rules

1 1349
 5 63
 11 477, 1349
 13 477
 18 477

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules

400 3356
 500 3239, 3355
 1000 2040

Proposed Rules

200 1817, 2046, 2151

249 Pa. Code (Philadelphia Rules)

Unclassified 223, 868, 1241, 2046, 2049, 2481, 3896,
4071, 4072, 4077

252 Pa. Code (Allegheny Rules)

Unclassified 64, 3483, 3488

255 Pa. Code (Local Court Rules)

Unclassified 72, 223, 225, 338, 481, 482, 596, 748,
975, 1037, 1241, 1354, 1449, 1458, 1466, 1583, 1702,
1704, 1819, 1931, 2050, 2152, 2240, 2242, 2363, 2364,
2483, 2484, 2652, 3240, 3652, 3790, 3791, 3793, 4082,
4354, 4506, 4507, 4739, 4740, 4741

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

Supplies and Equipment

The State Board of Pharmacy (Board) amends §§ 27.14 and 27.16 (relating to supplies; and construction and equipment requirements) to read as set forth in Annex A. The final-form rulemaking deletes references to specific supplies that a pharmacy must maintain and instead allows pharmacies to maintain equipment to enable them to prepare and dispense prescriptions properly within their scope of practice. The final-form rulemaking also deletes the reference to the specific measurement of a pharmacy sink.

Notice of proposed rulemaking was published at 37 Pa.B. 1036 (March 3, 2007). Publication was followed by a 30-day public comment period. The Board received no public comments, however the Pennsylvania Pharmacists Association has indicated its support of these amendments in correspondence with the Independent Regulatory Review Commission (IRRC). The House Professional Licensure Committee (HPLC) submitted two comments to the proposed rulemaking on April 18, 2007. The Senate Consumer Protection and Professional Licensure Committee made no comments. IRRC submitted no comments to the proposed rulemaking.

Summary of Comments and Responses to Proposed Rulemaking

The HPLC noted that the proposed rulemaking deleted the requirement that the refrigerator be kept within the prescription area and asked if it was the Board's intent to remove that requirement. The Board did not intend to remove that requirement, but notes that the definition of prescription area includes the area of the pharmacy used for legend drug storage. As the refrigerator is to be used solely for drugs requiring refrigeration it would necessarily have to be kept in the prescription area. However, the Board understands that one could interpret the change in the regulation to mean that the refrigerator no longer has to be located in the prescription area. To avoid any confusion, the Board has amended § 27.14(c)(1) (relating to supplies) to require the refrigerator to be kept in the prescription area.

The HPLC next asked what criteria the Board's inspectors will use for performing inspections. In many states where the regulations are similar to these amendments, inspectors still use a checklist to guide them during a pharmacy inspection. The Bureau of Enforcement and Investigation anticipates that it will develop inspection guidelines, with input from the Board, based on different pharmacy practice settings. Inspection for supplies is only a small part of what the inspectors look for during an inspection. Inspectors also look at items such as filing of prescriptions, labels, cleanliness of the pharmacy, outdated drugs, posting of the pharmacy permit and technician protocols.

In the final-form rulemaking, the Board also reinserted the language that was added by the Board's "Technology

and Automation" rulemaking in 2006. See 36 Pa.B. 2518 (May 27, 2006). This language was inadvertently omitted from the proposed rulemaking and the text was deleted from the proposed rulemaking by the Legislative Reference Bureau. The Board did not intend for this language to be deleted and has amended the final-form rulemaking package to reinsert the language as intended.

Statutory Authority

The amendments are authorized under sections 4(j) and 6(k)(1) of the Pharmacy Act (act) (63 P. S. §§ 390-(4)(j) and 390-6(k)(1)).

Fiscal Impact and Paperwork Requirements

The amendments would have not a fiscal impact on the Commonwealth, its political subdivisions, the public or the regulated community. The amendments will require the Board to revise the inspection forms. There will be no additional paperwork requirements imposed on the regulated community.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 21, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1036, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Additional Information

Individuals who need information about the regulations may contact Melanie Zimmerman, R.Ph., Executive Secretary, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

(1) Public notice of intention to adopt the regulations in 49 Pa. Code Chapter 27, 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 under those sections 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) This final-form rulemaking of the Board is necessary and appropriate for the administration of the act.

(4) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed amendments published at 37 Pa.B. 1036.

Order

The Board therefore orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending §§ 27.14 and 27.16 to read as set forth in Annex A.

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

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

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

MICHAEL A. PODGURSKI, R.Ph.,
Chairperson

(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-5415 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 49. PROFESSIONAL
AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL
AND OCCUPATIONAL AFFAIRS
CHAPTER 27. STATE BOARD
OF PHARMACY
STANDARDS**

§ 27.14. Supplies.

(a) A pharmacy shall maintain a supply of drugs and devices adequate to meet the needs of the health professions and the patients it is intended to serve. The applicant for a pharmacy permit shall show proof by affidavit that the applicant has ordered or possesses and shall continue to maintain an inventory of nonproprietary drugs, devices and equipment appropriate to the practice of that pharmacy. The inventory must include at least \$5,000 worth of nonproprietary drugs and devices, at cost, from a licensed wholesaler or manufacturer. The inventory may not go below this figure at any time. A central processing center is not required to maintain \$5,000 worth of nonproprietary drugs and devices under § 27.203(b) (relating to centralized prescription processing).

(b) Drugs which must be removed from active stock shall be removed in accordance with the following provisions:

(1) The pharmacist manager is responsible for removing from the active stock of the pharmacy and disposing of the following:

- (i) A drug whose expiration date has passed.
- (ii) A drug which does not meet legal standards of strength and purity.
- (iii) A drug which varies from the strength and purity indicated on the label of the commercial container.
- (iv) A drug which has been improperly stored.
- (v) A drug which has deteriorated.
- (vi) A drug which is unfit, misbranded or adulterated under Federal or State statutes.

(2) Drugs which have been removed from active stock in accordance with this subsection may not be sold or given away. The drugs shall be returned to the wholesaler or manufacturer for disposal or disposed of by the pharmacy according to Federal or State statutes or regulations.

(3) A pharmacy desiring to or required to dispose of a controlled substance shall contact the nearest DEA office for authority and instructions to dispose of the substance.

(4) The pharmacist manager shall be responsible for keeping proper records of controlled substances which have been disposed of. These records must include the name of the substance, the number of units or the volume of the substance or the number of commercial containers and the date and manner of disposal.

(c) Except for a pharmacy operating as a central processing center, a pharmacy shall maintain at least the following equipment and supplies:

(1) A refrigerator, used solely for the storage of drugs requiring refrigeration, equipped with a thermometer or a temperature monitoring device. The refrigerator shall be kept in the prescription area.

(2) Prescription files for keeping prescriptions of nonproprietary drugs in accordance with the act and, for controlled substance prescriptions, State and Federal laws and regulations. The original prescription or image of the original prescription shall be retained for 2 years from the date of the most recent filling. A pharmacy may make use of a computerized recordkeeping system for keeping track of telephone prescriptions, refills, counseling, and the like in accordance with § 27.202 (relating to computerized recordkeeping systems).

(3) Current copies of the act and this chapter.

(4) Federal and Commonwealth statutes and regulations pertaining to the practice of pharmacy.

(5) Additional equipment and supplies necessary to enable the pharmacy to properly prepare and dispense prescriptions consistent with its scope of practice.

(6) An adequate reference library which meets the following standards:

(i) Enables a pharmacy to prepare and dispense prescriptions properly, consistent with its scope of practice.

(ii) Includes reference sources appropriate to the type of pharmacy practice at that particular location. A pharmacy shall include in the pharmacy's library current material regarding the technical, clinical and professional aspects of practice with emphasis in the area in which the pharmacy specializes.

(iii) Enables the pharmacist to compound medications in a safe and effective manner consistent with accepted standards of pharmacy practice.

(iv) Lists the possible drug interactions and possible adverse effects of medications dispensed by the pharmacy.

(v) Lists the therapeutic equivalents for medications.

(vi) Lists the therapeutic usage and dosages of medications dispensed by the pharmacy.

(vii) Provides guidelines for the counseling of patients.

(viii) A pharmacy that specializes in nuclear or parenteral prescriptions may limit the library it maintains under subparagraph (ii) relating to the pharmacy's own specialization.

(ix) Maintains the latest editions including current supplements of each of its reference sources.

(d) A pharmacy operating as a central processing center shall maintain equipment, supplies and access to a reference library recognized by the pharmacy community in this Commonwealth as meeting minimum standards of practice as a central processing center.

§ 27.16. Construction and equipment requirements.

(a) *Approval of plans.* The following requirements are applicable to approval of plans:

(1) *New pharmacy or change-of-location.* Plans for construction of a new pharmacy or new location for an existing pharmacy may be submitted to the Board for approval prior to proceeding with construction. Within 90 days of receiving the plans, the Board will notify the applicant of its approval of the planned pharmacy or of its disapproval and the reasons for disapproval. The plans, including dimensions, must demonstrate compliance with applicable regulations and show the layout and fixtures for the prescription area and the immediately adjacent area.

(2) *Alterations.* The practice of pharmacy shall cease while substantial alterations in the layout or fixtures of an approved pharmacy are being made unless:

(i) The pharmacy makes the alterations and takes adequate precautions so that the health and safety of professionals, employees and the public is protected during the continuing operation of the pharmacy.

(ii) The plans for the alterations and a description of the precautions are submitted to the Board at least 30 days before the beginning of alteration work. If the Board raises no objection during that time, the pharmacy is authorized to proceed with the alterations as planned.

(b) *Building standards.* The following apply to building standards:

(1) *Minimum size.*

(i) The minimum size of the prescription area must be at least 250 square feet, and must be large enough, considering the level of activity, to carry on the practice of pharmacy in a manner that protects the health and safety of professionals, employees and the public. Within the prescription area, there must be a prescription working counter of at least 10 linear feet in length and 2 linear feet in width. If more than two pharmacists are on duty simultaneously, the minimum counter length shall be increased by 5 linear feet for an additional pharmacist. Institutions with special considerations may apply to the Board for a waiver.

(ii) A pharmacy operating as a central processing center need not conform to the minimum space requirements in subparagraph (i).

(2) *Pharmacies in retail establishments.* Pharmacies located within retail establishments whose business hours differ shall adhere to the following standards:

(i) The pharmacy can be securely sealed off from the remainder of the retail establishment.

(ii) The barrier devices which seal off the pharmacy must be capable of providing security for the pharmacy.

The barrier devices must reach from floor to ceiling, shall be impenetrable by hand or the use of a reach extender, and be securely locked whenever a licensed pharmacist is not present and on duty.

(iii) The pharmacy shall be closed whenever a licensed pharmacist is not present and on duty.

(iv) Safes, electrical equipment or other facilities of the retail establishment may not be located in or approached through the pharmacy unless a pharmacist is on duty whenever staff from the retail establishment need access to these facilities.

(v) The hours of the pharmacy shall be posted at all points of public access.

(vi) Protocols for access to the pharmacy when it is closed by nonpharmacist staff for bona fide emergencies, such as fires, natural disasters or police matters, must include notification to the pharmacist manager.

(3) *Locked compartment.* Space shall be provided in the prescription area for a substantially constructed cabinet or safe to contain controlled substances unless the pharmacy disperses controlled substances throughout the stock of noncontrolled substances in a manner that obstructs the theft of controlled substances. If the pharmacy stocks Schedule I controlled substances, these substances shall be stored in a securely locked, substantially constructed cabinet or safe.

(4) *Telephone.* At least one telephone shall be accessible in the prescription area, and the telephone number must be the telephone number printed on the prescription label.

(5) *Sanitary facilities.* Except for pharmacies operating as central processing centers, pharmacies shall be equipped with a sink within the prescription area to be used solely for pharmaceutical purposes. The sink must be connected properly to supply hot and cold water. Restroom facilities for employees of the pharmacy shall be provided reasonably close to, but outside of the prescription area.

(6) *Lighting and ventilation.* The pharmacy must be well lighted and ventilated.

(7) *Television set.* A television set may not be placed within the prescription area or so situated in the pharmacy that its viewing screen may be seen when looking at it from within the prescription area.

(8) *Physical arrangement.* The prescription area must be arranged so that prescription drugs and devices are inaccessible to an unlicensed or unauthorized person. The prescription area may not be used for storage of merchandise or other items other than those used in the preparation, dispensing or delivery of drugs. Animals may not be allowed in a prescription area except for security reasons.

(9) *Existing pharmacies.* Existing pharmacies licensed by the Board prior to the effective date of this chapter may continue if they reasonably conform, or are made to reasonably conform, to the intent of this chapter. The Board will determine what constitutes reasonable conformity consonant with the public interest, health, safety and welfare.

[Pa.B. Doc. No. 08-1623. Filed for public inspection September 5, 2008, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE [55 PA. CODE CHS. 1150 AND 1243]

Clinical Laboratory Improvement Amendments

The Department of Public Welfare (Department), by this order, adopts the amendments set forth at 37 Pa.B. 1865 (April 21, 2007) under the authority of sections 201(2), 403 and 443.3 of the Public Welfare Code (62 P. S. §§ 201(2), 403 and 443.3).

Purpose of the Final-Form Rulemaking

The purpose of this final-form rulemaking is to amend current Medical Assistance (MA) regulations set forth in Chapters 1150 and 1243 (relating to MA program payment policies; and outpatient laboratory services) to be consistent with the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

Background

Under the CLIA, specifically 42 U.S.C.A. § 263a, regarding certification of laboratories, the United States Department of Health and Human Services (HHS) was required to establish certification requirements for laboratories performing tests on human specimens and to certify through the issuance of a certificate that those laboratories meet the requirements established by the HHS. Further, 42 CFR Part 493 (relating to laboratory requirements) sets forth the certification requirements and establishes uniform certification requirements for laboratories, regardless of location, size or type of testing performed. The provisions of 42 U.S.C.A. § 263a apply to laboratories that examine human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of human beings.

The provisions in 42 U.S.C.A. § 263a(f) also specify performance requirements, based on test complexity and risk factors related to erroneous test results. This section also provides requirements that ensure the quality of laboratory services and support the best interest of public health.

The purpose of the CLIA and the Federal regulations is to ensure that appropriate standards are established to ensure quality laboratory testing to improve the diagnosis of disease, management of care for treatment and assessment of the health of patients and to avoid or eliminate test errors that might result in patient harm. In addition, both 42 U.S.C.A. § 263a(b) and the Federal regulations require that laboratories have a CLIA identification number and a CLIA certificate identifying those laboratory procedures the laboratory is eligible to perform.

A State Medicaid agency may only pay for laboratory services performed by laboratories that have CLIA certification. See 42 U.S.C.A. § 1396a(a)(9)(C), regarding state plan for medical assistance, and 42 CFR 493.1809 (relating to limitation on Medicaid payment). The Department is now amending its regulations to reflect this Federal requirement.

Summary

A complete description of the amendment was published at 37 Pa.B. 1865 (April 21, 2007).

Affected Individuals and Organizations

The final-form rulemaking requires laboratories participating in the MA Program to meet CLIA certification requirements established by the HHS.

Accomplishments and Benefits

The Department's adoption of the CLIA definition of "laboratory" will include hospital and privately owned laboratories under the same definition. This final-form rulemaking will help ensure consistency across the MA Program, both for laboratory providers and for laboratory services provided to MA recipients. In addition, the final-form rulemaking will be consistent with Federal requirements for participating laboratories.

Fiscal Impact

Laboratories should already be in compliance with Federal law and regulations; therefore, there is no anticipated fiscal impact.

Paperwork Requirements

There are no additional reports, paperwork or new forms needed to comply with the final-form rulemaking.

Public Comment

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of the proposed rulemaking. No public comments were received within the 30-day time frame. The Independent Regulatory Review Commission (IRRC) did not comment on the proposed amendments.

Regulatory Review Act

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on June 20, 2008, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare (Committees). No comments were received on the proposed amendments.

In accordance with section 5.1(j.1) and (j.2) of the Regulatory Review Act, this final-form rulemaking was deemed approved by the Committees on July 22, 2008.

Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved effective July 23, 2008.

In addition to submitting the final-form rulemaking, the Department provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Order

The Department finds that:

(1) Public notice of intention to amend the administrative regulations 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 there under, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code (62 P. S. §§ 101—1412).

The Department acting under sections 201(2), 403 and 443.3 of the Public Welfare Code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 1150 and 1243, are amended by amending §§ 1150.57, 1243.1, 1243.2, 1243.41, 1243.42, 1243.52 and 1243.54 to read as set forth in Annex A.

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

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

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

ESTELLE B. RICHMAN,
Secretary

(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 14-508 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1150. MA PROGRAM PAYMENT POLICIES

PAYMENT FOR SERVICES

§ 1150.57. Diagnostic services and radiation therapy.

(a) The fees for diagnostic radiology, nuclear medicine, radiation therapy, pathology and medical diagnostic procedures are comprised of a total fee, which is divided into a professional component fee and a technical component fee.

(b) The technical component of any diagnostic services provided on an inpatient basis will be included in the hospitals' payment for inpatient services. No other payment will be made for the total component or technical component for inpatient services.

(c) Physicians may bill for a visit in addition to the professional component if an appropriate medical care visit is provided. However, a visit to a practitioner's office or the outpatient department of a hospital solely for the purpose of receiving a diagnostic service or radiation therapy does not qualify for payment for a visit and the diagnostic service or radiation therapy. In this kind of situation, payment is made only for the diagnostic service or radiation therapy.

(d) A practitioner may bill for laboratory services performed in the office only if the practitioner is licensed by the Department of Health and enrolled in the MA Program as a laboratory.

(e) A practitioner may bill for medical diagnostic, surgical diagnostic, diagnostic radiology, nuclear medicine and radiation therapy in addition to:

- (1) A surgical procedure.
- (2) A medical care visit if the situation described in subsection (c) does not occur.

CHAPTER 1243. OUTPATIENT LABORATORY SERVICES

§ 1243.1. Policy.

The MA Program provides payment for specific outpatient laboratory services rendered to eligible recipients by laboratories enrolled as providers under the Program. Payment for outpatient laboratory services is subject to this chapter and Chapters 1101 and 1150 (relating to

general provisions; and MA Program payment policies) and the MA Program fee schedule.

§ 1243.2. Definitions.

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

CLIA—The Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C.A. § 263a).

Laboratory—A facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings. These examinations also include procedures to determine, measure or otherwise describe the presence or absence of various substances or organisms in the body. Facilities only collecting or preparing specimens, or both, or only serving as a mailing service and not performing testing are not considered laboratories.

Panel test—A series of diagnostically related laboratory tests ordered by a practitioner to confirm a presumptive diagnosis.

PROVIDER PARTICIPATION

§ 1243.41. Participation requirements.

In addition to the participation requirements established in Chapter 1101 (relating to general provisions) laboratories shall meet the following requirements:

(1) Each laboratory, whether in or out-of-State, shall submit the following to the Department:

- (i) A copy of its CLIA certificate.
- (ii) A copy of its CLIA identification number.
- (iii) A list of diagnostic procedures that the laboratory is CLIA-certified to perform with the corresponding Healthcare Common Procedure Coding System (HCPCS) codes.

(iv) The fee currently charged to the general public for each of the procedures.

(2) For hospital laboratories, the hospital shall be currently Medicare certified or currently certified by the Department of Health as meeting standards comparable to those of Medicare.

(3) A laboratory shall be currently licensed by the Department of Health, Bureau of Laboratories and be Medicare certified under Title XVIII (42 U.S.C.A. §§ 1395—1395hhh), or certified as meeting standards comparable to those of Medicare.

(4) Out-of-State laboratories shall meet the applicable requirements established in paragraphs (1) and (2) and shall sign the provider agreement designated by the Department.

§ 1243.42. Ongoing responsibilities of providers.

In addition to the ongoing responsibilities established in § 1101.51(a)—(e) (relating to ongoing responsibilities of providers), laboratories shall, as a condition of participation, comply with the following requirements:

(1) Promptly report to the Department changes in the laboratory's CLIA certification, including changes in the type of CLIA certificate, changes in laboratory fees or procedures and the effective date of these changes.

(2) Permit authorized State and Federal officials or their authorized agents to conduct onsite reviews for the purpose of verification of information furnished as a basis for payment under the MA Program. During the course of the review, the reviewers shall be allowed access to the laboratory area. The provider shall also allow reviewers access to laboratory procedure manuals and any records or documents necessary to determine whether payment for services that have or are being provided comply with Federal and State laws and regulations. The reviewers shall be allowed to photograph, photocopy or duplicate the manuals, records, and documents. Onsite reviews shall be conducted during the normal hours of operation or at another time mutually agreeable to the officials and the provider.

(3) Laboratories shall avoid locked-in referral arrangements between themselves and a prescriber.

PAYMENT FOR OUTPATIENT LABORATORY SERVICES

§ 1243.52. Payment conditions for various services.

(a) If a laboratory refers work to another laboratory, payment will be made to either the referring laboratory or the laboratory actually performing the test. Payment will be made only if the laboratory billing the Department is currently participating in the MA Program and has listed the diagnostic procedure being billed with the Department as specified in § 1243.41(1) (relating to participation requirements).

(b) Laboratory procedures billed to the Department will be based on a written request of the practitioner. The written request must include the following:

(1) The name of the practitioner, the Medical Assistance Identification (M.A.I.D.) number of the practitioner or the DEA number of the practitioner.

(2) The name of the recipient.

(3) The case number of the recipient.

(4) The date of the request.

(5) The handwritten signature of the practitioner or the designee of the practitioner.

(c) Preadmission laboratory tests performed by a hospital laboratory shall be included in the inpatient billing of the hospital. If the recipient is not admitted for some reason, the preadmission laboratory tests shall be billed as an outpatient claim.

§ 1243.54. Noncompensable services.

Payment will not be made to a laboratory for the following services regardless of where or to whom they are provided:

(1) Procedures not listed in the fee schedule in the MA Program fees schedule.

(2) Travel to a recipient's place of residence to collect a specimen. The provider will be reimbursed for performing the procedure if it is compensable; however, no extra payment will be made for mileage.

(3) Procedures that the laboratory is not CLIA-certified to perform.

[Pa.B. Doc. No. 08-1624. Filed for public inspection September 5, 2008, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing

The Fish and Boat Commission (Commission) amends Chapter 63 (relating to general fishing regulations). 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 Jason E. Oyler, 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 § 63.8 (relating to long bows, crossbows, spears and gigs) was published under the statutory authority of section 2102(b) 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, § 63.8(a) allows the use of long bows and arrows, including compound bows, crossbows, spears and gigs to take carp and suckers in Commonwealth waters and waters bounding and adjacent thereto. Under § 63.8(b), catfish may also be harvested by these gear in the Delaware River. A number of anglers recently have expressed to Commission staff a desire to be permitted to harvest catfish with these gear in all Commonwealth waters. This method of angling is not anticipated to result in any significant population level impacts to catfish, as the angler use levels are likely to be relatively low throughout this Commonwealth.

Currently, under § 63.8(b)(1), the harvest of herring is permitted in the Delaware River. Considering the current declines in river herring populations along the entire Atlantic coast, the Commission proposed that the harvest of these species by longbows, crossbows, spears and gigs be no longer be permitted. Finally, § 63.8(b)(2) restricts the use of use long bows and arrows, including compound bows, crossbows, spears or gigs to take fish within 275 yards of an eel weir. This is an archaic regulation that the Commission proposed be removed.

The Commission adopted the amendments as set forth in the notice of proposed rulemaking.

F. Paperwork

The final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

The final-form rulemaking will impose no new costs on the private sector or the general public.

H. *Public Involvement*

A notice of proposed rulemaking was published at 38 Pa.B. 3241 (June 14, 2008). Prior to the official comment period, the Commission received nine public comments concerning this proposal. All nine supported it. During the formal public comment period, the Commission received 12 public comments. Eleven supported the proposal and one opposed allowing the use of weapons like bows and arrows for the taking of catfish except where they occur in nuisance numbers. 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 63, are amended by amending § 63.8 to read as set forth in 38 Pa.B. 3241.

(b) The Executive Director will submit this order and 38 Pa.B. 3241 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. 3241 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-203 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 08-1625. Filed for public inspection September 5, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CHS. 111 AND 131]

Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Appeals Board; Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges

The Department of Labor and Industry (Department), Workers' Compensation Appeal Board (Board) and Office of Adjudication (Office), proposes amendments to clarify and provide detailed guidance for practice and procedure before the Board, the Office and workers' compensation judges (judges). The Department also proposes to amend Chapters 111 and 131 (relating to special rules of administrative practice and procedure before the Workers' Compensation Appeal Board; and special rules of administrative practice and procedure before workers' compensation judges) (Rules) to provide additional guidance for the litigation of matters before the Board, the Office and judges, and to refine existing Rules governing practices and procedures before the Board, the Office and judges.

Statutory Authority

The Department proposes these Rules under the authority contained in sections 401.1 and 435(a) and (c) of the Workers' Compensation Act (act) (77 P. S. §§ 710 and 991(a) and (c)), and section 2205 of The Administrative Code of 1929 (71 P. S. § 565), as well as section 414 of the Occupational Disease Act (77 P. S. § 1514).

Background

In 1980, the Secretary of the Department established a Rules Committee (committee) to develop rules and procedures for the workers' compensation system. The committee consisted of a Board representative, judges, equal numbers of representatives of the claimant and defense bar and Department representatives. This committee was reactivated in 1987 to revise the Rules. Revisions to the Board Rules became effective on April 8, 1989, and revisions to the judges' Rules became effective on March 30, 1991. The committee was inactive until 1996, when it reconvened to incorporate comments received from the workers' compensation community, legislative amendments and changes in workers' compensation jurisprudence which occurred since the 1991 publication. As a result of this consideration, the Board and the judges' Rules in their present form became effective on December 7, 2002.

In the fall of 2006, it became evident that further revisions to the Board and the judges' Rules were necessary to incorporate legislative amendments, various appellate decisions and the Department's ability to accept filings electronically. Additionally, from 2002 to the present, the committee received written comments from various members of the workers' compensation community suggesting changes to the 2002 publication of the Rules. The commentators included members of the bar and representatives of various parties who litigate within this Commonwealth workers' compensation system. Since assembling in 2006, the committee established four subcommittees to review the various subchapters and specific

provisions of the judges' Rules, and one subcommittee to address the Board Rules. Each subcommittee considered each of the written comments assigned to it and any other issues which the entire committee determined warranted consideration. The subcommittees met separately and made recommendations to the committee, which as a whole reviewed the recommendations and created a draft of proposed revisions. During 2007, the draft was widely circulated throughout the workers' compensation community.

Thereafter, interested parties were provided with an opportunity to address the committee. Since July of 2007, the committee has undertaken an outreach program by means of the Statewide judges' conference and workers' compensation section meetings of various bar associations and with groups of interested attorneys. Additionally, on December 7, 2007, a telephone conference was held with the Pennsylvania Chamber of Business and Industry.

As a result of the outreach program, the committee received numerous written comments and suggestions, each of which was considered in great detail by the committee before revising the Rules. The revisions were approved by the committee on February 14 and March 14, 2008, and were incorporated into this rulemaking.

Purpose

These proposed amendments clarify and expedite the procedures in the workers' compensation system and update existing Rules to ensure compliance with amendments to the act and various appellate court decisions. The present Rules have not been comprehensively reviewed since at least 2002. Since that time, the act has been amended, and a change was made to the law governing child support payments that impacts certain workers' compensation awards. See the act of November 9, 2006 (P. L. 1362, No. 147) (Act 147); and the act of July 7, 2006 (P. L. 1055, No. 109) (Act 109). Additionally, advances in technology, including the ability of the Bureau of Workers' Compensation (Bureau) to accept certain filings electronically and the anticipation that the Board will also obtain such capability, prompted the need for these amendments. The proposed amendments incorporate these necessary changes, and ensure that parties will continue to be advised of up-to-date Rules for practice and procedures before the Board, the Office and judges.

Affected Persons

Those affected by these proposed amendments include the Workers' Compensation Appeal Board Commissioners and officials, employees of the Department of Labor and Industry, the Office of Adjudication and workers' compensation judges, as well as attorneys and litigants in the Pennsylvania workers' compensation system.

Fiscal Impact

There is no significant impact associated with this proposed rulemaking. However, the proposed amendments may provide the following savings to the regulated community: (1) reduced copying and mailing costs, as Board and Bureau forms may now be filed and served electronically; and (2) reduced overall litigation expenses attributable to the more expeditious process defined by the Rules.

Summary of Proposed Rulemaking

These proposed amendments clarify and provide detailed guidance for practice and procedure before the Board, the Office and judges.

Chapter 111. Special Rules of Administrative Practice and Procedure before the Workers' Compensation Appeal Board

The Department proposes to amend Chapter 111 to incorporate the Board's anticipated ability to accept certain filings electronically, and to allow service electronically.

The Department proposes to amend:

Section 111.3 (relating to definitions) to clarify the filing date if delivering by hand or electronically.

Section 111.11 (relating to content and form) to clarify that any reference to forms includes paper forms or the electronic format prescribed by the Board.

Section 111.12 (relating to filing, service and proof of service) to provide the mechanism for service by electronic filing.

Chapter 131. Special Rules for Administrative Practice and Procedure before Workers' Compensation Judges

The Department, through this proposed rulemaking, proposes to:

Amend § 131.3 (relating to waiver and modification of rules) to specify that mandatory mediation will not be assigned to an adjudicating judge.

Amend § 131.5 (relating to definitions) to include definitions for the following terms: "adjudicating judge," "Director of Adjudication," "Judge Manager," "mediating judge," "mediation," "Office of Adjudication," "Uninsured Employers Guaranty Fund" and "voluntary settlement conference." In addition, the Department proposes to amend the following definitions: "Act" to incorporate the provision of the act relating to the Uninsured Employers Guaranty Fund (UEGF), "additional defendant" to clarify that the UEGF cannot be joined in a proceeding, "defendant" to include the UEGF, except for purposes of joinder, penalties or assessment of counsel fees, "judge" to clarify that the Office of Adjudication, not the Bureau, is responsible for assignments, and "party" to clarify that a health care provider and the UEGF can be a party to a proceeding. The proposed amendments to this section are intended to define terms used throughout this chapter and to clarify the various methods of resolving issues that are available to parties under the act.

Amend § 131.11 (relating to filing, service and proof of service) to incorporate the Bureau's ability to accept filings electronically, and to provide the mechanism for electronic service.

Amend § 131.13 (relating to continuances or postponements of hearings) to incorporate the act's "good cause shown" standard that a judge must apply to a request for continuance or hearing postponement.

Amend § 131.22 (relating to transfer of cases or petitions on agreement of all parties) to clarify that the Office of Adjudication is one of the parties that must give consent before a case is transferred to a different judge.

Amend § 131.41 (relating to request for supersedeas or reconsideration of supersedeas) to clarify that a judge can modify a previous grant or denial of supersedeas on the judge's own motion.

Amend § 131.50a (relating to employee request for special supersedeas hearing under section 413(c) and (d) of the act) to clarify the current procedure for a special supersedeas hearing under section 413(c) and (d) of the

act (77 P.S. §§ 774.2 and 774.3) consistent with the Court's decision in *U.S. Airways v. W.C.A.B. (Rumbaugh)*, 854 A.2d 411 (Pa. 2004).

Amend § 131.52 (relating to first hearing procedures) to streamline the rule and to incorporate the act's mandate that judges create a trial schedule before or during the first hearing on the matter. Additionally, to incorporate the change of the name of a Bureau form referenced in the provision.

Amend § 131.53 (relating to procedures subsequent to the first hearing) to clarify that a judge may conduct conferences by any electronic means. The Department proposes deleting subsection (f), since the scheduling of medical examinations will be handled in § 131.52.

Amend § 131.53a (relating to consolidated hearing procedure) to clarify that judges can modify the rules governing consolidated hearings, so long as the procedures adopted are consistent with the act.

Add § 131.53b (relating to bifurcation) to provide a mechanism for a judge to bifurcate proceedings to promote the expeditious resolution of the proceedings.

Amend § 131.54 (relating to manner and conduct of hearings) to delete the reference to "Bureau."

Add § 131.56 (relating to withdrawal of appearance) to provide a mechanism for an attorney to withdraw from the proceedings in conformance with the Pennsylvania Rules of Professional Conduct. The proposed amendments require an attorney to seek leave to withdraw from the adjudicating judge if another attorney is not simultaneously entering an appearance. The proposed amendments also provide that a hearing will be held on any objection or on the adjudicating judge's own motion. Further, an adjudicating judge shall grant the request unless there is prejudice to the parties or proceedings. Additionally, the proposed amendments specify that an adjudicating judge has the authority to resolve cost and fee disputes so long as a fee agreement or petition was filed before discharge or withdrawal of counsel.

Amend § 131.57 (relating to compromise and release agreements) to clarify that subsection (d) does not apply if a resolution hearing was requested in accordance with § 131.60 (relating to resolution hearings).

Add § 131.59 (relating to alternative dispute resolution) to clarify that parties are not limited in using mediation or other forms of alternative dispute resolution for the exclusive purpose of achieving a compromise and release agreement.

Add § 131.59a (relating to voluntary settlement conferences) to clarify that the requirement that parties participate in mandatory mediation does not prevent participation in a voluntary settlement conference. Additionally, the proposed amendments set forth that voluntary settlement conferences are subject to 42 Pa.C.S. § 5949 (relating to confidential mediation communications and documents). The proposed amendments also clarify that, although an adjudicating judge cannot conduct the mandatory mediation, the adjudicating judge can conduct a voluntary settlement conference upon the parties' request.

Add § 131.59b (relating to mandatory mediation) to specify that an adjudicating judge cannot conduct the mandatory mediation conference, nor can the mandatory mediating judge participate in any decision on the merits of the petitions. Additionally, the proposed amendments set forth that the confidentiality provisions of 42 Pa.C.S. § 5949 are applicable to mandatory mediation proceedings, with certain enumerated exceptions. Finally, the

proposed amendments also provide that the adjudicating judge shall have the authority to impose sanctions for a party's failure to participate in mandatory mediation, and sets forth the provisions of the act and Rules that the adjudicating judge may consider when imposing sanctions.

Add § 131.60 to establish procedures for requesting a resolution hearing and the assignment of judges to the resolution hearing.

Amend § 131.66 (relating to the admissibility of oral depositions) to clarify the procedure for objecting to a deposition exhibit.

Amend § 131.111 (relating to decisions of judges) to provide a mechanism for a claimant to report to a judge the existence or nonexistence of a child support order and whether payments are current.

Reporting, Recordkeeping and Paperwork Requirements

The proposed amendments do not require the creation of any new forms. However, the proposed amendments do incorporate Act 109's mandate to report the existence or nonexistence of any child support order to a judge before the award of certain benefits under the act, and whether payments are current. There are no other additional reporting, recording or paperwork requirements on either the Commonwealth or the regulated community.

Effective Date

These proposed amendments will be effective on publication in the *Pennsylvania Bulletin*.

Sunset Date

No sunset date is necessary for these amendments. The Department will continue to monitor the impact and effectiveness of the regulations.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 26, 2008, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations 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 that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final-form publication of the rules, by the Department, the General Assembly and the Governor of objections raised.

Contact Persons and Public Comment

The contact persons are: (1) with respect to the Judges' Rules, Elizabeth A. Crum, Deputy Secretary for Compensation and Insurance, Department of Labor and Industry, 651 Boas Street, Harrisburg, PA 17121, (717) 787-5082; and (2) with respect to the Board Rules, Susan McDermott, Chairperson, Workers' Compensation Appeal Board, 901 North Seventh Street, 3rd Floor South, Harrisburg, PA 17102-1412, (215) 560-4583.

Interested persons may submit written comments to Elizabeth A. Crum, Deputy Secretary for Compensation and Insurance, Department of Labor and Industry, WCAB/WCJ Regulations—Comments, 651 Boas Street,

Harrisburg, PA 17121, within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Written comments received by the Department may be made available to the public.

SANDI VITO,
Acting Secretary

Fiscal Note: 12-84. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART VII. WORKERS' COMPENSATION APPEAL BOARD

CHAPTER 111. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE BEFORE THE WORKERS' COMPENSATION APPEAL BOARD

Subchapter A. GENERAL PROVISIONS

§ 111.3. Definitions.

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

* * * * *

Filing—Delivery [**in person or**] by mail, **in person or electronically**. If filing [**is**] by mail, it is deemed complete upon deposit in the United States mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid. **If filing by hand delivery or electronically, the filing date is the Board's date of receipt.**

* * * * *

Subchapter B. APPEALS

§ 111.11. Content and form.

(a) An appeal or cross appeal shall be filed with the Board on a form provided by the Board [**or on a form containing substantially the following information**]. **All references to forms shall mean paper forms or an electronic format prescribed by the Board. All forms shall contain the following information:**

* * * * *

§ 111.12. Filing, service and proof of service.

(a) [**An**] **When filing by mail or in person, an original and two copies of each appeal or cross-appeal shall be filed. Only the original appeal shall have attached a copy of the judge's decision which is in question as required by § 111.11(a)(5) (relating to content and form).**

(b) **When filing electronically, an original of each appeal or cross-appeal shall be filed. If the appeal is filed electronically, the Board will obtain a copy of the judge's decision from the Office of Adjudication.**

(c) The petitioner shall serve a copy of any appeal upon all parties and the judge.

[(c)] (d) The respondent shall serve a copy of any cross appeal upon all parties and the judge.

[(d)] (e) The petitioner or respondent shall, concurrently with the filing of an appeal or cross appeal, on a

form prescribed by the Board or in substantial compliance therewith, file a proof of service with the Board containing:

- (1) A statement of the date of service.
- (2) The names of parties and judge served.
- (3) The mailing address, the applicable zip code and the manner of service on the parties and judge served.

[(e)] (f) Subsections (a)—[(d)] (e) supersede 1 Pa. Code §§ 31.26, 33.15, 33.21—33.23, 33.32, 33.33 and 33.35—33.37.

PART VIII. BUREAU OF WORKER'S COMPENSATION

CHAPTER 131. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE BEFORE WORKERS' COMPENSATION JUDGES

Subchapter A. GENERAL PROVISIONS

§ 131.3. Waiver and modification of rules.

(a) The judge may, for good cause, waive or modify a provision of this chapter, **except as otherwise provided in § 131.59b(a) (relating to mandatory mediation)**, upon motion of a party, agreement of all parties or upon the judge's own motion.

* * * * *

§ 131.5. Definitions.

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

Act—The Pennsylvania Workers' Compensation Act (77 P. S. §§ 1—1041.4 and 2501—[2506] 2708).

Additional defendant—An insurance carrier, the Commonwealth or an employer, other than the insurance carrier or employer against which the original petition was filed, joined under this chapter, **not including the Uninsured Employers Guaranty Fund.**

Adjudicating judge—A judge assigned to hold hearings and issue a decisions relating to a petition or petitions.

* * * * *

Defendant—An employer, insurance carrier and the Commonwealth, unless specifically designated individually, **and the Uninsured Employers Guaranty Fund, except for purposes of joinder, penalties or assessment of counsel fees under section 440 of the act (77 P. S. § 996).**

Director of Adjudication—The individual specified in section 1402 of the act (77 P. S. § 2502).

* * * * *

Judge—A workers' compensation judge assigned by the [Bureau] Office of Adjudication as provided in [section] sections 401 and 401.1 of the act (77 P. S. §§ 701 and 710) or assigned by the [Bureau] Office of Adjudication to determine a petition filed under the act or the Disease Law.

Judge Manager—A workers' compensation judge with management responsibilities appointed under the Civil Service Act (71 P. S. §§ 741.1—741.1005).

Mediating judge—A judge assigned to mediate petitions in accordance with sections 401 and 401.1 of the act and this chapter.

Mediation—A conference conducted by a judge, as authorized by sections 401 and 401.1 of the act, having as its purpose an attempt to reconcile any or all disputes under the act or this chapter existing between contending parties.

Office of Adjudication—The Office of the Department created by section 1401(a) of the act (77 P. S. § 2501).

Party—A claimant, defendant, employer, insurance carrier, additional defendant, **health care provider** and, if relevant, the Commonwealth **and the Uninsured Employers Guaranty Fund.** An act required or authorized by this chapter, to be done by or to a party, may be done by or to that party's counsel of record.

* * * * *

Uninsured Employers Guaranty Fund—The special fund established by Article XVI of the act.

Voluntary settlement conference—A conference conducted by a judge at the request of contending parties, having as its purpose an attempt to reconcile any or all disputes existing between those parties.

Subchapter B. TIME

§ 131.11. Filing, service and proof of service.

(a) Whenever filing is required by this chapter, it is deemed complete upon **one of the following: [delivery in person or, if by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.]**

(1) Delivery in person.

(2) If by electronic submission, upon receipt at the electronic address and in a format as prescribed by the Department and published in the *Pennsylvania Bulletin*.

(3) If by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.

(b) Whenever service is required by this chapter, it is deemed complete upon **one of the following: [delivery in person or, if by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid, except as provided in § 131.81(b) (relating to subpoenas).]**

(1) Delivery in person.

(2) If by electronic submission, upon receipt and in a format as prescribed by the Department and published in the *Pennsylvania Bulletin*.

(3) If by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid, except as provided in § 131.81(b) (relating to subpoenas).

* * * * *

(d) Whenever a proof of service is required by this chapter, the proof of service shall contain the following:

* * * * *

(3) The mailing address, the applicable zip code and the manner of service on the judge and others served, and, if applicable, the email address to which service was made.

(e) Unless otherwise specifically provided in this chapter, whenever the filing or service is required to be made upon the Bureau, it shall be made to the principal office of the Bureau at: 1171 South Cameron Street, Harrisburg, Pennsylvania 17104-2501, (717) 783-5421, or another address and telephone number as may be published in the *Pennsylvania Bulletin*. **Electronic filing and service on the Bureau shall be at the electronic address and in a format as prescribed by the Bureau and published in the *Pennsylvania Bulletin*.**

* * * * *

§ 131.13. Continuances or postponements of hearings.

* * * * *

(c) A continuance or postponement may be granted as set forth in this chapter for **[substantial or compelling reasons] good cause shown** at the discretion of the judge, if the continuance or postponement is consistent with this chapter and its purpose of providing an orderly and expeditious determination of proceedings before judges.

* * * * *

(j) In ruling on requests for a continuance or postponement, the judge may consider one or more of the following, giving consideration to subsection (a):

* * * * *

(8) Another reason deemed **[to be substantial or compelling]** by the judge **to be for good cause shown** and consistent with this chapter and the purposes of the act and the Disease Law.

* * * * *

Subchapter C. FORMAL PROCEEDINGS

GENERAL

§ 131.22. Transfer of cases or petitions on agreement of all parties.

(a) If the transfer of the case is agreed to by the **[Bureau] Office of Adjudication**, the parties and the judge, the **[Bureau] Office of Adjudication** will promptly reassign the case or petition. Notice of reassignment will be given to all parties.

* * * * *

SUPERSEDAS

§ 131.41. Request for supersedeas or reconsideration of supersedeas.

* * * * *

(b) After a hearing, the judge may grant or deny the request for supersedeas in whole or in part. The grant or denial may be for specified or indefinite periods and may be subject to conditions that the judge orders to implement the intent of the act, Disease Law or this chapter. If a supersedeas has been granted or denied in whole or in part, the judge may, upon request **or on the judge's own motion**, and after hearing, review and modify the grant or denial as warranted.

* * * * *

§ 131.50a. Employee request for special supersedeas hearing under sections 413(c) and 413 (d) of the act.

* * * * *

(c) **During the course of a challenge hearing, the issues are limited to determining whether the claimant has stopped working or is earning the wages stated in the Notice of Suspension or Modification under sections 413(c) or 413(d) of the act (77 P. S. §§ 774.2 and 774.3) and the challenge shall be decided only on those issues.**

(d) **If the employer has filed a separate petition requesting supersedeas, the judge may receive evidence and issue a separate decision on the request for supersedeas if the judge determines the claimant will not be prejudiced by a ruling at that time.**

(e) The judge to whom the notice of challenge has been assigned will issue a written order on the challenge within 14 days of the hearing.

[(d)] (f) If the judge fails to hold a hearing within 21 days or fails to issue a written order approving the suspension or modification of benefits within 14 days of the hearing, the insurer shall reinstate the employee's workers' compensation benefits at the weekly rate the employee received prior to the insurer's suspension or modification of benefits under sections 413(c) or (d) of the act **[(77 P. S. §§ 774.2 and 774.3)]**.

[(e)] (g) Subsections (a)—**[(d)] (f)** supersede 1 Pa. Code §§ 35.161, 35.162, 35.190 and 35.225.

HEARING PROCEDURE

§ 131.52. First hearing procedures.

(a) The purpose of this chapter is to provide a fair and prompt hearing process, to allow all parties to introduce appropriate evidence and to receive a timely decision from the judge. Where practicable and appropriate, the entire record relating to any petition shall be completed at the initial hearing. **(b) The [, recognizing that the hearing process may differ based upon several variables including geographic location, number of parties involved, case volume and availability of experts for testimony.**

[(c)] (b) The hearing process chosen in any specific case, including a determination of whether testimony will be accepted at the initial hearing, is within the discretion of the judge. **At or before the initial hearing by written order or on the record, the judge shall establish:**

(1) Specific deadlines for the presentation of evidence by the parties.

(2) Dates for future hearings.

(3) Specific date and time for the mediation conference unless, for good cause shown, the judge determines at the first hearing or subsequently that mediation would be futile.

(4) Dates for setting any medical examinations to be scheduled.

[(d)] (c) The moving party, at the first hearing, shall advise the judge and opposing parties of the following:

* * * * *

[(e)] (d) The moving party, at the first hearing, unless otherwise directed by the judge, shall offer and have marked for identification available exhibits of the moving party.

[(f)] (e) The parties shall provide the judge with all documents required by law to be filed with the Bureau and which are relevant to issues in dispute with the same injury date and pertaining to the same claim. The judge will place those documents in evidence along with any other documents required to be filed by law with the Bureau or prior judges and which the judge deems relevant to the proceeding. The judge and the employee may not introduce the **[Employer's Report of Injury or Occupational Disease] First Report of Injury** into evidence.

[(g)] (f) Evidence furnished under this section does not become part of the record, unless otherwise admissible.

[(h)] (g) Unless otherwise ordered by the judge, the moving party shall present testimony.

[(i)] (h) Subsections (a)—**[(h)] (g)** supersede 1 Pa. Code §§ 35.101—35.106, 35.111—35.116, 35.121—35.128, 35.137, 35.138, 35.155 and 35.161—35.169.

§ 131.53. Procedures subsequent to the first hearing.

* * * * *

(d) The parties or the judge may request a conference at any time which may be held in person, by telephone, video, or any other electronic manner as directed by the judge.

(e) A party wishing to present testimony in the form of rebuttal or surrebuttal shall notify the judge in writing within 21 days after conduct of the hearing or deposition at which the testimony to be rebutted or surrebutted has been given.

[(e)] (f) Following a request to present rebuttal or surrebuttal testimony, the testimony shall be presented at a hearing or deposition provided the testimony shall be taken no later than 45 days after the conclusion of the case of the party presenting the testimony or evidence to be rebutted or surrebutted.

[(f) Dates of the medical examinations, if not scheduled prior to the first hearing actually held, shall be scheduled within 45 days after the first hearing actually held.]

* * * * *

§ 131.53a. Consolidated hearing procedure.

(a) One day trials or other consolidated hearing procedures may be scheduled and conducted pursuant to [these rules] this chapter to the extent practical. The judge may waive or modify [these rules] this chapter as may be appropriate and adopt and direct procedures which are fair and just for a determination of the issues consistent with act.

§ 131.53b. Bifurcation.

(a) The judge may, upon request or upon the judge's own motion, consider bifurcation of issues to promote the expeditious resolution of cases.

(b) Subsection (a) supersedes 1 Pa. Code §§ 33.61, 35.18, 35.54 and 35.55, and also supersedes 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

§ 131.54. Manner and conduct of hearings.

(a) The judge will conduct fair and impartial hearings and maintain order. At the discretion of the judge, the

hearings may be conducted by telephone or other electronic means if the parties do not object. Disregard by participants or counsel of record of the rulings of the judge shall be noted on the record, and if the judge deems it appropriate, will be made the subject of a written report to the **[Bureau's]** Director of Adjudication together with recommendations.

(b) If the participants or counsel are guilty of disrespectful, disorderly or contumacious language or conduct in connection with a hearing, the judge may suspend the hearing or take other action as the judge deems appropriate, including the submission of a written report to the [Bureau's] Director of Adjudication together with recommendations.

* * * * *

§ 131.56a. Withdrawal of appearance.

(a) An attorney may withdraw his appearance without leave if another attorney has previously entered or is simultaneously entering an appearance on behalf of the party.

(b) Leave to withdraw an appearance shall be sought by written request to the adjudicating judge. An attorney may not withdraw representation until the adjudicating judge grants the request.

(c) In requesting a withdrawal of appearance, the attorney shall:

(1) Verify whether any party has any objection to the withdrawal request.

(2) Serve notice of the request to withdraw on his or her own client, all unrepresented parties and counsel of record for all represented parties.

(3) File a proof of service as provided in § 131.11(d) (relating to filing, service and proof of service).

(d) Except for withdrawals of appearance under subsection (a), the adjudicating judge shall, after conducting a hearing on any objection, or on the adjudicating judge's own motion, issue an interlocutory order granting the request unless the adjudicating judge determines that there will be prejudice to the parties or to the proceedings.

(e) Upon withdrawal of appearance, in the event of a fee dispute, the adjudicating judge shall have the authority to determine entitlement to receipt of counsel fees and costs, whether under sections 440 or 442 of the act (77 P. S. §§ 996 and 998), so long as the fee agreement or petition has been filed before discharge or withdrawal of counsel.

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 31.5, 33.32—33.37, 35.1, 35.2, 35.121—35.128, 35.225 and 35.226.

§ 131.57. Compromise and release agreements.

* * * * *

(d) The judge will expedite the convening of a hearing on the compromise and release agreement. The judge will circulate a written decision on the proposed compromise and release agreement within 30 days after the hearing. This subsection does not apply if a resolution hearing has been requested in accordance with § 131.60 (relating to resolution hearings).

* * * * *

§ 131.59. Alternative dispute resolution.

(a) Mandatory mediation and other forms of alternative dispute resolution may be utilized by the parties under this chapter and will not be limited in purpose to achieving a compromise settlement (compromise and release agreement), but may have as a goal conventional adjustment of the claim, the narrowing of issues by means of stipulation for decision by the adjudicating judge or other amicable resolution.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.21—31.23, 33.42, 35.41, 35.48—35.51, 35.111—35.116 and 35.155.

§ 131.59a. Voluntary settlement conferences.

(a) Nothing in this chapter precludes the parties from participating in a voluntary settlement conference, subject to 42 Pa.C.S. § 5949 (relating to confidential mediation communications and documents).

(b) If all parties and the adjudicating judge agree, the adjudicating judge may conduct the voluntary settlement conference and may subsequently participate in a decision on the merits of the petition or petitions if they are not resolved amicably.

(c) Subsections (a)—(b) supersede 1 Pa. Code §§ 31.21—31.23, 33.42, 35.41, 35.48—35.51 and 35.111—35.116 and also supersede 1 Pa. Code Chapter 35, Subchapter E (relating to presiding officers).

§ 131.59b. Mandatory mediation.

(a) A mandatory mediation will not be assigned to an adjudicating judge. Petitions not resolved by mediation will proceed before the adjudicating judge as if mediation had not occurred. The mediating judge will not participate in any decision on the merits of the petition or petitions. This subsection cannot be waived or modified, as otherwise provided in § 131.3 (relating to waiver and modification of rules).

(b) Mandatory mediation activities conducted by mediating judges shall be subject to 42 Pa.C.S. § 5949 (relating to confidential mediation communications and documents) except that:

(1) The definition of “mediation” in section 401 of the act (77 P. S. § 701) shall be applicable.

(2) Communications, conduct or documents are not confidential if relevant to establish that a party or counsel failed to do one of the following:

(i) Appear for a mediation without prior approval of the mediating judge.

(ii) Attend a mediation in person or by teleconference, as required by the mediating judge.

(iii) Have requisite authority to accept, modify or reject settlement proposals offered at the mediation, whether at the mediation, or within a reasonable period of time after the mediation as established by the mediating judge.

(c) The adjudicating judge shall possess authority to impose sanctions for the failure of the parties to comply with the mediation provisions of sections 401 and 401.1 of the act (77 P. S. §§ 701 and 710) and may consider section 435(b) and (d) of the act (77 P. S. § 991(b) and (d)), as well as circumstances and

sanctions set forth in section 131.13(j) and (m) (relating to continuances and postponements of hearings).

(d) Nothing in this chapter precludes the parties from participating in a voluntary settlement conference, subject to 42 Pa.C.S. § 5949 (relating to confidential mediation communications and documents).

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 31.21—31.23, 33.42, 35.41, 35.48—35.51 and 35.111—35.116 and also supersede 1 Pa. Code Chapter 35, Subchapter E (relating to presiding officers).

§ 131.60. Resolution hearings.

(a) A resolution hearing must be requested in writing.

(b) Counsel for either party, or any unrepresented party, may request a resolution hearing at any time after all parties are prepared to proceed within the time limits prescribed by the act and this rule for resolution hearings.

(c) If a petition is pending before a judge, the request for a resolution hearing must be directed to the assigned judge.

(d) If a petition is not pending before a judge, the request for a resolution hearing must be directed to the Judge Manager for the judge's office serving the county of the claimant's residence. If the claimant resides outside of this Commonwealth, the request must be directed to the Judge Manager for the judge's office most proximate to the claimant's residence. The Judge Manager will assign a judge to conduct the resolution hearing.

(e) The assigned judge's office will schedule the resolution hearing within 14 business days of receiving the request for a resolution hearing.

(f) The Judge Manager may reassign any case from one judge to another to ensure compliance with the resolution hearing requirements of sections 401 and 401.1 of the act (77 P. S. §§ 701 and 710). The Judge Manager will notify both judges of the reassignment.

(g) The judge conducting the resolution hearing will require proof that a petition has been filed with the Bureau, and will make the proof a part of the record. Upon receiving the proof, the judge will proceed with the hearing and circulate a final decision within 5 business days of the hearing.

(h) The assigned judge need not comply with the procedures in this rule if any party is unable to proceed within the time limits established by the act for resolution hearings.

(i) Subsections (a)—(h) supersede 1 Pa. Code §§ 31.5, 31.13—31.15, 31.21—31.23, 33.42, 35.41, 35.48—35.51, 35.111—35.116, 35.155, 35.185—35.190, 35.201—35.207, 35.211—35.214, 35.225, 35.226, 35.231—35.233 and 35.241.

**EXCHANGE OF INFORMATION AND
DEPOSITIONS AND DISCOVERY**

§ 131.66. Admissibility of oral depositions.

* * * * *

(b) Objections shall be made and the basis for the objections stated at the time of the taking of the depositions. Only objections which are identified in a separate writing, introduced prior to the close of the evidentiary

record, as close of the record is specified in § 131.101(c)—(e) (relating to briefs, findings of fact and close of record), and stating the specific nature of the objections and the pages where they appear in the deposition **or the exhibits to which they refer** will be preserved for ruling. Objections not so preserved are waived.

* * * * *

DECISIONS

§ 131.111. Decisions of judges.

* * * * *

(c) **In any petition which may result in the payment of a monetary award subject to 23 Pa.C.S. § 4308.1 (relating to collection of overdue support from monetary awards), a decision will not be issued until the claimant provides to the judge a written statement signed by the claimant and made subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), including:**

- (1) **The claimant’s full name, mailing address, date of birth and Social Security number.**
- (2) **Whether there is an outstanding child support order against the claimant, and if so, whether payments are current or in arrears.**
- (3) **Written documentation of arrears from the Pennsylvania Child Support Enforcement System website, or, if no arrears exist, written documentation from the web site indicating no arrears.**

[(c)] (d) Subsections (a) **[and (b)]**—(c) supersede 1 Pa. Code §§ 31.13, 31.14, 35.190, 35.201—35.207, 35.225, 25.226 and 35.241.

[Pa.B. Doc. No. 08-1626. Filed for public inspection September 5, 2008, 9:00 a.m.]

FISH AND BOAT COMMISSION

**[58 PA. CODE CHS. 51 AND 101]
General Provisions; Boating**

The Fish and Boat Commission (Commission) proposes to amend Chapters 51 and 101 (relating to administrative provisions; and boating accidents). 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 Jason E. Oyler, 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 amendment of § 51.9 (relating to release of documents and records) is published under the statutory authority of section 504 of the Right-to-Know Law (65 P.S. § 67.504) and section 506 of The Administrative Code 1929 (71 P.S. § 186). The proposed rulemaking to

§ 101.6 (relating to investigation reports by commission officers) is published under the statutory authority of section 506 of The Administrative Code of 1929.

D. Purpose and Background

The proposed rulemaking is designed to update the Commission’s regulations to be consistent with the new Right-to-Know Law and to consolidate its regulations relating to records. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

Act 3 of 2008 has substantially changed the current Right-to-Know Law. Under the new law, which will apply to requests received after January 1, 2009, an agency may promulgate regulations and policies necessary for the agency to implement the statute. Section 51.9 of the Commission’s regulations currently provides for the release of Commission documents and records. However, this section must be amended to be consistent with the provisions of the new Right-to-Know Law.

The changes to § 51.9 that are necessitated by Act 3 of 2008 include allowing requests for records to come by means of electronic mail and changing the recipient of the request from the Executive Director to the Director of the Bureau of Administration, who will act as the Commission’s Open Records Officer under the new Right-to-Know Law. Act 3 of 2008 provides that most fees charged under the Right-to-Know Law for reproduction of records will now be set for all Commonwealth agencies by the newly created Office of Open Records.

In addition to and separate from the Right-to-Know Law requests, the Commission receives requests for documents through subpoenas. Section 101.6(d) of the Commission’s regulations provides for a 50¢ per page reproduction fee for responses to subpoena requests for investigative reports by Commission officers. The Commission receives subpoenas for a number of documents other than investigative reports. Accordingly, the Commission proposes to add new subsection (d) to § 51.9 to cover reproduction costs for all subpoena requests and to remove that provision from § 101.6.

The Commission proposes that §§ 51.9 and 101.6 be amended to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements because the Commission is currently required to respond to Right-to-Know Law requests and subpoenas.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. With one exception, the proposed rulemaking will impose no new costs on the private sector or the general public as the Commission currently has a reproduction fee for both Right-to-Know Law requests and subpoena requests. With respect to requests for records made by subpoena, the proposed rulemaking imposes a \$1 per page charge for color copies and a \$1 per document charge on electronic media plus \$2 per diskette or compact disc, and a charge of \$1 per page up to \$5 per document for certified copies of documents. The impact of these proposed charges will be nominal.

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-206. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

§ 51.9. Release of documents and records.

(a) Consistent with [**the act of June 21, 1957 (P. L. 390, No. 212), as amended by the act of June 29, 2002 (P. L. 663, No. 100) and commonly**] the Right-to-Know Law (65 P. S. §§ [**66.1—66.9**] **67.101—67.3104**), and [**section**] **sections 324 and 5503** of the code (relating to Commission records; and **accident reports**), the Commission will make public records contained in its files available to requesters for inspection and duplication during the Commission's regular business hours of 8 a.m. to 4 p.m., Monday through Friday (excluding Commonwealth holidays).

(b) Requests for release of public records contained in Commission files [**shall**] **must** be made in writing and submitted to: [**Executive Director**] **Director, Bureau of Administration**, Pennsylvania Fish and Boat Commission, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000. Written requests for release of public records may be sent by mail or by means of facsimile **or by e-mail**, or they may be delivered in person during the Commission's regular business hours. The Commission will not accept anonymous[,] **or oral** [**or e-mail**] requests.

(c) [**If a photocopier or reproduction device under the control of the Commission is used to duplicate information released under this section, the**] **The** requester will be charged [**25¢ per letter or legal size page for the copies**] **the fee prescribed by the Office of Open Records for the reproduction and release of documents on paper or in electronic media. [If the Commission copies oversize pages (in excess of legal size), the charge will be \$1 per page or the actual cost of duplication, whichever is greater. If the Commission copies documents to electronic media (such as, computer diskette), the requester will be charged \$1 per document copied (if 1 megabyte or less in size) plus \$2 per diskette. For electronic documents of more than 1 megabyte**

in size, the requester will be charged \$3 per document plus \$10 or the cost of the media on which the document is stored, whichever is greater.] The Commission will charge \$1 per page up to \$5 per document for certified copies. If the Commission mails copies of documents duplicated under this section to the requester, the requester will be charged the actual cost of postage or shipping. All charges shall be payable by check or money order made payable to "Pennsylvania Fish and Boat Commission." The Commission may require a requester to prepay fees if the fees are expected to exceed \$100. The Commission may waive copy charges and mailing charges for good cause or in the public interest. [**When the total copying and mailing charges for a request are \$10 or less, the Commission ordinarily will waive collection.]**

(d) Requests for records made by subpoena, in addition to collection of subpoena fees, are subject to a reproduction charge of \$0.50 per page for black and white copies and \$1 per page for color copies. Copies provided on electronic media will be charge at \$1 per document, plus \$2 per diskette or compact disc. The Commission will charge \$1 per page up to \$5 per document for certified copies requested under a subpoena.

Subpart C. BOATING

CHAPTER 101. BOATING ACCIDENTS

§ 101.6. Investigation reports by Commission officers.

* * * * *

[**(d) The Commission may, in addition to collection of subpoena fees, charge a reproduction fee of 50¢ per page.]**

[Pa.B. Doc. No. 08-1627. Filed for public inspection September 5, 2008, 9:00 a.m.]

[58 PA. CODE CHS. 63, 69, 71 AND 73]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 63, 69, 71 and 73. 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 additions of §§ 63.51 and 73.4 (relating to sale of VHS-susceptible species of fish; and transportation and importation of VHS-susceptible species of fish) are published under the statutory authority of section 2102(c) of the code (relating to rules and regulations). The proposed additions of §§ 63.52 and 71.8 (relating to eggs from VHS-susceptible species of fish; and introduction of VHS-susceptible species of fish) are published under the

statutory authority of section 2102(a) of the code. The proposed amendments to § 69.3 (relating to transportation of VHS-susceptible fish out of the Lake Erie Watershed) are published under the statutory authority of section 2102(a) and (c) of the code.

D. Purpose and Background

Viral hemorrhagic septicemia (VHS) is an infectious disease found in a variety of fish species. To help prevent the spread of the disease, several agencies with jurisdiction, including the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), the Commission and the Department of Agriculture (PDA), have taken action.

On October 24, 2006, APHIS issued an emergency order prohibiting the importation of certain live fish species from the Canadian provinces of Ontario and Quebec into the United States. In addition, export of live fish of 37 VHS-susceptible species was prohibited from the eight Great Lake boundary states: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin. On November 14, 2006, APHIS issued an amended order that allowed restricted movement under requirements for testing and certification that fish are VHS-free. On May 4, 2007, APHIS further amended the order to allow for catch and release fishing activities. Most recently APHIS amended its order on April 2, 2008, to allow VHS-susceptible species of live nonsalmonid fish from affected Canadian provinces to be imported into the United States for direct slaughter under an APHIS-issued permit. The APHIS order applies to live fish only. It does not address eggs.

Last year, the Commission adopted a new regulation in § 69.3. This new regulation, which went into effect on January 1, 2008, applies to live or dead fish (and their parts but not eggs) and makes it unlawful to transport or cause the transportation of VHS-susceptible fish out of this Commonwealth's portion of the Lake Erie watershed into other watersheds in this Commonwealth except when certain conditions are met. Those conditions are: (1) the fish are being transported to a disease testing facility and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish 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; (2) the fish are from a group of fish certified as having tested negative for VHS in accordance with the testing protocols adopted by Department of Agriculture (PDA) and approved by the Commission; (3) the fish are from an artificial propagation facility certified as having tested negative for VHS in accordance with testing protocols; (4) the fish are being transported to a slaughter facility, processing plant or restaurant and the fish 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 slaughter, processing or consumption; or (5) the fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption. The regulation further provides that for purposes of the section, species of fish that are susceptible to VHS are those species that the Commission has defined as such by notice published in the *Pennsylvania Bulletin*. On two occasions, the Commission has published notices defining VHS-susceptible species of fish. See 37 Pa.B. 6478 (December 8, 2007) and 38 Pa.B. 2425 (May 24, 2008). Although the Commission's regulation addressed the intraState movement of VHS-susceptible species of fish, it did not address interstate movement.

The PDA, which has broad jurisdiction under 3 Pa.C.S. Chapter 23 (relating to Domestic Animal Law) and more limited jurisdiction under 3 Pa.C.S. Chapter 42 (relating to Aquaculture Development Law), issued a quarantine order at 37 Pa.B. 5534 (October 13, 2007). The quarantine order addressed both intrastate and interstate movement of VHS-susceptible species of fish, and its provisions dealing with intrastate movement are consistent with the Commission's regulation at § 69.3. The order, like § 69.3, applies to live or dead fish and their parts, but it does not apply to eggs. The PDA later amended its order at 37 Pa.B. 6428 (December 8, 2007), to revise its definition of VHS-susceptible species to track APHIS's thinking on the subject. See also 38 Pa.B. 4787 (August 30, 2008).

Commission staff have met on numerous occasions with PDA staff in an effort to develop a coordinated approach for dealing with VHS, and there has been good cooperation between the agencies. Although the PDA order addresses interstate movement of VHS-susceptible species of fish, the Commission's officers cannot enforce it. Therefore, the Commission proposes new regulations, which will be fully enforceable by our officers, that will address the sale, introduction and transportation of VHS-susceptible species of fish from VHS-affected or at risk states or regions. The proposed regulations also address eggs taken from VHS-susceptible species of fish from VHS-affected or at risk states or regions and the Lake Erie Watershed.

By notice published at 38 Pa.B. 3338 (June 14, 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 sell, introduce, transport or import VHS-susceptible species of fish, dead or alive, and the parts thereof into this Commonwealth from VHS-affected or at risk states, including Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin, and VHS-affected or at risk regions, including the Canadian provinces of Ontario and Quebec, unless certain conditions are met. These temporary modifications went into effect immediately and will remain in effect until January 1, 2009, unless the Commission, by appropriate action, adopts the new regulations.

By second notice published at 38 Pa.B. 3876 (July 12, 2008), the Executive Director, acting under the authority of § 65.25, took immediate action to make it unlawful to possess and use as bait unpreserved, refrigerated or frozen eggs taken from VHS-susceptible species of fish from a VHS-affected or VHS-at risk state or region in or along the waters of this Commonwealth except within the Lake Erie Watershed. The Executive Director also took immediate action to make it unlawful to possess and use eggs from VHS-susceptible species of fish from the Lake Erie Watershed as bait in other watersheds of this Commonwealth. This action represents a change to § 69.3, which previously allowed for the possession and use as bait of eggs from VHS-susceptible species of fish from the Lake Erie Watershed in other watersheds of this Commonwealth provided the fish were from a group of fish certified as having tested negative for VHS or were from an artificial propagation facility certified as having tested negative for VHS. These temporary modifications went into effect immediately and will remain in effect until January 1, 2009, unless the Commission, by appropriate action, adopts the new regulations.

E. Summary of Proposal

The Commission proposes new regulations that will address the sale, introduction and transportation of VHS-susceptible species of fish from VHS-affected or at risk

states or regions. The proposed regulations are consistent with the approach taken by the PDA and the APHIS in their orders.

The Commission also proposes a new regulation to address the possession and use as bait of eggs taken from VHS-susceptible species of fish from VHS-affected or at risk states or regions and the Lake Erie Watershed. In addition, the Commission proposes amendments to § 69.3 to further define VHS-susceptible species of fish for purposes of the section, to include provisions regarding their introduction and sale outside the Lake Erie Watershed and to address the possession and use as bait of eggs from VHS-susceptible species of fish from the Lake Erie watershed outside the watershed. The proposed provision dealing with eggs is consistent with the proposed new regulation on egg collection, which is intended to address egg collection on a Statewide basis and is the subject of a separate notice of proposed rulemaking. The Commission proposes the new regulations and amendments to read as set forth at Annex A.

F. Paperwork

The proposed amendments will increase paperwork and will create new paperwork requirements in that persons selling and transporting VHS-susceptible species of fish from VHS-affected or at risk states and regions must have in their possession fish health certification reports. Persons who transport VHS-susceptible species from an affected or at risk state through the Commonwealth must carry documentation stating the point of origin of the fish and the location outside of this Commonwealth to which they are to be delivered. Persons transporting these fish to facilities in this Commonwealth for testing and scientific purposes or to a slaughter facility, processing plant or restaurant in this Commonwealth must carry documentation stating the point of origin of the fish and the destination to which they are to be delivered. Many of these requirements are already in place under the APHIS and the PDA orders.

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 general public. The proposed amendments will impose new costs on the private sector in that prior to selling, introducing or transporting into this Commonwealth VHS-susceptible species of fish from VHS-affected or at risk states and regions, the fish or the artificial propagation facility where the fish are raised will have to be tested and certified as negative for VHS in accordance with approved protocols. Many of these requirements are already in place under the APHIS and the PDA orders.

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-204. 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

(Editor's Note: The text of §§ 63.51 and 63.52 is new. It has been printed in regular type.)

§ 63.51. Sale of VHS-susceptible species of fish.

(a) For purposes of this section, the following terms have the following meanings:

(1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.

(i) The term "VHS-susceptible species" includes fish that are dead or alive, preserved or unpreserved, and the parts thereof.

(ii) The term "VHS-susceptible species" does not include the eggs of these species.

(2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(b) It is unlawful to sell VHS-susceptible species of fish from the portion of the Lake Erie Watershed in this Commonwealth in other watersheds of this Commonwealth except in accordance with § 69.3(e) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie Watershed).

(c) It is unlawful to sell in this Commonwealth VHS-susceptible species of fish from a VHS-affected or VHS-at risk state, unless the following conditions are met:

(1) The sale meets the requirements of 30 Pa.C.S. § 2507 (relating to sale of certain fish, reptiles and amphibians prohibited).

(2) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department of Agriculture and approved by the Commission. Persons selling these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, either a copy of the fish health certification reports for all VHS-susceptible fish kept at the place of sale or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility certified as having tested negative for VHS.

(d) It is unlawful to sell in this Commonwealth VHS-susceptible species of fish from a VHS-affected or VHS-at risk region, unless the fish meet the requirements of § 73.4(d)(1) and (2) (relating to transportation and importation of VHS-susceptible species of fish).

§ 63.52. Eggs from VHS-susceptible species of fish.

(a) For purposes of this section, the following terms have the following meanings:

(1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.

(2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(b) It is unlawful to possess and use as bait unpreserved, refrigerated or frozen eggs taken from VHS-susceptible species of fish from a VHS-affected or VHS-at risk state or region in or along the waters of this Commonwealth except within the Lake Erie Watershed.

(c) It is unlawful to possess and use as bait eggs taken from VHS-susceptible species of fish from the portion of the Lake Erie Watershed in this Commonwealth in other watersheds of this Commonwealth.

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

§ 69.3. Transportation, **introduction and sale** of VHS-susceptible **species of fish** out of the Lake Erie watershed.

(a) For purposes of this section, species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that **the Animal and Plant Health Inspection Service of the United States Department of Agriculture designates by order or the Commission [has defined as such] defines** by notice published in the *Pennsylvania Bulletin*.

(1) The term “VHS-susceptible species” includes fish that are dead or alive, preserved or unpreserved, and the parts thereof.

(2) “VHS-susceptible species” does not include the eggs of these species.

* * * * *

(c) It is unlawful to **possess and use** VHS-susceptible species of fish **[, parts thereof or their eggs taken]** from the Lake Erie watershed as **[fishbait] bait** in **other watersheds of this Commonwealth [waters outside the Lake Erie watershed]** except when the fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS **in accordance with the testing protocols adopted by the Department and approved by the Commission. It is unlawful to possess and use eggs from VHS-**

susceptible species of fish from the Lake Erie watershed as bait in other watersheds of this Commonwealth.

(d) It is unlawful to introduce VHS-susceptible species of fish from the Lake Erie watershed into other watersheds of this Commonwealth except when the fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission

(e) It is unlawful to sell VHS-susceptible species of fish from the Lake Erie watershed in other watersheds of this Commonwealth unless the following conditions are met:

(1) The sale meets the requirements of 30 Pa.C.S. § 2507 (relating to sale of certain fish, reptiles and amphibians prohibited).

(2) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission. Persons selling these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, either a copy of the fish health certification reports for all VHS- susceptible fish kept at the place of sale or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility certified as having tested negative for VHS.

CHAPTER 71. PROPAGATION AND INTRODUCTION OF FISH INTO COMMONWEALTH WATERS

(Editor’s Note: The text of §§ 71.8 and 73.4 is new. It has been printed in regular type.)

§ 71.8. Introduction of VHS-susceptible species of fish.

(a) For purposes of this section, the following terms have the following meanings:

(1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.

(i) The term “VHS-susceptible species” include fish that are dead or alive, preserved or unpreserved, and the parts thereof.

(ii) The term “VHS-susceptible species” does not include the eggs of these species.

(2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(b) It is unlawful to introduce VHS-susceptible species of fish from the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth except in accordance with § 69.3(d) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).

(c) It is unlawful to introduce into the waters of this Commonwealth VHS-susceptible species of fish from an affected or at-risk state unless the fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department of Agriculture and approved by the Commission.

(d) It is unlawful to introduce into the waters of this Commonwealth VHS-susceptible species of fish from an affected or at-risk region unless the fish meet the requirements of § 73.4(d)(1) and (2) (relating to transportation and importation of VHS-susceptible species of fish).

CHAPTER 73. TRANSPORTATION OF [LIVE] FISH INTO THIS COMMONWEALTH

§ 73.4. Transportation and importation of VHS-susceptible species of fish.

(a) *Definitions.* For purposes of this section, the following terms have the following meanings:

(1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.

(i) The term "VHS-susceptible species" includes fish that are dead or alive, preserved or unpreserved, and the parts thereof.

(ii) The term "VHS-susceptible species" does not include the eggs of these species.

(2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(b) *IntraState transportation.* It is unlawful to transport or cause the transportation of VHS-susceptible species of fish out of the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth except in accordance with § 69.3(b) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).

(c) *InterState transportation.* It is unlawful to transport or cause the transportation of VHS-susceptible species of

fish into this Commonwealth from a VHS-affected or VHS-at risk state, except when one of the following conditions is met:

(1) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department of Agriculture (Department) and approved by the Commission. Persons transporting these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification reports for all VHS-susceptible fish being transported or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for VHS.

(2) The fish are being transported through this Commonwealth and the shipping container (tank, trailer, holding vessel or other container) remains biosecure in transit and the fish 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.

(3) The fish are being transported to facilities located within this Commonwealth for testing and scientific purposes and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish 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 or scientific purposes.

(4) The fish are being transported to a slaughter facility, processing plant or restaurant within this Commonwealth and the fish 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 slaughter, processing or consumption.

(5) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption.

(d) *International movement.* It is unlawful to import or cause the importation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected or VHS-at risk region, except as follows:

(1) VHS-susceptible species of live salmonid fish may be imported into the United States if the shipment meets the requirements set forth in 50 CFR 16.13(a)(3) and (b) (relating to importation of live or dead fish, mollusks, and crustaceans or their eggs).

(2) VHS-susceptible species of live nonsalmonid fish may be imported into the United States for direct slaughter under an APHIS-issued permit.

(3) VHS-susceptible species of dead fish may be imported into the United States if the fish are recreationally caught and are for human consumption.

[Pa.B. Doc. No. 08-1628. Filed for public inspection September 5, 2008, 9:00 a.m.]

STATEMENTS OF POLICY

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 123]

Community Revitalization Program; Statement of Policy

The Department of Community and Economic Development (Department) amends Chapter 123 (relating to community revitalization program—statement of policy) as set forth in Annex A. The statement of policy is amended under the authority of section 1719-H(A)(1) of the act of July 4, 2008 (P. L. ____, No. 53), known as the Fiscal Code.

Background

Section 1719-H(A)(1) of the Fiscal Code requires the Department to publish Community Revitalization Program (CRP) guidelines in the *Pennsylvania Bulletin* prior to the spending of moneys designated for the CRP. This amended statement of policy updates the existing CRP guidelines published in 2007.

The program provides grants to eligible organizations consistent with the provisions of Act 38A of 2008, which allocates money for grants for community revitalization and improvement projects which in the judgment of the Department will improve the stability of the community; promote economic development; improve existing and develop new civic, cultural, recreational, industrial and other facilities; assist in business retention, expansion, stimulation and attraction; promote the creation of jobs and employment opportunities; or enhance the health, welfare and quality of life of the citizens of this Commonwealth.

Amendments

Section 123.1 (relating to introduction) is amended to update the reference to the Appropriation Act, to the current fiscal year and to make nonsubstantive grammatical changes.

Section 123.3 (relating to eligibility) is amended to update the reference to the Appropriation Act and to the current fiscal year and to make nonsubstantive grammatical changes.

Section 123.4 (relating to program requirements and instructions) is amended to update the application submission deadline, to add language requiring a detailed scope of services for any consulting, legal or accounting fees included in the applicant's project budget and to make nonsubstantive grammatical changes.

Section 123.5 (relating to application submission and approval procedure) is amended to update the reference to the current fiscal year, the grant award cycles and the proposed award dates.

Sections 123.6 and 123.7 (relating to procedures; limitations and penalties) is amended to inform grantees that payment of grant funds will be made electronically by

means of an Automated Clearing House and to make nonsubstantive grammatical changes.

Section 123.9 (relating to vendor registration) is amended to update the procedure to vendor registration procedures and to make nonsubstantive grammatical changes.

Fiscal Impact

The amended statement of policy has no fiscal impact on the Commonwealth, political subdivisions or the public.

Paperwork Requirements

Additional paperwork requirements are not imposed as a result of the amended statement of policy.

Contact Person

For further information regarding the amended statement of policy, contact Jill Busch, Deputy Chief Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, Fourth Floor, Harrisburg, PA 17120-0225, (717) 783-8452.

Findings and Orders

The Department finds that:

Delay in implementing the statement of policy will have a serious adverse impact on the public interest.

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

(1) The statement of policy of the Department, 12 Pa. Code Chapter 123, is amended by amending §§ 123.1, 123.3—123.7 and 123.9 to read as set forth in Annex A.

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

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

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

DENNIS YABLONSKY,
Secretary

Fiscal Note: 4-90. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

CHAPTER 123. COMMUNITY REVITALIZATION PROGRAM— STATEMENT OF POLICY

§ 123.1. Introduction.

(a) The CRP provides grants for community revitalization and improvement projects throughout this Commonwealth. CRP funds may be used for projects consistent with Act 38A of 2008. Eligible projects are defined in § 123.3(b) (relating to eligibility).

(b) Assistance from the CRP is in the form of grants from the Commonwealth to eligible applicants for projects

which, in the judgment of the Department, comply with Act 38A of 2008, are in accordance with the program guidelines in this chapter and meet the requirements of the Department's Single Application for Assistance.

(c) Applications under CRP may also be considered by the Department for other programs administered by the Department.

(d) Care in preparation of the application will assist the Department in the approval process.

§ 123.3. Eligibility.

(a) *Eligible applicants.* The following are eligible for CRP grants:

(1) Local governments, including, but not limited to, counties, cities, boroughs, townships and home rule municipalities.

(2) Municipal and redevelopment authorities and agencies.

(3) Industrial development authorities and agencies.

(4) Nonprofit organizations incorporated under the laws of the Commonwealth.

(5) Community organizations engaged in activities consistent with the program guidelines as determined by the Department.

(b) *Eligibility of projects.* CRP funds may be used for community revitalization and improvement projects consistent with Act 38A of 2008.

(1) Eligible projects must meet one or more of the following criteria:

(i) Improve the stability of the community.

(ii) Promote economic development, community development or both.

(iii) Improve existing or develop new, or both, civic, cultural, recreational, industrial and other facilities or activities.

(iv) Assist in business retention, expansion, creation or attraction.

(v) Promote the creation of jobs and employment opportunities.

(vi) Enhance the health, welfare and quality of life of citizens of this Commonwealth.

(2) Projects for the sole benefit of a for-profit entity are not eligible for program funding.

(3) Grants may not be used to fund revolving loan programs.

(4) Repayment of debt not incurred as the direct result of the project is an ineligible use. Indebtedness incurred prior to July 1 of the fiscal year in which the grant is approved will be presumed to not be indebtedness incurred as the direct result of the project and therefore will be an ineligible use.

(c) *Conditions on certain applicants.*

(1) *Private clubs and organizations (Rotary, Elks and the like).* The following conditions apply:

(i) A private club or organization must be a not-for-profit organization.

(ii) A private club or organization may not discriminate on the basis of race, creed, color, place of national origin or sexual preference in accepting members or selecting

participants, but may establish appropriate qualifications for program participation and benefits such as age or income level.

(iii) A private club or organization may apply for grant funds for the following projects:

(A) Equipment, supplies, food and other operational expenses for use in community activities such as parades, tournaments and the like.

(B) Program expenses for community service programs, including parades, tournaments, educational, social and cultural projects, and the like.

(C) Erection and maintenance of public memorials in public places.

(D) Construction or renovations, or both, to a club facility, provided the private club or organization can demonstrate that one of the following applies:

(I) A significant number of community events are held at its facility and these events are open to the public with no entry fee or with a nominal fee.

(II) Its facility is made available to community groups for their programs free of charge or at a discounted rate.

(2) *Religious organizations (churches, schools and the like).* The following conditions apply:

(i) Funds may not be used for religious purposes, including religious observances, or for tuition, scholarships or other financial assistance to or administrative expenses of parochial schools including charter schools that advance religious education, except as otherwise permitted in this section.

(ii) A religious organization may apply for grant funds for the following projects:

(A) Equipment, supplies (for example, playground and sports equipment, supplies or other consumables) and community outreach programs with no religious component.

(B) Construction or renovations to a facility owned or leased by a religious organization provided the facility is to be used exclusively for nonreligious activities for the "useful life" of the construction or renovations.

(C) Capital improvements to the exterior of church-owned buildings provided the buildings have been determined eligible for listing or are already listed in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C.A. §§ 470—470x-6).

(3) *Fiduciary organizations.* An applicant is a fiduciary organization if all or a portion of the requested funds are to be used by any organization other than the applicant. In these cases, the following conditions apply:

(i) The fiduciary organization shall demonstrate that it and proposed subgrantees are eligible applicants.

(ii) The fiduciary organization shall provide a grant narrative and budget covering funds to be expended by the fiduciary organization and all subgrantees. Alternatively, the fiduciary organization may provide in its narrative and budget the guidelines, uses and budgets under which subgrants will be made and utilized.

(iii) Subgrantees and projects to be undertaken by subgrantees must be eligible under the guidelines contained in this chapter.

(iv) For subgrants of \$5,000 or more, prior to disbursing grant funds to subgrantees, the fiduciary organization shall provide the Department with copies of all written

subgrant agreements, as well as proof of the subgrantees' eligibility under the guidelines contained in this chapter.

(v) A fiduciary organization shall submit to the Department a closeout report or, if the grant amount exceeds \$100,000, an audit for all grant funds expended by the grantee and each subgrantee. Failure to do so will make the fiduciary organization and any subgrantee not providing required documentation of expenditures ineligible for further financial assistance from the Department. A subgrantee may submit its own closeout or audit report to avoid ineligibility.

(vi) A fiduciary organization is responsible for ensuring that grant funds are used by subgrantees for eligible purposes in accordance with the approved budget. Fiduciary organizations may not receive administrative or management fees from subgrant funds.

(vii) A fiduciary organization shall establish and utilize guidelines that evaluate a subgrantee's eligibility for financial assistance. The guidelines must include, at a minimum, the following:

(A) The subgrantees benefit demographics. (for example, age group, special needs or economic status).

(B) The subgrantees credit history, including financial statements and tax returns, if available.

(C) The subgrantees' program goals.

(D) A budget outlining the use of the grant funds and the sources of any additional funding utilized by the subgrantee.

(viii) An organization that has chapters, offices or other entities that operate under the general direction of the parent organization (for example, Boys and Girls Clubs, YMCA's and Special Olympics) will not be considered a "fiduciary organization" and may submit a single comprehensive program and budget narrative and closeout report or audit.

(ix) The Office of Chief Counsel of the Department will make final determination of an organization's eligibility and capacity to serve as a fiduciary organization under this section.

§ 123.4. Program requirements and instructions.

The following requirements apply to CRP:

(1) Project applications shall be submitted using the Department's Electronic Single Application for Assistance by means of www.NewPa.com/programFinder.aspx or www.NewPa.com. Paper applications are no longer acceptable. Electronic applications will be accepted throughout the fiscal year up to the March 20, 2009, submission deadline, subject to § 123.5 (relating to application submission and approval procedure).

(2) The Department reserves the right to request additional information, explanation, clarification or revision of funding requests.

(3) Incomplete applications may be rejected. An applicant shall follow the detailed instructions for completing the Department's Single Application for Assistance. The narrative must include:

(i) A description of the applicant, including a general purpose or mission statement.

(ii) Identification of the need for CRP assistance and the applicant's project goals.

(iii) Identification of the measurable outcomes, including jobs created or retained, number of people trained, land or buildings acquired and renovated, and the like.

(iv) A project schedule with key milestones and dates.

(v) Documentation to support projected budget costs. A detailed scope of services must be submitted with the application for any consulting, legal or accounting fees included in the project budget.

(vi) Documentation of matching dollars, such as commitment letters, receipts, and the like.

(vii) A religious disclaimer assuring that the grant funds will not be used for religious purposes.

§ 123.5. Application submission and approval procedure.

(a) The application is available at the Department's web site www.newpa.com/programfinder.aspx. Applications will be accepted throughout the fiscal year up to the March 20, 2009, submission deadline. Applications will be subject to § 123.7 (relating to limitations and penalties).

(b) CRP grant awards will be made in three funding rounds during the fiscal year. The Department will grant approximately 33% of the program appropriation in each round.

(c) Grant applications not funded in a particular round will be rolled over to the next round in the same fiscal year.

(d) Application deadlines and tentative announcement dates for each round are as follows.

<i>Funding Round</i>	<i>Application Deadline Date</i>	<i>Target Announcement Date</i>
Round 1	September 19, 2008	November 2008
Round 2	December 19, 2008	February 2009
Round 3	March 20, 2009	May 2009

Targeted grant announcement dates are subject to change without notice at the discretion of the Department.

(e) Any CRP funds remaining after the third round may be awarded by the Department up to the lapsing date of funds for the 2008-2009 fiscal year appropriation.

(f) Letters will not be sent to applicants after each funding round advising applicants that they have not been funded.

(g) Applicants that do not receive funding during any of the three rounds will be notified to reapply during the following fiscal year. Unsuccessful applicants shall submit a new application to be considered for funding the following fiscal year.

(h) Information on the status of submitted grant applications may be obtained from the Department's Customer Service Center. An "assignment of account manager" letter constitutes confirmation of receipt of the application.

§ 123.6. Procedures.

(a) CRP grant award notifications will be issued by letter. The applicant will thereafter receive a contract and a payment requisition form to be signed and returned to the Department for execution.

(b) The applicant will maintain full and accurate records with respect to the project. The Department will have complete access to these records including invoices for goods and services and other relevant data and records, as well as the right to inspect all project work.

The applicant will promptly furnish all data, reports, contracts, documents and other information requested by the Department.

(c) Approved grants in the amount of \$100,000 or more require the grantee to provide an audit of the grant prepared by an independent certified public accountant as defined under Pennsylvania law. See The C.P.A. Law (63 P.S. §§ 9.1—9.16b) and 49 Pa. Code Chapter 11 (relating to State Board of Accounting). The Single Audit performed for Federal audit purposes (A133) will not be accepted.

(d) Grants under \$100,000 require the grantee to submit a closeout report with appropriate supporting documentation identifying expenditures of State funds consistent with the approved contract budget.

(e) Funds will be directly deposited into grantees' bank accounts by means of an Automating Clearing House transfer of funds in accordance with the provisions of the contract between the grantee and the Department.

(f) Applications from organizations that are not compliant with audit or closeout report requirements for other contracts received by them from the Department are ineligible to receive additional financial assistance until the audit or closeout report requirements are met.

§ 123.7. Limitations and penalties.

(a) When a project is funded, the grantee shall place the grant funds in an interest bearing account. Interest earned on the invested grant funds must be returned to the Department.

(b) An applicant may not make or authorize any substantial change to an approved project without first obtaining the Department's consent in writing.

(c) If the full amount of the grant is not required for the project, the unused portion shall be returned to the Department.

(d) Failure to comply with the guidelines contained in this chapter may result in penalties, including repayment of funds with interest.

§ 123.9. Vendor registration.

(a) An applicant shall be registered with the Commonwealth's Vendor Registration System before a grant may be approved. The system tracks information regarding vendors that do business with or receive grant funds from the Commonwealth and assigns a vendor number to the organization. In the event the application is funded, the organization shall be registered in this system before a contract can be issued.

(b) After submission of an application by means of the Department's Electronic Single Application for Assistance, applicant will receive correspondence indicating its vendor registration status. The applicant should review this correspondence and follow the specified instructions.

(c) Questions regarding vendor registration status, should be referred to the Central Vendor Management Unit at the address and phone number in this section. Applicants should have their nine digit Federal Identification Number available when contacting the Central Vendor Management Unit.

Commonwealth of Pennsylvania
Central Vendor Management Unit
Bureau of Financial Management
6th Floor, Verizon Tower,
Strawberry Square
303 Walnut Street
Harrisburg, PA 17101-1830
(866) 775-2868

(d) Applicants who are not registered with the Commonwealth's Vendor Registration System should register at www.vendorregistration.state.pa.us. Applicants should click on the Nonprocurement Registration Form link and follow the instructions provided.

[Pa.B. Doc. No. 08-1629. Filed for public inspection September 5, 2008, 9:00 a.m.]

NOTICES

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 26, 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 at 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>
8-18-2008	Harleysville National Corporation, Harleysville, to acquire 100% of Willow Financial Bancorp, Inc., Wayne, and thereby indirectly acquire Willow Financial Bank, Wayne	Harleysville	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-9-2008	PNC Bank, National Association, Pittsburgh, and Sterling Financial Trust Company, Lancaster Surviving Institution: PNC Bank, National Association, Pittsburgh	Pittsburgh	Effective

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-11-2008	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	Main Avenue and Luzerne Street Scranton Lackawanna County	Opened
8-22-2008	Affinity Bank of Pennsylvania Wyomissing Berks County	4541 Perkiomen Avenue Exeter Berks County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-18-2008	Northwest Savings Bank Warren Warren County	<i>To:</i> 1091 Eichelberger Street Hanover York County <i>From:</i> 1 Center Square Hanover York County	Effective

SAVINGS INSTITUTIONS

Conversions

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
6-16-2008	Slovenian Savings & Loan Association of Franklin-Conemaugh Conemaugh Cambria County	Conemaugh	Effective

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
	Conversion from a State-chartered mutual savings association to a Federally-chartered mutual savings association.		

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. 08-1630. Filed for public inspection September 5, 2008, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Availability of 2008-2009 Career and Technical Education Federal Tech Prep Grants

Applications for Federal Tech Prep grant funds are invited. The project period is October 17, 2008, to June 30, 2009.

Maximum Amounts per Tech Prep Region:

1. *South Central Region*: Adams, Cumberland, Dauphin, Franklin, Lebanon, Perry and York Counties—\$355,864.

2. *Southern Alleghenies Region*: Bedford, Blair, Cambria, Fulton, Huntingdon and Somerset Counties—\$166,245.

3. *Southwest Region*: Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington and Westmoreland Counties—\$409,879.

1. Eligibility Requirements

Funding is available on a competitive basis to career and technical education centers/area vocational-technical schools, school districts and charter schools with the Department of Education (Department) approved programs; postsecondary institutions including proprietary schools and Intermediate Units that offer approved career and technical education programs. Funding preference is granted to an institution within a Tech Prep region/consortium that will ensure the establishment of regional Tech Prep activities to include all partners.

The Department will give consideration to Tech Prep applications that:

- Establish leadership committees to bring direction to implement the "Program of Study" to the region, which will include representation from secondary, post-secondary, business, school administrators, teachers, community and others.

- Assist in the development and implementation of statewide "Programs of Study" by CIP, as recognized by the Department.

- Implement the approved statewide articulation agreement guidelines designed for all Department-approved Career and Technical Education "Programs of Study."

- Facilitate the alignment of academic and technical curriculum between secondary and postsecondary levels that meets academic and industry standards related to an approved "Program of Study."

- Facilitate the alignment of academic and technical curriculum between secondary and postsecondary levels to eliminate the need for remediation at the postsecondary level.

- Assess, plan, develop, organize and implement "Program of Study" activities within the state defined regions, as recognized by the Department.

- Maintain communication with all consortium schools that have Department-approved Career and Technical Education "Programs of Study."

- Assist all consortium schools in the identification and reporting of Tech Prep students within the Department-approved Career and Technical Education "Programs of Study."

2. Application Deadline

Applications are due Monday, October 6, 2008, by 5 p.m.

3. How to apply

The Department has implemented an internet-based E-Grant system that requires eligible applicants to apply for funding online. The grant guidelines will be available on the Department's web site at www.pde.state.pa.us/. On the left side click on: Pre K-12 Schools, Career and Technical Education, Grants and Funding and Funding Sources. This page provides a listing of the various funding guidelines. Click on Federal Tech Prep.

4. Questions Concerning the Grant Application

Questions concerning the grant application should be addressed to Susan Will, Tech Prep Coordinator, Department of Education, Bureau of Career and Technical Education, Professional Development and Support Services, 333 Market Street, 11th Floor, Harrisburg, PA 17126-0333, (717) 346-9735, swill@state.pa.us.

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

[Pa.B. Doc. No. 08-1631. Filed for public inspection September 5, 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

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0038318 (Sew)	Pequea Valley School District 166 South New Holland Road P. O. Box 130 Kinzers, PA 17535	Lancaster County Salisbury Township	Pequea Creek 7-K	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0038326 (Sew)	Pequea Valley School District 166 South New Holland Road P. O. Box 130 Kinzers, PA 17535	Lancaster County Leacock Township	Pequea Creek 7-K	Y
PA0082341 (Sew)	Borough of Hopewell 417 Broad Street P. O. Box 160 Hopewell, PA 16650-1060	Bedford County Hopewell Township	Raystown Branch Juniata River 11-D	Y
Pa0024074 (Sew)	Shoemakersville Municipal Authority 115 East Ninth Street Shoemakersville, PA 19555-1410	Berks County Shoemakersville Borough	Schuylkill River 3-B	Y

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

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

Application No. PA 0081604, Industrial Waste, SIC Code 4953, **Department of Environmental Protection (Adams Sanitation Company, Inc.)**, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. This facility is located at 174 Cranberry Road, Aspers, PA 17304, in Tyrone Township, **Adams County**.

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

The receiving stream, a UNT of Opossum Creek, is in Watershed 7-F, and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Wrightsville Water Supply Company located on the Susquehanna River, approximately 80 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0386 mgd are:

<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>
pH	Monitor and Report	Monitor and Report	6.0		9.0
BOD ₅	Monitor and Report	Monitor and Report	25	50	50
Total Suspended Solids	Monitor and Report	Monitor and Report	27	88	88
NH ₃ -N	Monitor and Report	Monitor and Report	3.22	6.44	6.44
a-Terpineol	Monitor and Report	Monitor and Report	0.019	0.042	0.042
Aniline	Monitor and Report	Monitor and Report	0.015	0.024	0.024
Benzoic Acid	Monitor and Report	Monitor and Report	0.073	0.119	0.119
Naphthalene	Monitor and Report	Monitor and Report	0.022	0.059	0.059
p-Cresol	Monitor and Report	Monitor and Report	0.015	0.024	0.024
Total Phenols	Monitor and Report	Monitor and Report	0.029	0.048	0.048
Pyridine	Monitor and Report	Monitor and Report	0.025	0.072	0.072
Total Arsenic	0.024	0.048	0.075	0.150	0.187
Chromium, VI	0.005	0.010	0.016	0.032	0.040
Total Zinc	0.057	0.115	0.178	0.356	0.445
Total Cobalt	0.009	0.018	0.028	0.056	0.070
Total Copper	0.007	0.014	0.022	0.044	0.055
Cyanide, Free	0.003	0.006	0.008	0.016	0.020

The proposed effluent limits for Outfall 002 based on a design flow of 0.0386 mgd are:

<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>
pH	Monitor and Report	Monitor and Report	6.0		9.0
BOD ₅	Monitor and Report	Monitor and Report	25	50	50
Total Suspended Solids	Monitor and Report	Monitor and Report	27	88	88
NH ₃ -N	Monitor and Report	Monitor and Report	3.22	6.44	6.44
a-Terpineol	Monitor and Report	Monitor and Report	0.019	0.042	0.042
Aniline	Monitor and Report	Monitor and Report	0.015	0.024	0.024
Benzoic Acid	Monitor and Report	Monitor and Report	0.073	0.119	0.119
Naphthalene	Monitor and Report	Monitor and Report	0.022	0.059	0.059
p-Cresol	Monitor and Report	Monitor and Report	0.015	0.024	0.024
Total Phenols	Monitor and Report	Monitor and Report	0.029	0.048	0.048

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Pyridine	Monitor and Report	Monitor and Report	0.025	0.072	0.072
Total Arsenic	0.024	0.048	0.075	0.150	0.187
Chromium, VI	0.005	0.010	0.016	0.032	0.040
Total Zinc	0.057	0.115	0.178	0.356	0.445
Total Cobalt	0.009	0.018	0.028	0.056	0.070
Total Copper	0.007	0.014	0.022	0.044	0.055
Cyanide, Free	0.003	0.006	0.008	0.016	0.020

The proposed effluent limits for the Stormwater Outfalls are:

Parameter	Monitoring Requirements	
	Grab Sample (mg/l)	Monitor Frequency
pH (Standard Units)	Monitor and Report	2/year
BOD ₅	Monitor and Report	2/year
Total Suspended Solids	Monitor and Report	2/year
Ammonia As N	Monitor and Report	2/year
Nitrate - Nitrite	Monitor and Report	2/year
Total Dissolved Solids	Monitor and Report	2/year
Chemical Oxygen Demand	Monitor and Report	2/year
Oil and Grease	Monitor and Report	2/year
Total Barium	Monitor and Report	2/year
Total Cadmium	Monitor and Report	2/year
Total Lead	Monitor and Report	2/year
Total Mercury	Monitor and Report	2/year
Total Magnesium	Monitor and Report	2/year
Total Selenium	Monitor and Report	2/year
Total Silver	Monitor and Report	2/year
Total Iron	Monitor and Report	2/year
a-Terpineol	Monitor and Report	2/year
Aniline	Monitor and Report	2/year
Benzoic Acid	Monitor and Report	2/year
Naphthalene	Monitor and Report	2/year
p-Cresol	Monitor and Report	2/year
Total Phenols	Monitor and Report	2/year
Pyridine	Monitor and Report	2/year
Total Arsenic	Monitor and Report	2/year
Chromium, VI	Monitor and Report	2/year
Total Zinc	Monitor and Report	2/year
Total Cobalt	Monitor and Report	2/year
Total Copper	Monitor and Report	2/year
Cyanide, Free	Monitor and Report	2/year

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

The EPA waiver is in effect.

Application No. PA 0010251, Industrial Waste, SIC Code 4951, **United States Army Carlisle Barracks**, 330 Engineer Avenue, Carlisle, PA 17013-5020. This facility is located in North Middleton Township, **Cumberland County**.

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

The receiving stream, a UNT to Letort Spring Run, is in Watershed 7-B, and classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Pennsylvania American Water Company located on the Conodoguinet Creek, approximately 16.6 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.036 mgd are:

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Report	Report	XXX	XXX	XXX
Osmotic Pressure	XXX	XXX	XXX	2,000	3,000
pH	XXX	XXX	From 6.0 to 9.0 inclusive		

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

The EPA waiver is in effect.

Application No. PA 0261106, Industrial Waste, SIC Code 333, **Voith Siemens Hydro Power Generation, Inc.**, 760 East Berlin Road, York, PA 17405-8701. This facility is located in West Manchester Township, **York County**.

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

The discharge is to a dry swale located on the plant site. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 are:

<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>
pH	XXX	XXX	6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Outfalls 002 and 003 are:

<i>Parameter</i>	<i>Monitoring Requirements</i>	
	<i>Grab Sample (mg/l)</i>	<i>Monitor Frequency</i>
pH (Standard Units)	Monitor and Report	2/year
BOD ₅	Monitor and Report	2/year
COD	Monitor and Report	2/year
Oil and Grease	Monitor and Report	2/year
Total Cadmium	Monitor and Report	2/year
Total Lead	Monitor and Report	2/year
Total Arsenic	Monitor and Report	2/year
Total Chromium	Monitor and Report	2/year
Total Copper	Monitor and Report	2/year
Total Suspended Solids	Monitor and Report	2/year

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

The EPA waiver is in effect.

Application No. PA 0028649, Sewage, **Municipal Authority of the Borough of Sinking Spring**, 3940 Penn Avenue, Sinking Spring, PA 19608. This facility is located in Spring Township, **Berks County**.

Description of activity: The application is for an NPDES permit to expand an existing discharge of treated sewage from 1.0 mgd to 1.25 mgd.

The receiving stream, Cacoosing Creek, is in Watershed 3-C, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Borough of Pottstown Water and Sewer Authority is located on the Schuylkill River, approximately 27 miles downstream. The discharge is not expected to affect the water supply.

The proposed interim limits for Outfall 001 for a design flow of 1.0 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Total Phosphorus	Report		
Total Residual Chlorine	0.32		1.0
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a Geometric Average	
(5-1 to 9-30)		2,000/100 ml as a Geometric Average	
(10-1 to 4-30)			

The proposed final limits for Outfall 001 for a design flow of 1.25 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.5		15.0
Total Phosphorus	1.6		3.2
Total Residual Chlorine	0.14		0.44
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a Geometric Average 2,000/100 ml as a Geometric Average	

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

The EPA waiver is not in effect.

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

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

WQM Permit No. 1308402, Sewerage, **East Penn Township**, 167 Municipal Road, Lehighton, PA 18235-3916. This proposed facility is located in East Penn Township, **Carbon County**.

Description of Proposed Action/Activity: This project is for the construction of a sanitary sewer system to consist of gravity sewer lines, force main, low pressure sewer, grinder pumps and pump station with an estimated average flow of 40,020 gpd to service 107 residential units in the area of East Penn Township known as West Bowmanstown. The sewage will be conveyed to the existing Bowmanstown wastewater treatment plant.

WQM Permit No. 5208402, Sewerage, **PA American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in Lehman Township, **Pike County**.

Description of Proposed Action/Activity: This project is for the replacement of the existing pump station which will involve installation of a new pump, new wet well and piping modifications to connect to existing force main at the Winona Lakes Sewage Lift Station, a/k/a Stony Hollow Lift Station.

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

WQM Permit No. 3678402, Amendment 08-1, Sewerage, **Mount Joy Borough Authority**, 21 East Main Street, Mount Joy, PA 17552. This proposed facility is located in Mount Joy Borough, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for the modification of the existing secondary treatment process.

WQM Permit No. 0508401, Sewerage, **Bedford Township Municipal Authority**, P. O. Box 371, Bedford, PA 15522. This proposed facility is located in Bedford Township, **Bedford County**.

Description of Proposed Action/Activity: Seeking approval for the construction of an approximate 14,200 L.F., 2" low pressure sewer line extension, 33 residential grinder pumps and associated appurtenances along Sweet Rott Road.

WQM Permit No. 2108404, Sewerage, **South Middleton Township Municipal Authority**, 345 Criswell Drive, Boiling Springs, PA 17007-0008. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking approval for the construction of three additional sludge reed beds.

WQM Permit No. 0108402, Sewerage, **Borough of Hanover**, 44 Frederick Street, Hanover, PA 17331. This proposed facility is located in Conewago Township, **Adams County**, Penn Township and Borough of Hanover, **York County**.

Description of Proposed Action/Activity: Seeking approval for the upgrade and extension of the Hanover regional conveyance system serving the Plum Creek drainage basin.

WQM Permit No. 2108405, Sewerage, **Suzanne Diehl, Tiger Properties**, 4 East High Street, Carlisle, PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking approval for the replacement of a small flow treatment facility for an existing dwelling with a malfunctioning onlot sewage disposal system.

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.

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024508011	CB H20, LP P. O. Box 168 Tannersville, PA 18372	Monroe	Pocono Township	Coolmoor Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI-0321-08-015	The Orchards at Marsh Run Carson Ritchie, CEO 801 North Hanover Street Carlisle, PA 17013	Cumberland	South Middleton Township	Letort Spring 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.

NUTRIENT MANAGEMENT PLAN PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<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 or Action</i>
Timber Ridge Farms 9699 Timber Ridge Road Big Cove Tannery, PA 17212	Fulton	66.0	1,180	Swine	N/A—WWF	Renewal
Steve Hershey 2024 Donegal Springs Road Mount Joy, PA 17552	Lancaster	134	429.69	Layers/Steers	HQ	Renewal
Lance Heberling 24 Shuman Road Newburg, PA 17240	Cumberland	68.73	498.71	Swine/Veal	N/A	New

<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 or Action</i>
Kenneth Loht 250 Road Apple Drive McClure, PA 17841	Mifflin	85	468.4	Swine	N/A	Renewal

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. 5408506, Public Water Supply.

Applicant **Papetti's Hygrade Egg Products, Inc.**
d/b/a Michael Foods Egg Products Co.
Upper Mahantango Township
Schuylkill County

Responsible Official Shane Menefee
Corp. Environmental Director
Michael Foods, Inc.
301 Carlson Parkway
Suite 400
Minnetonka, MN 55305

Type of Facility Public Water Supply

Consulting Engineer Norman C. Wenck, P. E.
Wenck Associates, Inc.
1800 Pioneer Creek Center
P. O. Box 249
Maple Plane, MN 55359
(763) 479-4200

Application Received Date August 8, 2008

Description of Action Application for installation of equipment for removal of arsenic from the public water supply serving the egg processing facility.

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

Permit No. 2608504, Public Water Supply.

Applicant **North Fayette County Municipal Authority**
1634 University Drive
P. O. Box 368
Dunbar, PA 15431

Township or Borough North Union Township

Responsible Official Robert Softcheck
General Manager
North Fayette County Municipal Authority
1634 University Drive
P. O. Box 368
Dunbar, PA 15431

Type of Facility Water treatment plant

Consulting Engineer Fayette Engineering Company, Inc.
2200 University Drive
P. O. Box 1030
Uniontown, PA 15401-1030

Application Received Date August 14, 2008

Description of Action Extension of water service to the Mt. Independence area, two new 30,000 gallon water storage tanks, one revised pump station, one new pump station, 5,300 feet of distribution line and approximately 40 service taps.

Permit No. 4566559 , Public Water Supply.	
Applicant	Cooper Springs Trout Hatchery 1146 Shaffer Run Road Somerset, PA 15501
Township or Borough	Jefferson Township
Responsible Official	Jack Beals, Owner Cooper Springs Trout Hatchery 1146 Shaffer Run Road Somerset, PA 15501
Type of Facility	Retail Water Facility
Consulting Engineer	J.P. Evers Geosciences, P.C. 4000 Hempfield Plaza Boulevard Suite 914 Greensburg, PA 15601
Application Received Date	July 9, 2008
Description of Action	Construction of a well as a source and a bulk water load-out facility.

WATER ALLOCATIONS

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

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

WA4-24B, Water Allocations. Beaver Falls Municipal Authority, 1425 8th Avenue, P. O. Box 400, Beaver Falls, PA 15010, Beaver County. The applicant is requesting a service area expansion to serve the Borough of Zelienople, **Butler County**.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Wyoming Seminary Residential Property (191 South Sprague Avenue), Kingston Borough, **Luzerne County**. Martin Gilgallon, Pennsylvania Tectonics, Inc., 826 Main Street, Peckville, PA 18452 has submitted a Notice of Intent to Remediate (on behalf of his client, Wyoming Seminary, 201 North Sprague Avenue, Kingston, PA 18704), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a result of a release that occurred during the filling of an aboveground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard. The proposed future use of the property will be residential. A summary of the Notice of Intent to Remediate was published in *The Citizens' Voice* on August 14, 2008.

Charles Keniston Residence, Dingman Township, **Pike County**. Salvatore Sciascia, S & M Management, Inc., P. O. Box 1429, Milford, PA 18337 has submitted a Notice of Intent to Remediate (on behalf of his client, Charles Keniston, 123 Tamarack Drive, Milford, PA 18337), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a result of a release from an underground storage tank. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soils. The proposed future use of the property will be residential. A summary of the Notice of Intent to Remediate was published in the *Pike County Dispatch* on May 8, 2008.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Mifflinburg Lanes, Mifflinburg Borough, **Union County**, Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Mifflinburg Bank & Trust Company, 250 East Chestnut Street, Mifflinburg, PA 17844 has submitted a Notice of Intent to Remediate soil contaminated with No. 2 heating oil. The applicant proposes to remediate the site to meet the Site-Specific Standard. The future use of the property will be for nonresidential office use. A summary of the Notice of Intent to Remediate was reported to have been published in the *The Daily Item* on July 7, 2008.

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

212 New Castle Road, City of Butler, **Butler County**. D'Appolonia Engineering, 275 Center Road, Monroeville, PA 15146 on behalf of Garber Family Limited Partnership, 605 Park Building, 355 Fifth Avenue, Pittsburgh, PA 15222 has submitted a Notice of Intent to Remediate. The site was formerly used as a gas station. The gas station was closed and underground storage tanks were removed in 1983. Soil at the site has been found to be impacted with hydrocarbons. Future nonresidential use of the property is anticipated. The Notice of Intent to Remediate was published in the *Butler Eagle* on June 22, 2008.

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 to 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.

09-0061B: Donaldson Company, Inc.—d/b/a Teratec (85 Railroad Drive, Ivyland, PA 18974) for installation of a polytetrafluoroethylene extrusion line and drying process, which will be controlled by a Regenerative Thermal Oxidizer, at their facility in North Hampton Township, **Bucks County**. This facility is a Minor facility. There will be 4.4 tpy VOC increase due to this installation. The Plan Approval will contain monitoring and recordkeeping requirements to keep the source operating within the allowable emissions and all applicable air quality requirements.

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

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

09-0003B: Superpac, Inc. (1220 Industrial Boulevard, Southampton, PA 18966) for installation of a flexographic printing press at their Superpac facility in Upper Southampton Township, **Bucks County**. The facility is a manufacturing-commercial printing processor, which operates other flexographic printing presses, numerous space heaters and various miscellaneous sources associated with printing and manufacturing. Superpac is a Title V Facility, currently operating under TVOP-09-00003. The new source is an 8-station, 41-inch web width, central-impression flexographic printing press manufactured by Paper Converting Machine Company. The source is designated as Source ID 132 Flexo Printing Press CI-16. The plan approval will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-0032D: SPS Technologies, Inc., (301 Highland Avenue, Jenkintown, PA 19046) for installation of a Plating Line, at SPS major manufacturing aerospace parts facility at Highland Avenue, Abington Township, **Montgomery County**. The installation of the Plating Line may result in the emissions of: 7.80 tpy of PM and 7.80 tpy of HAPs. The Plan Approval and Operating Permit will contain additional recordkeeping and operat-

ing restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 46-00032. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

09-0010B: TEVA Pharmaceuticals USA, Inc. (650 Cathill Road, Sellersville, PA 18960) for addition of ethanol and isopropyl alcohol granulation formulations to an existing Glatt 120 Fluid Bed Processor at their facility in West Rockhill Township, **Bucks County**. The potential VOC emissions from this project were estimated to be 11.7 tpy on a 12-month rolling sum basis. The facility limit for VOC emissions is 24 tpy on a 12-month rolling sum basis.

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

36-05138A: Quality Custom Cabinetry, Inc. (125 Peters Road, New Holland, PA 17557) for installation of three spay booths, one batch oven and one make-up air unit in Earl Township, **Lancaster County**. VOC and combined HAP emissions are expected to increase by 6.1 and 1.3 tpy, respectively. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

24-009F: Domtar Paper Co., LLC (100 Center Street, Johnsonburg, PA 15845) for installation and operation of a temporary boiler at their facility in Johnsonburg Borough, **Elk County**. This is a Title V facility.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 24-009F to Domtar Paper Company, LLC for the installation and operation of a temporary boiler at their company's facility at 100 Center Street, Johnsonburg Borough, Elk County. The facility currently has a Title V permit No. 24-00009. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 24-009F is for the installation of temporary leased 87.3 mmBtu/hr capacity natural-gas fired boiler. Based on the information provided by the applicant and the Department's own analysis, the proposed source will emit 13.8 tons of NO_x per year, 21.2 tons of CO per year, 6.0 tons of PM per year, all of which will be PM/PM_{2.5}, 3.8 tons of VOCs per year, and 0.2 ton of SO_x per year. Additionally, this plan approval will allow the permittee the operational flexibility to remove and reinstall this boiler seasonally as needed upon appropriate notification to the Department.

The Plan Approval will contain additional testing, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at (814) 332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered may

submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 24-009F.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 08064: Mutual Pharmaceutical Co. (1100 Orthodox Street, Philadelphia, PA 19124) for the following in the City of Philadelphia, **Philadelphia County**: 1) Installation of four electric drying ovens and six modules; 2) Modification of the VOC destruction efficiency requirements of Plan Approval 03053 and Installation Permit No. 94332 for two catalytic oxidizers from 95% destruction efficiency to 95% destruction efficiency or to a concentration at the outlet of 20 ppm_v or less at 3% oxygen; and 3) Modification of a mass balance equation from Plan Approval 03053. VOC emissions from the facility will be limited to 25 tons per rolling 12 month period. The Plan Approval will contain operating, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00016: Exelon Generating Co.—Croydon Generation Station (955 River Road, Bristol, PA 19007) for renewal of the Title V Operating Permit to provide electrical energy for peak demand periods in Bristol Township, **Bucks County**. There have been no changes since the permit was last issued on July 8, 2008. 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 Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The renewal permit contains all applicable requirements including monitoring, recordkeeping and reporting.

09-00124: Fairless Energy, LLC (50 Sinter Road, Fairless Hills, PA 19030) for operation of an electric generating station in Falls Township, **Bucks County**. The permit is for a Title V facility. The facility is considered a major source of NOx, CO, VOCs and PM emissions, with maximum potential emissions of 424.7 tpy, 360.5 tpy, 88.4 tpy and 387.6 tpy, respectively. Fairless Energy, LLC owns and operates four natural gas-fired combined-cycle electric generation units. Other sources include two natural gas preheaters, one auxiliary boiler and four cooling towers. The facility is subject to the requirements of 40 CFR Part 60, New Source Performance Standards, Subpart GG, Subpart Da and Subpart Dc. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

15-00104: Tasty Baking Oxford, Inc. (700 Lincoln Street, Oxford, PA 19363) for a Title V Operating Permit for the manufacturing of pastries and donuts in Oxford Borough, **Chester County**. Primary sources of air pollution include three fryers, a conveyor oven and a rack oven. The facility also operates various smaller combustion units. The Title V Operating incorporates requirements from RACT Operating Permit No. OP-15-0104 and Plan Approval No. 15-0104C. The facility is subject to a site wide emission limit of 49.40 tpy for VOC. The facility is not subject to NSR, PSD, NSPS or NESHAP. The Title V Operating Permit contains monitoring and recordkeeping requirements designed to keep the facility operating within the allowable emission rate and 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.

67-05023: American Color Graphics, Inc. (215 North Zarfoss Drive, York, PA 17404) for operation of a commercial printing facility in West Manchester Township, **York County**. This is a renewal of the Title V operating permit issued in 2003.

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.

46-00230: East Norriton-Plymouth-Whitpain Joint Sewer Authority (200 Ross Street, Plymouth Meeting, PA 19462) for operation of their sewage processing plant in Plymouth Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. No changes have taken place at the facility since the permit was last issued on September 24, 2003. Major sources of air emissions include a sewage sludge incinerator and associated control devices. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00248: Pottstown Borough Auth Montgomery County (100 East High Street, Pottstown, PA 19464) for issuance of a State-only Operating Permit to operate a sewage sludge dryer in Pottstown Borough, **Montgomery County**. Plan Approval, 46-0248, is being incorporated into the facility permit, NMOP-46-00248. This Operating Permit shall include monitoring and recordkeeping designed to ensure this facility complies with all applicable air quality regulations.

46-00142: Custom Processing Services, LLC (461 State Street, East Greenville, PA 18041) for a State-only, Natural Minor Operating Permit Renewal to provide customized grinding, milling, blending and drying services of various mineral products in East Greenville Borough, **Montgomery County**. The pollutant of concern is PM. Dust collectors are used on all sources for PM control. The permit will include monitoring, recordkeeping and reporting requirements designed to address all applicable air quality requirements.

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

60-00011: United States Department of Justice (P. O. Box 2500, White Deer, PA 17887) for the operation of a prison complex (Allenwood Federal Correctional Complex) in Gregg Township, **Union County** and Brady Township, **Lycoming County**.

The facility incorporates three 21 mmBtu/hr natural gas/No. 2 fuel oil-fired boilers, 99 small natural gas, propane and No. 2 fuel oil-fired boilers, furnaces, heaters, makeup air units, water heaters, and the like (with a total combined heat input of 67.3 mmBtu/hr), four natural gas-fired emergency generators (67 horsepower, 82 horsepower, 82 horsepower and 111.5 horsepower), two diesel fuel-fired emergency generators (2,036 horsepower each), a wood furniture finishing operation consisting of six spray booths and four natural gas-fired drying ovens, a wood furniture finishing operation (Unit 5) consisting of two spray booths, a maintenance shop spray booth, a solvent parts washer, various pieces of woodworking equipment, a 4,000 gallon aboveground gasoline storage tank, a 10,000 gallon underground gasoline storage tank, two 8,000 gallon aboveground No. 2 fuel oil storage tanks and two 2,000 gallon aboveground fuel oil storage tanks.

The PM emissions from the woodworking equipment are controlled by two fabric collectors which are exhausted indoors at all times and the PM emissions from the eight spray booths incorporated in the two wood furniture finishing operations and the maintenance shop spray booth are controlled by spray booth filters.

The air contaminant emissions from the facility are not expected to exceed 80 tons of SOx, 62 tons of NOxs, 19.1 tons of CO and 41.3 tons of VOCs per year and are not expected to equal or exceed 10 tons of any single HAP, 25 tons of all HAPs combined and 100 tons of PM/PM10, per year.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously contained in Operating Permit 60-302-015, issued on March 3, 1993, and Operating Permit 60-318-007A, issued on November 6, 1997, and conditions previously established as requirements of plan approval exemption determinations made on October 26, 1995, March 15, 2001 and March 26, 2004.

The conditions previously contained in Operating Permit 60-302-015 include:

1. A condition limiting the fuel fired in the three 21 mmBtu/hr boilers to gas (natural or LP) or No. 2 fuel oil to which there has been no reclaimed or waste oil or other waste materials added.
2. A condition requiring the three 21 mmBtu/hr boilers to comply with all applicable requirements of Subpart Dc

of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.40c—60.48c.

The conditions previously contained in Operating Permit 60-318-007A include:

3. A condition requiring all topcoats used in one of the facility's furniture finishing operations to be applied with high volume low pressure (HVLP) spray equipment.

4. Conditions limiting the VOC content of all topcoats used in one of the facility's wood furniture finishing operations to no more than 4.9 pounds per gallon of coating, as mixed for application, and limiting the stains used in the respective operation to water-based stains, except for several exceptions.

5. A condition prohibiting the onsite addition of anything but catalyst and water to any finishing material used in one of the facility's wood furniture finishing operations.

6. A condition prohibiting the use of any methylene chloride-containing materials or 1,1,1 trichloroethane-containing materials in one of the facility's wood furniture finishing operations.

7. A condition limiting the amount of VOC-containing material used in one of the facility's wood furniture finishing operations for equipment cleanup activities and product washdown/cleaning/stripping activities to no more than 500 gallons per year (note: this limit is being modified to no more than 500 gallons in any 12-consecutive month period).

8. A condition requiring the spray booths incorporated in one of the facility's wood furniture finishing operations to be equipped with spray booth filters at all times that finishing materials are being sprayed in the booths.

9. A condition allowing one of the facility's wood furniture finishing operations to deviate from the limitations specified in 3, 4 and 5 herein for the purpose of performing experimental trials of new finishing materials provided the use of such materials is restricted to no more than 10 gallons per individual trial and a total of no more than 160 gallons per year and provided compliance is maintained with all other applicable requirements (note: the annual limit is being modified to no more than 160 gallons in any 12-consecutive month period).

10. A condition requiring all VOC-containing solvents used for spray line cleaning in one of the facility's wood furniture finishing operations to be flushed into closed containers, requiring all containers of VOC-containing solvents used for product washdown/cleaning/stripping to be closed except when actually wetting wiping rags, and the like, requiring all solvent-wet rags to be kept in closed containers when not in actual use, prohibiting waste solvent to be disposed of by evaporation and prohibiting the use of methylene chloride and 1,1,1 trichloroethane for equipment cleanup or product washdown/cleaning/stripping.

11. A condition requiring the maintenance, and quarterly reporting, of the identity, amount and composition of the materials used in one of the facility's wood furniture finishing operations as well as the identity of the materials, if any, which were used in experimental trials (note: the quarterly reporting requirement is being modified to a semi-annual reporting requirement).

The conditions previously established as requirements of a plan approval exemption determination made for a maintenance shop spray booth on October 26, 1995, include:

12. A condition limiting the VOC emissions from the spray booth to less than 10 tpy (note: this limit is being modified to less than 10 tons in any 12-consecutive month period).

13. A condition requiring the maintenance of records of the identity, amount and composition of the materials used in the spray booth.

The conditions previously established as requirements of a plan approval exemption determination made for two 2,036 horsepower diesel fuel-fired emergency generators on March 15, 2001, include:

14. Conditions limiting the operation of each of the two generators to no more than 500 hours in any 12-consecutive month period and requiring the maintenance of records of the number of hours each generator is operated each month.

The conditions previously established as requirements of a plan approval exemption determination made for two wood furniture finishing spray booths (Unit 5) on March 26, 2004, include:

15. A condition limiting the materials applied in the two booths to those specifically identified in a February 23, 2004 letter (or those determined by the Department to be equivalent or better).

16. A condition limiting the amount of topcoats, stain and sealer applied in the two booths to no more than 100 gallons, 200 gallons and 200 gallons, respectively, in any 12-consecutive month period.

17. A condition prohibiting the addition of anything other than water to the materials used in the two booths incorporated in the Unit 5 finishing operation and the use of anything other than water for equipment cleanup or the cleaning or surface preparation of the products or parts finished in the respective booths.

18. Conditions requiring all materials applied in the two booths incorporated in the Unit 5 finishing operation to be applied with airless, air-assisted airless or HVLP spray technology or by brush or rag and requiring the respective two booths to be equipped with filters whenever spraying is occurring.

19. A condition requiring the maintenance of records of the identity and amount of each material used in the two booths incorporated in the Unit 5 finishing operation each month (note: this requirement is being modified to also require the maintenance of material VOC and VHAP contents).

The new conditions the Department proposes to incorporate into the operating permit to be issued include:

20. A condition limiting the total combined facility NOx emissions to less than 100 tons in any 12-consecutive month period, the SOx emissions to less than 100 tons in any 12-consecutive month period, the CO emissions to less than 100 tons in any 12-consecutive month period, the PM10 emissions to less than 100 tons in any 12-consecutive month period, the VOC emissions to less than 50 tons in any 12-consecutive month period, the emissions of any single HAP to less than 10 tons in any 12-consecutive month period and the emissions of all HAPs combined to less than 25 tons in any 12-consecutive month period.

21. A condition requiring all fuel oil fired at the facility to be fuel oil to which no reclaimed or waste oil or other waste materials have been added.

22. A condition restricting the total combined amount of fuel oil fired at the facility to no more than 2.2 million

gallons in any 12-consecutive month period and the total combined amount of natural gas fired at the facility to no more than 300 million cubic feet in any 12-consecutive month period.

23. Conditions requiring the maintenance, and annual reporting, of records of the total combined amount of fuel oil fired at the facility each month, the total combined amount of natural gas fired at the facility each month and the identity and total combined amount of each individual VHAP emitted from the facility each month as well as the maintenance of records of the delivery date, fuel oil type and sulfur content of each load of fuel oil delivered to the facility.

24. A condition requiring the PM emissions from the woodworking equipment associated with the UNICOR operations at the facility to be controlled by two specific fabric collectors which shall be exhausted indoors at all times.

25. A condition prohibiting the reactivation of a 12.5 mmBtu/hr No. 2 fuel oil/natural gas-fired boiler and a 12.7 Btu/hr No. 2 fuel oil/natural gas-fired boiler located at the facility's Prison Camp site without first obtaining plan approval from the Department.

26. Conditions limiting the fuel used in 98 small (2.5 mmBtu/hr or less heat input) combustion units to natural gas, propane or No. 2 fuel oil, the fuel used in a 3.477 mmBtu/hr air makeup unit to natural gas and the fuel used in six emergency generators to natural gas and virgin diesel fuel to which no reclaimed/reprocessed oil, waste oil or other waste materials have been added.

27. Conditions limiting the operation of four natural gas-fired emergency generators to no more than 500 hours each in any 12-consecutive month period and requiring the maintenance of records of the number of hours each of the respective four generators is operated each month.

28. A condition requiring the annual submission of the records maintained of the monthly operating hours for the facility's four natural gas-fired emergency generators as well as the facility's two 2,036 horsepower diesel fuel-fired emergency generators.

29. Conditions limiting the total facility-wide VOC emissions from all wood furniture finishing operations combined to less than 25 tons in any 12-consecutive month period.

30. Conditions requiring the annual reporting of the material usage records maintained for the Unit 5 wood furniture finishing operation and the maintenance shop spray booth.

31. Conditions limiting the VOC emissions from the facility's solvent parts washer to less than 2.7 tons in any 12-consecutive month period and prohibiting the use of any solvent in the parts washer which contains a HAP as an intentionally-added ingredient.

32. A condition requiring the maintenance of records of the amount of solvent added to the solvent parts washer each month.

33. Conditions prohibiting the storage of anything other than fuel oil in the facility's two 8,000 gallon and two 2,000 gallon aboveground fuel oil storage tanks and requiring the maintenance of records of the material stored in each of these four tanks.

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

43-00251: Component Inter-technologies (2426 Perry Highway, Hadley, PA 16130) for issuance of a Natural Minor Operating Permit for operation of the facility's air contamination source consisting of 2.73 mmBtu/hr miscellaneous natural gas usage, batch vapor degreaser and three parts washers for the component manufacturing of lighting equipment in Perry Township, **Mercer County**.

62-00148: Elkhorn Gas Processing, LLC (P. O. Box 60B, Kinuza Road, Warren, PA 16365) for issuance of a Natural Minor Operating Permit for their Roystone Facility in Sheffield Township, **Warren County**. The primary activity at this site is the operation of a natural gas processing plant. The facility's primary emission sources include an oil medium heater, three natural gas fired compressor engines, a glycol regenerator (Dehydrator), equipment leaks (VOC emissions) and product storage tanks and unloading.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Brawn, Chief, (215) 685-9476.

S04-017: Mutual Pharmaceutical (1100 Orthodox Street, Philadelphia, PA 19124) for operation of a pharmaceutical manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include five coating pans, eight modules, 16 electrical drying ovens, nine dust collectors, 11 combustion units burning natural gas rated less than 3 mmBtu/hr, two catalytic oxidizers, one wastewater pretreatment system, one 277-horsepower emergency generator firing diesel fuel, and activities from the research, packaging, and granulation departments.

The operating permit will be reissued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the previous operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

OPERATING PERMITS

PUBLIC HEARINGS

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

PA-03-00975B: Reaxis, Inc. (941 Robinson Highway, McDonald, PA 15057-2213) for construction of one 3,200 gallon fiberglass reactor (chemical reaction vessel/digester) and an associated alkali scrubber at their facility in Robinson Township, **Washington County**.

In accordance with 25 Pa. Code §§ 127.44(b), 127.45 and 127.48, notice is hereby given that the Department of Environmental Protection (Department) will hold a public meeting, to be immediately followed by a public hearing,

on September 23, 2008, 7 p.m., at the Robinson Township Municipal Building located at 8400 Noblestown Road, McDonald, PA 15057.

The purpose of the meeting is for the Department and Reaxis to each present a short summary of the project, to be followed by an informal question and answer period. The purpose of the public hearing is to formally accept testimony regarding the issuance of an Air Quality Plan Approval to Reaxis, Inc. Plan Approval is being issued to allow the construction of one 3,200 gallon fiberglass reactor (chemical reaction vessel/digester) and an associated alkali scrubber at their facility located in Robinson Township, **Washington County**.

The proposed facility is subject to the applicable requirements of 25 Pa. Code Chapter 127, related to construction, modification, reactivation and operation of sources. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. This Plan Approval authorizes the construction of a new 3,200 gallon reactor (chemical reaction vessel/digester), a new 2,000 cfm packed bed scrubber, and associated equipment at the Reaxis McDonald facility located in Robinson Township, **Washington County**.

2. Emissions from the reactor shall be controlled by the scrubber at all times. Reactor shall not operate if the scrubber is not operating properly.

3. Scrubber system shall be equipped with a fluid flow meter to measure the volume of recirculating scrubber fluid and a pressure gauge to measure pressure drop across the scrubber.

4. The flow meter and the pressure gauge shall be observed and recorded once every day, while system is operating. The scrubber medium shall be operated with a pH of 11 or higher at all times.

5. The pH of the scrubber medium shall be tested and recorded once every day, while system is operating.

6. Adjustments to the pH level of the scrubber medium, including scrubber media replacement, shall be recorded.

7. The required records shall be maintained in a logbook and kept on site for period of 2 years. Logbook shall be made available to the Department upon request.

8. Upon completion of the construction of the facility, company must request that the existing Operating Permit be updated to include the new equipment and the new requirements. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit.

9. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in § 3 of the Air Pollution Control Act (APCA) (35 P. S. § 4003) and 25 Pa. Code § 121.1. (25 Pa. Code § 121.1)

10. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority. (25 Pa. Code § 127.12b(a)(b))

11. This plan approval authorizes temporary operation of the sources covered by this plan approval provided the following conditions are met.

(a) When construction, installation, modification or re-activation is being conducted, the permittee should provide written notice to the Department of the completion of the activity approved by this plan approval and the permittee's intent to commence operation at least 5 working days prior to the completion of said activity. The notice shall state when the activity will be completed and when the permittee expects to commence operation. When the activity involves multiple sources on different time schedules, notice is required for the commencement of operation of each source.

(b) Under 25 Pa. Code § 127.12b(d), temporary operation of the sources to facilitate the shakedown of sources and air cleaning devices, to permit operations pending the issuance of a permit under 25 Pa. Code Chapter 127, Subchapter F or G (relating to operating permits; and Title V operating permits) or to permit the evaluation of the air contaminant aspects of the source.

(c) This plan approval authorizes a temporary operation period not to exceed 180 days from the date of commencement of operation, provided the Department receives notice from the permittee under paragraph (a), previously.

(d) The permittee may request an extension of the 180-day shakedown period if further evaluation of the air contamination aspects of the sources is necessary. The request for an extension should be submitted, in writing, to the Department at least 15 days prior to the end of the initial 180-day shakedown period and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance, and the reasons compliance has not been established. This temporary operation period will be valid for a limited time and may be extended for additional limited periods, each not to exceed 120 days.

12. If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or limitations established by the Department at the time as it notifies the company that testing is required. (25 Pa. Code § 127.12b)

13. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department. (25 Pa. Code § 127.12(a)(10))

14. The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in paragraph (a) of this condition.

(a) Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in

the administration of the act. The Department will implement this section consistent with §§ 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act. (25 Pa. Code §§ 127.12(c) and (d) and 35 P. S. § 4013.2)

15. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval.

(a) Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

(b) If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for departmental action, a request for the extension should be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension should include the following:

- (i) A justification for the extension.
- (ii) A schedule for the completion of the construction.

(c) If construction has not commenced before the expiration of this plan approval, then a new plan approval application must be submitted and approval obtained before construction can commence.

(d) If the construction, modification or installation is not commenced within 18-months of the issuance of this plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (related to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted. (25 Pa. Code § 127.13)

16. This plan approval may not be transferred from one person to another except when a change of ownership is demonstrated to the satisfaction of the Department and the Department approves the transfer of the plan approval in writing.

17. Section 127.12a (relating to compliance review) applies to a request for transfer of a plan approval. A compliance review form shall accompany the request.

18. This plan approval is valid only for the specific source and the specific location of the source as described in the application. (25 Pa. Code § 127.32)

19. Under 35 P. S. § 4008, no person shall hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty authorized under the APCA.

20. The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

21. Nothing in this plan approval condition shall limit the ability of the Environmental Protection Agency (EPA) to inspect or enter the premises of the permittee in accordance with § 114 or other applicable provisions of the CAA. (25 Pa. Code § 127.12(4) and 35 P. S. § 4008 and 114 of the CAA)

22. This plan approval may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

(a) The permittee constructs or operates the source subject to the plan approval in violation of the act, the CAA, the regulations promulgated under the act or the CAA, a plan approval or permit or in a manner that causes air pollution.

(b) The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

(c) The permittee fails to submit a report required by this plan approval.

(d) The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder. (25 Pa. Code 127.13a)

23. The permittee, or any other person, may not circumvent the new source review requirements of 25 Pa. Code Chapter 127, Subchapter E by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.

24. No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors. (25 Pa. Code §§ 121.9 and 127.216)

25. Reports, test data, monitoring data, notifications shall be submitted to the:

Regional Air Program Manager
Department of Environmental Protection
(At the address given on the plan approval transmittal letter or otherwise notified) (25 Pa. Code § 127.12c)

26. If required by § 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Pub. L. No. 106-40).

(a) The permittee shall prepare and implement a Risk Management Plan (RMP) which meets the requirements of § 112(r) of the CAA, 40 CFR Part 68 and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act when a regulated substance listed in 40 CFR 68.130 is present in a process in more than the listed threshold quantity at the facility. The permittee shall submit the RMP to the EPA according to the following schedule and requirements:

(b) The permittee shall submit the first RMP to a central point specified by the EPA no later than the latest of the following:

(i) Three years after the date on which a regulated substance is first listed under § 68.130; or,

(ii) The date on which a regulated substance is first present above a threshold quantity in a process.

(c) The permittee shall submit any additional relevant information requested by the Department or the EPA concerning the RMP and shall make subsequent submissions of RMPs in accordance with 40 CFR 68.190.

(d) The permittee shall certify that the RMP is accurate and complete in accordance with the requirements of 40 CFR Part 68, including a checklist addressing the required elements of a complete RMP.

(e) As used in this plan approval condition, the term "process" shall be as defined in 40 CFR 68.3. The term "process" means any activity involving a regulated substance including any use, storage, manufacturing, handling or onsite movement of the substances or any combination of these activities. For purposes of this definition, any group of vessels that are interconnected or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process. (25 Pa. Code § 127.12(9) and 40 CFR Part 68)

Those wishing to present oral testimony during the hearing should contact Community Relations Coordinator, Helen Humphreys, at (412) 442-4000. Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Helen Humphreys or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those who are unable to attend the hearing, but wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Francis Condrick, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

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

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

Comments must be received prior to the close of business 30 days after the date of this publication, or by October 3, 2008, whichever is later.

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 26081601 and NPDES Permit No. NA, Foundation PA Coal Terminal, LLC, (P. O. Box 1020, 158 Portal Road, Waynesburg, PA 15370), to operate the LaBelle Site in Luzerne Township, **Fayette County** a coal preparation plant with a related NPDES permit as a coal/bulk material transloading facility. Surface Acres Proposed 56.8. Receiving streams: Monongahela River and a UNT to the Monongahela River, both classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is PA American Water Company, Monongahela River intake. Application received June 20, 2008.

Permit Number 30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company, LLC, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in East Finley Township, **Washington County** and related NPDES permit to add surface acreage to construct the Oak Spring Slope and Supply Yard, Surface Acres Proposed 55.0. Receiving stream: UNT 32722 to Rocky Run, classified for the following use: TSF. Application received June 9, 2008.

Permit Number 56841608 and NPDES Permit No. PA0213721, PBS Coals, Inc., (P. O. Box 260, Friedens,

PA 15541), to revise the permit for the Cambria Fuel Prep Plant in Stonycreek Township, **Somerset County** to treat water transported by a buried pipeline to existing water treatment facilities at the prep plant from a dewatering borehole at the abandoned Cambria Fuels Mine and to inject slurry into the mine through an injection borehole. Dewater the mine will promote safety for miners at the adjacent Horning mine. Surface Acres Proposed 3.3. No additional discharges. Application received May 6, 2008.

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

56880109 and NPDES No. PA0598283. PBS Coals, Inc., P. O. Box 260, 1576 Stoystown Road, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface limestone removal mine in Brothersvalley Township, **Somerset County**, affecting 154.2 acres. Receiving streams: UNTs of Bluelick Creek and Bluelick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 15, 2008.

07920101 and NPDES No. PA0599581. E. P. Bender Coal Company, Inc., P. O. Box 594, Carrolltown, PA 15722, permit renewal for the continued operation and restoration of a bituminous surface mine in Allegheny Township, **Blair County**, affecting 474.0 acres. Receiving streams: UNTs to/and Sugar Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 15, 2008.

11980102 and NPDES No. PA0234753. E. P. Bender Coal Company, Inc., P. O. Box 594, Carrolltown, PA 15722, permit renewal for reclamation only of a bitumi-

nous surface and auger mine in Reade Township, **Cambria County**, affecting 240 acres. Receiving streams: UNTs to Fallentimber Run and Fallentimber Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 15, 2008.

32980110 and NPDES Permit No. PA0234869. Opal Industries, Inc., P. O. Box 980, Latrobe, PA 15650, revision of an existing bituminous surface mine to add auger mining and to add 5.0 acres, changing the total SMP acres from 297.0 to 302.0 in Conemaugh Township, **Indiana County**, affecting 297.0 acres. Receiving streams: UNTs to/and Sulphur Run; UNTs to/and Blacklegs Creek; and UNTs to/and Kiskiminetas River classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received August 13, 2008.

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

26870202 and NPDES Permit No. PA0589608. Carbon Fuel Resources, Inc. (2927 Pittsburgh Street, Perryopolis, PA 15473). Renewal application for reclamation only of a bituminous surface mine, located in German Township, **Fayette County**, affecting 103.2 acres. Receiving streams: UNTs to Browns Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received August 14, 2008.

26743202 and NPDES Permit No. PA0069736. Fayette Energy Project, LLC (P. O. Box 275, West Leisenring, PA 15489). Application received for transfer of permit currently issued to Fayette Coal & Coke, Inc., for continued operation and reclamation of a bituminous surface mine/coal refuse reprocessing facility located in Dunbar and North Union Townships, **Fayette County**, affecting 150.1 acres. Receiving streams: Rankin Run to Redstone Creek to Monongahela River, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is the North Fayette Municipal Authority. Transfer application received August 14, 2008.

30980101 and NPDES Permit No. PA0202304. CORESCO, LLC (308 Dents Run Road, Morgantown, WV 26501). Renewal application for reclamation only of a bituminous surface mine, located in Dunkard Township, **Greene County**, affecting 148.4 acres. Receiving streams: UNT to Dunkard Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received August 15, 2008.

65910103 and NPDES Permit No. PA0592447. Coal Loaders, Inc. (210 East Main Street, P. O. Box 556, Ligonier, PA 15658). Application received for transfer of permit currently issued to Calvin W. Hepler for continued operation and reclamation of a bituminous surface mining site located in South Huntingdon Township, **Westmoreland County**, affecting 42.4 acres. Receiving streams: UNTs to Barren Run to Jacobs Creek to the Youghiogheny River, classified for the following use: WWF. There is no potable water supply intake within ten miles downstream from the point of discharge. Transfer application received August 18, 2008.

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

33960107 and NPDES Permit No. PA0227269. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Renewal of an existing bituminous surface strip and auger operation in Union Township, **Jefferson County** affecting 17.8 acres. Receiving streams: Welch Run to Redbank Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is CRUMA Water Company. Application for reclamation only. Application received August 19, 2008.

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

17080111 and NPDES Permit No. PA0256901. Waroquier Coal Company (P. O. Box 128, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface and auger mine in Lawrence Township, **Clearfield County**, affecting 175.0 acres. Receiving streams: UNTs to the West Branch Susquehanna River, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 1, 2008.

17860104 and NPDES Permit No. PA0611077. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), transfer and renewal of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Girard Township, **Clearfield County**, affecting 267.8 acres. Receiving streams: Deer Creek and Buck Run to West Branch Susquehanna River, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 21, 2008.

17870129 and NPDES Permit No. PA0116190. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), transfer of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Morris Township, **Clearfield County**, affecting 498.3 acres. Receiving streams: Emigh Run and Laurel Run to Moshannon Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 10, 2008.

17960113 and NPDES Permit No. PA0220396. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), transfer of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Covington and Karthaus Townships, **Clearfield County**, affecting 306.0 acres. Receiving stream: Curley's Run to West Branch Susquehanna River, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 10, 2008.

17990101 and NPDES Permit No. PA0238822. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), transfer of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Girard Township, **Clearfield County**, affecting 149.0 acres. Receiving streams: Surveyor Run to West Branch Susquehanna River, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 18, 2008.

17060107 and NPDES No. PA0256391. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), transfer of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Girard Township, **Clearfield County**, affecting 294.8 acres. Receiving streams: Deer Creek to West Branch Susquehanna River, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 18, 2008.

17930103 and NPDES No. PA0207241. Junior Coal Contracting, Inc. (2330 Six Mile Road, Philipsburg, PA 16866), permit renewal for the continued operation and restoration of a bituminous surface mine in Decatur Township, **Clearfield County**, affecting 309.9 acres. Receiving stream: Little Beaver Run, Beaver Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 7, 2008.

Noncoal Applications Returned

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

Permit No. 28840302 and NPDES Permit No. PA0614289, Valley Quarries, Inc., P. O. Box J, Chambersburg, PA 17201-0809, renewal of NPDES Permit, Hamiltonban Township, **Adams County**. Receiving

stream: Conococheague Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received January 18, 2008. Permit returned August 7, 2008.

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

08070811. John Norton (R. R. 1, Box 155B, New Albany, PA 18833), commencement, operation and restoration of a small industrial minerals (bluestone) permit located in Tuscarora Township, **Bradford County**, affecting 5.0 acres. Receiving streams: UNT to Fargo Creek, classified for the following use: CWF. Application received November 16, 2007. Application returned August 6, 2008.

08070809. B. Dale Kelley (R. R. 3, Box 3384, Laceyville, PA 18623), commencement, operation and restoration of a small industrial minerals (flagstone) permit located in Tuscarora Township, **Bradford County**, affecting 5.0 acres. Receiving stream: UNT to Tuscarora Creek. Application received September 10, 2007. Application returned July 23, 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.

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

26920401 and NPDES Permit No. PA0203441. Coolspring Mining, Inc. (P. O. Box 1328). Renewal application for reclamation only of a large noncoal surface mine, located in North Union Township, **Fayette County**, affecting 60.6 acres. Receiving streams: UNT to Coolspring Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received August 15, 2008.

26082804. Mon River Energy Corp. (P. O. Box 466, Brier Hill, PA 15415). Application for commencement, operation and reclamation of a small noncoal surface mine, located in South Union Township, **Fayette County**, affecting 4.1 acres. Receiving stream: Jennings Run, classified for the following use: WWF. Small noncoal application received August 18, 2008.

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

16080307 and NPDES Permit No. PA0258628. WDK Enterprises, Inc. (P. O. Box 5, 688 Day City Road, Corsica, PA 15829). Commencement, operation and restoration of a shale and incidental coal extraction permit in Monroe Township, **Clarion County** affecting 216.0 acres. The Department of Environmental Protection has made a tentative determination to impose effluent limitations, within the ranges specified in Table 1 for iron and manganese in addition to the limits identified in Table 2. Receiving streams: six UNTs to Reids Run to Piney Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 11, 2008.

6896-16080307-E-1. WDK Enterprises, Inc. (P. O. Box 5, 688 Day City Road, Corsica, PA 15829). Application for a stream encroachment to encroach upon UNT 1 to Reids Run and to encroach upon and cross UNT 2 to Reids Run in Monroe Township, **Clarion County**. Receiving streams: six UNTs to Reids Run to Piney Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 11, 2008.

37080305 and NPDES Permit No. PA0258636. Terra Resources, LLC (267 Gilmore Road, Enon Valley, PA 16120). Commencement, operation and restoration of a limestone and incidental coal removal operation in Slippery Rock Township, **Lawrence County** affecting 83.8

acres. The Department of Environmental Protection has made a tentative determination to impose effluent limitations, within the ranges specified in Table 1 for iron and manganese in addition to the limits identified in Table 2. Receiving streams: UNT to Slippery Rock Creek (unclassified) and Slippery Rock Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 15, 2008.

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

7775SM4 and NPDES Permit No. PA0594563. Lehigh Cement Company, (537 Evansville Road, Fleetwood, PA 19522-8541), modification to the NPDES Permit to increase the average daily discharge from 0.30 mgd to 4.33 mgd for quarry operation in Oley Township, **Berks County**, receiving streams: UNT to UNT to Manatawny Creek, classified for the following use: CWF. Application received August 13, 2008.

06970302C6 and NPDES Permit No. PA0223794. Haines & Kibblehouse, Inc., (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Robeson and Union Townships, **Berks County**, receiving streams: UNT to Hay Creek, classified for the following use: Exceptional Value. Application received August 18, 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 § 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.

E21-404: Hampden Township Sewer Authority, Steven S. Campbell, 230 South Sporting Hill Road, Mechanicsburg, PA 17050, Hampden Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To remove the existing sewage pump stations and a house, and then to construct and maintain: 1) a 21-foot by 10-foot Sewage Pump Station 2 and its associated 6-foot by 6-foot valve pit, a 8-foot by 6-foot wet well, a 4-foot diameter manhole, a 4-inch diameter force main and a 8-inch diameter influent lines; and 2) a 10-foot by 6-foot Sewage Pump Station 13 and its associated 6-foot by 6-foot valve pit, 8-foot by 6-foot wet well, two 4-foot diameter manholes, 4-inch diameter force main and a 8-inch diameter gravity main along the left bank floodplain of Conodoguinet Creek (WWF) to upgrade the pump stations located about 2,000.0 feet upstream of Orr's Bridge Road bridge (Lemoyne, PA Quadrangle N: 22.70 inches; W: 11.60 inches, Latitude: 40° 14' 58"; Longitude: 76° 57' 27" and N: 21.80 inches; W: 11.20 inches, Latitude: 40° 14' 52"; Longitude: 76° 57' 20" respectively) in Hampden Township, **Cumberland County**.

E67-858: PPL Brunner Island, LLC, River Intake Debris Barrier, David G. Hopfer, 2 North 9th Street, GENPL6, Allentown, PA 18101-1139, East Manchester Township, **York County** and Conoy Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 36,000.0 square foot debris barrier/deflector extending into the Susquehanna River (WWF) using 16,600.0 cubic yards of fill. The project is located at Brunner Island (York Haven, Quadrangle N: 17.7 inches; W: 9.5 inches, Latitude: 40° 5' 53"; Longitude 76° 41' 30") in East Manchester Township, **York County** and Conoy Township, **Lancaster County**.

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

E32-485. Department of Transportation, District 10-0, P. O. Box 429, 2530 Oakland Avenue, Indiana, PA 15701-0429. To fill wetlands for a compensation site in Conemaugh Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (Avonmore, PA Quadrangle N: 5.0 inches; W: 2.8 inches, Latitude 40° 31' 40"; Longitude: 79° 23' 42"). The applicant proposes to fill and maintain 0.022 acre of PEM wetlands for the purpose of constructing a 2.5 acre advanced wetland compensation site located adjacent to SR 286.

E32-487. Reliant Energy Northeast Management Company, 121 Champion Way, Suite 200, Canonsburg, PA 15944-9154. To fill wetlands as part of a landfill in West Wheatfield Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (New Florence, PA Quadrangle N: 5.5 inches; W: 9.5 inches, Latitude: 40° 24' 19"; Longitude: 79° 4' 6"). The applicant proposes to impact 16 wetlands totaling 2.19 acres, and 4,755.61 linear feet of UNTs to the Conemaugh River (CWF) as part of stage III landfill development located in West Wheatfield Township. The project consists of:

1. Removing material within the floodway area for wetland development of 2.2 acres and 1,690 linear feet of channel around the wetlands.
2. Construction of a 100-foot long, 48-inch diameter pipe culvert under the existing access road connected to a 290-foot long 36-inch pipe as temporary diversion structure in a UNT to the Conemaugh River (CWF).
3. Construction of an outfall structure in said river.

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 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

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-0011762	American Nickeloid Company 131 Cherry Street Walnutport, PA 18088-1689	Walnutport Borough Northampton County	Lehigh River 2A	Y
PA0062634 (Minor Sewage)	Larry L. Luckenbill Sammy's Mobile Home Park 631 South Route 183 Schuylkill Haven, PA 17972	North Manheim Township Schuylkill County	UNT to Mahonney Creek 03A	Y
PA-0061395 (Industrial Waste)	Schuylkill Haven Borough Tumbling Run Filter Plant 12 West Main Street Schuylkill Haven, PA 17972-1900	Schuylkill County North Manheim Township	Tumbling Run 3A	Y
PAS802218	United Parcel Services, Inc. 1821 South 19th Street Harrisburg, PA 17101	Bethlehem Township Northampton County	UNT to Monocacy Creek HQ-CWF	Y
PA-0064017	ESSROC Cement Corporation Route 248 and Easton Road Nazareth, PA 18064	Nazareth Borough Northampton County	UNT to Shoeneck Creek 2C	Y
PA-0063991	ESSROC Cement Corporation Route 248 and Easton Road Nazareth, PA 18064	Upper Nazareth Township Northampton County	UNT to Shoeneck Creek 2C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAG2003603079-R	Nelson Wenger 1805 Swamp Bridge Road Stevens, PA 17678	Lancaster County Penn Township	UNT Chiques Creek WWF	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>
PA0046426 Sewage	Franklin Township Sewer Authority 570 Rolling Meadows Road Waynesburg, PA 15370	Greene County Franklin Township	South Fork Tenmile Creek	N
PA0096121 Sewage	Joe Walker Elementary School 90 McGuffey School Claysville, PA 15323	Washington County South Franklin Township	UNT to Chartiers Creek	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>
PA0021504	Western Butler County Authority P. O. Box 427 607 Market Street Zelienople, PA 16063	Zelienople Borough Butler County	Connoquenessing Creek, a UNT to Glade Run and Glade Run 20-C	N
PA0103225	KRS Development, Inc. 17933 Paint Boulevard Shipperville, PA 16254	Paint Township Clarion County	UNT to the Clarion River 17-B	Y
PA0221091	ELCAM Tool and Die, Inc. 497 Buena Vista Highway Wilcox, PA 15870	Jones Township Elk County	UNT to West Branch Clarion River 17-A	Y
PA0103331	Jackson Center Borough R. R. 1 Bradley Road Jackson Center, PA 16133	Jackson Township Mercer County	Yellow Creek 20-A	Y

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

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

NPDES Permit No. PA0084794, Sewage, **Asbury Pointe Water and Sewer Company, LLC**, 139 East Market Street, York, PA 17401. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Transfer of permit and authorization to discharge to the Codorus Creek in Watershed 7-H.

NPDES Permit No. WQG02380801, Sewage, **Union Township**, 3111 SR 72, Jonestown, PA 17038. This proposed facility is located in Union Township, **Lebanon County**.

Description of Proposed Action/Activity: Application for the construction of the I-78/I-81 Logistics Park Pump Station.

NPDES Permit No. PAS603506, Industrial Waste, **Aumiller's Auto Wreckers, Inc.**, 45 Auto Parts Drive, P. O. Box 354, Milroy, PA 17063. This proposed facility is located in Armagh Township, **Mifflin County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Laurel Creek in Watershed 12-A.

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

NPDES Permit No. PA0240192, Sewage, **Frank R. and Myranda S. Hyden**, 24478 State Street, Meadville, PA 16335. This proposed facility is located in Blooming Valley Borough, **Crawford County**.

Description of Proposed Action/Activity: This is a Single-Residence Sewage Treatment Plant discharging to a UNT to Woodcock Creek, 16-A.

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. 4506408, Sewerage, **Franconia Mennonite Camping Association, Inc.**, R. R. 1, Box 605, Canadensis, PA 18325. This proposed facility is located in Barrett Township, **Monroe County**.

Description of Proposed Action: Issuance of Water Quality Management Permit for the rerating of the existing sewage treatment plant up to 8,323 gpd. Increased spray irrigation field.

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

WQM Permit No. WQG018647, Sewerage, **Thomas Marx**, 129 Dutch Road, Harmony, PA 16037. This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018632, Sewerage, **Frank R. and Myranda S. Hyden**, 24478 State Street, Meadville, PA 16335. This proposed facility is located in Blooming Valley Borough, **Crawford County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023908008	Department of Transportation Engineering District 5-0 1002 Hamilton Street Allentown, PA 18103-1013	Lehigh	Coopersburg Borough Upper Saucon Township	Saucon Creek HQ-CWF
PAI024507004	Buttermilk Falls Corp. Center SR 0209 and Gap View Drive East Stroudsburg, PA 18301	Monroe	Smithfield Township	Marshalls Creek HQ-CWF

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

Indiana County Conservation District, USDA Service Center, 1432 Route 286, Highway W, Indiana, PA 15701-1467, (724) 463-8547.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI053208001	Indiana County Airport Authority 801 Water Street Indiana, PA 15701	Indiana	White and Cherryhill Townships	2 UNT Ramey Run CWF 3 UNT Two Lick Creek CWF Two Lick Creek TSF

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>
PAI062508001	Evergreen Farms, Eastman Development, LLC 2601 West 26th Street Erie, PA 16506	Erie	Fairview Township	Trout Run CWF, MF

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

<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>
Eldred Township Monroe County	PAG2004506006	Sheila Chen 490 Ridgeway White Plains, NY 10605	Buckwha Creek CWF, MF	Monroe County Conservation District (570) 629-3060
West Pennsboro Township Cumberland County	PAG2002108017	Thomas and Becky McElwee 250 Jumper Road Newburg, PA 17240	Big Spring Creek CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Conestoga Township Lancaster County	PAG2003607017	Van Brinkley 649 Stone Hill Road Conestoga, PA 17516	UNT to Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5

NOTICES

4945

<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>
Mount Joy Township Lancaster County	PAG2003607092	Jason Brandt 3501 North Colebrook Road Manheim, PA 17545	UNT to Little Chickies Run TSF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Strasburg Township Lancaster County	PAG2003608030	John A. Fisher 255 Old Leacock Road Gordonville, PA 17529	Walnut Run WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Strasburg Township Lancaster County	PAG2003608038	Darrel Ranck 249 Gap Road Ronks, PA 17572	UNT to Pequea Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Warwick Township Lancaster County	PAG2003608042	Nelson Stoner 194 West Lexington Road Lititz, PA 17543	Lititz Run WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Manheim Township Lancaster County	PAG2003608048	RLPS Partners II, LLC 1910 Harrington Drive Lancaster, PA 17601	Landis Run WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Brecknock Township Lancaster County	PAG2003608049	MBC Development, LP P. O. Box 472 Schuylkill Haven, PA 17972	UNT to Little Muddy Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Akron Borough Lancaster County	PAG2003608050	Ervin Hoover 118 North 7th Street Akron, PA 17501	Cocalico Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Greene Township Franklin County	PAG2002803013-R	Highlands of Greenvillage Sasson School WASHCO Developers 1741 Dual Highway Hagerstown, MD 21740	UNT to Rowe Run CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Southampton Township Franklin County	PAG2002805027	Gerald Eby 2030 Clearfield Road Shippensburg, PA 17257	Rowe Run CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Letterkenny and Southampton Townships Franklin County	PAG2002808006	CFJMA 725 Municipal Drive Shippensburg, PA 17257	Muddy Run CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Washington Township Franklin County	PAG2002808017	Tom Mongold 418 Epic Drive Chambersburg, PA 17201	Red Run CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Dover Township York County	PAG2006708020	John M. Kemp Royal Farms 3611 Roland Avenue Baltimore, MD 21211	Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAG2006707065	Edmund Glabus 4800 Union Deposit Road Harrisburg, PA 17111	Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Dover Township York County	PAR10Y340-R	Glenn Moore Woodhaven Building and Development, Inc. 4175 Hanover Pike Manchester, MD 21102	UNT to Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Granville Township Mifflin County	PAG2004407002(3)	First Quality Nonwovens, Inc. 101 Green Mountain Road Hazleton, PA 18202	Juniata River WWF	Mifflin County Conservation District 20 Windmill Hill No. 4 Burnham, PA 17009 (717) 248-6589
South Middleton and Dickinson Townships Carlisle Borough Cumberland County	PAG2002106054(1)	Michael Gillespie Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103	Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9131 (717) 240-7812
Hampden Township Cumberland County	PAG2002103023-R	Richard Thomas 155 Ken-Lin Drive Carlisle, PA 17013	Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9131 (717) 240-7812
Centre County College Township	PAG2001408012	Canterbury Crossing Burton Stover S & A Homes, Inc. 2121 Old Gatesburg Road State College, PA 16803	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Liberty Township	PAG2001408014	The Inn at Bald Eagle State Park Michael Twigg Department of Natural Resources 400 Market Street P. O. Box 8451 Harrisburg, PA 17105	Foster Joseph Sayers Lake CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Columbia County Hemlock Township	PAG2001908006	Department of Transportation Engineering District 3-0 Dave L. Burkhart 715 Jordan Avenue P. O. Box 218 Montoursville, PA 17754-0218	Hemlock Creek CWF Little Fishing Creek CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102

NOTICES

4947

<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 Delaware and Lewis Townships	PAG2004908004	Hornberger Residential Subdivision James Hornberger 10170 Route 44 Watsontown, 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 Delaware Township	PAG2004908005	Tom McClintock Watsontown United Methodist Church 11 East Third Street Watsontown, PA 17777	Dry Run WWF	Northumberland County Conservation District R. R. 3 Box 238-C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Union County Buffalo Township	PAG2006008007	Jonathan Dietrich 5931 Buffalo Road Mifflinburg, PA 17844	Buffalo Creek CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Cambria County Conemaugh Township	PAG2001108007	Kurt Freidhoff Hoff Enterprises, Inc. 151 Freidhoff Lane Johnstown, PA 15902	Peggy's Run WWF	Cambria County Conservation District (814) 472-2120
Fayette County Georges Township	PAG2002608015	Tina L. Strickland Rev. Trust 2 Rose Garden Smithfield, PA 15478	UNT to York Run WWF	Fayette County Conservation District (724) 438-4497
Fayette County North Union Township	PAG2002608018	Null Land, Inc. P. O. Box 229 Mt. Braddock, PA 15465	Jennings Run WWF	Fayette County Conservation District (724) 438-4497
Westmoreland County North Huntingdon Township	PAG2006503050-R	Donato Pasquarelli 870 Peregrine Drive North Huntingdon, PA 15642	UNT to Little Sewickley Creek TSF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Penn Township	PAG2006508013	West. Comm. Federal Credit Union 1007 Georges Station Road Greensburg, PA 15601	Brush Creek TSF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County North Huntingdon Township	PAG2006508014	Charles Cleaveland Cleaveland-Price, Inc. 14000 Route 993 Trafford, PA 15085	Brush Creek TSF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Hempfield Township	PAG2006508016	Relex Software Co. 540 Pellis Road Greensburg, PA 15601	UNT to Brush Creek TSF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Sewickley Township	PAG2006508017	Robert Miele 3091 Clay Pike Herminie, PA 15637	Sewickley Creek TSF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Mt. Pleasant Borough and Township	PAG2006508020	Fred C. Edge Woodfield Manor, LLC 1829 University Drive Dunbar, PA 15431	UNT to Shupe Run WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Unity Township	PAG2006508021	St. Vincent College Robert Clouse 300 Fraser Purchase Road Latrobe, PA 15650	Monastery Run WWF	Westmoreland County Conservation District (724) 837-5271

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Westmoreland County City of Greensburg	PAG2006508024	Seton Hill University Seton Hill University Drive Greensburg, PA 15601	Zellers Run WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Hempfield Township	PAG2006508025	Adam Eidemiller, Inc. 1003 East Pittsburgh Street Greensburg, PA 15601	Jacks Run WWF	Westmoreland County Conservation District (724) 837-5271
Butler County Connoquenessing Township	PAG2001003035R	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	PAG2001008001	Oak Tree Place Walnut Capital Partners-Cranberry South, LP 5500 Walnut Street Suite 300 Pittsburgh, PA 15232	Brush Creek WWF	Butler County Conservation District (724) 284-5270
Butler County Adams Township	PAG2001008010	Grace Bay, LP 147 Link Lane Slippery Rock, PA 16057	UNT Breakneck Creek WWF	Butler County Conservation District (724) 284-5270
Lawrence County Shenango Township	PAG2003708006	Forlong, Inc. Attn: George Sewall 329 Fourth Street Ellwood City, PA 16117	UNT to Big Run WWF	Lawrence County Conservation District (724) 652-4512

*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>
Adams County Straban Township	PAR803657	United Parcel Service, Inc. 1821 South 19th Street Harrisburg, PA 17104	UNT to Rock Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Dauphin County Lykens Township	PAR803623	CASA Trucking, d/b/a Michael Foods, Inc. 68 Spain Road Klingerstown, PA 17941	UNT to Pine Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Muhlenberg Township	PAR803661	Farm & Home Oil Company, LLC 3115 Slate Road P. O. Box 389 Telford, PA 18969	UNT to Laurel Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Elizabeth Borough Allegheny County	PAR116132-A1	Gardner Denver Nash, LLC 9 Trefoil Drive Trumbull, CT 06611	Monongahela River	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*

<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>
Berks County Muhlenberg Township	PAG043706	Frank Stramaglia 2125 Georgia Road Temple, PA 19560	UNT to Laurel Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*Facility Location:
Municipality &
County*

Cumberland County
North Middleton
Township

Permit No.
PAG043880

*Applicant Name &
Address*

Suzanne Diehl
Tiger Properties
4 East High Street
Carlisle, PA 17013

*Receiving
Water/Use*

Conodoguinet Creek
WWF

*Contact Office &
Phone No.*

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

Jackson Township
Butler County

Permit No.
PAG049460

Thomas Marx
129 Dutch Road
Harmony, PA 16037

UNT to Connoquenessing
Creek
20-C

DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942

General Permit Type—PAG-5

*Facility Location:
Municipality &
County*

Warwick Township
Bucks County

Permit No.
PAG050078

*Applicant Name &
Address*

Hartsville Garage, Inc.
1075 West Bristol Road
Warminster, PA 18901

*Receiving
Water/Use*

Little Neshaminy Creek
2F

*Contact Office &
Phone No.*

Southeast Region Office
2 East Main Street
Norristown, PA 19401

Newtown Township
Delaware County

Permit No.
PAG050027

Sunoco, Inc. (R & M)
350 Eagleview Boulevard
Suite 300
Exton, PA 19341

UNT to Hunter Run
3G
Ridley Creek

Southeast Region Office
2 East Main Street
Norristown, PA 19401

West Mead
Township
Crawford County

Permit No.
PAG058382

United Refining
Company of
Pennsylvania
P. O. Box 688
Warren, PA 16365-0688

UNT to Mill Run

DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942

General Permit Type—PAG-10

*Facility Location:
Municipality &
County*

Dauphin County
East Hanover
Township

Permit No.
PAG103534

*Applicant Name &
Address*

Texas Eastern
Transmission, LP
890 Winter Street
Suite 300
Waltham, MA 02451

*Receiving
Water/Use*

UNT to Swatara Creek
WWF

*Contact Office &
Phone No.*

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

Berks County
Muhlenberg
Township

Permit No.
PAG103529

Farm & Home Oil
Company, LLC
3115 State Road
P. O. Box 389
Telford, PA 18969

UNT to Laurel Run
WWF

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

Cambria Township
Cambria County

Permit No.
PAG106120

Texas Eastern
Transmission, LP
890 Winter Street
Suite 300
Waltham, MA 02451

Roaring Run

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

General Permit Type—PAG-12

*Facility Location:
Municipality &
County*

Lancaster County
Rapho Township

Permit No.
PAG123666

*Applicant Name &
Address*

Harold S. Weaver
Kevin Greiner
Greiner & Weaver
Poultry & Heifer Farm
15 Alice Avenue
Lititz, PA 17543

*Receiving
Water/Use*

UNT to Brubaker Run
WWF

*Contact Office &
Phone No.*

DEP
Southcentral Region
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Dauphin County Wayne Township	PAG123667	Gary Miller 2146 Powell's Valley Road Halifax, PA 17032	UNT to Powells Run TSF	DEP Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

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. 5408505, Public Water Supply.

Applicant	Jackson Perry 1703 Panther Valley Road Pine Grove, PA 17963 Wayne Township
County	Schuylkill
Type of Facility	Bulk Water Hauling Facility
Consulting Engineer	Edward E. Davis, P. E. Forino Company, LP 555 Mountain Home Road Sinking Spring, PA 19608
Permit to Construct Issued	August 14, 2008

Permit No. 2450045, Operations Permit, Public Water Supply.

Applicant	Pennsylvania American Water 800 West Hersheypark Drive Hershey, PA 17033 Middle Smithfield Township
County	Monroe
Type of Facility	PWS
Consulting Engineer	N/A
Permit to Operate Issued	August 19, 2008

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

Operations Permit issued to **Millerstown Borough Municipal Authority**, 7500021, Greenwood Township, **Perry County** on August 19, 2008, for the operation of facilities approved under Construction Permit No. 5007507 MA.

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

Permit No. 1408502—Construction, Public Water Supply.

Applicant	Gregg Township Water Authority
Township or Borough	Gregg Township
County	Centre
Responsible Official	Thomas J. Stitzer Gregg Township Water Authority P. O. Box 165 Spring Mills, PA 16875
Type of Facility	Public Water Supply— Construction
Consulting Engineer	Eric Lundy, P. E. Nittany Engineering & Assoc., LLC 2836 Earlstown Road Suite 1 Centre Hall, PA 16828
Permit Issued Date	July 17, 2008
Description of Action	Construction of Well No. 1, with associated appurtenances, a transmission line to the filtration plant and detention piping.

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

Permit No. 2577501-MA1, Public Water Supply.

Applicant	Edinboro Water Authority
-----------	---------------------------------

Township or Borough Edinboro Borough
 County **Erie County**
 Type of Facility Public Water Supply
 Consulting Engineer Kirt Ervin, LLC
 US Engineering
 13742 Mary Lane
 Aviston, IL 62216
 Permit to Construct August 25, 2008
 Issued

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

	<i>Borough or Township</i>	<i>Address</i>	<i>County</i>
Borough or Township	Jackson Township	439 Roths Church Road Spring Grove, PA 17362	York County

Plan Description: Project Independence, A3-67931-244-3: The approved plan provides for a one lot commercial development on 230 acres with total estimated sewage flows of 50,000 gpd tributary to an onsite pump station and ultimately, the Jackson Township Wastewater Treatment Plant. The proposed development is located on the northern side of the intersection of Hidden Lane and Commerce Drive in Jackson Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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:

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Charles Keniston Residence, Dingman Township, **Pike County**. Salvatore Sciascia, S & M Management, Inc., P. O. Box 1429, Milford, PA 18337 has submitted a Final Report on July 3, 2008, (on behalf of his client, Charles Keniston, 123 Tamarack Drive, Milford, PA 18337), concerning the remediation of soils found to have impacted by No. 2 fuel oil as a result of a release from an underground storage tank. However, since the Notice of Intent to Remediate was submitted on August 18, 2008, the effective date becomes August 18, 2008, for the Final Report receipt. The report was submitted to document attainment of the Residential Statewide Health Standard for soils. The proposed future use of the property will be residential. A public notice regarding the submittal of the Final Report was published in the *Pike County Dispatch* on May 8, 2008.

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

Huntingdon Former MGP Site, Huntingdon Borough, **Huntingdon County**. Haley & Aldrich, 340 Granite Street, 3rd Floor, Manchester, NH 03102 on behalf of PPL Gas Utilities Corporation, 2 North Ninth Street (GENTW17), Allentown, PA 18101-1179, submitted a cleanup plan concerning remediation of site soils and groundwater contaminated with coal tar, PAHs and VOCs. The site is being remediated to the Site-Specific Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Montour Oil Service Company Fuel Storage Facility, Montoursville Borough, **Lycoming County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801 on behalf of Montour Oil Service Company, 112 Broad Street, Montoursville, PA 17754 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Northumberland Former MGP Site, Northumberland Borough, **Northumberland County**. The Mahfood Group, LLC, 260 Millers Run Road, Bridgeville, PA 15017

on behalf of PPL Electric Utilities Corp., 2 North 9th Street, GENTW-17, Allentown, PA 18101-1179 has submitted a Remedial Investigation Report, Risk Assessment Report and a Cleanup Plan concerning remediation of site soil and groundwater contaminated with PAHs and benzene, ethylbenzene, toluene and xylene (BETX). The reports are intended to document remediation of the site to meet the Site-Specific Standard.

Mifflinburg Lanes, Mifflinburg Borough, **Union County**, Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Mifflinburg Bank & Trust Company, 250 East Chestnut Street, Mifflinburg, PA 17844 has submitted a combined Remedial Investigation Report/Final Report concerning remediation of site soil contaminated with No. 2 heating oil. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

Stackpole Center Northeast Area, City of St. Marys, **Elk County**, EMSOURCE St. Marys, LLC, 111 Commercial Street, Suite 400, Portland, ME 04101 has submitted a Final Report concerning remediation of site soil contaminated with arsenic, benzene, cadmium, 1,2-dichloroethane, dichloromethane (methylene chloride), lead, polychlorinated biphenyls (aroclor) (PCBs), tetrachloroethylene (PCE), thallium, trichloroethylene (TCE), vinyl chloride and site groundwater contaminated with benzene, bromomethane, 1,2-dichloroethane, 1,1-dichloroethylene, CIS-1,2-dichloroethylene, 1,2-dichloropropane, lead, tetrachloroethylene (PCE), 1,1,2-trichloroethane, trichloroethylene (TCE) and vinyl chloride. The report is intended to document remediation of the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media,

benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

Norfolk Southern Enola Railway/Former Lagoon Area, East Pennsboro Township, **Cumberland County**, ENSR International, Four Gateway Center, 444 Liberty Avenue, Suite 700, Pittsburgh, PA 15222-1220, on behalf of Norfolk Southern Corporation, 110 Franklin Road, SE, Box 13, Roanoke, VA 24042-0013 and Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, Philadelphia, PA 19101-1416, submitted a remedial investigation report concerning remediation of site soils and groundwater contaminated with PCBs, lead, heavy metals, BTEX, PHCs, PAHs and solvents. The applicant proposes to remediate the site to the Site-Specific Standard. The remedial investigation was approved by the Department of Environmental Protection on August 18, 2008.

Turkey Hill Store No. 126, Borough of Leesport, **Berks County**, Liberty Environmental, Inc., 10 North Fifth Street, Suite 800, Reading, PA 19601, on behalf of Turkey Hill Minit Markets, 257 Centerville Road, Lancaster, PA 17603, submitted a Final Report concerning remediation of site soils contaminated with unleaded gasoline. The report was submitted within 90 days of the release. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on August 19, 2008.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Growmark F.S. Inc. (Pleasant Gap Crop Center), Spring Township, **Centre County**, Groundwater Sciences Corp., 2601 Market Place Street, Suite 310, Harrisburg, PA 17701 on behalf of Growmark F. S. Inc., 308 NE Front Street, Milford, DE 19963 has submitted a Remedial Investigation Report, Risk Assessment Report and a Cleanup Plan concerning remediation of site soil and groundwater contaminated with herbicides and fertilizers. The report and plan was approved by the Department of Environmental Protection on August 22, 2008.

**SOLID AND HAZARDOUS WASTE
BENEFICIAL USE DETERMINATIONS**

Beneficial Use Determinations received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the regulations for municipal and residual waste.

Southeast Regional Office: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

The Southeast Regional Office received written notice from Liberty Property Trust to use coal ash as structural fill under 25 Pa. Code § 287.661. The approximate 8 acre facility, entitled The Tasty Baking Company Building, is located along 26th Street on the north side of I-95's Girard Point Bridge at The Navy Yard in the City of Philadelphia. Approximately 6,500 cubic yards of bottom ash is projected to be utilized as a 6-inch structural fill layer on the interior of the building footprint directly beneath the floor slab. This notification is being placed to comply with the Department of Environmental Protection's requirement to publish a summary of the written notice received prior to the beneficial use of coal ash as structural fill. The required written notice was received on July, 14, 2008.

**OPERATE WASTE PROCESSING OR
DISPOSAL AREA OR SITE**

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

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

Permit No. 101509 Conestoga Landfill, New Morgan Landfill Company, Inc., 420 Quarry Road, Morgantown, PA 19543-0128. A Permit Renewal extending the existing permit until September 1, 2017, and authorizing the continued operation of this municipal waste landfill located in New Morgan Borough, **Berks County**. The permit was issued by the Regional Office on August 19, 2008.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 101680. Waste Management Disposal Service of Pennsylvania, Inc., 1000 New Ford Mill Road, Morrisville, PA 19067, Falls Township, **Bucks County**. This permit amendment is for approving the modification to the geocomposite material type used within the leachate detection zone of the liner system and the use of a 2-inch diameter or 4-inch diameter discharge hose from the pumps installed within the side slope risers at the GROWS North Landfill. The permit was issued by the Southeast Regional Office on August 8, 2008.

Permit No. 400691. Upper Moreland—Hatboro Joint Sewer Authority, P. O. Box 535, 2875 Terwood Road, Willow Grove, PA 19090-0535, Upper Moreland Township, **Montgomery County**. This permit is for the 10-year renewal for their existing solid waste permit for the continuing operation of the sewage sludge incinerator facility located in Upper Moreland Township, **Montgomery County**. The permit was issued by the Southeast Regional Office on August 8, 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.

45-310-051GP3: Haines & Kibblehouse (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on August 15, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in Tobyhanna Township, **Monroe County**.

45-329-008GP9: Haines & Kibblehouse (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on August 15, 2008, to install and operate a Diesel I/C Engine at their site in Tobyhanna Township, **Monroe County**.

48-399-059GP4: Consolidated Storage Co. (225 Main Street, Tatamy, PA 18085) on August 15, 2008, to construct and operate a Burn Off Oven at their site in Tatamy, **Northampton County**.

48-310-076GP3: Atlas Machine & Welding, Inc. (P. O. Box 72, 777 Smith Lane, Northampton, PA 18067) on August 15, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in East Allen Township, **Northampton County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-65-00953B: The Peoples Natural Gas Co. (D. L. Clark Building, Suite 500, 501 Martindale Street, Pittsburgh, PA 15212) on August 25, 2008, to install a new tri-ethylene glycol dehydration system equipped with a natural gas-fired thermal oxidizer for VOC/HAP control at their Armbrust Compressor Station in Hempfield Township, **Westmoreland County**. An existing 945 bhp Caterpillar G3512TALC compressor engine is also covered by the terms of this General Permit.

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

GP-42-212A: Atlas Pipeline McKean, LLC—SR 59 Station (SR 59, Lewis Run, PA 16738) on August 20, 2008, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Lafayette Township, **McKean County**.

GP-42-217C: Glenn O. Hawbaker, Inc.—Port Allegheny (257 Glass Place, Port Allegheny, PA 16743) on August 20, 2008, for a Portable Nonmetallic Mineral Processing Plant (BAQ-GPA/GP-3) in Liberty Township and Port Allegheny Borough, **McKean County**. This was previously permitted at Greenmans Station (42-219).

GP-42-217D: Glenn O. Hawbaker, Inc.—Port Allegheny (257 Glass Place, Port Allegheny, PA 16743) on August 20, 2008, for a Diesel or No. 2 fuel-fired Internal Combustion Engine (BAQ-GPA-GP-9) in Liberty Township and Port Allegheny Borough, **McKean County**. This was previously permitted at Greenmans Station (42-219).

GP-43-311A: Vista Resources, Inc.—Clarks Mills Compressor Station (Gravatt Road, Clarks Mills, PA

16114) on August 21, 2008, to operate natural gas fired compressor engines (BAQ-GPA/GP-5) in New Vernon Township, **Mercer 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.

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

35-320-010: PA Hutchinson Co. (400 Penn Avenue, Mayfield, PA 18433) on August 14, 2008, to construct and operate a two color Web Heatset Printing Press at their site in Mayfield Borough, **Lackawanna County**.

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

38-03055A: Always Bagels, Inc. (10 Keyland Court, Bohemia, NY 11716-2620) on August 18, 2008, to install a bagel bakery in Lebanon Rails Business Park in North Lebanon Township, **Lebanon County**.

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

10-346B: Scrap Salvage & Surplus, Inc. (690A Glenwood Way, Butler, PA 16001) on August 18, 2008, to install a baghouse to control particulate emissions from torch cutting operations in Center Township, **Butler County**.

20-005B: W. L. Dunn Construction Co. (180 North Franklin Street, Cochranon, PA 16314) on August 15, 2008, to modify existing operating permit conditions to permit maximum production rates to be averaged over a daily production period in East Fairfield Township, **Crawford County**.

25-996A: Advanced Finishing USA—Fairview Plant (7401 Klier Drive East, Fairview, PA 16506) on August 15, 2008, to increase the facility VOC limit to 12 tpy in Fairview Township, **Erie County**. This is a State-only facility.

42-158L: Temple Inland—Mt. Jewett (147 Temple Drive, Kane, PA 16735) on August 15, 2008, to reopen the PAL permit to reflect the cessation of the Particle Board plant and a plan approval application for reduced hours of operation at the MDF plant at their Mt. Jewett facility in Mt. Jewett Township, **McKean County**. The facility currently has a Title V Permit No. 42-00158.

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.

15-0094B: Metallurgical Products Co., Inc. (810 Lincoln Avenue, P. O. Box 598, West Chester, PA 19381-0598) on August 15, 2008, to operate a foundry side electric furnace in West Goshen Township, **Chester County**.

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

10-0210: Indspec Chemical Corp. (133 Main Street, P. O. Box 307, Petrolia, PA 16050) on September 30, 2008, to replace burners in the Bertrams No. 1 and No. 2 furnaces with LNB (12.8 mmBtu/hr each) in Petrolia Borough, **Butler County**. The facility is a Title V Facility.

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

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

06-05024: Reliant Energy Mid-Atlantic Power Holdings, LLC (121 Champion Way, Canonsburg, PA 15317-5817) on August 18, 2008, to operate an electricity generating station at their Titus Station in Cumru Township, **Berks County**. This Title V operating permit was administratively amended for the purpose of changing the responsible official for their Titus Generating Station and clarification of reporting requirements. This is Revision No. 2.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Thomas Huynh, Chief, (215) 685-9476.

V05-012: Grays Ferry Cogeneration Partnership (2600 Christian Street, Philadelphia, PA 19146) on August 25, 2008, to operate a steam and electric generating facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include a 1,119 mmBtu/hr natural gas or No. 2 fuel oil-fired auxiliary boiler and a 1,515 mmBtu/hr natural gas or No. 2 fuel oil-fired combustion turbine with or without a 366 mmBtu/hr natural gas or No. 2 fuel oil-fired Heat Recovery Steam Generator with Selective Catalytic Reduction System.

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.

09-00064: CRC Industries, Inc. (885 Louis Drive, Warminster, PA 18974) on August 21, 2008, to renew the State-only Operating Permit for a non-Title V, Synthetic Minor facility to manufacture specialty chemicals used in the automotive, marine, electrical and industrial maintenance markets in Warminster Township, **Bucks County**. The initial permit was issued on December 2, 2002. The main emissions for this facility are VOCs, of which the facility is limited to less than 18 tpy of emissions and HAPs, of which the facility is limited to less than 10 tpy for any single HAP and less than 25 tpy for all of the HAPs combined. 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.

07-03040: Pennfield Corp. (711 Rohrerstown Road, P. O. Box 4366, Lancaster, PA 17604) on August 20, 2008, for a livestock feed mill in Martinsburg Borough, **Blair County**. This is a renewal of the State-only operating permit.

36-03116: Wilbur Chocolate Co., Inc.—d/b/a Cargill Cocoa and Chocolate (200 Chocolate Avenue, Mount Joy, PA 17552-2000) on August 19, 2008, for an operating permit for their chocolate manufacturing facility in Mount Joy Borough, **Lancaster County**. This is a renewal of the State-only operating permit.

50-03004: Tuscarora Hardwoods, Inc. (2240 Shermans Valley Road, Elliptsburg, PA 17024-9182) on August 20, 2008, to operate a 27.4 mmBtu/hr wood fired boiler in Spring Township, **Perry County**.

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

10-00139: J. S. McCormick Co. (1043 Branchton Road, Boyers, PA 16020-1405) on August 22, 2008, to issue a Natural Minor Operating Permit to operate a facility that processes coke breeze for use in brake manufacturing and metallurgical purposes in Cherry Township, **Butler County**. The facility's primary emission sources include three rotary dryers, coke screening/shaking and three space heating furnaces.

25-00969: Union Electric Steel Corp. (P. O. Box 465, Carnegie, PA 15106-0465) on August 15, 2008, to renew the State-only Operating Permit for their facility at 1712 Green Garden Road in the City of Erie, **Erie County**. The facility is a Natural Minor. The primary sources at the facility include three electro slag remelt stations, four electrically heated slag pots, miscellaneous natural gas combustion sources and a parts cleaner.

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.

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

36-05093: Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506-0550) on August 20, 2008, to operate the Denver asphalt plant in East Cocalico Township, **Lancaster County**. This State-only operating permit was administratively amended to incorporate plan approval No. 36-05093C. This is Revision No. 1.

38-05027: Reading Materials, Inc. (P. O. Box 1467, Skippack, PA 19474-1467) on August 15, 2008, to operate their asphalt plant in North Annville Township, **Lebanon County**. This State-only operating permit was administratively amended to incorporate Reprocessed Asphalt Pavement per the requirements of plan approval No. 38-05027A (PA) and incorporation of an RFD for the use of asphalt shingle materials into the asphalt batch mix. 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

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

32040102 and NPDES No. PA0249491. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, revision of an existing bituminous surface and auger mine for a land use change on a portion of the site from forestland to pastureland/land occasionally cut for hay in Center Township, **Indiana County**, affecting 201.2 acres. Receiving stream: UNT to Yellow Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 10, 2008. Permit issued August 21, 2008.

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

03900109 and NPDES Permit No. PA0200476. Short Brothers, Inc. (15 Rayne Run Road, Marion Center, PA 15759). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mining site located in Kittanning Township, **Armstrong County**, affecting 92.5 acres. Receiving streams: UNTs to Campbell Run and Campbell Run. Application received June 11, 2008. Renewal issued August 21, 2008.

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

17990110 and NPDES No. PA0238333. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650), permit renewal for the continued operation and restoration of a bituminous surface mine in Chest Township, **Clearfield County**, affecting 350.0 acres. Receiving stream: Chest Creek to West Branch Susquehanna, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 5, 2008. Renewal issued August 18, 2008.

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

54070103. White Pine Coal Co., Inc., (P. O. Box 119, Ashland, PA 17921-0119), commencement, operation and restoration of an anthracite surface mine operation in Reilly Township, **Schuylkill County** affecting 159.9 acres, receiving stream: Polly's and Swatara Creeks and

Muddy Branch Schuylkill River. Application received July 19, 2007. Permit issued August 21, 2008.

Noncoal Permits Actions

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

Permit No. 28030301 and NPDES Permit No. PA0613371. DL George & Sons Construction, 13321 Midvale Road, Waynesboro, PA 17268, renewal of NPDES Permit, Antrim Township, **Franklin County**. Receiving stream: Paddy Run classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received June 13, 2008. Permit issued August 19, 2008.

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

02030301 and NPDES Permit No. PA0004278. LaFarge North America, Inc. (5160 Main Street, Whitehall, PA 18052-1827). Permit issued for commencement, operation and reclamation of a noncoal surface mining site located in West Mifflin Borough, **Allegheny County**, affecting 106.0 acres. Receiving streams: Thompson Run. Application received November 14, 2003. Permit issued August 20, 2008.

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

08082801. Jesse Gerould (1829 Gee Road, Gillett, PA 16925), commencement, operation and restoration of a small industrial minerals (sand and gravel) permit located in Ridgebury Township, **Bradford County**, affecting 5.0 acres. Receiving stream: Bentley Creek, tributary to Chemong River, classified for the following use: WWF. Application received May 15, 2008. Permit issued July 17, 2008.

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

52080802. Andrew Polowy, (11390 North Delaware Drive, Bangor, PA 18013), commencement, operation and restoration of a quarry operation in Shohola Township, **Pike County** affecting 5.0 acres, receiving stream: none. Application received March 6, 2008. Permit issued August 21, 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.

01084112. Keystone Blasting Services, 381 Reifsnnyder Road, Lititz, PA 17543, blasting activity permit issued for manure storage pit development in Reading Township, **Adams County**. Blasting activity permit end date is August 30, 2008. Permit issued August 11, 2008.

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

26084003. New Enterprise Stone & Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664). Blasting activity permit for construction of the Mon-Fayette Expressway, SR 43, Section 51F, 166 South, located in Redstone and Luzerne Townships, **Fayette County** with an expected duration of blasting for 90 days. Permit issued August 20, 2008.

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

17084101. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241-9424), construction blasting for a single dwelling, Bizousky property, located in Bell Township, **Clearfield County**. Permit expires August 19, 2009. Permit issued August 22, 2008.

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

45084140. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Evergreen Estates in Middle Smithfield Township, **Monroe County** with an expiration date of August 31, 2009. Permit issued August 18, 2008.

45084142. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Sunrise Village Development in Smithfield Township, **Monroe County** with an expiration date of August 31, 2009. Permit issued August 18, 2008.

45084143. ER Linde Construction Corp., (9 Collan Park, Honesdale, PA 18431), construction blasting for Fox Chapel Development in Middle Smithfield Township, **Monroe County** with an expiration date of August 30, 2009. Permit issued August 18, 2008.

45084144. ER Linde Construction Corp., (9 Collan Park, Honesdale, PA 18431), construction blasting for East Stroudsburg University in Smithfield Township, **Monroe County** with an expiration date of August 30, 2009. Permit issued August 18, 2008.

52084116. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Oak Ridge Estates in Dingman Township, **Pike County** with an expiration date of August 31, 2009. Permit issued August 18, 2008.

67084124. Newville Construction Services, Inc., (408 Mohawk Road, Newville, PA 17241), construction blasting for new electric service line spanning across Interstate 83 in Conewago and East Manchester Townships, **York County** with an expiration date of August 16, 2009. Permit issued August 18, 2008.

15084112. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for D-London Tract Development in Valley Township, **Chester County** with an expiration date of August 15, 2009. Permit issued August 19, 2008.

22084111. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013), construction blasting for Hummels-town Comfort Suites in Swatara Township, **Dauphin County** with an expiration date of August 31, 2009. Permit issued August 20, 2008.

36084197. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Millcreek Development in East Lampeter and West Lampeter Townships, **Lancaster County** with an expiration date of August 1, 2009. Permit issued August 20, 2008.

40084118. Kesco, Inc., (P. O. Box 95, Adrian, PA 16210), construction blasting for Sewage Treatment Plant

in Butler Township, **Luzerne County** with an expiration date of June 30, 2009. Permit issued August 20, 2008.

67084125. TJ Angelozzi, Inc., (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Taylor Estates in Windsor Township, **York County** with an expiration date of December 1, 2008. Permit issued August 20, 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

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

E04-323. Department of Transportation, 25 Thomas Run Road, Bridgeville, PA 15017. To remove existing bridge and to construct and maintain culvert in Industry Borough, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District (Midland, PA Quadrangle N: 5.01 inches; W: 3.13 inches, Latitude: 40° 39' 9"; Longitude: 80° 23' 51"). To remove the existing single span bridge located over Sixmile Run (WWF); to construct and maintain a new 30.0' wide and 12.5' high and 116' long high arch culvert, located approximately 200' downstream of the existing structure; to construct and maintain 20' of riprap protection on the upstream end of the new culvert and 20' of riprap protection on the downstream end of the new culvert; to construct and maintain a temporary stream relocation 172' long of the same stream; and to place and maintain fill in a de minimis wetland (0.017 acre) (PEM). The work is part of proposed realignment of Engle Road (SR 4032) and its intersection with SR 0068. To compensate for the wetland impacts the applicant proposes to make a payment to the wetland replacement fund.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, 16335.

E61-282, Donald E. Hall, Department of Transportation Engineering District 1-0, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. Cooperstown Bridge Replacement SR 0427 Section B01 over Sugar Creek (CWF), in Cooperstown Borough, **Venango County**, United States Army Corps of Engineers, Pittsburgh District (Franklin, PA Quadrangle N: 41° 29' 55.5"; W: 79° 52' 12.5").

To remove the existing bridge and to construct and maintain a concrete spread box beam bridge having two equal clear spans of 65.175 feet and a minimum underclearance of 11.42 feet on a 75° skew across Sugar Creek (CWF) and to realign the roadway approaches on SR 0427.

SPECIAL NOTICES

DRINKING WATER STATE REVOLVING FUND SPECIAL NOTICE

Special Notice under the Federal Safe Drinking Water Act (SDWA); 42 U.S.C. 300f, et. seq.

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

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Aqua Pennsylvania, Inc.	50 East Woodhaven Drive White Haven, PA 18661	Luzerne

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The applicant, Aqua Pennsylvania, Inc., proposes the construction of a new replacement source of supply (Forest Park Well No. 2); treatment facilities for disinfection, pH adjustment, sequestration and iron and manganese control, and chlorine contact pipe and transmission main installations. Other modifications include the construction of a 50,000 gallon storage tank, distribution system extension construction, as well as modifications to the existing Well No. 1 Station comprising of booster station construction, chlorine contact pipe installation and the removal of a 7,000 gallon hydropneumatic tank. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the

project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 08-1632. Filed for public inspection September 5, 2008, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2008.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance

DEP ID: 385-2000-011. Title: Pennsylvania Combined Sewer Overflow (CSO) Policy. Description: On March 1, 2002, the Department published a Combined Sewer Overflow (CSO) Policy to assist in meeting the goals of controlling and eliminating CSO discharges, as practical, as well as to facilitate compliance among all CSO system permittees with State water quality standards through the National Pollutant Discharge Elimination System (NPDES) permitting program. Substantive revisions were made to the policy to further enhance and support compliance with CSO and NPDES permit conditions among the regulated community. Additionally, revisions were incorporated to establish the Department's policy regarding CSO Phase III permitting to implement, as appropriate, the Environmental Protection Agency's (EPA) April 1994 National Combined Sewer Overflow Control Policy and the subsequent Wet Weather Water Quality Act of 2000 that codified that policy.

Notice of the interim final technical guidance document, including a request for public comment, was published at 37 Pa.B. 4841 (September 1, 2007). A 30-day public comment period was provided, which concluded on October 1, 2007. No comments were received. This policy will be reviewed and revised at least once every 5 years to reflect changes to State or Federal CSO policies. The policy applies to Department staff and CSO system

permittees regarding permit requirements for CSOs and the actions necessary to achieve compliance with the requirements of the CSO Phase III Program. Contact: Questions concerning final technical guidance No. 385-2000-011 can be directed to John Wetherell, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, P. O. Box 8467, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8467, (717) 705-0486, jwetherell@state.pa.us. Effective Date: September 6, 2008.

DEP ID: 362-5512-004. Title: Recognition of Cost Items Associated with Concurrent Act 537 and Combined Sewer Overflow Long Term Control Plan (LTCP) Planning. Description: This document describes the treatment of costs in the calculation of Act 537 sewage facilities planning assistance grant when a LTCP has been made part of an Act 537 Official plan revision. It confirms that a LTCP, whose content responds to regulations enforced under the Federal Clean Water Act, may be part of a comprehensive Act 537 update revision document. Notice proposing this technical guidance document was published at 34 Pa.B. 2890 (May 29, 2004). A 30-day public comment period was provided, which concluded on June 28, 2004. No comments were received during the comment period. No substantive revisions were made to the guidance; however, two changes were made to enhance the clarity of the document. The first change updates the name of the Bureau responsible for oversight of the Act 537 Program from the Bureau of Water Supply and Wastewater Management to the Bureau of Water Standards and Facilities Regulation. The second change corrects grammar in the first sentence of paragraph B.3. Contact: John Diehl, Department of Environmental Protection, Bureau of Water Supply and Facilities Regulation, P. O. Box 8774, Harrisburg, PA 17105-8774 (717)-787-8184, diehl@state.pa.us. Effective Date: September 6, 2008.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1633. Filed for public inspection September 5, 2008, 9:00 a.m.]

Bid Opportunity

OSM 24(3896,3897)101.1, Abandoned Mine Reclamation Project, Winslow Hill IV, Benazette Township, Elk County. The principal items of work and approximate quantities include 400,517 cubic yards of grading, 101,000 tons of alkaline addition and 40.4 acres of seeding. This project issues on September 5, 2008, and bids will be opened on October 2, 2008, at 2 p.m. Bid documents cost \$15 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1634. Filed for public inspection September 5, 2008, 9:00 a.m.]

General NPDES Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (PAG-06); Public Notice of Availability

The Department of Environmental Protection (Department) by this notice is reissuing its National Pollutant Discharge Elimination System (NPDES) General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (PAG-06) for an additional 5 years. This General Permit is issued under the authority of The Clean Streams Law (35 P.S. §§ 691.1—691.101) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20) and will expire on September 6, 2013. The General Permit will continue to not be applicable to discharges into waters designated as "special protection" under 25 Pa. Code Chapter 93 (relating to water quality standards). The discharges are required to be covered through an individual permit.

Notice requesting comments on the proposed General Permit was published at 38 Pa.B. 844 (February 9, 2008). During the 30-day public comment period, the Department received comments from the Environmental Protection Agency (EPA). The Department prepared a Comment and Response document, which summarizes EPA's comments and the changes that were made to the final general permit. The Comment and Response document is available from the Department in addition to the final general permit package.

The General Permit package is available from the Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Water Management, Rachel Carson State Office Building, P. O. Box 8774, 11th Floor, Harrisburg, PA 17105-8774, (717) 787-8184 and the Department's web site at www.depweb.state.pa.us (DEP Keywords: "NPDES Permits"; then select "General Permits").

Persons with a disability may contact the Department by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1635. Filed for public inspection September 5, 2008, 9:00 a.m.]

Statewide Water Resources Committee; Meeting Cancellation

The Statewide Water Resources Committee (Committee) meeting scheduled for September 10, 2008, has been cancelled. The next meeting is scheduled for December 18, 2008, at 9:30 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the next scheduled meeting of the Committee should be directed to Susan Weaver at (717) 772-4048, suweaver@state.pa.us. The agenda and materials for the December 18, 2008, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-4048 or through the

Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1636. Filed for public inspection September 5, 2008, 9:00 a.m.]

Storage Tank Advisory Committee; Meeting Cancellation

The Storage Tank Advisory Committee (Committee) meeting scheduled for September 9, 2008, has been cancelled. The next meeting is scheduled for December 9, 2008, at 10 a.m. in the 14th Floor, Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning the cancellation of the September 9, 2008, meeting or the next regularly scheduled Committee meeting should be directed to Charles Swokel, Bureau of Waste Management, (717) 772-5806, cswokel@state.pa.us. The agenda and meeting materials for the December 9, 2008, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keyword: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5551 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1637. Filed for public inspection September 5, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Bureau of Managed Care; Address Change

Under 28 Pa. Code § 9.703(d) (relating to internal complaint process), the Department of Health (Department), is giving notice that its address for purposes of complaint and grievance information is as follows:

Department of Health
Bureau of Managed Care
Room 912 Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120-0701

The Department is making this change to provide a more specific street address to which complaints and grievances may be sent.

Persons with questions regarding this notice should contact James Ratcliff, Room 912, Health and Welfare Building, Department of Health, 625 Forster Street, Harrisburg, PA 17120-0701, (717) 787-5193 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

Persons who require an alternative format of this notice (for example, large print, audiotope, Braille) may contact

James Ratcliff at the previous address or telephone numbers so that necessary arrangements may be made.

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

[Pa.B. Doc. No. 08-1638. Filed for public inspection September 5, 2008, 9:00 a.m.]

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

The Village at Luther Square
149 West 22nd Street
Erie, PA 16502-2899
FAC ID 382602

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.25(a), 205.26(a), 205.31 and 205.67(j) and (k).

Brethren Village
3001 Lititz Pike
P. O. Box 5093
Lancaster, PA 17606
FAC ID 282602

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

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 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille) should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 08-1639. Filed for public inspection September 5, 2008, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Medical Assistance Program; Prior Authorization List

The Department of Public Welfare (Department) announces additions to the Medical Assistance (MA) Pro-

gram's list of services and items requiring prior authorization, effective September 15, 2008:

- Letairis
- Methadone
- Myobloc (Botulinum Toxin Type B)
- Atypical antipsychotics when two or more are prescribed for 60 days or more
- Atypical antipsychotics when prescribed for children under 6 years of age
- Stimulants and related agents when prescribed for children under 4 years of age
- Over-The-Counter (OTC) cough and cold medications when prescribed for children under 2 years of age

Section 443.6(b)(7) of the Public Welfare Code (62 P. S. § 443.6(b)(7)) authorizes the Department to add items and services to the list of services requiring prior authorization by publication of notice in the *Pennsylvania Bulletin*.

The MA Program will require prior authorization of prescriptions for the medications listed previously that are dispensed on and after September 15, 2008.

The Department will issue MA Bulletins to providers enrolled in the MA Program specifying the procedures for obtaining prior authorization of the prescriptions for the medications listed previously.

Fiscal Impact

It is estimated that the change will result in savings of \$0.013 million (\$0.006 million in State funds) in the MA-Outpatient Program in Fiscal Year (FY) 2008-2009 and annualized net savings of \$0.017 million (\$0.008 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 Deputy Secretary's Office, Attention: 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 these prior authorization requirements.

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-568. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 08-1640. Filed for public inspection September 5, 2008, 9:00 a.m.]

DEPARTMENT OF STATE

Patricia and Raynard Spaide, Petitioners v. Ira Troy Huntington, Jr., Respondent; Doc. No. 0001-97-07

On July 30, 2008, the Secretary of the Commonwealth issued an adjudication and order in the matter of *Patricia and Raynard Spaide, Petitioners v. Ira Troy Huntington, Jr., Respondent*. After notice and opportunity for a hearing under 13 Pa.C.S. § 9518(d) (relating to claim concern-

ing inaccurate or wrongfully filed record), the Department of State (Department) has determined that a financing statement filed in the Berks County Recorder of Deeds Office by Ira Troy Huntington, Jr., naming Patricia and Raynard Spaide as debtors, was fraudulently filed. The Department concluded that no rational basis exists under 13 Pa.C.S. § 9509 (relating to persons entitled to file a record) entitling Ira Huntington to file the initial financing statement and that Huntington filed the initial financing statement with intent to annoy, harass or harm Patricia and Raynard Spaide.

Individuals may obtain a copy of the adjudication and order by writing to Martha H. Brown, Assistant Counsel, Department of State, Office of Chief Counsel, 301 North Office Building, Harrisburg, PA 17120.

PEDRO A. CORTÉS,
Secretary

[Pa.B. Doc. No. 08-1641. Filed for public inspection September 5, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10:30 a.m., Thursday, August 21, 2008, and announced the following:

Regulation Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective August 20, 2008:

Insurance Department #11-234: Preparation and Filing of Forms for Approval (Fire and Casualty (deletes 31 Pa. Code Chapter 133))

Regulations Approved:

Department of Public Welfare #14-504: Licensure/Approval Appeal Procedure (amends 55 Pa. Code Chapters 20, 1181, 2380, 2390, 3130, 3140, 3270, 3280, 3290, 3680, 3700, 6400 and 6590)

Environmental Quality Board #7-416: Consumer Products (amends 25 Pa. Code Chapter 130, Subchapters B and C)

Pennsylvania Gaming Control Board #125-78: Slot Machine Testing and Control (amends 58 Pa. Code Chapter 461a)

Pennsylvania Gaming Control Board #125-79: Preliminary Provisions; Employees; Junket Enterprises; Slot Machine Licenses; Slot Machine Testing and Control; Possession of Slot Machine; and Accounting and Internal Controls (amends 58 Pa. Code Chapters 401a, 435a, 439a, 441a, 461a, 461b, 463a and 465a)

Regulations Disapproved:

Department of Labor and Industry #12-71: Registration of Sign Language Interpreters and Transliterations (adds 34 Pa. Code Chapter 501)

Department of Education #6-300: Keystone Educational Accountability Best Management Practices Standards (adds 22 Pa. Code Chapter 405)

Approval Order

Public Meeting held
August 21, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Karen A. Miller; John F. Mizner, Esq.

Department of Public Welfare—Licensure/Approval Appeal Procedure; Regulation No. 14-504 (#2552)

On June 20, 2006, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Public Welfare. This rulemaking amends 55 Pa. Code Chapters 20, 1181, 2380, 2390, 3130, 3140, 3270, 3280, 3290, 3680, 3700, 6400 and 6590. The proposed regulation was published in the July 8, 2006, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 21, 2008.

This regulation adopts the General Rules of Administrative Practice and Procedure (1 Pa. Code Part II) for use in Department of Public Welfare certification appeals.

We have determined this regulation is consistent with the statutory authority of the Department of Public Welfare (2 Pa. C.S. §§ 501—508 and §§ 701—704; 62 P. S. §§ 921 and 1021) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
August 21, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Karen A. Miller; John F. Mizner, Esq.

Environmental Quality Board—Consumer Products; Regulation No. 7-416 (#2636)

On August 29, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (Board). This rulemaking amends 25 Pa. Code Chapter 130, Subchapters B and C. The proposed regulation was published in the September 15, 2007, *Pennsylvania Bulletin* with a 102-day public comment period. The final-form regulation was submitted to the Commission on July 18, 2008.

This regulation amends the existing provisions that limit the Volatile Organic Compound content of various consumer products.

We have determined this regulation is consistent with the statutory authority of the Board (35 P. S. § 4005) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
August 21, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson;
Karen A. Miller; John F. Mizner, Esq.

*Pennsylvania Gaming Control Board—Slot Machine
Testing and Control; Regulation No. 125-78 (#2666)*

On January 9, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapter 461a. The proposed regulation was published in the January 19, 2008, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 11, 2008.

This final-form regulation amends the Board's existing regulations to address unredeemed gaming vouchers.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. §§ 1202(b)(30) and 1207) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
August 21, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson;
Karen A. Miller; John F. Mizner, Esq.

*Pennsylvania Gaming Control Board—Preliminary
Provisions; Employees; Junket Enterprises; Slot Machine
Licenses; Slot Machine Testing and Control; Possession of
Slot Machines; and Accounting and Internal Controls;
Regulation No. 125-79 (#2677)*

On February 21, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 401a, 435a, 439a, 441a, 461a, 461b, 463a and 465a. The proposed regulation was published in the March 8, 2008, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 11, 2008.

This regulation amends language based on organizational changes within the Board's organizational structure, adds new design standards for slot machines, deletes an obsolete technical standard, amends accounting and internal control requirements and expands provisions relating to merchandise jackpots.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. § 1202(b)(30)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Disapproval Order

Public Meeting held
August 21, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson;
Karen A. Miller; John F. Mizner, Esq.

*Department of Labor and Industry—Registration of Sign
Language Interpreters and Transliterators; Regulation No.
12-71 (#2556)*

On July 10, 2006, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (Department). This rulemaking adds 34 Pa. Code Chapter 501. The proposed regulation was published in the July 22, 2006, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 8, 2008.

The purpose of the rulemaking is to implement the Sign Language Interpreter and Transliterator State Registration Act (Act). (63 P. S. §§ 1725.1—1725.11)

Based upon the information provided to us, the Commission has determined that one of the criteria set forth in the Regulatory Review Act has not been met. That criterion pertains to clarity and lack of ambiguity. (71 P. S. § 745.5b(b)(3)(ii)).

Our comments on the proposed version of this rulemaking identified specific sections that lacked clarity. The Department has made several changes to the rulemaking in response to those comments and also comments provided by the public. However, the following clarity concerns remain.

First, § 501.4, pertaining to registration and § 501.5, pertaining to exemptions, are written in a manner that requires a person to read both the regulation and the Act in order to understand all aspects of the registration process. In addition, the regulation is silent on the provisions of the Act pertaining to confidential communications. We recommend that §§ 501.4 and 501.5 be amended in a manner that more accurately informs the regulated community of the registration process and we recommend that a new section pertaining to confidential communications be added to the regulation. We note that the amendments to the exemptions in § 501.5 should include the exemptions contained in the Act and also the exemption created by Act 172 of 2006, which relates to court and administrative proceeding interpreters.

Second, we believe the definition of "RID Generalist examinations" found in § 501.1 remains unclear for two reasons. First, the definition does not reflect the fact that the examination is no longer given. In addition, the definition now includes the following undefined acronyms: CI/CT, CSC, MCSC, CDI, OTC and OIC:C. We recommend that this definition be amended to reflect the fact that the examination is no longer given and to define the acronyms.

Third, in our comment on § 501.5(e), we asked the Department to amend the final regulation in accordance with Act 92 of 2006 (Act 92), which relates to interpreting and transliterating in a public or private school. The Department added language to reference "regulations promulgated by the State Board of Education." The State Board of Education recently promulgated two regulations, as required by Act 92. We acknowledge that when the final-form regulation was developed by the Department, the regulations of the State Board of Education were not finalized and it would not have been possible to include more specific citations. However, the State Board of

Education's regulation are now finalized and we recommend that this final regulation include those specific citations (See 22 Pa. Code § 14.105 and § 711.5)

We have determined this regulation is consistent with the statutory authority of the Department (63 P.S. § 1725.3(4)) and the intention of the General Assembly. However, after considering the clarity criterion of the Regulatory Review Act discussed above, we find that promulgation of this regulation is not in the public interest.

By Order of the Commission:

This regulation is disapproved.

Disapproval Order

Public Meeting held
August 21, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson;
Karen A. Miller; John F. Mizner, Esq.

*Department of Education—Keystone Educational
Accountability Best Management Practices Standards;
Regulation No. 6-300 (#2550)*

On June 20, 2006, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Education (Department). This rulemaking adds 22 Pa. Code Chapter 405. The proposed regulation was published in the July 1, 2006, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 21, 2008.

This final-form regulation implements the Keystone Educational Accountability Act of 2003 (Act). The purpose of the Act is to put in place an assessment system aimed at improving school district management practices and use of resources, as well as to identify potential cost savings, by providing for the establishment of best management practice standards covering a broad range of educational and operational programs and services.

Based upon the information provided to us, the Commission has determined that three of the criteria set forth in the Regulatory Review Act have not been met.

The first and most critical criterion that has not been met is whether the agency has the statutory authority to promulgate the regulation and whether the regulation conforms to the intention of the General Assembly in the enactment of the statute upon which the regulation is based. (71 P.S. § 745.5b(a)). In our comments on the proposed rulemaking, we stated that the regulation fails to establish the process for both self-assessment and the external review. In response to this comment, the Department added a new section pertaining to the review and self-assessment process (§ 405.14). Our concern is with the following new language in the section: "Each school district of the Commonwealth shall be reviewed for compliance with the standards once every six years, **to the extent that funds are provided for this purpose in the general appropriation act each year.**" (Emphasis added.) We believe that the Department does not have the statutory authority to limit compliance reviews to years when the General Assembly provides a specific appropriation. The controlling provision of the Act states, "Every school district shall be subject to a best financial management practices review on a continuing six-year cycle." (24 P.S. § 25-2506-A(a)). We understand this to mean that every school district *must* undergo a review every six years, regardless of designated funding.

The Act does permit the Department some flexibility depending on the availability of specifically appropriated funds, but that flexibility is limited to situations involving the use of private firms to conduct these reviews. Specifically, the Act allows the Department "to contract with a private firm or firms . . . to the extent that funds are provided for this purpose in the General Appropriation Act each year." 24 P.S. § 25-2506-A(c). We feel that the Department has mistakenly applied the flexibility permitted in Subsection (c) to the review process required in Subsection (a). Therefore, we conclude that § 405.14 of the regulation conflicts with the specific statutory directive to conduct financial management reviews of each school district once every six years. Further, the Department, by exceeding the scope of statutory authority granted by the General Assembly, is not conforming to the intention of that body. The Department should delete Section 405.14 from the regulation.

The second criterion that has not been met is whether the regulation is clear and lacks ambiguity. (71 P.S. § 745.5b(b)(3)(ii)). We believe the new section pertaining to definitions (§ 405.2) lacks clarity for the following reasons. First, the introductory paragraph of the section is not written in regulatory language and should be deleted. Second, most of the definitions included in the final rulemaking include the term that is being defined. Pursuant to the *Pennsylvania Code and Bulletin Style Manual*, the term being defined should not be included in the definition (§ 1.7(e)), and we recommend that the definitions be amended accordingly. Third, under the definition of "Keystone District," the phrase "is eligible to be certified by the Pennsylvania Secretary of Education as a Keystone District" is substantive and should be moved to the body of the regulation.

The third criterion that has not been met is whether the Department has complied with the provisions of the Act and the regulations of Commission in promulgating the regulation. As noted above, a new section pertaining to definitions was added to the final regulation. The inclusion of this new section required renumbering of other sections contained in the regulation. However, the renumbering was not formatted in a manner consistent with the Commission's regulations under 1 Pa. Code § 307.3a(b)(1) and (2).

We have determined this regulation is not consistent with the statutory authority of the Department and the intention of the General Assembly. Additionally, after considering all of the other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

By Order of the Commission:

This regulation is disapproved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1642. Filed for public inspection September 5, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

**Blue Cross of Northeastern Pennsylvania and
Highmark Blue Shield BlueCare Major Medical
Plan; Rate Filing**

On August 21, 2008, Blue Cross of Northeastern Pennsylvania and Highmark Blue Shield submitted a rate

filing (No. 1427-MMNG-1/1/09) to increase the premium rates for the BlueCare Major Medical Plan by approximately 4.9%. This filing will affect approximately 4,800 subscribers and produce additional premium income of about \$.46 million annually. The requested effective date of the change is January 1, 2009.

Blue Cross of Northeastern Pennsylvania and Highmark Blue Shield have also proposed the following benefit changes:

- Increase the pharmacy copayments from 3-tier \$10 Generic/\$20 Brand Formulary/\$35 Nonformulary with \$500 deductible to 4-tier \$0 Selected Generic/\$15 Generic/\$30 Brand Formulary/\$50 Nonformulary with \$500 deductible;
- Change the benefit for outpatient Physical Therapy, Speech Therapy, Occupational Therapy and Physical Medicine providing for a combined benefit maximum of 45 visits per calendar year.

Unless formal administrative action is taken prior to November 20, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional office.

Interested parties are invited to submit written or email comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120 at csandersjo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1643. Filed for public inspection September 5, 2008, 9:00 a.m.]

Robert E. Jackson; Prehearing

Appeal of Robert E. Jackson under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2001-0301(S); Doc. No. UT08-08-003

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on October 9, 2008, at 9:30 a.m. A hearing shall occur on October 22, 2008, at 9:30 a.m., in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before September 25, 2008. Answers to petitions to intervene, if any, shall be filed on or before October 7, 2008.

A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

On or before September 25, 2008, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1644. Filed for public inspection September 5, 2008, 9:00 a.m.]

Notice to Medical Malpractice Insurance Carriers and Self-Insured Health Care Providers

Insurance companies that offer basic limits medical malpractice coverage are required to report medical malpractice claims information to the Insurance Department (Department) for insureds who are subject to the Medical Care Availability and Reduction of Error (MCARE) Act (act) (40 P. S. §§ 1303.101—1303.910). Organizations and physicians that self-insure their medical malpractice exposures are also required to report this claims information. These reports are required under section 743 of the act (40 P. S. § 1303.743).

The claims information must be reported to the MCARE Fund and to the Department. The following calendar year 2007 claims information is due to the Fund and the Department by October 15, 2008:

- The aggregate amount of premium earned.
- The aggregate amount of losses paid.
- The aggregate amount of losses incurred.
- The aggregate amount of loss reserves outstanding.
- The aggregate amount of loss adjustment expenses paid.
- The aggregate amount of loss adjustment expenses incurred.
- The aggregate amount of loss adjustment expense reserves outstanding.
- A table showing separately by accident year and county the number of claims first reported (or arising) in 2007.
- A table showing separately by accident year and disposition (that is, judgment of arbitration panel, judg-

ment of court, settlement or other) the number of claims closed by county (or disposed) in 2007.

- A separate table for each type of disposition previously identified showing for claims closed (or disposed) in 2007 separately by accident year: the number of claims closed (or disposed) with payment; the total losses incurred for those claims closed with payment; and the basic coverage premiums collected.

Reports must be submitted as an Excel spreadsheet. A letter has been mailed instructing medical malpractice carriers to submit their 2007 data.

Medical malpractice carriers who have not received a letter should contact Bojan Zorkic, Actuarial Associate, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-6968, bzorkic@state.pa.us. Questions should be directed to Bojan Zorkic.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1645. Filed for public inspection September 5, 2008, 9:00 a.m.]

7-Eleven #21110; Prehearing

Appeal of 7-Eleven #21110 under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2007-0119(F); Doc. No. UT08-08-016

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A preliminary prehearing telephone conference shall be held on October 1, 2008, at 10 a.m. A hearing shall occur on October 16, 2008, in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before September 17, 2008. Answers to petitions to intervene, if any, shall be filed on or before September 26, 2008.

On or before September 24, 2008, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1646. Filed for public inspection September 5, 2008, 9:00 a.m.]

INTERBRANCH COMMISSION FOR GENDER, RACIAL AND ETHNIC FAIRNESS

Annual Public Meeting

The Interbranch Commission (Commission) for Gender, Racial and Ethnic Fairness was established in 2005 as a means of implementing the recommendations contained in the study by the Supreme Court Committee of Pennsylvania on Racial and Gender Bias in the Justice System. Since its inception, the Commission has been actively addressing issues identified in the study, including diversifying the court workforce and juries throughout the State, establishing a loan forgiveness program for public defenders, developing systems for juvenile record expungement, and providing interpreter services in administrative hearings, among other initiatives.

The Commission is planning to present a report of its activities to the public during its next quarterly meeting on September 11, 2008. The meeting will be held at the Rachel Carson State Office Building, Auditorium located at 400 Market Street, Harrisburg, PA 17101. We would be honored to have you attend the event from 1:30 to 3:30 p.m., during which the presentation of our third Annual Report will be made. Members of the judiciary, the legislature, local and State bar associations, law school faculty and community groups, as well as the press, have been invited to attend. The Commission has also issued a special invitation to Governor Rendell and Mayor Stephen R. Reed to speak.

The Commission believes that this program will reflect very positively on the entire legal community. The Commission hopes that persons will find the time to attend, not only to learn more about what the Commission has accomplished during the past year, but also to show support for our efforts to promote fairness in our court system.

The contact is Christine Kalinik, paralegal for the Commission, at christine.kalinik@pacourts.us. If persons plan to attend the meeting contact Christine Lakinik by September 8, 2008.

LISETTE M. MCCORMICK, Esq.,
Chair

[Pa.B. Doc. No. 08-1647. Filed for public inspection September 5, 2008, 9:00 a.m.]

OFFICE OF ATTORNEY GENERAL

Public Meeting

Public notice is hereby given of a meeting of the Lobbying Disclosure Regulation Committee (Committee) established under November 1, 2006 (P. L. 1213, No. 134) (Act 134). The meeting will be held on Thursday, September 11, 2008, at 9:30 a.m. in Hearing Room 2, North Office Building, Harrisburg, PA.

The purpose of the meeting will be for the Committee to consider regulations under Act 134 of 2006 and to receive public comments. Visit www.attorneygeneral.gov for more information and to view a copy of the complete agenda.

THOMAS CORBETT,
Attorney General

[Pa.B. Doc. No. 08-1648. Filed for public inspection September 5, 2008, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, announces a meeting of the Authority's Board on Tuesday, September 9, 2008, at 9:30 a.m. to be held at the Wildwood Conference Center, Harrisburg Area Community College, One HAAC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,
Executive Director

[Pa.B. Doc. No. 08-1649. Filed for public inspection September 5, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Local Exchange Carrier Services

A-2008-2059288. Consolidated Communications Network Services, Inc. Application of Consolidated Communications Network Services, Inc., for approval to provide Competitive Local Exchange Carrier Services to the public in the service territory of The United Telephone Company of Pennsylvania, d/b/a Embarq PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary 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 22, 2008. The docu-

ments 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: Consolidated Communications Network Services, Inc.

Through and By Counsel: Norman J. Kennard, Esquire, Michael L. Swindler, Esquire, Thomas, Long, Niesen and Kennard, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1650. Filed for public inspection September 5, 2008, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by September 22, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-2008-2055287. Four Seasons Limousine Service, Inc. (1524 McKean Street, Philadelphia, Philadelphia County, PA 19145)—a corporation of the Commonwealth—in limousine service, from points in the Counties of Bucks, Chester, Delaware and Montgomery, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Andrew D. Santana, Esq., P. O. Box 3001, Blue Bell, PA 19422.

A-2008-2055403. Hibetallah Oussai (2817 Rosehill Road, Harrisburg, Dauphin County, PA 17110)—in call or demand service, from points in the Counties of Cumberland and Dauphin.

A-2008-2056920. Vicky L. Shepos (475 Lancaster Pike, New Providence, Lancaster County, PA 17560)—in paratransit service, from points in the Willow Valley Retirement Communities, Lancaster County, to points in Pennsylvania, and return.

Application of the following for approval of the *beginning* of the exercise of the right and privilege of operating motor vehicles as *common carriers* for the transportation of *household goods* by *transfer of rights* as described under each application.

A-2008-2056878. McCollister's Transportation Systems of New Jersey, Inc. (2500 Milford Square Pike, Quakertown, Bucks County, PA 18951)—a corporation of

the State of Delaware—household goods in use, which is to be a transfer of all rights authorized under the certificates issued at A-00096992 to Ware's Van and Storage, Inc., subject to the same limitations and conditions. *Attorney:* James W. Patterson, 2929 Arch Street, 13th Floor, Philadelphia, PA 19104.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1651. Filed for public inspection September 5, 2008, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Hair.com Styling and Tanning Salon; Doc. No. 1341-45-2008

On July 15, 2008, Hair.com Styling and Tanning Salon, of Somerset, Somerset County, had their license suspended for failure to pay \$1,000 in civil penalties issued by the 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. 08-1652. Filed for public inspection September 5, 2008, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Sony Huynh; Doc. No. 0490-45-2008

On July 14, 2008, Sony Huynh, of Philadelphia, Philadelphia County, had his license to practice cosmetology revoked based on his obtaining a license by dishonest or unethical means.

Individuals may obtain a copy of the adjudication by writing to Christopher K. McNally, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Cosmetology (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. 08-1653. Filed for public inspection September 5, 2008, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Tam Minh Thi Huynh; Doc. No. 0497-45-2008

On July 17, 2008, Tam Minh Thi Huynh, of Mobile, AL, had her license to practice cosmetology revoked for obtaining a license by dishonest or unethical means.

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 State Board of Cosmetology (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. 08-1654. Filed for public inspection September 5, 2008, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Minh Tuyet Thi Le; Doc. No. 0544-45-2008

On July 14, 2008, Minh Tuyet Thi Le, of Leominster, MA, license was revoked, based on obtaining a license to practice cosmetology by dishonest or unethical means.

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 State Board of Cosmetology (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. 08-1655. Filed for public inspection September 5, 2008, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Thanh Minh Ly; Doc. No. 0559-45-2008

On July 14, 2008, Thanh Minh Ly, of Mobile, AL, had his license to practice cosmetology revoked based on his obtaining a license by dishonest or unethical means.

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. 08-1656. Filed for public inspection September 5, 2008, 9:00 a.m.]

STATE BOARD OF DENTISTRY

Bureau of Professional and Occupational Affairs v. William P. Kardos, DMD; Doc. No. 0175-46-2006

On July 16, 2008, William P. Kardos, of Apollo, Armstrong County, had his license to practice dentistry suspended for 2 years, is being required to complete 30 hours of continuing education and was levied a civil penalty of \$1,000, based on his failing to conform to the standards of acceptable and prevailing dental practice.

Individuals may obtain a copy of the adjudication by writing to Christopher P. Grovich, Board Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Dentistry (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.

JOHN W. REITZ, DDS,
Chairperson

[Pa.B. Doc. No. 08-1657. Filed for public inspection September 5, 2008, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

The following hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to the State

Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

September 29 and 30, 2008	Rolf Larsen (Effective Date of Retirement and Final Average Salary)	9 a.m.
October 8, 2008	Larry Punch (Benefit Reduction and COLA Application)	1 p.m.
October 16, 2008	Jesse A. Moss (Age 50 Retirement Credit)	1 p.m.
October 17, 2008	Mary Jo Zambelli (Age 50 Retirement Credit)	10 a.m.
October 17, 2008	Robert S. Goyak (Age 50 Retirement Credit)	1 p.m.

Parties in each respective case may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code, Part II (relating to General Rules of Administrative Practice and Procedure), unless specific exemption is granted.

LEONARD KNEPP,
Secretary

[Pa.B. Doc. No. 08-1658. Filed for public inspection September 5, 2008, 9:00 a.m.]

STATE ETHICS COMMISSION

Public Meeting

Under 65 Pa.C.S. §§ 1101—1113 (relating to Public Official and Employee Ethics Act) (act), the State Ethics Commission (Commission) is required to hold at least two public hearings each year to seek input from persons and organizations who represent any individual subject to the provisions of the act and from other interested parties.

The Commission will conduct a public meeting at Pocono Inne Town, 700 Main Street, Stroudsburg, PA 18360 on September 23, 2008, beginning at 9 a.m. for purposes of receiving input and for the conduct of other agency business. Public officials, public employees, organizations and members of the general public may attend.

Persons seeking to testify or present any statement, information or other comments in relation to the act, the Regulations of the Commission or agency operations should contact Claire J. Hershberger at (717) 783-1610 or (800) 932-0936. Written copies of any statement should be provided at the time of the meeting.

JOHN J. CONTINO,
Executive Director

[Pa.B. Doc. No. 08-1659. Filed for public inspection September 5, 2008, 9:00 a.m.]

THE GENERAL ASSEMBLY

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. COMMISSION ON SENTENCING

[204 PA. CODE CH. 303]

Adoption of Sentencing Guidelines

The Pennsylvania Commission on Sentencing (Commission) is hereby submitting revised sentencing guidelines, 204 Pa. Code §§ 303.1—303.18, for consideration by the General Assembly. The Commission adopted the revised sentencing guidelines on December 5, 2007, published them for comment at 38 Pa.B. 9 (January 5, 2008), and held public hearings on February 8, 2008 (Pittsburgh), February 21, 2008 (Philadelphia) and February 27, 2008 (Harrisburg). The Commission adopted the revised sentencing guidelines, found in Annex A, on June 19, 2008.

As specified by statute, 42 Pa.C.S. § 2155, the General Assembly has 90 days from the date of this publication (September 6, 2008) to review the revisions to the sentencing guidelines. Unless rejected by concurrent resolution during that period, these revised guidelines will become effective on Friday, December 5, 2008, and will apply to all offenses committed on or after that date.

REPRESENTATIVE FRANK DERMODY,
Chair

Commentary on Annex A

Reasons for Revisions to Sentencing Guidelines

Pennsylvania's initial sentencing guidelines became effective June 22, 1982, and were subsequently amended on nine occasions, most recently in 2005. The current sentencing guidelines (6th Edition) became effective June 3, 2005, and apply to offenses committed on or after that date. The Commission herein proposes revisions to the 6th Edition sentencing guidelines in the following areas: assigning new offense gravity scores (OGS) to certain offenses; adding a law-abiding behavior requirement to the juvenile lapsing provision; expanding recommendations for consideration of state intermediate punishment; providing recommendations for the use of fines and community service as restorative sanctions as an initial response to the requirements contained in Act 2007-37; and correcting typographical errors and omissions identified in the 6th Edition sentencing guidelines.

Revisions to Section 303.—Sentencing guidelines standards

The standards contained in this section identify offenses for which courts must consider the sentencing guidelines, and offenses to which the guidelines do not apply; describe the application of the various editions of the guidelines; and describe the requirements for reporting sentences to the Commission. The current guidelines require the court to consider only the higher graded offense in circumstances where crimes merge for sentencing purposes. The Commission has proposed requiring the court to consider instead only the offense with the higher offense gravity score.

Revisions to Sections 303.4 through 303.8—Prior Record Score

The standards contained in this section relate to Prior Record Score (PRS) policies, including the PRS categories, identification of previous adjudications and convictions included in the calculation of the PRS, and the relative weight of those previous adjudications and convictions in determining the PRS category. The PRS reflects both the number and severity of previous adjudications and convictions. The PRS is not a separate punishment, but rather a reflection of the seriousness of previous offenses. The Commission has proposed adding a reference to 'prior' judicial proceedings as a clarification and to make the text of these sections more consistent with that used in other sections.

In Section 303.6(c), the current guidelines provide a lapsing of certain juvenile adjudications if the offender is 28 years of age or older at the time the current offense was committed. The Commission has proposed including a requirement for a 10-year crime-free period in order for this lapsing to occur. Included in the definition of 'crime-free' is any summary offense and/or one misdemeanor offense with a statutory maximum of 1 year or less. While retaining the lapsing provision, this proposal takes into account the higher risk for re-offending by youthful offenders that persist in criminal activity. The 10-year period is linked both to the existing time period for lapsing (that is, 10 years past 18 years of age), as well as the time period used in Pa.R.E. Rule 609 (Impeachment by Evidence of Conviction of Crime), and recognizes the availability of a provision for expungement of juvenile records under the Commonwealth's Criminal History Records Information Act (see 18 Pa.C.S. § 9123).

In Section 303.7, the current guidelines provide point assignments used in the prior record score calculation. Recent amendments to the Operating a Watercraft Under the Influence of Alcohol or a Controlled Substances statute provide greater alignment between the penalties for this offense and those for DUI. The Commission has proposed extending the DUI point values to Operating a Watercraft Under the Influence.

Revisions to Sections 303.9 through 303.14—Guideline sentence recommendations

The standards contained in this section relate to guideline sentence recommendations, including general provisions, enhancements for possession or use of a deadly weapon, enhancements for distribution of a controlled substance to a minor or in a school zone, sentencing levels and programs, aggravated and mitigated circumstances, and economic sanctions.

In Section 303.9, the current guidelines provide general recommendations for sentencing. The Commission has proposed adding to this section a reference to the proposed recommendation for fines and community service, as well as expanding the discussion of DUI sentencing provisions to address any mandatory sentence for which county intermediate punishment is authorized.

In Section 303.11, the current guidelines provide a 30 month minimum sentence threshold for targeting the use of intermediate punishments: offenders with a minimum sentence recommendation of less than 30 months are recommended for county intermediate punishment, and those with a minimum sentence recommendation of 30 months or greater are recommended for State intermedi-

ate punishment. The Commission has proposed a change that would place greater emphasis on recommended place of confinement for targeting the use of intermediate punishments, to promote greater consideration of these options at both the state and county level. The Commission has proposed consideration of county intermediate punishment when the individual or aggregate minimum sentence recommendation includes confinement in a county facility, and consideration of state intermediate punishment when the individual or aggregate minimum sentence recommendation includes confinement in a state facility.

In Section 303.12, the current guidelines provide recommendations for three sentencing programs: county intermediate punishment, state motivational boot camp and state intermediate punishment. The Commission has proposed adding language to better distinguish between county and state intermediate punishment programs, and to incorporate amendments to the county intermediate punishment statutes relating to qualified restrictive intermediate punishments (Act 2007-27).

In Section 303.13, the current guidelines define the minimum confinement ranges for aggravated and mitigated sentences. The Commission has proposed adding provisions to define the fines and community service ranges for aggravated and mitigated sentences at Level 1 and Level 2 of the sentencing guidelines.

In Section 303.14, the current guidelines provide recommendation for three categories of economic sanctions: fines, costs and fees, and restitution. Under Act 2007-37 (SB 116, PN 1323), the Commission is required to adopt guidelines for fines and other lawful economic sanctions, and to prescribe community service alternatives which may be imposed in lieu of fines. The Commission is undertaking a comprehensive study of the use of fines and other economic sanctions as part of this effort, with particular focus on the imposition and collection of fines in recent years. However, as an initial response to the mandate of Act 37, the Commission has advanced a proposal, limited to Level 1 and Level 2 of the sentencing guidelines, which provides structured sentencing recommendations for the use of fines and/or community service as restorative sanctions without confinement.

In order to avoid concerns regarding an offender's ability to pay, the Commission used community service hours as the starting point for its recommendations, since community service could be ordered without consideration of ability to pay. The proposal links the number of hours of community service recommended to the existing guideline recommendations, so that those offenders with more serious offenses or more extensive criminal history are recommended for more hours of community service. At Level 1, which targets the least serious offenders, the current sentence recommendation is exclusively RS; for these cells, the community service recommendation is 25-50 hours. At Level 2, where the sentence recommendation contains a range that includes RS and a minimum period of confinement, the number of hours of community service is increased by increments of 25 hours (such as, RS-1 = 50-75 hours; RS-2 = 75-100 hours).

If the court determines the offender does have the ability to pay, and the court chooses to impose a fine, the proposal uses the community service recommendation to determine the fines recommendation. The proposal contains a sliding scale, in which the fine is determined by multiplying the number of hours that would otherwise have been ordered as community service by the offender's hourly wage, with the state minimum wage serving as

the default. This approach maintains the proportionality of the sanction (that is, increased hours for more serious offenders) while scaling the fine to the offender's income. It also provides the court with a credible sole-sanction for lower-level offenders. Based on experiences in other jurisdictions, the scaling of fines to ability to pay leads to higher compliance rates and increased overall collections.

Revisions to Section 303.15—Offense listing

The Commission has proposed changes to this section that reflect assignments for recently enacted or amended statutes, as well as changes to assignments based on comments received. In several cases, the modifications correct errors/omissions identified in the 6th Edition sentencing guidelines, or further sub-categorize offenses for improved data collection, as is the case with certain Megan's Law offenses. Details are as follow:

Title 18

New offenses: Terrorism (2717), Trafficking of persons (3002), Conduct relating to sex offenders (3130), Ecoterrorism (3311), Destruction of a survey monument (3312), Disarming law enforcement officer (5104.1), VUFA/Person not to possess (6105), VUFA/Penalties for release of information (6108.5), Commemorative service demonstration activities (7517).

Amended offenses/Modified OGS assignments: Indecent assault (3126), Failure to register, etc. (4915), Sale or transfer of firearms (6111), Unlawful contact or communication with minor (6318).

Corrections (6th Edition errors/omissions)/Sub-categorizations: Use or possession of electric or electronic incapacitation device (908.1), Aggravated assault (2702), Kidnapping (2901), Aggravated indecent assault (3125), Arson endangering persons/Inchoate (3301), Theft by receiving stolen property (3925), Incest (4302), Promoting prostitution (5902), Obscene materials (5903), VUFA/Person not to possess (6105).

Title 23

New offenses: Penalties for failure to report child abuse (6319).

Title 30

Amended offenses/Modified OGS assignments: Operating watercraft under the influence (5502), Homicide by watercraft while operating under the influence (5502.1), Homicide by watercraft (5502.2), Aggravated assault by watercraft while under the influence (5502.3).

Title 35

Corrections (6th Edition errors/omissions)/Sub-categorizations: Acquisition of controlled substance by fraud: MDMA, Marijuana (780-113(a)(12)), Delivery by practitioner: MDMA, Marijuana (780-113(a)(14)), Possession with intent to deliver, etc.: MDMA, Marijuana (780-113(a)(30)).

Title 75

Amended offenses/Modified OGS assignments: Fleeing or attempting to elude a police officer (3733).

Corrections (6th Edition errors/omissions)/Sub-categorizations: Accidents involving death or personal injury (3742), Ignition interlock (3808).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

CHAPTER 303. SENTENCING GUIDELINES

§ 303.1. Sentencing guidelines standards.

(a) The court shall consider the sentencing guidelines in determining the appropriate sentence for offenders convicted of, or pleading guilty or nolo contendere to, felonies and misdemeanors. Where crimes merge for sentencing purposes, the court shall consider the sentencing guidelines only on the [**higher graded**] offense **assigned the higher offense gravity score**.

(b) The sentencing guidelines do not apply to sentences imposed as a result of the following: accelerated rehabilitative disposition; disposition in lieu of trial; direct or indirect contempt of court; violations of protection from abuse orders; revocation of probation, intermediate punishment or parole.

(c) The sentencing guidelines shall apply to all offenses committed on or after the effective date of the guidelines. Amendments to the guidelines shall apply to all offenses committed on or after the date the amendment becomes part of the guidelines.

(1) When there are current multiple convictions for offenses that overlap two sets of guidelines, the former guidelines shall apply to offenses that occur prior to the effective date of the amendment and the later guidelines shall apply to offenses that occur on or after the effective date of the amendment. If the specific dates of the offenses cannot be determined, then the later guidelines shall apply to all offenses.

(2) The initial sentencing guidelines went into effect on July 22, 1982 and applied to all crimes committed on or after that date. Amendments to the guidelines went into effect in June 1983, January 1986 and June 1986. On October 7, 1987 the Pennsylvania Supreme Court invalidated the guidelines due to a procedural error that occurred in 1981 when the legislature rejected the first set of guidelines. New guidelines were drafted and became effective on April, 25, 1988. Amendments to the guidelines went into effect August 9, 1991 and December 20, 1991. Revised sets of guidelines became effective August 12, 1994, [**and**] June 13, 1997 **and June 3, 2005**.

(d) In every case in which a court of record imposes a sentence for a felony or misdemeanor, the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed. In every case where a court of record imposes a sentence outside the sentencing guidelines, the reason or reasons for the deviation from the guidelines shall be recorded on the Guideline Sentence Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing in the manner described in § 303.1(e).

(e) Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software Web application (SGS Web) shall be used at the court's direction to prepare all guideline-required sentencing information. The completed Guideline Sentence Form shall be made a part of the record and the information electronically submitted to the Commission via SGS Web no later than 30 days after the date of sentencing.

§ 303.2. Procedure for determining the guideline sentence.

(a) For each conviction offense of a judicial proceeding, the procedure for determining the guideline sentence shall be as follows:

(1) Determine the Offense Gravity Score as described in § 303.3 and § 303.15.

(2) Determine the Prior Record Score as described in § 303.4—§ 303.8.

(3) Determine the guideline sentence recommendation as described in § 303.9—§ 303.14, including Deadly Weapon Enhancement and Youth/School Enhancement (§ 303.10), and aggravating or mitigating circumstances (§ 303.13).

(b) **Judicial proceeding.** A judicial proceeding is a proceeding in which all offenses for which the offender has been convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple offenses and transactions.

§ 303.3. Offense Gravity Score—general.

(a) *An Offense Gravity Score is given for each offense.* The Offense Gravity Scores are located in § 303.15.

(b) *Subcategorized offenses.* Certain offenses are subcategorized and scored by the Commission according to the particular circumstances of the offense. The court determines which Offense Gravity Score, located in § 303.15, applies. These offenses are designated by an asterisk [*].

(c) *Inchoate offenses.* Inchoate offenses are scored as follows:

(1) Convictions for attempt, solicitation, or conspiracy to commit a Felony 1 offense receive an Offense Gravity Score of one point less than the offense attempted, solicited, or which was the object of the conspiracy.

(2) Convictions for attempt, solicitation, or conspiracy to commit any offense which is not a Felony 1 offense, receive the Offense Gravity Score of the offense attempted, solicited, or which was the object of the conspiracy.

(3) Convictions for attempt, solicitation, or conspiracy to commit any offense under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780—101—§ 780-144) receive the Offense Gravity Score of the offense attempted, solicited, or which was the object of the conspiracy.

(4) Exception for inchoate murder convictions. Convictions for attempt, solicitation, or conspiracy to commit murder receive the Offense Gravity Score of 14 if there is serious bodily injury and 13 if there is no serious bodily injury.

(d) *Ethnic Intimidation.* Convictions for Ethnic Intimidation (18 Pa.C.S. § 2710) receive an Offense Gravity Score that is one point higher than the offense which was the object of the Ethnic Intimidation. When the object offense is murder of the third degree, a conviction for Ethnic Intimidation receives the highest Offense Gravity Score.

(e) *Violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).* If any mixture or compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be deemed to be composed of the controlled substance. If a mixture or compound contains a detectable amount of more than one controlled

substance, the mixture or compound shall be deemed to be composed entirely of the controlled substance which has the highest Offense Gravity Score.

(1) Exception for prescription pills. The exception to subsection (e) above is for violations of 35 P. S. § 780-113 (a)(12), (a)(14), and (a)(30) when narcotic prescription pills of Schedule II are involved. For such violations it is the number of pills rather than the amount of the controlled substance which is considered in determining the Offense Gravity Score. (See § 303.15.)

(f) *Omnibus Offense Gravity Scores.* The Omnibus Offense Gravity Score is applied when the offense is not otherwise listed in § 303.15, or when the grade of an offense listed in § 303.15 has changed, unless application of this section would result in a lower Offense Gravity Score for an increased grading of the offense. The Omnibus Offense Gravity Scores are provided below and in the listing at § 303.15:

Felony 1	8
Felony 2	7
Felony 3	5
Felonies not subclassified by the General Assembly	5
Misdemeanor 1	3
Misdemeanor 2	2
Misdemeanor 3	1
Misdemeanors not subclassified by the General Assembly	1

§ 303.4. Prior Record Score—categories.

(a) *Prior Record Score categories.* Determination of the correct Prior Record Score category under this section is based on the type and number of prior convictions (§ 303.5) and prior juvenile adjudications (§ 303.6). There are eight Prior Record Score categories: Repeat Violent Offender [REVO], Repeat Felony 1 and Felony 2 Offender [RFEL], and point-based categories of 0, 1, 2, 3, 4 and 5.

(1) *Repeat Violent Offender Category [REVO].* Offenders who have two or more previous convictions or adjudications for four point offenses (§ 303.7(a)(1) and § 303.15) and whose current conviction carries an Offense Gravity Score of 9 or higher shall be classified in the Repeat Violent Offender Category.

(2) *Repeat Felony 1 and Felony 2 Offender Category [RFEL].* Offenders who have previous convictions or adjudications for Felony 1 and/or Felony 2 offenses which total 6 or more in the prior record, and who do not fall within the Repeat Violent Offender Category, shall be classified in the repeat Felony 1 and Felony 2 Offender Category.

(3) *Point-based Categories (0-5).* Offenders who do not fall into the REVO or RFEL categories shall be classified in a Point-based Category. The Prior Record Score shall be the sum of the points accrued based on previous convictions or adjudications, up to a maximum of five points.

§ 303.5. Prior Record Score—prior convictions.

(a) If there is a single offense in the **prior** judicial proceeding, that offense shall be counted in the calculation of the Prior Record Score.

(b) If there are multiple offenses in the **prior** judicial proceeding:

(1) The most serious offense of the judicial proceeding shall be counted in the calculation of the Prior Record Score.

(2) Any offense for which a sentence of supervision or confinement is imposed consecutive to a sentence for another offense in the judicial proceeding shall be counted in the calculation of the Prior Record Score.

(c) Un-sentenced convictions. If no sentence has yet to be imposed on an offense, the offense shall not be counted in the calculation of the Prior Record Score.

(d) Adequacy of the Prior Record Score. The court may consider at sentencing previous convictions, juvenile adjudications or dispositions not counted in the calculation of the Prior Record Score, in addition to other factors deemed appropriate by the court.

§ 303.6. Prior Record Score—prior juvenile adjudications.

(a) *Juvenile adjudication criteria.* Prior juvenile adjudications are counted in the Prior Record Score when the following criteria are met:

(1) The juvenile offense occurred on or after the offender's 14th birthday, and

(2) There was an express finding by the juvenile court that the adjudication was for a felony or one of the Misdemeanor 1 offenses listed in § 303.7(a)(4).

(b) Only the most serious juvenile adjudication of each prior disposition is counted in the Prior Record Score. No other prior juvenile adjudication shall be counted in the Prior Record Score.

(c) *Lapsing of juvenile adjudications.* Prior juvenile adjudications for four point offenses listed in § 303.7(a)(1) shall always be included in the Prior Record Score, provided the criteria in subsection (a) above are met:

(1) All other juvenile adjudications not identified above in subsection (a) lapse and shall not be counted in the Prior Record Score if **[the offender was 28 years of age or older at the time the current offense was committed.]:**

(i) The offender was 28 years of age or older at the time the current offense was committed; and

(ii) The offender remained crime-free during the ten-year period immediately preceding the offender's 28th birthday.

(iii) Crime-free. Included in the definition of crime-free is any summary offense and/or one misdemeanor offense with a statutory maximum of one year or less.

(2) Nothing in this section shall prevent the court from considering lapsed prior adjudications at the time of sentencing.

§ 303.7. Prior Record Score—guideline points scoring.

(a) Scoring of prior convictions and adjudications is provided below and in the listing of offenses at § 303.15:

(1) *Four Point Offenses.* Four points are added for each prior conviction or adjudication for the following offenses:

Murder, and attempt, solicitation or conspiracy to commit Murder

All other completed crimes of violence, as defined in 42 Pa.C.S. § 9714(g), excluding inchoates.

Murder of Unborn Child, and attempt, solicitation or conspiracy to commit Murder of Unborn Child

Offenses with OGS 11 or greater, excluding inchoates and Violations of the Controlled Substance Act

Ethnic Intimidation to any Felony 1 offense

(2) *Three Point Offenses.* Three points are added for each prior conviction or adjudication for the following offenses:

All other Felony 1 offenses not listed in § 303.7(a)(1).

All other inchoates to offenses listed in § 303.7(a)(1).

Violation of 35 P. S. §§ 780-113(a)(12)(14) or (30) involving 50 grams or more, including inchoates involving 50 grams or more.

(3) *Two Point Offenses.* Two points are added for each prior conviction or adjudication for the following offenses:

All other Felony 2 offenses not listed in § 303.7(a)(1) or (a)(2).

All felony drug violations not listed in § 303.7(a)(2), including inchoates.

(4) *One Point Offenses.* One point is added for each prior conviction or adjudication for the following offenses:

All other felony offenses not listed in § 303.7(a)(1), (a)(2) or (a)(3).

Any of the following Misdemeanor 1 offenses that involve weapons:

Possessing Instruments of Crime (possession of a weapon)

Prohibited Offensive Weapons

Use or Possession of Electric or Electronic Incapacitation Device

Possession of Weapon on School Property

Possession of Firearm or Other Dangerous Weapon in Court Facility

Violations of the Pennsylvania Uniform Firearms Act

Any of the following Misdemeanor 1 offenses that involve death or danger to children:

Involuntary Manslaughter

Simple Assault (against child under 12 years of age by adult 21 years of age or older)

Luring a Child into a Vehicle

Indecent Assault (complainant is less than 13 years of age)

Indecent Exposure (persons present are less than age 16)

Endangering Welfare of Children

Dealing in Infant Children

Corruption of Minors (of a sexual nature)

Unlawful contact or communication with minor

Driving Under the Influence of Alcohol or Controlled Substance, except for a first [**offense**] **lifetime conviction or adjudication.**

Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, except for a first lifetime conviction or adjudication.

(5) *Other Misdemeanor Offenses.* All other misdemeanor offenses, **including a first lifetime conviction for Driving Under the Influence of Alcohol or a**

Controlled Substance or Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, are designated by an "m" in the offense listing at § 303.15, and are scored as follows:

(i) One point is added if the offender was previously convicted of two or three misdemeanors.

(ii) Two points are added if the offender was previously convicted of four to six misdemeanors.

(iii) Three points are added if the offender was previously convicted of seven or more misdemeanors.

§ 303.8. Prior Record Score—miscellaneous.

(a) *Prior convictions and adjudications of delinquency.* A prior conviction means "previously convicted" as defined in 42 Pa.C.S. § 2154(a)(2). A prior adjudication of delinquency means "previously adjudicated delinquent" as defined in 42 Pa.C.S. § 2154(a)(2). In order for an offense to be considered in the Prior Record Score, both the commission of and conviction for the previous offense must occur before the commission of the current offense.

(b) *Inchoate offenses.* Unless otherwise provided in § 303.7 or § 303.15, a prior conviction or adjudication of delinquency for criminal attempt, criminal solicitation or criminal conspiracy is scored under § 303.7 based upon the grade of the inchoate offense.

(c) *Ethnic Intimidation.* Unless otherwise provided in § 303.7 or § 303.15, a prior conviction or adjudication of delinquency for Ethnic Intimidation is scored under § 303.7 based upon the grade of the Ethnic Intimidation.

(d) *Former Pennsylvania offenses.*

(1) A prior conviction or adjudication of delinquency under former Pennsylvania law is scored as a conviction for the current equivalent Pennsylvania offense.

(2) When there is no current equivalent Pennsylvania offense, prior convictions or adjudications of delinquency are scored under § 303.7 based on the grade of the offense. When a prior conviction or adjudication of delinquency was for a felony, but the grade of the felony is unknown, it shall be treated as a Felony 3. When a prior conviction was for a misdemeanor, but the grade of the misdemeanor is unknown, it shall be treated as other misdemeanors. When it cannot be determined if the prior conviction was a felony, one point misdemeanors, or other misdemeanors, it shall be treated as other misdemeanors. When a prior conviction is for a crime which has a summary grade, and the grade of the conviction is unknown, the prior conviction shall not be counted in the Prior Record Score.

(e) A prior conviction or adjudication of delinquency for an offense which was misgraded is scored as a conviction for the current equivalent Pennsylvania offense.

(f) *Out-of-state, federal or foreign offenses.*

(1) An out-of-state, federal or foreign conviction or adjudication of delinquency is scored as a conviction for the current equivalent Pennsylvania offense.

(2) A court-martial for a criminal offense under the Uniform Code of Military Justice is considered a federal conviction and is scored as a conviction for the current equivalent Pennsylvania offense. Non-judicial punishments or administrative actions (e.g., Article 15, Article 134) which are not convictions shall not be counted in the Prior Record Score.

(3) When there is no current equivalent Pennsylvania offense, determine the current equivalent Pennsylvania

grade of the offense based on the maximum sentence permitted, and then apply § 303.8(d)(2).

(g) *Excluded offenses, charges and convictions.* The following types of offenses, charges and convictions shall not be scored in the Prior Record Score:

(1) Summary offenses, violations of local ordinances, direct or indirect contempt of court, violation of protection from abuse orders, and dispositions under Pa.R.Crim.P. Rules 300–320 (relating to accelerated rehabilitative disposition), 35 P.S. § 780-117 (relating to probation without verdict) or 35 P.S. § 780-118 (relating to disposition in lieu of trial or criminal punishment).

(2) A charge which is nolle prossed, dismissed, or on which a demurrer is sustained.

(3) Any prior conviction which contributed to an increase in the grade of a subsequent conviction, except for prior Driving Under the Influence of Alcohol or Controlled Substance convictions.

§ 303.9. Guideline sentence recommendation: general.

(a) *Basic sentence recommendations.* Guideline sentence recommendations are based on the Offense Gravity Score and Prior Record Score. In most cases, the sentence recommendations are found in the Basic Sentencing Matrix (§ 303.16). The Basic Sentencing Matrix specifies a range of sentences (i.e.—standard range) that shall be considered by the court for each combination of Offense Gravity Score [OGS] and Prior Record Score [PRS].

(b) *Deadly Weapon Enhancement sentence recommendations.* If the court determines that an offender possessed a deadly weapon pursuant to § 303.10(a)(1), the court shall instead consider the DWE/Possessed Matrix (§ 303.17). If the court determines that an offender used a deadly weapon pursuant to § 303.10(a)(2), the court shall instead consider the DWE/Used Matrix (§ 303.18). Both enhanced matrices specify a range of sentences (i.e.—standard range) that shall be considered by the court for each combination of Offense Gravity Score [OGS] and Prior Record Score [PRS].

(c) *Youth/School Enhancement sentence recommendations.* If the court determines that an offender violated the drug act pursuant to § 303.10(b), 12 months shall be added to the lower limit of the standard range of the applicable sentencing matrix and 36 months shall be added to the upper limit of the standard range of the applicable sentencing matrix. The range of sentences (i.e.—standard range) shall be considered by the court for each combination of Offense Gravity Score [OGS] and Prior Record Score [PRS].

(d) *Aggravated and mitigated sentence recommendations.* To determine the aggravated and mitigated sentence recommendations, apply § 303.13.

(e) *Numeric sentence recommendations.* All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. § 9755(b) (partial confinement) and § 9756(b) (total confinement).

(f) *Alphabetic sentence recommendations.* RS in the sentence recommendation, an abbreviation for Restorative Sanctions, suggests use of the least restrictive, non-confinement sentencing alternatives described in 42 Pa.C.S. § 9753 (determination of guilt without further penalty), § 9754 (order of probation) and § 9758 (fine) [, and include § 9763 (intermediate punishment) when limited to restorative sanction programs (see § 303.12(a)(5))]. 42 Pa.C.S. § 9721(c) (mandatory resti-

tion) is also included in RS. No specific recommendations are provided for periods of supervision [or amounts of fines] for these non-confinement sentencing alternatives. **Recommendations related to fines and community service are found at § 303.14(a).** RIP in the sentence recommendation, an abbreviation for Restrictive Intermediate Punishments, suggests use of Restrictive Intermediate Punishments pursuant to § 303.12(a)(4).

(g) When the guideline sentence recommendation exceeds that permitted by 18 Pa.C.S. § 1103 and § 1104 (relating to sentence of imprisonment for felony and misdemeanor) and 42 Pa.C.S. § 9755(b) and § 9756(b) (relating to sentence of partial and total confinement) or other applicable statute setting the maximum term of confinement, then the statutory limit is the longest guideline sentence recommendation. For the purposes of the guidelines, the statutory limit is the longest legal minimum sentence, which is one-half the maximum allowed by law.

(h) *Mandatory sentences.* The court has no authority to impose a sentence less than that required by a mandatory minimum provision established in statute. When the guideline range is lower than that required by a mandatory sentencing statute, the mandatory minimum requirement supersedes the sentence recommendation. When the sentence recommendation is higher than that required by a mandatory sentencing statute, the court shall consider the guideline sentence recommendation.

(i) [**Driving Under the Influence**] **Mandatory sentences for which county intermediate punishment is authorized.** The court shall consider the sentence recommendations pursuant to this section (§ 303.9) for an offender convicted under **30 Pa.C.S. § 5502 (Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance)**, **75 Pa.C.S. § 1543(b) (Driving While Operating Privilege is Suspended or Revoked, Certain Offenses)**, **75 Pa.C.S. § 3802 (Driving Under the Influence of Alcohol or Controlled Substance)** or **75 Pa.C.S. § 1543(b) (Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock)**. The court may use a Qualified Restrictive Intermediate Punishment pursuant to § 303.12(a)(6) to satisfy the mandatory minimum requirement **as provided by law.**

§ 303.10. Guideline sentence recommendations: enhancements.

(a) *Deadly Weapon Enhancement.*

(1) When the court determines that the offender possessed a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Possessed Matrix (§ 303.17). An offender has possessed a deadly weapon if any of the following were on the offender's person or within his immediate physical control:

(i) Any firearm, (as defined in 42 Pa.C.S. § 9712) whether loaded or unloaded, or

(ii) Any dangerous weapon (as defined in 18 Pa.C.S. § 913), or

(iii) Any device, implement, or instrumentality designed as a weapon or capable of producing death or serious bodily injury where the court determines that the defendant intended to use the weapon to threaten or injure another individual.

(2) When the court determines that the offender used a deadly weapon during the commission of the current

conviction offense, the court shall consider the DWE/Used Matrix (§ 303.18). An offender has used a deadly weapon if any of the following were employed by the offender in a way that threatened or injured another individual:

- (i) Any firearm, (as defined in 42 Pa.C.S. § 9712) whether loaded or unloaded, or
 - (ii) Any dangerous weapon (as defined in 18 Pa.C.S. § 913), or
 - (iii) Any device, implement, or instrumentality capable of producing death or serious bodily injury.
- (3) There shall be no Deadly Weapon Enhancement for the following offenses:
- (i) Possessing Instruments of Crime
 - (ii) Prohibited Offensive Weapons
 - (iii) Possession of Weapon on School Property
 - (iv) Possession of Firearm or Other Dangerous Weapon in Court Facility
 - (v) Simple Assault (18 Pa.C.S. § 2701(a)(2))
 - (vi) Aggravated Assault (18 Pa.C.S. § 2702(a)(4))
 - (vii) Theft when property stolen is a firearm (18 Pa.C.S. Chapter 39)
 - (viii) Violations of the Pennsylvania Uniform Firearms Act
 - (ix) Any other offense for which possession of a deadly weapon is an element of the statutory definition.

(4) The Deadly Weapon Enhancement shall apply to each conviction offense for which a deadly weapon is possessed or used.

(b) *Youth/School Enhancement.*

(1) When the court determines that the offender either distributed a controlled substance to a person or persons under the age of 18 in violation of 35 P. S. § 780-114, or manufactured, delivered or possessed with intent to deliver a controlled substance within 1000 feet of the real property on which is located a public or private elementary or secondary school, the court shall consider the range of sentences described in § 303.9(c).

(2) The Youth/School Enhancement only applies to violations of 35 P. S. § 780-113(a)(14) and (a)(30).

(3) The Youth/School Enhancement shall apply to each violation which meets the criteria above.

§ 303.11. Guideline sentence recommendation: sentencing levels.

(a) *Purpose of sentence.* In writing the sentencing guidelines, the Pennsylvania Commission on Sentencing strives to provide a benchmark for the judges of Pennsylvania. The sentencing guidelines provide sanctions proportionate to the severity of the crime and the severity of the offender's prior conviction record. This establishes a sentencing system with a primary focus on retribution, but one in which the recommendations allow for the fulfillment of other sentencing purposes including rehabilitation, deterrence, and incapacitation. To facilitate consideration of sentencing options consistent with the intent of the sentencing guidelines, the Commission has established five sentencing levels. Each level targets certain types of offenders, and describes ranges of sentencing options available to the court.

(b) *Sentencing levels.* The sentencing level is based on the standard range of the sentencing recommendation. Refer to § 303.9 to determine which sentence recommen-

dation (i.e.—Basic, Deadly Weapon Enhancement or Youth/School Enhancement) applies. **[In any case where an individual or aggregate sentence recommendation may include total confinement, county intermediate punishment is recommended for eligible offenders with a minimum sentence recommendation of less than 30 months, and state intermediate punishment is recommended for eligible offenders with a minimum sentence recommendation of 30 months or greater.]** When the individual or aggregate minimum sentence recommendation includes confinement in a county facility, county intermediate punishment should be considered in lieu of confinement for an eligible offender. When the individual or aggregate minimum sentence recommendation includes confinement in a state facility, county or state intermediate punishment should be considered in lieu of confinement for an eligible offender. The descriptions of the five sentencing levels are as follows:

(1) *Level 1*—Level 1 provides sentence recommendations for the least serious offenders with no more than one prior misdemeanor conviction, such that the standard range is limited to Restorative Sanctions (RS). The primary purpose of this level is to provide the minimal control necessary to fulfill court-ordered obligations. The following sentencing option is available:

Restorative Sanctions (§ 303.9(f))

(also see § 303.14(a)(4) for Fines/Community Service Guidelines)

(2) *Level 2*—Level 2 provides sentence recommendations for generally non-violent offenders and those with numerous less serious prior convictions, such that the standard range requires a county sentence but permits both incarceration and non-confinement. The standard range is defined as having an upper limit of less than 12 months and a lower limit of Restorative Sanctions (RS). The primary purposes of this level are control over the offender and restitution to victims. Treatment is recommended for drug dependent offenders. The following sentencing options are available:

Total confinement in a county facility under a county sentence (see 61 P. S. § 331.17).

Partial confinement in a county facility

County Intermediate Punishment (see § 303.12(a) for eligibility criteria)

Restorative Sanctions (§ 303.9(f))

(also see § 303.14(a)(4) for Fines/Community Service Guidelines)

(3) *Level 3*—Level 3 provides sentence recommendations for serious offenders and those with numerous prior convictions, such that the standard range requires incarceration or County Intermediate Punishment, but in all cases permits a county sentence. The standard range is defined as having a lower limit of incarceration of less than 12 months. Included in Level 3 are those offenses for which a mandatory minimum sentence of less than 12 months applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of this level are retribution and control over the offender. If eligible, treatment is recommended for drug dependent offenders in lieu of incarceration. The following sentencing options are available:

Total confinement in a state facility.

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see § 303.12(b) for eligibility criteria)

State Intermediate Punishment (see § 303.12(c) for eligibility criteria)

Total confinement in a county facility under a state or county sentence (see 61 P. S. § 331.17).

Partial confinement in a county facility.

County Intermediate Punishment (see § 303.12(a) for eligibility criteria)

(4) *Level 4*—Level 4 provides sentence recommendations for very serious offenders and those with numerous prior convictions, such that the standard range requires state incarceration but permits it to be served in a county facility. The standard range is defined as having a lower limit of incarceration of greater than 12 months but less than 30 months, but limited to offenses with an Offense Gravity Score of less than 9. Included in Level 4 are those offenses for which a mandatory minimum sentence of less than 30 months applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of the sentencing options at this level are punishment and incapacitation. However, it is recognized that certain offenders at this level are permitted to serve a sentence of total confinement in a county facility, and some non-violent offenders may benefit from drug and alcohol treatment. If eligible, state or county intermediate punishment is recommended for drug dependent offenders. The following sentencing options are available:

Total confinement in a state facility.

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see § 303.12(b) for eligibility criteria)

State Intermediate Punishment (see § 303.12(c) for eligibility criteria)

Total confinement in a county facility as a state offender. (see 61 P. S. § 331.17).

Partial confinement in a county facility.

County Intermediate Punishment (see § 303.12.(a) for eligibility criteria)

(5) *Level 5*—Level 5 provides sentence recommendations for the most violent offenders and those with major drug convictions, such that the conviction has an Offense Gravity Score of 9 or greater or the standard range requires state incarceration in a state facility. The standard range in such a case is defined as having a lower limit of 12 months or greater. Included in Level 5 are those offenses for which a mandatory minimum sentence of 30 months or greater applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of the sentencing options at this level are punishment commensurate with the seriousness of the criminal behavior and incapacitation to protect the public. If eligible, state or county intermediate punishment is recommended for drug dependent offenders. The following sentencing options are available:

Total confinement in a state facility.

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see § 303.12(b) for eligibility criteria)

State Intermediate Punishment (see § 303.12(c) for eligibility criteria)

Total confinement in a county facility as a state offender. (see 61 P. S. § 331.17).

Partial confinement in a county facility.

County Intermediate Punishment (see § 303.12.(a) for eligibility criteria)

§ 303.12. Guideline sentence recommendations: sentencing programs.

(a) County intermediate punishment (CIP).

(1) *Eligibility.*

(i) The following regulations and statutes govern operation of and eligibility for county intermediate punishment programs:

37 Pa. Code § 451.1 et seq.

42 Pa.C.S. § 9729, § 9763, § 9773 and Chapter 98.

204 Pa. Code § 303.8 and § 303.9.

(ii) Sentence recommendations which include an option of County Intermediate Punishment for certain offenders are designated as shaded cells in the guideline matrices.

(2) The county intermediate punishment plan provides a mechanism to advise the court of the extent and availability of services and programs authorized in the county. This plan includes information on the appropriate classification and use of county programs based on program-specific requirements.

(3) **County [Intermediate] intermediate** punishments classifications. In order to incorporate county intermediate punishment programs into the sentencing levels, the Commission has classified county intermediate punishment programs as Restrictive Intermediate Punishments (RIP) and restorative sanction programs. Additionally, specific county intermediate punishment programs have been identified in legislation (42 Pa.C.S. §§ 9763(c) and 9804(b)) and regulation (37 Pa. Code § 451.52) as authorized sentences for **[conviction] convictions [under 75 Pa.C.S. § 3802 ()relating to Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, Driving While Operating Privilege is Suspended or Revoked, Driving Under the Influence of Alcohol or Controlled Substance and Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock()]**; the Commission has classified these programs as Qualified Restrictive Intermediate Punishments.

(4) *Restrictive Intermediate Punishments (RIP)*. Restrictive Intermediate Punishments are defined as programs that provide for strict supervision of the offender. The county intermediate punishment board is required to develop assessment and evaluation procedures to assure the appropriate targeting of offenders. All programs must meet the minimum standards provided in the Pennsylvania Commission on Crime and Delinquency regulations (37 Pa. Code Chapter 451) for county intermediate punishments.

(i) Restrictive Intermediate Punishments (RIP) either:

(A) house the offender full or part time; or

(B) significantly restrict the offender's movement and monitor the offender's compliance with the program(s); or

(C) involve a combination of programs that meet the standards set forth above.

(ii) An offender under consideration for Restrictive Intermediate Punishments at Level 4 or Level 3 shall have a diagnostic assessment of dependency on alcohol or

other drugs conducted by one of the following: the Pennsylvania Department of Health's Bureau of Drug and Alcohol Programs (BDAP) or a designee; the county authority on drugs and alcohol or a designee; or clinical personnel of a facility licensed by the Bureau of Drug and Alcohol Programs.

(iii) An offender assessed to be dependent shall be evaluated for purposes of a treatment recommendation by one of the above listed assessors. The evaluation shall take into account the level of motivation of the offender. If sentenced to a Restrictive Intermediate Punishment, the sentence shall be consistent with the level of care and length of stay prescribed in the treatment recommendation, regardless of the standard range sentencing recommendation.

(iv) An offender assessed as not in need of drug or alcohol treatment may be placed in any approved Restrictive Intermediate Punishment program. Each day of participation in a Restrictive Intermediate Punishment program or combination of programs shall be considered the equivalent of one day of total confinement for guideline sentence recommendations.

(v) The court may impose a Qualified Restrictive Intermediate Punishment in lieu of incarceration for certain convictions under 75 Pa.C.S. § 3802 (relating to Driving Under the Influence of Alcohol or Controlled Substance).

(5) *Restorative sanction programs.* Restorative sanction programs are the least restrictive, non-confinement intermediate punishments. Restorative sanction programs are generally used in conjunction with Restrictive Intermediate Punishments as the level of supervision is reduced, but may also be used as separate sanctions under any of the non-confinement sentencing alternatives provided in the statute (see § 303.9(f)).

(i) Restorative sanction programs:

(A) are the least restrictive in terms of constraint of offender's liberties;

(B) do not involve the housing of the offender (either full or part time); and

(C) focus on restoring the victim to pre-offense status.

(6) *Qualified Restrictive Intermediate Punishments.* In accordance with 42 Pa.C.S. §§ 9763(c), 9804(b) and 37 Pa. Code § 451, Qualified Restrictive Intermediate Punishment programs may be used to satisfy the mandatory minimum sentencing requirements of certain convictions under **30 Pa.C.S. § 5502(c.1) for a first, second or third offense under 30 Pa.C.S. § 5502, 75 Pa.C.S. § [3802] 1543(b), former 75 Pa.C.S. § 3731, 75 Pa.C.S. § 3804 for a first, second or third offense under 75 Pa.C.S. Chapter 38, or 75 Pa.C.S. § 3808(a)(2) (Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock.**

(i) Unless otherwise provided in statute, Qualified Restrictive Intermediate Punishment programs include:

(A) if the defendant is determined to be in need of drug and alcohol treatment, **and receives a penalty imposed under 75 Pa.C.S. § 1543(b), former 75 Pa.C.S. § 3731, 75 Pa.C.S. § 3804, or 75 Pa.C.S. § 3808(a)(2)** a sentence to county intermediate punishment shall include participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c), and may be combined with:

1. a residential inpatient program or residential rehabilitative center;

[1.] 2. house arrest with electronic surveillance; [or]

[2.] 3. a partial confinement program such as work release, a work camp or a halfway facility[.]; or

4. any combination of Qualified Restrictive Intermediate Punishment programs.

(B) if the defendant is determined not to be in need of drug and alcohol treatment, **or if the defendant receives a penalty imposed under 30 Pa.C.S. § 5502(c.1)**, a sentence to county intermediate punishment may include:

1. house arrest with electronic surveillance; or

2. partial confinement programs such as work release, a work camp or a halfway facility; or

3. any combination of Qualified Restrictive Intermediate Punishment programs.

(b) *State Motivational Boot Camp (BC).*

(1) *Eligibility.*

(i) The following statute governs operation of and eligibility for the State Motivational Boot Camp:

61 P. S. § 1121—§ 1129

(ii) Sentence recommendations which include boot camp eligible offenders are designated by the letters BC in the cells of the Basic Sentencing Matrix (§ 303.16).

(2) The court shall indicate on the offender's commitment order and the Guideline Sentence Form if the offender is authorized as eligible for the boot camp program. The Department of Corrections makes the final determination as to whether the offender will be accepted into the boot camp program.

(c) *State Intermediate Punishment (SIP).*

(1) *Eligibility.*

(i) The following statute governs operation of and eligibility for State Intermediate Punishment:

42 Pa.C.S. Chapter 99

(ii) Any person convicted of a drug-related offense for which the sentence recommendation includes total confinement in a state facility may be considered for state intermediate punishment.

(2) The court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the Department of Corrections for the purpose of evaluating whether the defendant would benefit from a drug offender treatment program and whether treatment in a drug offender treatment program is appropriate.

(3) Upon receipt of a recommendation for placement in a drug offender treatment program and an individualized treatment plan from the Department of Corrections, and agreement of the attorney for the Commonwealth and the defendant, the court may sentence an eligible offender to a period of 24 months of state intermediate punishment.

(4) The court may impose a consecutive period of probation. The total duration of a sentence of state intermediate punishment and consecutive probation may not exceed the maximum term for which the eligible offender could otherwise be sentenced.

§ 303.13. Guideline sentence recommendations: aggravated and mitigated circumstances.

(a) When the court determines that an aggravating circumstance(s) is present, it may impose an aggravated sentence as follows:

(1) For the Offense Gravity Scores of 9, 10, 11, 12 and 13 the court may impose a sentence that is up to 12 months longer than the upper limit of the standard range.

(2) For the Offense Gravity Score of 8, the court may impose a sentence that is up to 9 months longer than the upper limit of the standard range.

(3) For the Offense Gravity Scores of 6 and 7, the court may impose a sentence that is up to 6 months longer than the upper limit of the standard range.

(4) For the Offense Gravity Scores of 1, 2, 3, 4, and 5, the court may impose a sentence that is up to 3 months longer than the upper limit of the standard range. **When imposing a fine or community service pursuant to § 303.14(a)(4), the court may impose a sentence that is up to 25 hours longer than the upper limit of the standard range.**

(5) When the standard range is Restorative Sanctions (RS), the aggravated sentence recommendation is RIP-3.

(b) When the court determines that a mitigating circumstance(s) is present, it may impose a mitigated sentence as follows:

(1) For the Offense Gravity Scores of 9, 10, 11, 12, 13, and 14 the court may impose a sentence that is up to 12 months shorter than the lower limit of the standard range.

(2) For the Offense Gravity Score of 8, the court may impose a sentence that is up to 9 months shorter than the lower limit of the standard range.

(3) For the Offense Gravity Scores of 6 and 7, the court may impose a sentence that is up to 6 months shorter than the lower limit of the standard range.

(4) For the Offense Gravity Scores of 1, 2, 3, 4, and 5, the court may impose a sentence that is up to 3 months shorter than the lower limit of the standard range. **When imposing a fine or community service pursuant to § 303.14(a)(4), the court may impose a sentence that is up to 25 hours shorter than the lower limit of the standard range.**

(5) When the bottom of the standard range is less than or equal to 3 months of incarceration, the lower limit of the mitigated sentence recommendation is Restorative Sanctions (RS).

(6) In no case where a Deadly Weapon Enhancement is applied may the mitigated sentence recommendation be lower than 3 months.

(c) When the court imposes an aggravated or mitigated sentence, it shall state the reasons on the record and on the Guideline Sentence Form, a copy of which is electronically transmitted to the Commission on Sentencing in the manner described in § 303.1(e).

§ 303.14. Guideline sentence recommendations—economic sanctions.

(a) *Fines.*

(1) Fines may be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:

- (i) 18 Pa.C.S. § 1101 (relating to fines)
- (ii) 35 P.S. § 780-113(b)—(o) (relating to controlled substances)
- (iii) 42 Pa.C.S. § 9726 (relating to fine as a sentence)
- (iv) 42 Pa.C.S. § 9758 (relating to imposition of a fine)
- (v) 75 Pa.C.S. § 3804 (relating to fines for DUI)

(2) A fine, within the limits established by law, shall be considered by the court when the offender is convicted of 35 P.S. § 780-113(a)(12), (14) or (30), and the drug involved is any of the following: a controlled substance or counterfeit substance classified in Schedule I or II and which is a narcotic; phencyclidine, methamphetamine, or cocaine, including the isomers, salts, compounds, salts of isomers, or derivatives of phencyclidine, methamphetamine, or cocaine; or is in excess of one thousand pounds of marijuana. Such fine shall be of an amount that is at least sufficient to exhaust the assets utilized in, and the proceeds obtained by the offender from, the illegal possession, manufacture, or distribution of controlled substances. Such fine shall not include assets concerning which the attorney for the Commonwealth has filed a forfeiture petition or concerning which he has given notice to the court of his intent to file a forfeiture petition.

(3) Fines may be utilized as part of [an] a county intermediate punishment sentence or as a non-confinement sentencing alternative (see restorative sanction § 303.9(f)).

(4) *Fines/Community Service Guidelines.* The following guidelines shall be considered by the court when ordering fines or community service as a Restorative Sanction without confinement. Community service, when ordered, is imposed as a condition of probation. A fine, when ordered, is imposed as a non-confinement sentencing alternative or as a condition of probation. The fines guidelines are determined by multiplying the number of hours recommended by the offender's hourly wage or the current minimum wage, whichever is higher, but may not exceed the statutory maximum fine authorized by law

a. OGS 1

i. PRS 0	25 hours-50 hours
ii. PRS 1	50 hours-75 hours
iii. PRS 2	75 hours-100 hours
iv. PRS 3	100 hours-125 hours
v. PRS 4	125 hours-150 hours
vi. PRS 5	150 hours-175 hours

b. OGS 2

i. PRS 0	25 hours-50 hours
ii. PRS 1	75 hours-100 hours
iii. PRS 2	100 hours-125 hours
iv. PRS 3	125 hours-150 hours
v. PRS 4	150 hours-175 hours

c. OGS 3

i. PRS 0	50 hours-75 hours
ii. PRS 1	150 hours-175 hours
iii. PRS 2	225 hours-250 hours
iv. PRS 3	300 hours-325 hours

d. OGS 4

i. PRS 0	100 hours-125 hours
ii. PRS 1	225 hours-250 hours
iii. PRS 2	300 hours-325 hours

e. OGS 5

i. PRS 0	225 hours-250 hours
-----------------	----------------------------

(b) *Costs and fees.*

(1) Costs and fees may be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:

- (i) 18 Pa.C.S. § 1109 (relating to costs of any reward)
- (ii) 18 P.S. § 11.1101 (relating to Crime Victim's Compensation Fund costs)
- (iii) 18 P.S. § 11.1102 (relating to costs of offender supervision programs)
- (iv) 42 Pa.C.S. § 1725 (relating to fees and charges)
- (v) 42 Pa.C.S. § 1725.1 (relating to costs)
- (vi) 42 Pa.C.S. § 1725.2 (relating to costs of summary convictions)
- (vii) 42 Pa.C.S. § 1725.3 (relating to criminal laboratory user fees)
- (viii) 42 Pa.C.S. § 1726.1 (relating to forensic exam)
- (ix) 42 Pa.C.S. § 1726.2 (relating to criminal prosecution involving domestic violence)

(x) 42 Pa.C.S. § 9728(c) (relating to costs, etc.)

(c) *Restitution.*

(1) Restitution shall be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:

- (i) 18 Pa.C.S. § 1106 (relating to injuries to person or property)
- (ii) 18 Pa.C.S. § 1107 (relating to theft of timber)
- (iii) 18 P.S. § 11.1302 (relating to restitution to the Office of Victim Services)
- (iv) 42 Pa.C.S. § 9720.1 (relating to identity theft)
- (v) 42 Pa.C.S. § 9721(c) (relating to mandatory restitution)
- (2) Restitution may be imposed as a direct sentence or as a condition of probation or intermediate punishment, and is considered a non-confinement sentencing alternative (see restorative sanction § 303.9(f)).

§ 303.15. Offense Listing.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
901	Criminal Attempt [INCHOATE]	18 Pa.C.S. § 905	See § 303.3(c)	See § 303.8(b)
902	Criminal Solicitation [INCHOATE]	18 Pa.C.S. § 905	See § 303.3(c)	See § 303.8(b)
903	Criminal Conspiracy [INCHOATE]	18 Pa.C.S. § 905	See § 303.3(c)	See § 303.8(b)
907(a)	Possessing Instruments of Crime (criminal instruments)	M1	3	m
907(b)	Possessing Instruments of Crime (weapon)	M1	4	1
907(c)	Possessing Instruments of Crime (unlawful body armor)	F3	5	1
908	Prohibited Offensive Weapons	M1	4	1
908.1(a)(1)	Use of electric or electronic incapacitation device (intent to commit felony)	F2	8	2
908.1(a)(1)	Use [or possession] of electric or electronic incapacitation device (no intent to commit felony)	M1	5	1
908.1(a)(2)	Possess electric or electronic incapacitation device (intent to commit felony)	F2	7	2
908.1(a)(2)	Possess [possession of] electric or electronic incapacitation device (no intent to commit felony)	M1	4	1
909	Manufacture, Distribution or Possession of Master Key for Motor Vehicles	M1	3	m
910(b)(1)	Manufacture, Distribution or Possession of Devices for Theft of Telecommunications (first offense)	M1	4	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
910(b)(2)	Manufacture, Distribution or Possession of Devices for Theft of Telecommunications (second offense or 10-50 devices)	F3	6	1
910(b)(3)	Manufacture, Distribution or Possession of Devices for Theft of Telecommunications (third or subsequent offense or more than 50 devices)	F2	8	2
911	Corrupt Organizations	F1	8	3
912	Weapon on School Property	M1	4	1
913(a)(1)	Possession of Firearm or Other Dangerous Weapon in Court Facility	M3	1	m
913(a)(2)	Possession of Firearm or Other Dangerous Weapon in Court Facility (intend for crime)	M1	3	1
2102	Desecration of Flag	M3	1	m
2103	Insults to Flag	M2	2	m
2502(a)	Murder, First Degree	Murder of the First Degree	18 Pa.C.S. § 1102(a)	4
2502(a) INCHOATE	—Attempt/Solicitation/Conspiracy [SBI] to First Degree Murder	18 Pa.C.S. § 1102(c)	14	4
2502(a) INCHOATE	—Attempt/Solicitation/Conspiracy [No SBI] to First Degree Murder	18 Pa.C.S. § 1102(c)	13	4
2502(b)	Murder, Second Degree	Murder of the Second Degree	18 Pa.C.S. § 1102(b)	4
2502(b) INCHOATE	—Attempt/Solicitation/Conspiracy [SBI] to Second Degree Murder	18 Pa.C.S. § 1102(c)	14	4
2502(b) INCHOATE	—Attempt/Solicitation/Conspiracy [No SBI] to Second Degree Murder	18 Pa.C.S. § 1102(c)	13	4
2502(c)	Murder, Third Degree	F1	14	4
2502(c) INCHOATE	—Attempt/Solicitation/Conspiracy [SBI] to Third Degree Murder	18 Pa.C.S. § 1102(c)	14	4
2502(c) INCHOATE	—Attempt/Solicitation/Conspiracy [No SBI] to Third Degree Murder	18 Pa.C.S. § 1102(c)	13	4
2503	Manslaughter, Voluntary	F1	11	4
2503 INCHOATE	—Attempt/Solicitation/Conspiracy to Voluntary Manslaughter	18 Pa.C.S. § 905	10	3
2504*	Manslaughter, Involuntary (when there is also a conviction for DUI or Operating a Watercraft Under the Influence arising from the same INCIDENT)	M1	8	1
2504*	Manslaughter, Involuntary (when there is not a conviction for DUI or Operating a Watercraft Under the Influence arising from the same INCIDENT)	M1	6	1
2504	Manslaughter, Involuntary (victim under 12 years)	F2	8	2

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
2505(b)	Suicide, Aids or Solicits	F2	6	2
2505(b)	Suicide, Aids or Solicits	M2	2	m
2506	Drug Delivery Resulting in Death	F1	13	4
2506 INCHOATE	—Attempt/Solicitation/Conspiracy to Drug Delivery Resulting in Death	18 Pa.C.S. § 905	12	4
2604(a)	Murder, First Degree, unborn child	Murder of the First Degree	18 Pa.C.S. § 1102(a)	4
2604(a) INCHOATE	—Attempt/Solicitation/Conspiracy [SBI] to First Degree Murder of unborn child	18 Pa.C.S. § 1102(c)	14	4
2604(a) INCHOATE	—Attempt/Solicitation/Conspiracy [No SBI] to First Degree Murder of unborn child	18 Pa.C.S. § 1102(c)	13	4
2604(b)	Murder, Second Degree, unborn child	Murder of the Second Degree	18 Pa.C.S. § 1102(b)	4
2604(b) INCHOATE	—Attempt/Solicitation/Conspiracy [SBI] to Second Degree Murder of unborn child	18 Pa.C.S. § 1102(c)	14	4
2604(b) INCHOATE	—Attempt/Solicitation/Conspiracy [No SBI] to Second Degree Murder of unborn child	18 Pa.C.S. § 1102(c)	13	4
2604(c)	Murder, Third Degree, unborn child	F1	14	4
2604(c) INCHOATE	—Attempt/Solicitation/Conspiracy [SBI] to Third Degree Murder of unborn child	18 Pa.C.S. § 1102(c)	14	4
2604(c) INCHOATE	—Attempt/Solicitation/Conspiracy [No SBI] to Third Degree Murder of unborn child	18 Pa.C.S. § 1102(c)	13	4
2605	Manslaughter, Voluntary, of unborn child	F1	11	4
2605 INCHOATE	—Attempt/Solicitation/Conspiracy to Voluntary Manslaughter of unborn child	18 Pa.C.S. § 905	10	3
2606*	Aggravated assault of unborn child (caused serious bodily injury)	F1	11	4
2606*	Aggravated assault of unborn child (attempted to cause serious bodily injury)	F1	10	3
2701	Simple Assault	M2	3	m
2701(b)(1)	Simple Assault (mutual consent)	M3	1	m
2701(b)(2)	Simple Assault (against child by adult)	M1	4	1
2702(a)(1)*	Aggravated Assault (causes serious bodily injury)	F1	11	4
2702(a)(1)* INCHOATE	—Attempt/Solicitation/Conspiracy to Aggravated Assault (causes SBI)	18 Pa.C.S. § 905	10	3
2702(a)(1)*	Aggravated Assault (attempts to cause serious bodily injury)	F1	10	[4] 3
2702(a)(2)*	Aggravated Assault (causes serious bodily injury police, etc.)	F1	11	4

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
2702(a)(2)* INCHOATE	—Attempt/Solicitation/Conspiracy to Aggravated Assault (causes SBI to police, etc.)	18 Pa.C.S. § 905	10	3
2702(a)(2)*	Aggravated Assault (attempts to cause serious bodily injury, police, etc.)	F1	10	[4] 3
2702(a)(3)	Aggravated Assault (causes or attempts to cause bodily injury, police, etc.)	F2	6	2
2702(a)(4)	Aggravated Assault (causes or attempts to cause bodily injury with a deadly weapon)	F2	8	2
2702(a)(5)	Aggravated Assault (teaching staff, etc.)	F2	6	2
2702(a)(6)	Aggravated Assault (physical menace, fear of imminent SBI)	F2	6	2
2702(a)(7)	Aggravated Assault (tear or noxious gas)	F2	6	2
2703	Assault by Prisoner	F2	7	2
2703.1	Aggravated harassment by prisoner	F3	6	1
2704	Assault by life prisoner	Murder of the Second Degree	18 Pa.C.S. § 1102(b)	4
2704 INCHOATE	—Attempt/Solicitation/Conspiracy [SBI] to Assault by Life Prisoner	18 Pa.C.S. § 1102(c)	14	4
2704 INCHOATE	—Attempt/Solicitation/Conspiracy [no SBI] to Assault by Life Prisoner	18 Pa.C.S. § 1102(c)	13	4
2705	Recklessly Endangering Another Person	M2	3	m
2706	Terroristic Threats	M1	3	m
2706	Terroristic threats (diverted from activities)	F3	5	1
2707(a)	Propulsion of Missiles into an Occupied Vehicle	M1	3	m
2707(b)	Propulsion of Missiles onto a Roadway	M2	2	m
2707.1	Discharge of firearm into an occupied structure	F3	10	1
2708	Use of Tear Gas in Labor Dispute	M1	3	m
2709(a)	Harassment	M3	1	m
2709.1(c)(1)	Stalking (first offense)	M1	3	m
2709.1(c)(2)	Stalking (second/subsequent offense or prior crime of violence)	F3	6	1
2710	Ethnic Intimidation	18 Pa.C.S. § 2710(b)	See § 303.3(d)	See § 303.8(c)
2712	Assault on Sports Official	M1	3	m
2713(a)(1)(2)	Neglect of Care-dependent Person (SBI)	F1	10	3
2713(a)(1)(2)	Neglect of Care-dependent Person (BI)	M1	4	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
2714	Unauthorized administration of intoxicant	F3	8	1
2715(b)(1)	Threat to use weapons of mass destruction (reports or threatens)	M1	3	m
2715(b)(2)	Threat to use weapons of mass destruction (diverted from activities)	F3	5	1
2715(b)(3)	Threat to use weapons of mass destruction (during state of emergency)	F2	7	2
2716(a)	Weapons of mass destruction (possession/first offense)	F2	7	2
2716(a)	Weapons of mass destruction (possession/subsequent offense)	F1	11	4
2716(b)(1)	Weapons of mass destruction (use/cause injury or illness)	F1	13	4
2716(b)(1)	Weapons of mass destruction (use/results in death)	Life	Life	4
2716(b)(2)	Weapons of mass destruction (damage/disrupt water, food)	F1	13	4
2716(b)(3)	Weapons of mass destruction (evacuation)	F1	13	4
2717(b)(1)	Terrorism (if the violent offense is an M3 or ungraded misdemeanor)	M2	one point higher than object offense	See § 303.7(a)
2717(b)(1)	Terrorism (if the violent offense is an M2)	M1	one point higher than object offense	See § 303.7(a)
2717(b)(1)	Terrorism (if the violent offense is an M1)	F3	one point higher than object offense	See § 303.7(a)
2717(b)(1)	Terrorism (if the violent offense is an F3 or ungraded felony)	F2	one point higher than object offense	See § 303.7(a)
2717(b)(1)	Terrorism (if the violent offense is an F2)	F1	one point higher than object offense	See § 303.7(a)
2717(b)(2)	Terrorism (if the violent offense is an F1)	F1	14	4
2901*	Kidnapping (victim 18 yrs. or older)	F1	10	4
2901* INCHOATE	—Attempt/Solicitation/Conspiracy to Kidnapping (victim 18 yrs. or older)	18 Pa.C.S. § 905	9	3
2901*	Kidnapping (victim under 18 years of age)	F1	10	4
2901* INCHOATE	—Attempt/Solicitation/Conspiracy to Kidnapping (victim under 18 years of age)	18 Pa.C.S. § 905	9	3
2902(b)(1)	Unlawful restraint (victim 18 yrs. or older)	M1	3	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
2902(b)(2)	Unlawful restraint (victim under 18 years of age)	F2	8	2
2903 (b)(1)	False imprisonment (victim 18 yrs. or older)	M2	2	m
2903(b)(2)	False imprisonment (victim under 18 years of age)	F2	7	2
2904(c)	Interference with the Custody of Children	F3	4	1
2904(c)(1)	Interference with the Custody of Children	F2	6	2
2904(c)(2)	Interference with the Custody of Children	M2	2	m
2905	Interference w/Custody of Committed Persons	M2	4	m
2906	Criminal Coercion	M1	3	m
2906	Criminal Coercion	M2	2	m
2907	Disposition of Ransom	F3	5	1
2909	Concealment of Whereabouts of a Child	F3	4	1
2910	Luring a Child into a Motor Vehicle	M1	5	1
3002(a)	Trafficking of persons (knowingly traffics or attempts to traffic)	F2	9	2
3002(a)	Trafficking of persons (knowingly traffics or attempts to traffic/SBI)	F1	10	3
3002(a)	Trafficking of persons (knowingly traffics or attempts to traffic/victim under 18 yrs. of age)	F1	10	3
3121(a)	Rape	F1	12	4
3121(a) INCHOATE	—Attempt/Solicitation/Conspiracy to Rape	18 Pa.C.S. § 905	11	3
3121(b)	Rape (uses substance to impair victim)	F1	13	4
3121(b) INCHOATE	—Attempt/Solicitation/Conspiracy to Rape	18 Pa.C.S. § 905	12	3
3121(c)	Rape (child < 13 yrs.)	F1	14	4
3121(c) INCHOATE	—Attempt/Solicitation/Conspiracy to Rape	18 Pa.C.S. § 905	13	3
3121(d)	Rape (child < 13 yrs., sbi)	F1	14	4
3121(d) INCHOATE	—Attempt/Solicitation/Conspiracy to Rape	18 Pa.C.S. § 905	13	3
3122.1	Statutory Sexual Assault	F2	7	2
3123(a)	Involuntary Deviate Sexual Intercourse	F1	12	4
3123(a) INCHOATE	—Attempt/Solicitation/Conspiracy to Involuntary Deviate Sexual Intercourse	18 Pa.C.S. § 905	11	3

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3123(b)	Involuntary Deviate Sexual Intercourse (child < 13 yrs.)	F1	14	4
3123(b) INCHOATE	—Attempt/Solicitation/Conspiracy to Involuntary Deviate Sexual Intercourse	18 Pa.C.S. § 905	13	3
3123(c)	Involuntary Deviate Sexual Intercourse (child < 13 yrs., sbi)	F1	14	4
3123(c) INCHOATE	—Attempt/Solicitation/Conspiracy to Involuntary Deviate Sexual Intercourse	18 Pa.C.S. § 905	13	3
3124.1	Sexual Assault	F2	11	4
3124.1 INCHOATE	—Attempt/Solicitation/Conspiracy to Sexual Assault	18 Pa.C.S. § 905	11	3
3124.2	Institutional sexual assault	F3	5	1
3125(a)	Aggravated Indecent Assault	F2	10	4
3125(a) INCHOATE	—Attempt/Solicitation/Conspiracy to Aggravated Indecent Assault	18 Pa.C.S. § 905	10	3
3125(b)	Aggravated Indecent Assault (child)	F1	12	4
3125(b) INCHOATE	—Attempt/Solicitation/Conspiracy to Aggravated Indecent Assault (child)	18 Pa.C.S. § 905	[10] 11	3
3126(a)(1) [—(6), (8)]	Indecent Assault (without consent)	M2	4	m
3126(a)(2)	Indecent Assault (forcible compulsion)	M1	5	m
3126(a)(3)	Indecent Assault (threat of forcible compulsion)	M1	5	m
3126(a)(4)	Indecent Assault (complainant unconscious)	M1	5	m
3126(a)(5)	Indecent Assault (substantially impaired complainant)	M1	5	m
3126(a)(6)	Indecent Assault (complainant suffers mental disability)	M1	5	m
3126(a)(7)	Indecent Assault [(child < 13 years)] (complainant less than 13 years of age)	M1	5	1
3126(a)(7)	Indecent Assault (complainant less than 13 years of age; second/subsequent offense)	F3	6	1
3126(a)(7)	Indecent Assault (complainant less than 13 years of age; course of conduct)	F3	6	1
3126(a)(7)	Indecent Assault (complainant less than 13 years of age; touching of sexual/intimate parts with sexual/intimate parts)	F3	6	1
3126(a)(8)	Indecent Assault (complainant less than 16 years of age)	M2	4	m
3127	Indecent Exposure (person present is 16 years of age or older)	M2	3	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3127	Indecent Exposure (person present is less than 16 years of age)	M1	4	1
3129	Sexual intercourse with animal	M2	2	m
3130(a)(1)	Conduct relating to sex offenders (withholds information)	F3	5	1
3130(a)(2)	Conduct relating to sex offenders (harbors or attempts to harbor)	F3	5	1
3130(a)(3)	Conduct relating to sex offenders (conceals or attempts to conceal)	F3	5	1
3130(a)(4)	Conduct relating to sex offenders (provides false information)	F3	5	1
3301(a)*	Arson Endangering Persons (where no person is inside the structure when the fire is started or no bodily injury results either directly or indirectly, at the scene of the fire)	F1	9	4
3301(a)* INCHOATE	—Attempt/Solicitation/Conspiracy to Arson Endangering Persons [(person inside or bodily injury results)](where a person is inside the structure when the fire is started or when bodily injury results, either directly or indirectly, at the scene of the fire)	18 Pa.C.S. § 905	9	3
3301(a)*	Arson Endangering Persons (where no person is inside the structure when the fire is started and no bodily injury results either directly or indirectly, at the scene of the fire)	F1	9	4
3301(a)* INCHOATE	—Attempt/Solicitation/Conspiracy to Arson Endangering Persons (where no person is inside the structure when the fire is started and no bodily injury results either directly or indirectly, at the scene of the fire)	18 Pa.C.S. § 905	8	3
3301(c)	Arson, Endangering Property	F2	6	2
3301(d)	Arson, Reckless Burning	F3	5	1
3301(e)	Arson, Failure to Report	M1	3	m
3301(f)	Arson, Possess Explosive Material	F3	5	1
3301(g)	Arson, Disclosure of True Owner	M3	1	m
3302(a)	Catastrophe, Causing	F1	10	3
3302(a)	Catastrophe, Recklessly Causing	F2	6	2
3302(b)	Catastrophe, Risking	F3	4	1
3303	Failure to Prevent Catastrophe	M2	2	m
3304	Criminal Mischief (over \$5,000)	F3	5	1
3304	Criminal Mischief (over \$1,000)	M2	2	m
3304	Criminal Mischief (over \$500)	M3	1	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3304	Criminal Mischief (over \$150 under (a)(4))	M3	1	m
3305	Tampering w/Fire Hydrants	M3	1	m
3307	Institutional Vandalism (over \$5,000)	F3	5	1
3307	Institutional Vandalism	M2	2	m
3309	Agricultural Vandalism (over \$5,000)	F3	5	1
3309	Agricultural Vandalism (over \$1,000)	M1	3	m
3309	Agricultural Vandalism (over \$500)	M2	2	m
3309	Agricultural Vandalism (\$500 or less)	M3	1	m
3310	Agricultural crop destruction	F2	7	2
3311(b)(1)	Ecoterrorism (if the specified offense against property is a summary offense)	M3	one point higher than object offense	See § 303.7(a)
3311(b)(2)	Ecoterrorism (if the specified offense against property is an M3 or ungraded misdemeanor)	M2	one point higher than object offense	See § 303.7(a)
3311(b)(2)	Ecoterrorism (if the specified offense against property is an M2)	M1	one point higher than object offense	See § 303.7(a)
3311(b)(2)	Ecoterrorism (if the specified offense against property is an M1)	F3	one point higher than object offense	See § 303.7(a)
3311(b)(2)	Ecoterrorism (if the specified offense against property is an F3 or ungraded felony)	F2	one point higher than object offense	See § 303.7(a)
3311(b)(2)	Ecoterrorism (if the specified offense against property is an F2)	F1	one point higher than object offense	See § 303.7(a)
3311(b)(2)	Ecoterrorism (if the specified offense against property is an F1)	F1	14	4
3312(a)(2)	Destruction of survey monument (willfully or maliciously removes any survey monument or marker in order to call into question a boundary line)	M2	3	m
3502*	Burglary (of a structure adapted for overnight accommodation in which at the time of the offense any person is present)	F1	9	4
3502* INCHOATE	—Attempt/Solicitation/Conspiracy to Burglary (structure adapted for overnight accommodation, person present)	18 Pa.C.S. § 905	8	3
3502*	Burglary (of a structure adapted for overnight accommodation in which at the time of the offense no person is present)	F1	7	3

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3502*	Burglary (of a structure not adapted for overnight accommodation in which at the time of the offense any person is present)	F1	6	3
3502	Burglary (of a structure not adapted for overnight accommodation in which at the time of the offense no person is present)	F2	5	2
3503(a)(1)(ii)	Trespass, Criminal	F2	4	2
3503(a)(1)(i)	Trespass, Criminal	F3	3	1
3503(b)(1)(i)—(iv)	Trespass, Defiant (notice against trespass given)	M3	1	m
3503(b)(1)(v)	Trespass, Defiant (notice given by official or law enforcement)	M1	3	m
3503(b.2)(1)(i)	Trespass, Agricultural (posted)	M3	1	m
3503(b.2)(1)(ii)	Trespass, Agricultural (defies order)	M2	3	m
3504(a)	Railroad protection, railroad vandalism, etc. (damage to railroad, etc.)	M3	1	m
3504(b)	Railroad protection, railroad vandalism, etc. (stowaways prohibited)	M3	1	m
3701(a)(1)(i)	Robbery (inflicts serious bodily injury)	F1	12	4
3701(a)(1)(i) INCHOATE	—Attempt/Solicitation/Conspiracy to Robbery (SBI)	18 Pa.C.S. § 905	11	3
3701(a)(1)(ii)	Robbery (threatens another with or intentionally puts him in fear of immediate serious bodily injury)	F1	10	4
3701(a)(1)(iii)	Robbery (commits or threatens immediately to commit any F1 or F2)	F1	9	4
3701(a)(1) (iv)	Robbery (threatens or inflicts bodily injury or intentionally puts him in fear of immediate bodily injury)	F2	7	2
3701(a)(1)(v)	Robbery (physically takes or removes property by force, however slight)	F3	5	1
3702*	Robbery of Motor Vehicle (inflicts serious bodily injury)	F1	12	4
3702* INCHOATE	—Attempt/Solicitation/Conspiracy to Robbery of a Motor Vehicle (SBI)	18 Pa.C.S. § 905	11	3
3702*	Robbery of a Motor Vehicle (does not inflict serious bodily injury)	F1	9	4
3921	Theft by Unlawful Taking or Disposition (during disaster or firearm)	F2	8	2
3921*	Theft by Unlawful Taking or Disposition (over \$100,000)	F3	8	1
3921*	Theft By Unlawful Taking or Disposition (over \$50,000 to \$100,000)	F3	7	1

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3921*	Theft By Unlawful Taking or Disposition (over \$25,000 to \$50,000)	F3	6	1
3921*	Theft by Unlawful Taking or Disposition (over \$2,000 to \$25,000, or if the property is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5	1
3921	Theft by Unlawful Taking or Disposition (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3	m
3921	Theft by Unlawful Taking or Disposition (\$200 to \$2,000)	M1	3	m
3921	Theft by Unlawful Taking or Disposition (\$50 to less than \$200)	M2	2	m
3921	Theft by Unlawful Taking or Disposition (less than \$50)	M3	1	m
3922	Theft by Deception (firearm)	F2	8	2
3922*	Theft by Deception (over \$100,000)	F3	8	1
3922*	Theft By Deception (over \$50,000 to \$100,000)	F3	7	1
3922*	Theft By Deception (over \$25,000 to \$50,000)	F3	6	1
3922*	Theft by Deception (over \$2,000 to \$25,000, or if the property is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5	1
3922	Theft by Deception (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3	m
3922	Theft by Deception (\$200 to \$2,000)	M1	3	m
3922	Theft by Deception (\$50 to less than \$200)	M2	2	m
3922	Theft by Deception (less than \$50)	M3	1	m
3923	Theft by Extortion (firearm)	F2	8	2
3923*	Theft by Extortion (over \$100,000)	F3	8	1
3923*	Theft by Extortion (over \$50,000 to \$100,000)	F3	7	1
3923*	Theft by Extortion (over \$25,000 to \$50,000)	F3	6	1
3923*	Theft by Extortion (over \$2,000 to \$25,000, or if the property is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5	1
3923	Theft by Extortion (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	4	m
3923	Theft by Extortion (\$200 to \$2,000)	M1	4	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3923	Theft by Extortion (\$50 to less than \$200)	M2	2	m
3923	Theft by Extortion (less than \$50)	M3	1	m
3924	Theft by Property Lost, Mislaid, or Delivered by Mistake (firearm)	F2	8	2
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$100,000)	F3	8	1
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$50,000 to \$100,000)	F3	7	1
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$25,000 to \$50,000)	F3	6	1
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$2,000 to \$25,000, or if the property is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5	1
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3	m
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (\$200 to \$2,000)	M1	3	m
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (\$50 to less than \$200)	M2	2	m
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (less than \$50)	M3	1	m
3925	Theft by Receiving Stolen Property (during disaster or firearm if receiver in business of buying/selling)	F2	8	2
3925*	Theft by Receiving Stolen Property (over \$100,000)	F3	8	1
3925*	Theft by Receiving Stolen Property (over \$50,000 to \$100,000)	F3	7	1
3925*	Theft by Receiving Stolen Property (over \$25,000 to \$50,000)	F3	6	1
3925*	Theft by Receiving Stolen Property (over \$2,000 to \$25,000, or if the property is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle, or if the receiver is in the business of buying or selling stolen property)	F3	5	1

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3925	Theft by Receiving Stolen Property (\$2,000 or less, from person or by threat or in breach of fiduciary obligation; firearm if receiver not in business of buying/selling)	M1	3	m
3925	Theft by Receiving Stolen Property (\$200 to \$2,000)	M1	3	m
3925	Theft by Receiving Stolen Property (\$50 to less than \$200)	M2	2	m
3925	Theft by Receiving Stolen Property (less than \$50)	M3	1	m
3926	Theft of Services (firearm)	F2	8	2
3926*	Theft of Services (over \$100,000)	F3	8	1
3926*	Theft of Services (over \$50,000 to \$100,000)	F3	7	1
3926*	Theft of Services (over \$25,000 to \$50,000)	F3	6	1
3926*	Theft of Services (over \$2,000 to \$25,000, or if the property is an automobile, airplane, motorcycle, motor-boat, or other motor-propelled vehicle)	F3	5	1
3926	Theft of Services (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3	m
3926	Theft of Services (\$200 to \$2,000)	M1	3	m
3926	Theft of Services (\$50 to less than \$200)	M2	2	m
3926	Theft of Services (less than \$50)	M3	1	m
3926(e)	Theft of Services (sale ransfer of device for diversion of services)	M3	1	m
3927	Theft by Failure to Make Required Disposition of Funds Received (firearm)	F2	8	2
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$100,000)	F3	8	1
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$50,000 to \$100,000)	F3	7	1
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$25,000 to \$50,000)	F3	6	1
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$2,000 to \$25,000, or if the property is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5	1

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3927	Theft by Failure to Make Required Disposition of Funds Received (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3	m
3927	Theft by Failure to Make Required Disposition of Funds Received (\$200 to \$2,000)	M1	3	m
3927	Theft by Failure to Make Required Disposition of Funds Received(\$50 to less than \$200)	M2	2	m
3927	Theft by Failure to Make Required Disposition of Funds Received (less than \$50)	M3	1	m
3928	Unauthorized Use of Auto (during disaster)	F2	8	2
3928	Unauthorized Use of Auto	M2	2	m
3929	Theft, Retail (during disaster)	F2	8	2
3929	Theft, Retail (> \$2,000, firearm, motor veh.)	F3	5	1
3929	Theft, Retail (third or subsequent conviction)	F3	3	1
3929	Theft, Retail (first or second offense, \$150 or more)	M1	2	m
3929	Theft, Retail (second offense, less than \$150)	M2	2	m
3929.1	Library Theft (3rd; subsequent offense)	F3	5	1
3929.1	Library Theft (1st; 2nd over \$150)	M1	3	m
3929.1	Library Theft (2nd less than \$150)	M2	2	m
3929.2	Unlawful possession of retail or library theft instruments	M1	3	m
3930	Theft of Trade Secrets by Force, Violence, or Burglary	F2	7	2
3930	Theft of Trade Secrets	F3	5	1
3931	Theft of Unpublished Dramas and Musical Compositions (over \$2,000)	F3	5	1
3931	Theft of Unpublished Dramas and Musical Compositions (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3	m
3931	Theft of Unpublished Dramas and Musical Compositions (\$200 to \$2,000)	M1	3	m
3931	Theft of Unpublished Dramas and Musical Compositions (\$50 to less than \$200)	M2	2	m
3931	Theft of Unpublished Dramas and Musical Compositions (less than \$50)	M3	1	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3932	Theft by Leased Property (firearm)	F2	8	2
3932*	Theft of Leased Property (over \$100,000)	F3	8	1
3932*	Theft of Leased Property (over \$50,000 to \$100,000)	F3	7	1
3932*	Theft of Leased Property (over \$25,000 to \$50,000)	F3	6	1
3932*	Theft of Leased Property (over \$2,000 to \$25,000, or if property is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5	1
3932	Theft of Leased Property (\$2,000 or less from person or by threat or in breach of fiduciary obligation)	M1	3	m
3932	Theft of Leased Property (\$200 to \$2,000)	M1	3	m
3932	Theft of Leased Property (\$50 to less than \$200)	M2	2	m
3932	Theft of Leased Property (less than \$50)	M3	1	m
3934(b)(1)(i)	Theft from a motor vehicle (less than \$50)	M3	1	m
3934(b)(1)(ii)	Theft from a motor vehicle (\$50 or more but less than \$200)	M2	2	m
3934(b)(1)(iii)	Theft from a motor vehicle (greater than \$200)	M1	3	m
3934(b)(2)	Theft from a motor vehicle (third/subseq. in 5 yrs.)	F3	6	1
4101	Forgery (money, stocks, etc.)	F2	4	2
4101	Forgery (will, deed, etc.)	F3	3	1
4101	Forgery (other)	M1	3	m
4102	Simulating Antiques	M1	3	m
4103	Fraudulent Destruction of Recordable Instruments	F3	5	1
4104(a)	Tampering with Records or Identification	M1	3	m
4105(c)(1)(ii)	Bad Checks (\$200 - < \$500)	M3	1	m
4105(c)(1)(iii)	Bad Checks (\$500 - < \$1,000)	M2	2	m
4105(c)(1)(iv)	Bad Checks (\$1,000 - < \$75,000)	M1	3	m
4105(c)(1)(v)	Bad Checks (\$75,000 or more)	F3	5	1
4105(c)(2)	Bad Checks (3rd or subseq./< \$75,000)	M1	3	m
4105(c)(2)	Bad Checks (3rd or subseq./\$75,000 or more)	F3	5	1
4106(c)(1)(i)	Access device fraud (\$500 or more)	F3	5	1
4106(c)(1)(ii)	Access device fraud (\$50 or more but less than \$500)	M1	4	m
4106(c)(1)(iii)	Access device fraud (less than \$50)	M2	3	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
4106(c)(3)	Access device fraud (provide counterfeit device)	F3	5	1
4106(c)(4)	Access device fraud (possess counterfeit device)	M3	2	m
4106.1(a)(1)	Unlawful device-making equipment (produce/traffic equipment)	F3	6	1
4106.1 (a)(2)	Unlawful device-making equipment (possess equipment)	M1	4	m
4107(a.1)(1)(i)	Deceptive or Fraudulent Business Practices (> \$2,000)	F3	5	1
4107(a.1)(1)(ii)	Deceptive or Fraudulent Business Practices (\$200—\$2,000)	M1	3	m
4107(a.1)(1)(iii)	Deceptive or Fraudulent Business Practices (< \$200)	M2	2	m
4107(a.1)(1)(iv)	Deceptive or Fraudulent Business Practices (amt. not ascertained)	M2	2	m
4107(a.1)(3)(i)	Deceptive or Fraudulent Business Practices (> \$2,000; victim 60 yrs. +)	F2	7	2
4107(a.1)(3)(ii)	Deceptive or Fraudulent Business Practices (\$200—\$2,000; victim 60 yrs. +)	F3	5	1
4107(a.1)(3)(iii)	Deceptive or Fraudulent Business Practices (< \$200; victim 60 yrs. +)	M1	3	m
4107(a.1)(3)(iv)	Deceptive or Fraudulent Business Practices (amt. not ascertained; victim 60 yrs. +)	M1	3	m
4107.1	Deception Relating to Kosher Foods	M3	1	m
4107.2	Deception Relating to Certification of Minority Business Enterprise or Women's Business Enterprise	F3	4	1
4108	Commercial Bribery and Breach of Duty	M2	2	m
4109	Rigging Public Contest	M1	3	m
4110	Defrauding Secured Creditors	M2	2	m
4111	Fraud in Insolvency	M2	2	m
4112	Receiving Deposits; Failed Institution	M2	2	m
4113	Misapplication of Entrusted Property (over \$50)	M2	2	m
4113	Misapplication of Entrusted Property (\$50 or less)	M3	1	m
4114	Securing Execution of Documents by Deception	M2	2	m
4115	Falsely Impersonating Persons Privately Employed	M2	2	m
4116(g)(1)	Copying; Recording Devices (100 or more motion picture devices or 1,000 or more sound recording devices)	F3	5	1
4116(g)(1)	Copying; Recording Devices (second or subsequent conviction at time of sentencing)	F2	7	2

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
4116(g)(2)	Copying; Recording Devices (any other violation)	M1	3	m
4116(g)(2)	Copying; Recording Devices (any other violation; second or subsequent conviction at time of sentencing)	F3	5	1
4116.1	Unlawful Operation of Recording Device in Motion Picture Theater (first violation)	M1	3	m
4116.1	Unlawful Operation of Recording Device in Motion Picture Theater (second or subsequent conviction at time of sentencing)	F3	4	1
4117(a)	Insurance Fraud	F3	4	1
4117(b)	Insurance Fraud	M1	3	m
4118	Washing titles [vehicles]	F3	4	1
4119(c)(1)	Trademark Counterfeiting	M1	3	m
4119(c)(2)	Trademark Counterfeiting	F3	5	1
4119(c)(3)	Trademark Counterfeiting	F2	7	2
4120(c)(1)(i)	Identity theft (total value < \$2,000)	M1	3	m
4120(c)(1)(ii)	Identity theft (total value \$2,000 or more)	F3	5	1
4120(c)(1)(iii)	Identity theft (criminal conspiracy, any amount)	F3	5	1
4120(c)(1)(iv)	Identity theft (third/subsequent offense)	F2	7	2
4120(c)(2)(i)	Identity theft (victim 60 yrs. or older, total value < \$2,000)	F3	5	1
4120(c)(2)(ii)	Identity theft (victim 60 yrs. or older, total value \$2,000 or more)	F2	7	2
4120(c)(2)(iii)	Identity theft (victim 60 yrs. or older, criminal conspiracy, any amount)	F2	7	2
4120(c)(2)(iv)	Identity theft (victim 60 yrs. or older, third/subsequent offense)	F1	8	3
4301	Bigamy	M2	3	m
4302	Incest (victim 18 yrs. or older)	F2	9	4
4302 INCHOATE	—Attempt/Solicitation/Conspiracy to Incest (victim 18 yrs. or older)	18 Pa.C.S. § 905	9	3
4302	Incest (victim 12 years of age or older but under 18 years of age)	F2	9	4
4302 INCHOATE	—Attempt/Solicitation/Conspiracy to Incest (victim 12 years of age or older but under 18 years of age)	18 Pa.C.S. § 905	9	3
4302	Incest (victim under 12 years of age)	F2	9	4
4302 INCHOATE	—Attempt/Solicitation/Conspiracy to Incest (victim under 12 years of age)	18 Pa.C.S. § 905	9	3

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
4303	Concealing Death of Child	M1	3	m
4304	Endangering Welfare of Children	M1	5	1
4304	Endangering Welfare of Children (course of conduct)	F3	6	1
4305	Dealing in Infant Children	M1	4	1
4701	Bribery, Official and Political Matters	F3	5	1
4702	Threats, Official and Political Matters	F3	5	1
4702	Threats, Official and Political Matters	M2	2	m
4703	Retaliation for Past Official Action	M2	2	m
4902	Perjury	F3	5	1
4903(a)	False Swearing	M2	2	m
4903(b)	False Swearing	M3	1	m
4904(a)	Unsworn Falsification to Authorities	M2	2	m
4904(b)	Unsworn Falsification to Authorities	M3	1	m
4905(b)	False Alarms to agencies of public safety (causes a false alarm)	M1	3	m
4905(b)	False Alarms to agencies of public safety (during a state of emergency)	F3	5	1
4906(a)	False Reports to Law Enforcement Authorities (falsely incriminating another)	M2	2	m
4906(a)	False Reports to Law Enforcement Authorities (during a state of emergency)	M1	3	m
4906(b)	False Reports to Law Enforcement Authorities (fictitious reports)	M3	1	m
4906(b)	False Reports to Law Enforcement Authorities (fictitious reports during a state of emergency)	M2	2	m
4909	Witness Taking Bribe	F3	5	1
4910	Tampering with Physical Evidence	M2	2	m
4911	Tampering w/Public Records or Information	F3	4	1
4911	Tampering w/Public Records or Information	M2	2	m
4912	Impersonating a Public Servant	M2	2	m
4913	Impersonating Notary Public	M1	3	m
4914	False identification to law enforcement authorities	M3	1	m
4915(a)(1)	Failure to Register, Sexual Offender Registration (Lifetime, 3rd and subseq. offense)	[F3] F1	[5] 11	[1] 4
4915(a)(1)	Failure to Register, Sexual Offender Registration (10-year, 3rd and subseq. offense)	[F3] F1	[5] 10	[1] 3
4915(a)(1)	Failure to Register, Sexual Offender Registration (Lifetime, 2nd offense)	[M1] F1	[3] 10	[m] 3

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
4915(a)(1)	Failure to Register, Sexual Offender Registration (10-year, 2nd offense)	[M2] F2	[2] 8	[m] 2
4915(a)(1)	Failure to Register, Sexual Offender Registration (Lifetime)	[M2] F2	[2] 8	[m] 2
4915(a)(1)	Failure to Register, Sexual Offender Registration (10-year)	[M3] F3	[1] 6	[m] 1
4915(a)(2)	Failure to Verify Address or be Photographed, Sexual Offender Registration (Lifetime, 3rd and subseq. offense)	[F3] F1	[5] 11	[1] 4
4915(a)(2)	Failure to Verify Address or be Photographed, Sexual Offender Registration (10-year, 3rd and subseq. offense)	[F3] F1	[5] 10	[1] 3
4915(a)(2)	Failure to Verify Address or be Photographed, Sexual Offender Registration (Lifetime, 2nd offense)	[M1] F1	[3] 10	[m] 3
4915(a)(2)	Failure to Verify Address or be Photographed, Sexual Offender Registration (10-year, 2nd offense)	[M2] F2	[2] 8	[m] 2
4915(a)(2)	Failure to Verify Address or be Photographed, Sexual Offender Registration (Lifetime)	[M2] F2	[2] 8	[m] 2
4915(a)(2)	Failure to Verify Address or be Photographed, Sexual Offender Registration (10-year)	[M3] F3	[1] 6	[m] 1
4915(a)(3)	Failure to Provide Accurate Information, Sexual Offender Registration (Lifetime)	[F3] F1	[5] 10	[1] 3
4915(a)(3)	Failure to Provide Accurate Information, Sexual Offender Registration (10-year)	[F3] F2	[2] 8	[m] 2
4952	Intimidation of Witnesses or Victims (listed factor and most serious charged offense is F1, Murder 1 or Murder 2)	F1	11	4
4952	Intimidation of Witnesses or Victims (listed factor(s) and most serious charged offense is F2)	F2	9	2
4952	Intimidation of Witnesses or Victims (any other case in which actor sought to influence or intimidate)	F3	7	1
4952	Intimidation of Witnesses or Victims (any other obstruction or interference)	M2	5	m
4953	Retaliation Against Witness or Victim	F3	8	1
4953	Retaliation Against Witness or Victim	M2	5	m
4953.1(b)(1)—(5)	Retaliation against prosecutor or judicial officer (listed circumstances)	F2	9	2
4953.1(b)	Retaliation against prosecutor or judicial officer (all other circumstances)	M1	6	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
5101	Obstructing Justice	M2	3	m
5102	Obstruction of Justice by Picketing	M2	2	m
5103	Unlawfully Listening to Jury Deliberations	M3	1	m
5104	Resisting Arrest	M2	2	m
5104.1	Disarming Law Enforcement Officer	F3	5	1
5105	Apprehension, Hindering (if conduct liable to be charged is F1 or F2)	F3	4	1
5105	Apprehension, Hindering	M2	2	m
5107	Aiding Consummation of Crime (of F1/F2)	F3	5	1
5107	Aiding Consummation of Crime	M2	2	m
5108	Compounding	M2	2	m
5109	Barratry	M3	1	m
5110	Contempt of General Assembly	M3	1	m
5111	Dealing in Proceeds of Unlawful Activities	F1	8	3
5112	Obstructing emergency services	M3	1	m
5121(d)(1)(i)(ii)(iii)*	Escape (from a halfway house, pre-release center, treatment center, work-release center, work-release, or by failing to return from an authorized leave or furlough)	F3	5	1
5121(d)(1)(i)(ii)(iii)*	Escape (all other escapes from this subsection)	F3	6	1
5121(d)(2)	Escape	M2	3	m
5122(a)(1)	Weapons or implements for escape (providing to inmate)	M1	8	m
5122(a)(2)	Weapons or implements for escape (possessed by inmate)	M1	4	m
5123(a)	Contraband (provide controlled substance to confined person)	F2	7	2
5123(a.2)	Contraband (possession of controlled substance by confined person)	F2	7	2
5123(b)	Contraband (money)	M3	1	m
5123(c)	Contraband (other)	M1	3	m
5123(c.1)	Contraband (telecommunication devices to inmates)	M1	5	m
5123(c.2)	Contraband (possession of telecommunication devices by inmates)	M1	3	m
5124	Default in Required Appearance	F3	4	1
5124	Default in Required Appearance	M2	2	m
5125	Absconding Witness	M3	1	m
5126	Avoiding Apprehension	F3	5	1
5126	Avoiding Apprehension	M2	2	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
5301	Official Oppression	M2	2	m
5302	Speculating on Official Action	M2	2	m
5501	Riot	F3	4	1
5502	Failure to Disperse	M2	2	m
5503	Disorderly Conduct	M3	1	m
5506	Loitering and Prowling	M3	1	m
5507	Obstructing Highways	M3	1	m
5508	Disrupting Meetings	M3	1	m
5509	Desecration of Venerated Objects	M2	2	m
5510	Abuse of Corpse	M2	3	m
5511(a)(1)	Cruelty to Animals	M2	3	m
5511(a)(2)	Cruelty to Animals	F3	5	1
5511(a)(2.1)(i)	Cruelty to Animals (killing, maiming, poisoning)	M1	3	m
5511(a)(2.1)(ii)	Cruelty to Animals	F3	5	1
5511(e.1)	Cruelty to Animals (transporting equine animals in cruel manner (2nd/subseq.))	M3	1	m
5511(h.1)	Cruelty to Animals (animal fighting)	F3	5	1
5511.2(a)	Police animals (illegal to taunt)	F3	5	1
5511.2(b)	Police animals (illegal to torture)	F3	7	1
5511.3	Assault with biological agents on animals, fowl or honey bees	F2	7	2
5512	Lotteries	M1	3	m
5513	Gambling Devices	M1	3	m
5514	Pool Selling and Bookmaking	M1	3	m
5515	Prohibiting Paramilitary Training	M1	3	m
5516(b)	Facsimile weapons of mass destruction (manufacture, sells, etc.)	F3	5	1
5517	Unauthorized school bus entry	M3	1	m
5703	Interception, Disclosure or Use of Wire, Electronic or Oral Communications	F3	5	1
5705	Possession, Sale, Distribution, Manufacture or Advertisement of Interception Devices	F3	5	1
5719	Unlawful Use of Intercepted Communications	M2	2	m
5771	Pen Register and Trap and Trace Devices (general prohibition on use of certain devices and exception)	M3	1	m
5901	Open Lewdness	M3	1	m
5902(a.1)(1)	Prostitution (first/second offense)	M3	1	m
5902(a.1)(2)	Prostitution (third offense)	M2	3	m
5902(a.1)(3)	Prostitution (fourth/subsequent offense)	M1	4	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
5902(a.1)(4)	Prostitution (HIV or AIDS related)	F3	7	1
5902(c)(1)(i), (ii), (iv), (v)*	Promoting Prostitution (person 18 years of age or older)	F3	5	1
5902(c)(1)(i), (ii), (iv), (v)*	Promoting Prostitution (child 16 years of age or older but under 18 years of age)	F3	5	1
5902 [(b) when] (c)(1)(iii) [applies]	[Prostitution Involving Minors] Promoting Prostitution (child under 16 years of age)	F3	8	1
5902(c)(2)	Promoting Prostitution	M2	3	m
5902(e.1)(1)	Patronizing Prostitutes (first/second offense)	M3	1	m
5902(e.1)(2)	Patronizing Prostitutes (third offense)	M2	3	m
5902(e.1)(3)	Patronizing Prostitutes (fourth/subsequent offense)	M1	4	m
5902(e.1)(4)	Patronizing Prostitutes (HIV/AIDS)	F3	7	1
5903(a)(1)	Obscene Materials	M1	3	m
5903(a)(2)	Obscene Materials	M1	3	m
5903(a)(3)*	Obscene Materials (victim 18 years of age or older)	M1	3	m
5903(a)(3)*	Obscene Materials (victim under 18 years of age)	M1	3	m
5903(a)(4)*	Obscene Materials (victim 18 years of age or older)	M1	3	m
5903(a)(4)*	Obscene Materials (victim under 18 years of age)	M1	3	m
5903(a)(5)*	Obscene Materials (victim 18 years of age or older)	M1	3	m
5903(a)(5)*	Obscene Materials (victim under 18 years of age)	M1	3	m
5903(a)(6)	Obscene Materials	M1	3	m
5903(a)(7)	Obscene Materials	M1	3	m
5903(a)(8)	Obscene Materials	M1	3	m
5903(a)(9)	Obscene Materials	M1	3	m
5903(a.1)	Obscene Materials	M1	3	m
5903(f)	Obscene Materials	M1	3	m
5903(a)(1)	Obscene Materials	F3	5	1
5903(a)(2)	Obscene Materials	F3	5	1
5903(a)(3)*	Obscene Materials (victim 18 years of age or older)	F3	5	1
5903(a)(3)*	Obscene Materials (victim under 18 years of age)	F3	5	1
5903(a)(4)*	Obscene Materials (victim 18 years of age or older)	F3	5	1
5903(a)(4)*	Obscene Materials (victim under 18 years of age)	F3	5	1

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
5903(a)(5)*	Obscene Materials (victim 18 years of age or older)	F3	5	1
5903(a)(5)*	Obscene Materials (victim under 18 years of age)	F3	5	1
5903(a)(6)	Obscene Materials	F3	5	1
5903(a)(7)	Obscene Materials	F3	5	1
5903(a)(8)	Obscene Materials	F3	5	1
5903(a)(9)	Obscene Materials	F3	5	1
5903(c)	Obscene Materials	F3	5	1
5903(d)	Obscene Materials	F3	5	1
5903(c)	Obscene Materials	F2	7	2
5903(d)	Obscene Materials	F2	7	2
5904	Public Exhibition of Insane or Deformed Person	M2	2	m
6105(a.1)(1)*	Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms (convicted of felony, loaded or ammunition in possession or control of defendant)	F2	10	2
6105(a.1)(1)*	Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms (convicted of felony, unloaded and ammunition not in possession or control of defendant)	F2	9	2
6105(a.1)(2)*	Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms (failure to relinquish firearm, person subject to active PFA, loaded or ammunition in possession or control of defendant)	M1	5	1
6105(a.1)(2)*	Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms (failure to relinquish firearm, person subject to active PFA, unloaded and ammunition not in possession or control of defendant)	M1	4	1
6105(a.1)(3)*	Person not to possess, use, manufacture, control, sell or transfer firearms (accept firearm from person subject to active PFA, loaded or ammunition in possession or control of defendant)	M3	2	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
6105(a.1)(3)*	Person not to possess, use, manufacture, control, sell or transfer firearms (accept firearm from person subject to active PFA, unloaded and ammunition not in possession or control of defendant)	M3	1	m
6105(a.1)(5)*	Person not to possess, use, manufacture, control, sell or transfer firearms (return firearm to person with active PFA, loaded or ammunition in possession or control of defendant)	M1	6	1
6105(a.1)(5)*	Person not to possess, use, manufacture, control, sell or transfer firearms (return firearm to person with active PFA, loaded and ammunition not in possession or control of defendant)	M1	5	1
6106(a)(1)*	Firearms, Not to be Carried Without a License (ineligible; loaded or ammunition in possession or control of defendant)	F3	9	1
6106(a)(1)*	Firearms, Not to be Carried Without a License (ineligible; unloaded and ammunition not in possession or control of defendant)	F3	7	1
6106(a)(2)*	Firearms, Not to be Carried Without a License (eligible; loaded or ammunition in possession or control of defendant)	M1	4	1
6106(a)(2)*	Firearms, Not to be Carried Without a License (eligible; unloaded and ammunition not in possession or control of defendant)	M1	3	1
6107	Prohibited Conduct during Emergency	M1	3	1
6108*	Carrying Firearms on Public Streets or Public Property in Philadelphia (loaded or ammunition in possession or control of defendant)	M1	5	1
6108*	Carrying Firearms on Public Streets or Public Property in Philadelphia (unloaded and ammunition not in possession or control of defendant)	M1	4	1
6108.5	Penalties for release of information (list of any firearm or other weapon or ammunition ordered to be relinquished)	M3	1	m
6110.1(a)	Possession of Firearm by Minor	M1	3	1
6110.1(c)	Possession of Firearms by Minor (responsibility of adult)	F3	7	1

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
6110.2*	Possession of firearm with altered manufacturer's number (loaded or ammunition in possession or control of defendant)	M1	5	1
6110.2*	Possession of firearm with altered manufacturer's number (unloaded and ammunition not in possession or control of defendant)	M1	4	1
6111(g)(1)	Sale or Transfer of Firearms	M2	2	m
6111 (g)(2) [(3) (3.1)(4)]	Sale or Transfer of Firearms	F3	[5] 8	1
6111(g)(3)(3.1)	Sale or Transfer of Firearms	F3	5	1
6111(g)(4)	Sale or Transfer of Firearms	F3	8	1
6111(h)	Sale or Transfer of Firearms (subsequent)	F2	[7] 9	2
6112	Retail Dealer Required to be Licensed	M1	3	1
6113	Licensing of Dealers	M1	3	1
6115	Loans, Lending, Giving Firearms Prohibited	M1	3	1
6116	False Evidence of Identity	M1	3	1
6117	Altering Marks of Identification	F2	7	2
6121	Certain Bullets Prohibited	F3	5	1
6122	Proof of License	M1	3	1
6161	Carrying Explosives	M2	3	m
6162	Shipping Explosives	M3	3	m
6301(a)(1)*	Corruption of Minors (when of a sexual nature)	M1	5	1
6301(a)(1)*	Corruption of Minors	M1	4	m
6301(a)(2)	Corruption of Minors (second violation of truancy in year)	M3	1	m
6302	Sale or Lease of Weapons	M1	4	m
6303	Sale of Starter Pistols	M1	4	m
6304	Sale of Air Rifles	M3	1	m
6306	Furnish Cigarettes to Minors (3rd and subsequent offenses)	M3	1	m
6307	Misrepresentation of Age to Secure Alcohol (subsequent offense)	M3	1	m
6309	Representing that Minor is of Age	M3	1	m
6310	Inducement of Minors to Buy Liquor	M3	1	m
6310.1	Selling Liquor to Minors	M3	1	m
6310.2	Manufacture or Sale of False ID	M2	2	m
6310.3	Carrying False ID (subsequent offense)	M3	1	m
6311	Tattooing and body piercing (first offense)	M3	1	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
6311	Tattooing and body piercing (second/subsequent offense within one year)	M2	2	m
6312(b)	Sexual Abuse of Children (photographing, etc.)	F2	7	2
6312(c)	Sexual Abuse of Children (dissemination, etc.; first offense)	F3	6	1
6312(c)	Sexual Abuse of Children (dissemination, etc.; second/subsequent offense)	F2	8	2
6312(d)	Possession of Child Pornography (first offense)	F3	5	1
6312(d)	Possession of Child Pornography (second/subsequent offense)	F2	8	2
6318	Unlawful contact or communication with minor (if underlying offense is less than [M1] F3)	[M1] F3	[3] 6	1
6318	Unlawful contact or communication with minor (if underlying offense is [M1] F3 or greater)	same as underlying offense	same as underlying offense, or OGS 6, whichever is greater	same as underlying offense, or 1, whichever is greater
6319(a)	Solicitation of minors to traffic drugs (general provision)	F2	9	2
6319(b)	Solicitation of minors to traffic drugs (drug-free school zone)	F1	10	3
6320	Sexual exploitation of children	F2	9	2
6501(a)(3)	Scattering Rubbish (2nd; subsequent offense)	M1	3	m
6501(a)(3)	Scattering Rubbish (1st offense)	M2	2	m
6501(a)(1)(2)	Scattering Rubbish (2nd; subsequent offense)	M3	1	m
6504	Public Nuisances	M2	2	m
6703	Military Decorations	M3	1	m
6707	False Registration of Domestic Animals	M3	1	m
6709	Use of Union Labels	M3	1	m
6901	Extension of Water Line	M3	1	m
6910	Unauthorized Sale of Tickets	M3	1	m
7102	Drugs to Race Horses	M1	3	m
7103	Horse Racing	M3	1	m
7104	Fortune Telling	M3	1	m
7107	Unlawful Actions by Athlete Agents	M1	3	m
7302(a)	Sale of Solidified Alcohol	M2	2	m
7302(b)	Labeling of Solidified Alcohol	M1	3	m
7303	Sale or Illegal Use of Solvents	M3	1	m
7306	Incendiary Devices	M1	3	m
7307	Out of State Convict Made Goods	M2	2	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
7308	Unlawful Advertising of Insurance Business	M2	2	m
7309	Unlawful Coercion in Contracting Insurance	M1	3	m
7310	Furnishing Free Insurance	M3	1	m
7311	Unlawful Collection Agency Practices	M3	1	m
7312	Debt Pooling	M3	1	m
7313	Buying Food Stamps (> \$1,000)	F3	5	1
7313	Buying Food Stamps (< \$1,000)	M1	3	m
7314	Fraudulent Traffic in Food Orders (> \$1,000)	F3	5	1
7314	Fraudulent Traffic in Food Orders (< \$1,000)	M1	3	m
7316	Keeping Bucket-Shop	M3	1	m
7317	Accessories, Bucket-Shop	M3	1	m
7318	Maintaining Bucket-Shop Premises	M3	1	m
7319	Bucket-Shop Contracts	M3	1	m
7321	Lie Detector Tests	M2	2	m
7322	Demanding Property to Secure Employment	M3	1	m
7323	Discrimination on Account of Uniform	M2	2	m
7324	Unlawful Sale of Dissertations, Theses, Term Papers	M3	1	m
7326	Disclosure of Confidential Tax Information	M3	1	m
7328	Operation of Certain Establishments	M3	1	m
7503	Interest of Certain Architects in Public Works Contracts	M3	1	m
7504	Appointment of Special Police	M3	1	m
7507	Breach of Privacy	M2	2	m
7507.1	Invasion of privacy (single violation)	M3	1	m
7507.1	Invasion of privacy (more than one violation)	M2	3	m
7509(a)	Furnishing drug-free urine (unlawful sale or attempt)	M3	1	m
7509(b)	Furnishing drug-free urine (use or attempt)	M3	1	m
7510(b)(1)	Municipal housing code avoidance (4th conviction)	M2	2	m
7510(b)(2)	Municipal housing code avoidance (5th or subsequent conviction)	M1	3	m
7512	Criminal use of communication facility	F3	5	1
7515	Contingent compensation	M3	1	m
7516	Greyhound racing	M1	3	m
7517	Commemorative service demonstration activities	M3	1	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

CRIMES CODE OFFENSES				
18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
7611	Unlawful use of a computer	F3	7	1
7612	Disruption of computer service	F3	7	1
7613	Computer theft	F3	7	1
7614(b)(1)	Unlawful duplication (value of \$2,500 or less)	F3	5	1
7614(b)(2)	Unlawful duplication (value of greater than \$2,500)	F2	7	2
7615	Computer trespass	F3	7	1
7616	Distribution of computer virus	F3	7	1
7624(1)	Internet service provider (child pornography violation, 1st offense)	M3	1	m
7624(2)	Internet service provider (child pornography violation, 2nd offense)	M2	2	m
7624(3)	Internet service provider (child pornography violation, 3rd or subsequent offense)	F3	5	1
7661(b)(1)	Unlawful transmission of electronic mail (value of less than \$2,500)	M3	1	m
7661(b)(2)	Unlawful transmission of electronic mail (damage/reckless disregard, value of \$2,500 or greater)	M1	5	m
7661(b)(3)	Unlawful transmission of electronic mail (damage/malicious act, value of \$2,500 or greater)	F3	7	1
MISCELLANEOUS OFFENSES (Chop Shop, Crime Victims, Child Abuse Reporting, Environmental)				
1.1—1.8	MOTOR VEHICLE CHOP SHOP AND ILLEGALLY OBTAINED AND ALTERED PROPERTY ACT			
1.3	Owning, operating or conducting a chop shop	F2	7	2
1.4(a)	Altered or illegally obtained property (alteration or destruction of vehicle identification number)	F3	5	1
1.4(b)	Altered or illegally obtained property (disposition of vehicle)	F3	5	1
11.101—11.5102	CRIME VICTIMS ACT			
11.1303	False claim for victim compensation	M3	2	m
23 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
6319	Penalties for failure to report or to refer (suspected child abuse)—first violation	M3	2	m
6319	Penalties for failure to report or to refer (suspected child abuse)—second or subsequent violation	M2	3	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

MISCELLANEOUS OFFENSES (Chop Shop, Crime Victims, Child Abuse Reporting, Environmental)				
35 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
6018.101— 6018.1002	SOLID WASTE MANAGEMENT ACT			
	Knowingly Transports, etc. Hazardous Waste Without Permit	F1	9	1
	Transports, etc. Hazardous Without Permit	F2	7	2
	Violation of Act; DEP Order, etc.	M3	1	m
691.1—691.1001	CLEAN STREAMS LAW Violation of Act; DEP Order	M3	1	m
4001—4015	AIR POLLUTION CONTROL ACT			
	Knowingly Releases Hazardous Air Pollutant	F1	9	1
	Violation of Act ; DEP Order	M2	2	m
	Negligently Releases Hazardous Air Pollution	M3	1	m
721.1—721.17	SAFE DRINKING WATER ACT			
	Knowingly Introduces Contaminant Into Public Water	M1	3	m
	Violation of Act; DEP Order	M3	1	m

BOATS AND BOATING				
30 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
5502	Operating watercraft under influence of alcohol or controlled substance (See mandatory provision § 303.9(i))			See § 303.7(a)
5502(a)(1)	(incapable of safe operation; first offense)	M	1	m
5502(a)(1)	(incapable of safe operation; second offense)	M	1	1
5502(a)(1)	(incapable of safe operation; third/subsequent offense)	M2	3	1
5502(a)(1)	(refuse testing; first offense)	M	1	m
5502(a)(1)	(refuse testing; second offense)	M1	5	1
5502(a)(1)	(refuse testing; third/subsequent offense)	M1	5	1
5502(a)(1)	(accident; first offense)	M	1	m
5502(a)(1)	(accident; second offense)	M	1	1
5502(a)(1)	(accident; third offense)	M1	5	1
5502(a)(1)	(accident; fourth/subsequent offense)	M1	5	1
5502(a)(2)	(BAC .08 - < .10; first offense)	M	1	m
5502(a)(2)	(BAC .08 - < .10; second offense)	M	1	1
5502(a)(2)	(BAC .08 - < .10; third/subsequent offense)	M2	3	1

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

BOATS AND BOATING				
30 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
5502(a.1)	(BAC .10 - < .16; first offense)	M	1	m
5502(a.1)	(BAC .10 - < .16; second offense)	M	1	1
5502(a.1)	(BAC .10 - < .16; third offense)	M1	5	1
5502(a.1)	(BAC .10 - < .16; fourth/ subsequent offense)	M1	5	1
5502(a.2)	(BAC .16 +; first offense)	M	1	m
5502(a.2)	(BAC .16 +; second offense)	M1	5	1
5502(a.2)	(BAC .16 +; third/subsequent offense)	M1	5	1
5502(a.3)	(controlled substance; first offense)	M	1	m
5502(a.3)	(controlled substance; second offense)	M1	5	1
5502(a.3)	(controlled substance; third/subsequent offense)	M1	5	1
5502(a.4)	(under 21 years of age; first offense)	M	1	m
5502(a.4)	(under 21 years of age; second offense)	M	1	1
5502(a.4)	(under 21 years of age; third offense)	M1	5	1
5502(a.4)	(under 21 years of age; fourth/subsequent offense)	M1	5	1
5502.1	Homicide by watercraft while operating under influence (See mandatory provision § 303.9(i))	F3	10	1
5502.2*	Homicide by watercraft (when there is a conviction for operating under the influence)	M1	8	1
5502.2*	Homicide by watercraft (when there is not a conviction for operating under the influence)	M1	6	1
5502.3	Aggravated assault by watercraft while operating under influence	F2	7	2

DRUG ACT OFFENSES				
35 Pa.C.S. § 780-113(a)	DESCRIPTION	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
(1)	Manufacture/Sale/Delivery of Adulterated Drug	M	4	m
(2)	Adulteration of Controlled Substance	M	4	m
(3)	False Advertisement	M	4	m
(4)	Removal of Detained Substance	M	5	m
(5)	Adulteration of Sellable Controlled Substance	M	4	m
(6)	Forging ID Under Act	M	5	m
(7)	Defraud Trademark	M	5	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

DRUG ACT OFFENSES				
35 Pa.C.S. § 780-113(a)	DESCRIPTION	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
(8)	Selling Defrauded Trademark	M	5	m
(9)	Having Equipment to Defraud	M	5	m
(10)	Illegal Sale of Nonproprietary Drug	M	4	m
(11)	Illegal Pharmacy Operations	M	5	m
(12)*	Acquisition of Controlled Substance by Fraud:			
	Heroin (> 1,000g)	F	13	3
	Heroin (100g to 1,000g)	F	11	3
	Heroin (50g to < 100g)	F	10	3
	Heroin (10g to < 50g)	F	8	2
	Heroin (1g to < 10g)	F	7	2
	Heroin (< 1g)	F	6	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (> 1,000g)	F	13	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (100g to 1,000g)	F	11	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (50g to < 100g)	F	10	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (10g to < 50g)	F	8	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (2.5g to < 10g)	F	7	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (< 2.5g)	F	6	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) [(> 1,000 pills)] (1,000 pills or greater)	F	10	3
	MDMA (Ecstasy) (Schedule I, non-narcotic) (100 - < 1,000 pills)	F	7	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) (50 - < 100 pills)	F	5	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) (1 - < 50 pills)	F	3	2
	Narcotic Prescription Pills of Schedule II (> 100 pills) (including Oxycodone , OxyContin, Percocet)	F	10	3
	Narcotic Prescription Pills of Schedule II (51-100 pills) (including Oxycodone , OxyContin, Percocet)	F	9	2
	Narcotic Prescription Pills of Schedule II (21-50 pills) (including Oxycodone, OxyContin, Percocet)	F	8	2

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

DRUG ACT OFFENSES				
35 Pa.C.S. § 780-113(a)	DESCRIPTION	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
	Narcotic Prescription Pills of Schedule II (1-20 pills) (including Oxycodone, OxyContin, Percocet)	F	6	2
	Marijuana (> 1,000 lbs. [or greater] or > 5,000 [or more] live plants)	F	10	3
	Marijuana (50 lbs. to [<] 1,000 lbs. or 51 to [<] 5,000 live plants)	F	8	2
	Marijuana (10 lbs. to < 50 lbs. or 21 to < 51 live plants)	F	7	2
	Marijuana (1 lb. to < 10 lbs. or 10 to < 21 live plants)	F	5	2
	Marijuana (< 1 lb. or < 10 live plants)	F	3	2
	Schedule I and II Drugs not listed (including GHB, LSD)	F	5	2
	Schedule III and IV Drugs	F	5	2
	Schedule V Drugs	M	3	m
(13)	Dispense of Drugs to Drug Dependent Person	M	4	m
(14)*	Delivery by Practitioner:			
	Heroin (> 1,000g)	F	13	3
	Heroin (100g to 1,000g)	F	11	3
	Heroin (50g to < 100g)	F	10	3
	Heroin (10g to < 50g)	F	8	2
	Heroin (1g to < 10g)	F	7	2
	Heroin (< 1g)	F	6	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (> 1,000g)	F	13	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (100g to 1,000g)	F	11	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (50g to < 100g)	F	10	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (10g to < 50g)	F	8	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (2.5g to < 10g)	F	7	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (< 2.5g)	F	6	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) [(> 1,000 pills)] (1,000 pills or greater)	F	10	3
	MDMA (Ecstasy) (Schedule I, non-narcotic) (100 - < 1,000 pills)	F	7	2

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

DRUG ACT OFFENSES				
35 Pa.C.S. § 780-113(a)	DESCRIPTION	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
	MDMA (Ecstasy) (Schedule I, non-narcotic) (50 - < 100 pills)	F	5	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) (1 - < 50 pills)	F	3	2
	Narcotic Prescription Pills of Schedule II (> 100 pills) (including Oxycodone, OxyContin, Percocet)	F	10	3
	Narcotic Prescription Pills of Schedule II (51-100 pills) (including Oxycodone, OxyContin, Percocet)	F	9	2
	Narcotic Prescription Pills of Schedule II (21-50 pills) (including Oxycodone, OxyContin, Percocet)	F	8	2
	Narcotic Prescription Pills of Schedule II (1-20 pills) (including Oxycodone, OxyContin, Percocet)	F	6	2
	Marijuana (>1,000 lbs. [or greater] or > 5,000 [or more] live plants)	F	10	3
	Marijuana (50 lbs. to [<] 1,000 lbs. or 51 to [<] 5,000 live plants)	F	8	2
	Marijuana (10 lbs. to < 50 lbs. or 21 to < 51 live plants)	F	7	2
	Marijuana (1 lb. to < 10 lbs. or 10 to < 21 live plants)	F	5	2
	Marijuana (< 1 lb. or < 10 live plants)	F	3	2
	Schedule I and II Drugs not listed (including GHB, LSD)	F	5	2
	Schedule III and IV Drugs	F	5	2
	Schedule V Drugs	M	3	m
(15)	Illegal Retail Sale	M	4	m
(16)	Simple Possession	M	3	m
(17)	Dispensing of Drugs Without Label	M	4	m
(18)	Illegal Sale Container	M	4	m
(19)	Intentional Unauthorized Purchase	M	5	m
(20)	Divulging Trade Secret	M	4	m
(21)	Failure to Keep Records	M	2	m
(22)	Refusal of Inspection	M	2	m
(23)	Unauthorized Removal of Seals	M	5	m
(24)	Failure to Obtain License	M	2	m
(25)	Manufacture by Unauthorized Party	M	5	m
(26)	Distribution by Registrant of Controlled Substance	M	5	m
(27)	Use of Fictitious Registration Number	M	5	m
(28)	False Application Material	M	5	m
(29)	Production of Counterfeit Trademarks	M	5	m
(30)*	Possession With Intent to Deliver (PWID):			

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

DRUG ACT OFFENSES				
35 Pa.C.S. § 780-113(a)	DESCRIPTION	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
	Heroin (> 1,000g)	F	13	3
	Heroin (100g to 1,000g)	F	11	3
	Heroin (50g to < 100g)	F	10	3
	Heroin (10g to < 50g)	F	8	2
	Heroin (1g to < 10 g)	F	7	2
	Heroin (< 1g)	F	6	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (> 1,000g)	F	13	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (100g to 1,000g)	F	11	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (50g to < 100g)	F	10	3
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (10g to < 50g)	F	8	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (2.5g to < 10g)	F	7	2
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (< 2.5g)	F	6	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) [(> 1,000 pills)] (1,000 pills or greater)	F	10	3
	MDMA (Ecstasy) (Schedule I, non-narcotic) (100 — < 1,000 pills)	F	7	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) (50 — < 100 pills)	F	5	2
	MDMA (Ecstasy) (Schedule I, non-narcotic) (1 — < 50 pills)	F	3	2
	Narcotic Prescription Pills of Schedule II (> 100 pills) (including Oxycodone, OxyContin, Percocet)	F	10	3
	Narcotic Prescription Pills of Schedule II (51-100 pills) (including Oxycodone, OxyContin, Percocet)	F	9	2
	Narcotic Prescription Pills of Schedule II (21-50 pills) (including Oxycodone, OxyContin, Percocet)	F	8	2
	Narcotic Prescription Pills of Schedule II (1-20 pills) (including Oxycodone, OxyContin, Percocet)	F	6	2
	Marijuana (>1,000 lbs. [or greater] or >5,000 [or more] live plants)	F	10	3
	Marijuana (50 lbs. to [<] 1,000 lbs. or 51 to [<] 5,000 live plants)	F	8	2

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

DRUG ACT OFFENSES				
35 Pa.C.S. § 780-113(a)	DESCRIPTION	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
	Marijuana (10 lbs. to < 50 lbs. or 21 to < 51 live plants)	F	7	2
	Marijuana (1 lb. to < 10 lbs. or 10 to < 21 live plants)	F	5	2
	Marijuana (< 1 lb. or < 10 live plants)	F	3	2
	Schedule I and II Drugs not listed (including GHB, LSD)	F	5	2
	Schedule III and IV Drugs	F	5	2
	Schedule V Drugs	M	3	m
(31)	Small Amount of Marijuana	M	1	m
(32)	Possession of Paraphernalia	M	1	m
(33)	PWID Paraphernalia (no minor)	M	3	m
(33)	PWID Paraphernalia (minor w/Conditions)	M2	4	m
(34)	Ad for Drug Paraphernalia	M	1	m
(35)	Illegal Sale of Non controlled Substance	F	5	2
(36)	Designer Drugs	F	5	2
(37)	Possession of Steroids	M	4	m
(38)(i)	Unlawful manufacture of methamphetamine (child under 18 years of age present)	F3	7	1
(38)(ii)	Unlawful manufacture of methamphetamine (child under 18 years of age suffers serious bodily injury)	F2	9	2

35 Pa.C.S. § 780-113.1(a)	DESCRIPTION	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
(1)	Liquefied Ammonia Gas; Precursors and Chemicals (possessing or transporting liquefied ammonia gas)	M	3	m
(2)	Liquefied Ammonia Gas; Precursors and Chemicals (possessing or transporting liquefied ammonia gas with intent to manufacture controlled substance)	F	5	2
(3)	Liquefied Ammonia Gas; Precursors and Chemicals (possessing red phosphorous, etc.)	F	5	2

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

JUDICIAL CODE				
42 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
4583.1(b)(1)	Aggravated jury tampering (most serious offense submitted for deliberation is F1 or Murder 1 or Murder 2)	F1	11	4
4583.1(b)(2)	Aggravated jury tampering (most serious offense submitted to jury is F2)	F2	9	2
4583.1(b)(3)	Aggravated jury tampering (any other violation)	F3	7	1
4732(a)	DNA database, disclosure prohibition (disclose to unauthorized person)	M1	3	m
4732(b)	DNA database, disclosure prohibition (obtain without authorization)	M1	3	m
VEHICLE LAW OFFENSES				
75 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
1543(1.1)(ii)	Driving while operating privilege is suspended or revoked (if (b)(1) and BAC of 0.02% or greater or under influence; 2nd offense) (See mandatory provision § 303.9(i))	M3	1	m
1543(1.1)(iii)	Driving while operating privilege is suspended or revoked (if (b)(1) and BAC of 0.02% or greater or under influence, 3rd/subseq. offense) (See mandatory provision § 303.9(i))	M1	3	m
1571(a)(5)	Violations concerning licenses (exhibit or cause altered driver's license)	M1	3	m
1571(a.1)	Violations concerning licenses (employees and agents issuing altered driver's license)	F3	5	1
3712	Abandonment/Stripping of Vehicles	M3	1	m
3732*	Homicide by Vehicle (when there is also a conviction for DUI arising from the same incident; occurs in active work zone)	F3	10	1
3732*	Homicide by Vehicle (when there is also a conviction for DUI arising from the same incident)	F3	8	1
3732*	Homicide by Vehicle (when there is not a conviction for DUI arising from the same incident; occurs in active work zone)	F3	8	1
3732*	Homicide by Vehicle (when there is not a conviction for DUI arising from the same incident)	F3	6	1
3733(a.2)(1)	Fleeing or Eluding Police (willfully fails or refuses to bring vehicle to a stop)	M2	2	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

VEHICLE LAW OFFENSES				
75 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3733(a.2)(2)	Fleeing or Eluding Police (also commits violation of Section 3802, crosses State line, or endangers by engaging in high-speed chase)	F3	5	1
3735	Homicide by Vehicle while DUI (See mandatory provision § 303.9(i))	F2	10	2
3735.1	Aggravated Assault by Vehicle while DUI	F2	7	2
3742(b)(1)	Accident Involving Death or Personal Injury (failure to stop)	M1	3	m
3742(b)(2)	Accident Involving Death or Personal Injury (failure to stop)(accident resulting in SBI) (See mandatory provision § 303.9(i))	F3	5	1
3742(b)(3)	Accident Involving Death or Personal Injury (failure to stop) (accident resulting in death) (See mandatory provision § 303.9(i))	F3	6	1
3742.1(b)(1)	Accident involving death or personal injury while not properly licensed	M2	2	m
3742.1(b)(2) *	Accident involving death or personal injury while not properly licensed (SBI)	F3	5	1
3742.1(b)(2) *	Accident involving death or personal injury while not properly licensed (death)	F3	6	1
3743	Accident Involving Damage to Attended Vehicle	M3	1	m
3802	Driving under influence of alcohol or controlled substance (DUI) (See mandatory provision § 303.9(i))			See § 303.7(a)
3802(a)(1)	DUI (incapable of safe driving; first offense)	M	1	m
3802(a)(1)	DUI (incapable of safe driving; second offense)	M	1	1
3802(a)(1)	DUI (incapable of safe driving; third/subsequent offense)	M2	3	1
3802(a)(1)	DUI (refuse testing; first offense)	M	1	m
3802(a)(1)	DUI (refuse testing; second offense)	M1	5	1
3802(a)(1)	DUI (refuse testing; third/subsequent offense)	M1	5	1
3802(a)(1)	DUI (accident; first offense)	M	1	m
3802(a)(1)	DUI (accident; second offense)	M	1	1
3802(a)(1)	DUI (accident; third offense)	M1	5	1
3802(a)(1)	DUI (accident; fourth/subsequent offense)	M1	5	1
3802(a)(2)	DUI (BAC .08 - < .10; first offense)	M	1	m
3802(a)(2)	DUI (BAC .08 - < .10; second offense)	M	1	1

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

VEHICLE LAW OFFENSES				
75 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
3802(a)(2)	DUI (BAC .08 - < .10; third/subsequent offense)	M2	3	1
3802(b)	DUI (BAC .10 - < .16; first offense)	M	1	m
3802(b)	DUI (BAC .10 - < .16; second offense)	M	1	1
3802(b)	DUI (BAC .10 - < .16; third offense)	M1	5	1
3802(b)	DUI (BAC .10 - < .16; fourth/subsequent offense)	M1	5	1
3802(c)	DUI (BAC .16 +; first offense)	M	1	m
3802(c)	DUI (BAC .16 +; second offense)	M1	5	1
3802(c)	DUI (BAC .16 +; third/subsequent offense)	M1	5	1
3802(d)	DUI (controlled substance; first offense)	M	1	m
3802(d)	DUI (controlled substance; second offense)	M1	5	1
3802(d)	DUI (controlled substance; third/subsequent offense)	M1	5	1
3802(e)	DUI (under 21 years of age; first offense)	M	1	m
3802(e)	DUI (under 21 years of age; second offense)	M	1	1
3802(e)	DUI (under 21 years of age; third offense)	M1	5	1
3802(e)	DUI (under 21 years of age; fourth/subsequent offense)	M1	5	1
3802(f)	DUI (commercial/school vehicle; first offense)	M	1	m
3802(f)	DUI (commercial/school vehicle; second offense)	M	1	1
3802(f)	DUI (commercial/school vehicle; third offense)	M1	6	1
3802(f)	DUI (commercial/school vehicle; fourth/subsequent offense)	M1	7	1
3808	Ignition interlock			
3808(a)(1)	Ignition interlock (illegally operate vehicle not equipped)	M	1	m
3808(a)(2)	Ignition interlock (illegally operate vehicle not equipped; BAC .025 or greater) (See mandatory provision § 303.9(i))	M3	1	m
3808(b)	Ignition interlock (tampering with ignition interlock system)	M	1	m
7102	Falsify Vehicle Identification	M1	3	m
7102	Falsify Vehicle Identification	M3	1	m
7103	Deal in Vehicles with Removed Identification	F3	5	1
7103	Deal in Vehicles with Removed Identification	M3	1	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

VEHICLE LAW OFFENSES				
75 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
7111	Deal in Stolen Plates	M1	3	m
7112	False Report of Theft or Vehicle Conversion	M3	1	m
7121	False Application for Title/Registration	M1	3	m
7122	Altered or Forged Title or Plates	M1	3	m
7132	Prohibited Activities Related to Odometers (1st or subsequent offense, subchapter D)	F3	4	1
7133	Permissible Activities Related to Odometers (1st or subsequent offense, subchapter D)	F3	4	1
7134	Odometer Disclosure Requirement (1st or subsequent offense, subchapter D)	F3	4	1
7135	Odometer Mileage Statement (1st or subsequent offense, subchapter D)	F3	4	1
7136	Conspiracy to Violate (1st or subsequent offense, subchapter D)	F3	4	1
7137	Violation of Unfair Trade Practices (1st or subsequent offense, subchapter D)	F3	4	1
7752(b)	Unauthorized Disposition of Forms	M3	1	m
8306(b)	Willful Violations	M3	1	m
8306(c)	Subsequent Willful Violations	M2	2	m

	OMNIBUS ASSIGNMENTS	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
	Offenses not otherwise listed and new offenses:	F1	8	3
		F2	7	2
		F3	5	1
		FELONY NOT CLASSIFIED	5	1
		M1	3	m
		M2	2	m
		M3	1	m
		MISDEMEANOR NOT CLASSIFIED	1	m

* = Subcategorized Offenses. See § 303.3(b).

m = Other Misdemeanor Offenses. See § 303.7(a)(5).

INCHOATE = Inchoates to 4 point PRS offenses. See §§ 303.3(c) and 303.8(b) for all other inchoates.

§ 303.16. Basic Sentencing Matrix.

Level	OGS	Example Offenses	Prior Record Score					RFEL	REVOC	AGG/MIT	
			0	1	2	3	4				5
LEVEL 5 State Incar	14	Murder 3 Inchoate Murder/SBI Rape (child <13 years)	72-SL	84-SL	96-SL	120-SL	168-SL	192-SL	204-SL	SL	+/- 12
	13	Inchoate Murder/no SBI Weapons (mass destr./injury) PWID Cocaine, etc. (>1,000 gms)	60-78	66-84	72-90	78-96	84-102	96-114	108-126	240	+/- 12
	12	Rape IDSI Robbery (SBI)	48-66	54-72	60-78	66-84	72-90	84-102	96-114	120	+/- 12
	11	Agg Asslt (SBI) Voluntary Manslaughter Sexual Assault PWID Cocaine, etc. (100-1,000 gms)	36-54 BC	42-60	48-66	54-72	60-78	72-90	84-102	120	+/- 12
	10	Kidnapping Agg. Indecent. Asslt Agg Asslt (att. SBI) Arson (person inside) Hom. by veh.(DUI & work zone) PWID Cocaine, etc. (50-<100 gms)	22-36 BC	30-42 BC	36-48 BC	42-54	48-60	60-72	72-84	120	+/- 12
	9	Sexual exploitation of children Robbery (F1/F2) Burglary (home/person) Arson (no person inside)	12-24 BC	18-30 BC	24-36 BC	30-42 BC	36-48 BC	48-60	60-72	120	+/- 12
LEVEL 4 State Incar/ RIP trade	8 [F1]	Agg Asslt (BI w/DW) Theft (firearm) Identity theft (60 yrs., 3rd off.) Hom. by veh.(DUI or work zone) Theft (>\$100,000) PWID Cocaine, etc. (10-<50 gms)	9-16 BC	12-18 BC	15-21 BC	18-24 BC	21-27 BC	27-33 BC	40-52	NA	+/- 9
	7 [F2]	Robbery (inflicts/threatens BI) Burglary (home/ no person) Statutory Sexual Assault Theft (>\$50,000-\$100,000) Identity theft (3rd off.) PWID Cocaine, etc. (2.5-<10 gms)	6-14 BC	9-16 BC	12-18 BC	15-21 BC	18-24 BC	24-30 BC	35-45 BC	NA	+/- 6
LEVEL 3 State/ Cnty Incar RIP trade	6	Agg Asslt (physical menace) Hom. by vehicle Burglary (not home/person) Theft (>\$25,000-\$50,000) Arson (property) PWID Cocaine, etc. (<2.5 gms)	3-12 BC	6-14 BC	9-16 BC	12-18 BC	15-21 BC	21-27 BC	27-40 BC	NA	+/- 6
	5 [F3]	Burglary (not home/no person) Theft (>\$2000-\$25,000) DUI (M1) PWID (1-<10 lb of marij)	RS-9	1-12 BC	3-14 BC	6-16 BC	9-18 BC	12-18 BC	24-36 BC	NA	+/- 3
	4	Indecent assault Forgery (money, stocks) Weapon on school property Crim Trespass (breaks in)	RS-3	RS-9	RS-<12	3-14 BC	6-16 BC	9-16 BC	21-30 BC	NA	+/- 3
LEVEL 2 Cnty Incar RIP RS	3 [M1]	Simple Assault Theft (\$200-\$2000) DUI (M2) Simple Possession	RS-1	RS-6	RS-9	RS-<12	3-14 BC	6-16 BC	12-18 BC	NA	+/- 3
	2 [M2]	Theft (\$50-<\$200) Retail Theft (1st ,2nd) Bad Checks (\$500-<\$1,000)	RS	RS-2	RS-3	RS-4	RS-6	1-9	6- <12	NA	+/- 3
LEVEL 1 RS	1 [M3]	Most Misd. 3's; Theft (<\$50) DUI (M) Poss. Small Amount Marij.	RS	RS-1	RS-2	RS-3	RS-4	RS-6	3-6	NA	+/- 3

1. Shaded areas of the matrix indicate restrictive intermediate punishments may be imposed as a substitute for incarceration.
2. When restrictive intermediate punishments are appropriate, the duration of the restrictive intermediate punishment program shall not exceed the guideline ranges.
3. When the range is RS through a number of months (e.g. RS-6), RIP may be appropriate.
4. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. 9755(b) and 9756(b).
5. Statutory classification (e.g., F1, F2, etc.) in brackets reflect the omnibus OGS assignment for the given grade.

Key:

BC	= boot camp	RIP	= restrictive intermediate punishments
CNTY	= county	RS	= restorative sanctions
INCAR	= incarceration	SBI	= serious bodily injury
PWID	= possession with intent to deliver	SL	= statutory limit (longest minimum sentence)
REVOC	= repeat violent offender category	~	= no recommendation (aggravated sentence would exceed statutory limit)
RFEL	= repeat felony 1 and felony 2 offender category	< ; >	= less than; greater than

§ 303.17. DWE/Possessed Matrix.

Level	OGS	Deadly Weapon	Prior Record Score					RFEL	REVOC	AGG/MIT	
			0	1	2	3	4				5
Level 5	14	Possessed	81-SL	93-SL	105-SL	129-SL	177-SL	201-SL	213-SL	240	~/- 12
	13	Possessed	69-87	75-93	81-99	87-105	93-111	105-123	117-135	240	+/-12
	12	Possessed	57-75	63-81	69-87	75-93	81-99	93-111	105-123	120	+/-12
	11	Possessed	45-63	51-69	57-75	63-81	69-87	81-99	93-111	120	+/-12
	10	Possessed	31-45	39-51	45-57	51-63	57-69	69-81	81-93	120	+/-12
	9	Possessed	21-33	27-39	33-45	39-51	45-57	57-69	69-81	120	+/-12
Level 4	8	Possessed	15-22	18-24	21-27	24-30	27-33	33-39	46-58	NA	+/-9
	7	Possessed	12-20	15-22	18-24	21-27	24-30	30-36	41-51	NA	+/-6
	6	Possessed	9-18	12-20	16-22	18-24	21-27	27-33	33-46	NA	+/-6
Level 3	5	Possessed	6-15	7-18	9-20	12-22	15-22	18-24	30-42	NA	+/-3
	4	Possessed	3-6	3-12	3-<15	6-17	9-19	12-19	24-33	NA	+/-3
	3	Possessed	3-4	3-9	3-12	3-<15	6-17	9-19	15-21	NA	+/-3
	2	Possessed	3-3	3-5	3-6	3-7	3-9	4-12	9-<15	NA	+/-3
	1	Possessed	3-3	3-4	3-5	3-6	3-7	3-9	6-9	NA	+/-3

§ 303.18. DWE/Used Matrix.

Level	OGS	Deadly Weapon	Prior Record Score					RFEL	REVOC	AGG/MIT	
			0	1	2	3	4				5
Level 5	14	Used	90-SL	102-SL	114-SL	138-SL	186-SL	210-SL	222-SL	SL	~/- 12
	13	Used	78-96	84-102	90-108	96-114	102-120	114-132	126-144	240	+/-12
	12	Used	66-84	72-90	78-96	84-102	90-108	102-120	114-132	120	+/-12
	11	Used	54-72	60-78	66-84	72-90	78-96	90-108	102-120	120	+/-12
	10	Used	40-54	48-60	54-66	60-72	66-78	78-90	90-102	120	+/-12
	9	Used	30-42	36-48	42-54	48-60	54-66	66-78	78-90	120	+/-12
Level 4	8	Used	21-28	24-30	27-33	30-36	33-39	39-45	52-64	NA	+/-9
	7	Used	18-26	21-28	24-30	27-33	30-36	36-42	47-57	NA	+/-6
	6	Used	15-24	18-26	21-28	24-30	27-33	33-39	39-52	NA	+/-6
Level 3	5	Used	12-21	13-24	15-26	18-28	21-28	24-30	36-48	NA	+/-3
	4	Used	6-9	6-15	6-<18	9-20	12-22	15-22	27-36	NA	+/-3
	3	Used	6-7	6-12	6-15	6-<18	9-20	12-22	18-24	NA	+/-3
	2	Used	6-6	6-8	6-9	6-10	6-12	7-15	12-<18	NA	+/-3
	1	Used	6-6	6-7	6-8	6-9	6-10	6-12	9-12	NA	+/-3

[Pa.B. Doc. No. 08-1660. Filed for public inspection September 5, 2008, 9:00 a.m.]

