

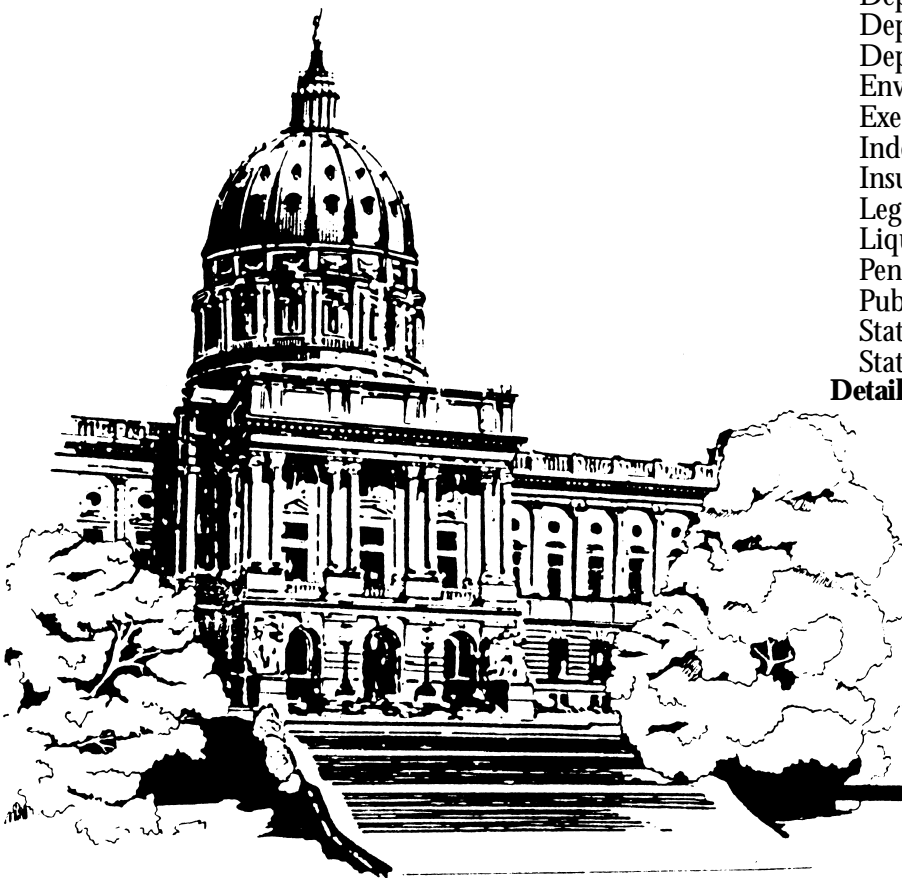
PENNSYLVANIA BULLETIN

Volume 38
Saturday, November 15, 2008 • Harrisburg, PA
Number 46
Pages 6243—6350

Agencies in this issue

The Courts
Department of Banking
Department of Corrections
Department of Education
Department of Environmental Protection
Department of Health
Department of Labor and Industry
Department of Public Welfare
Department of Revenue
Department of Transportation
Environmental Quality Board
Executive Board
Independent Regulatory Review Commission
Insurance Department
Legislative Reference Board
Liquor Control Board
Pennsylvania Public Utility Commission
Public School Employees' Retirement Board
State Board of Dentistry
State Real Estate Commission

Detailed list of contents appears inside.



PRINTED ON 100% RECYCLED PAPER



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

No. 408, November 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 COURTS

JUDICIAL SYSTEM GENERAL PROVISIONS

Amendments to the Pennsylvania rules of disciplinary enforcement relating to administrative suspension, attorneys convicted of crimes, reinstatement and reciprocal discipline 6253

JUVENILE RULES

Amendments to rule 140 and adoption of new rule 141 6262

LOCAL COURT RULES

Chester County

Juvenile pre-adjudication conditions; administrative order no. 2-2008 6265

EXECUTIVE AGENCIES

DEPARTMENT OF BANKING

Notices

Actions on applications 6290

DEPARTMENT OF CORRECTIONS

Notices

Recidivism Risk Reduction Incentive Initiative Evidence-Based Program list 6291

DEPARTMENT OF EDUCATION

Notices

Resolution approving the petition of the Center Area School District and the Monaca School District to combine into one school district 6300

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices 6300
 Availability of technical guidance 6336
 Nutrient and Sediment Reduction Credit Trading Program; Nutrient Trading Program activities and NPDES permits 6336

DEPARTMENT OF HEALTH

Notices

Application for exception:

Allegheny General Hospital 6337
 Altoona Regional Health System 6338
 Berwick Hospital Center 6338
 Charles Cole Memorial Hospital 6338
 Excelsa Health, Westmoreland Hospital 6339
 FoxChase Cancer Center 6339
 Phoenixville Hospital 6339
 Progressive Vision Institute Eye Care Center ... 6339
 Select Specialty Hospital—Erie 6340
 UPMC Braddock 6340
 UPMC McKeesport 6340
 Washington Square Endoscopy Center, LLC 6341
 Application for exception to 28 Pa. Code § 127.32 . 6341
 Application for exception to 28 Pa. Code § 551.21 . 6341

DEPARTMENT OF LABOR AND INDUSTRY

Notices

Prevailing Wage Appeals Board meeting 6341

DEPARTMENT OF PUBLIC WELFARE

Notices

Availability of the Temporary Assistance for Needy Families State Plan; Office of Income Maintenance 6342
 Payment for nursing facility services provided by county nursing facilities; change in methods and standards of setting payment rates 6342
 Payment for nursing facility services provided by nonpublic nursing facilities; change in methods and standards of setting payment rates 6343

DEPARTMENT OF REVENUE

Notices

Pennsylvania \$500 A Week For Life '08 instant lottery game 6344

DEPARTMENT OF TRANSPORTATION

Notices

Fee increase for photo driver's license or photo identification card 6345

ENVIRONMENTAL QUALITY BOARD

Rules and Regulations

Water resources planning 6266
 Radiological health and radon certification fees ... 6275

Proposed Rulemaking

Diesel vehicle idling; and auxiliary power systems; notice of withdrawal 6286

Notices

Meeting cancellation 6346

EXECUTIVE BOARD

Statements of Policy

Reorganization of the:

Governor's Office of the Budget 6287
 Historical and Museum Commission 6287

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Notice of filing of final rulemakings 6346

INSURANCE DEPARTMENT

Notices

Application and request for a certificate of authority to provide continuing care retirement community by Bruno Investments, LP 6346

LEGISLATIVE REFERENCE BUREAU

Notices

Documents files but not published 6346

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

LIQUOR CONTROL BOARD

Notices

Expiration of leases 6347

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Order 6347

Telecommunications (2 documents) 6349

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Notices

Hearing scheduled 6349

STATE BOARD OF DENTISTRY

Rules and Regulations

Sexual misconduct 6279

STATE REAL ESTATE COMMISSION

Rules and Regulations

Consumer notice 6282

Notices

Bureau of Professional and Occupational Affairs

v. 2000 Homes Realty, Inc., ERA 2000 Homes

Realty; file no. 08-56-02708 6349

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

1	5738
6 .. 741, 2146, 2148, 2231, 2234, 2236, 2647, 5741, 5743, 5939, 5943	
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, 5964, 6287
Unclassified	5155

7 Pa. Code (Agriculture)

Adopted Rules

130f	5849
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

31	5449
123	4915

19 Pa. Code (Corporations and Business Associations)

Notices	2199
---------------	------

22 Pa. Code (Education)

Adopted Rules

4	872, 1148
14	3575
16	5953
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
109	6266
110	6266
121	1705
127	2365
129	1705
130	5598
145	1705
209	4368
209a	4368
210	4355
215	2243
218	6275
221	2243
225	2243
230	2243
240	2243, 6275
271	1357
279	1357
287	1357
293	1357
806	610
808	610
901	5107

Proposed Rules

85	4617
85 (correction)	4776
86	80
93 (correction)	236, 612, 976
121	229, 1831, 1838, 6286
126	229, 6286
129	1831, 1838
130 (correction)	1150
145	1838
218	1246
240	1246
806	5446
901	4373
1021	6154

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)**Adopted Rules**

84b	5855
133	5434

Proposed Rules

84b	1949
139	1960
146d	4101

34 Pa. Code (Labor and Industry)**Adopted Rules**

33	5960
----------	------

Proposed Rules

111	4902
131	4902

37 Pa. Code (Law)**Adopted Rules**

23	1587
95	5627

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
33	6279
35	6282
39	3811
40	1829, 3658
43b	3654
47	484, 4509
49	484

Proposed Rules

3	5759
18	2059
21	344, 3246, 6161
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**

1	5303
5	4608, 5303
57	5273
63	488
102	4608

Proposed Rules

21	5665
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**

20	5435
1150	4898
1181	5435
1243	4898
2380	5435
2390	5435
3130	5435
3140	5435
3270	2437, 5435
3280	2437, 5435
3290	2437, 5435
3300	2437
3680	5435
3700	5435
6400	5435
6500	5435

Proposed Rules

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

Statements of Policy

259	5970
3270	2469
3280	2469
3290	2469

Proposed Statements of Policy
 1187 5974

**58 Pa. Code (Recreation)
 Adopted Rules**

21 5033
 53 1584
 63 1584, 4900
 65 1468, 5962
 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
 401a 5662
 405a 1474, 6150
 407a 6150
 421a 1585, 1965, 6150
 423a 1585
 433a 6150
 435a 5662, 6150
 437a 2251
 439a 5652
 441a 3978, 5652
 461a 1474, 5316, 5652
 461b 5652
 463a 5652
 465a 5652
 503a 5652
 511a (correction) 5441, 5652, 5758

Proposed Rules

29 2155
 51 4909
 63 3241, 4776, 4910
 65 1588
 69 1589, 4910
 71 4910
 73 4910
 75 5035
 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
 403a 5441
 405a 2054
 421a 2054
 433a 2054
 434a 3980
 435a 1151, 2054, 3505
 438a 3980
 439a 1151
 441a 1039, 1041, 1151, 2269, 3505, 3980, 6158
 443a 3820
 461a 343, 1151, 3507
 461b 1151
 463a 1151, 3507
 465a 1151, 3505, 3507
 467a 3507, 6158
 491a 5441
 493a 5441
 494a 5441
 495a 5441
 497a 5441

499a 5441
 511a 5441

Statements of Policy

57 1965, 5038
 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

101 Pa. Code (General Assembly)

Adopted Rules

31 5755

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

29 5421
 81 5157
 83 1701, 5157
 85 1812
 87 1812
 91 1812
 93 1812
 211 5422
 303 4971

Proposed Rules

83 4504, 6253
 213 1438
 303 9

207 Pa. Code (Judicial Conduct)

Adopted Rules

1 5163
 33 1445
 51 4353
 61 1445

Proposed Rules

1 4353
 61 865, 1037

210 Pa. Code (Judicial Conduct)

Adopted Rules

1	5257
9	5257
11	5257, 5589
13	5257
15	2359, 5257
17	2359, 5257
19	4728, 5257, 5422
21	3355, 3970, 5257
25	5257
27	5257
31	5257
33	5257

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)

Adopted Rules

ART. IV	5423
---------	------

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, 5589, 5590
1000	1701, 5591
1910	1447, 3617, 5591
1915	3614
2950	3236
3000	3650, 5591
4000	1814

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1	745, 3971, 5425
2	3651
4	5425
5	3971, 5425, 5429

6	4506, 4606
8	5429
9	5425

Proposed Rules

1	61, 865
5	5747
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, 5592, 5594, 6262
5	63, 5594
11	477, 1349
13	477
16	5594
18	477

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules

200	5163, 5843, 5844
300	5164
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, 5947
--------------	----------------------

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, 5032, 5165, 5267, 5431, 5432, 5432, 5595, 5596, 5845, 5847, 5950, 5951, 6143, 6145, 6147, 6148, 6265
--------------	--

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to Administrative Suspension, Attorneys Convicted of Crimes, Reinstatement and Reciprocal Discipline

Notice of Proposed Rulemaking

Notice is given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that it amend the Pennsylvania Rules of Disciplinary Enforcement as set forth in Annex A.

One change being proposed reflects the desire of the Disciplinary Board to create a new attorney registration status that distinguishes between attorneys who comply with the Pennsylvania Rules of Disciplinary Enforcement and Pennsylvania Rules for Continuing Legal Education, and those who do not. Other changes to the Enforcement Rules reflect the experience during the past several years of the Office of Disciplinary Counsel and the Disciplinary Board with conviction matters under existing Rule 214, reinstatement matters under existing Rule 218, and reciprocal discipline matters under existing Rule 216. The significant changes are summarized and explained as follows

Administrative Suspension

New Rule 219 creates the new attorney registration status of "administrative suspension," which is defined in an added definition to Rule 102(a) to include any attorney who fails to pay the annual attorney registration fee, meet Continuing Legal Education requirements, pay the expenses of a disciplinary proceeding, or meet the requirements of limited licensure. Thus, the new rule distinguishes between those attorneys who lose eligibility to practice as a result of administrative action and the entry of a Supreme Court order, and those attorneys who voluntarily register as inactive as permitted under the current Rule.

Attorneys who voluntarily assume inactive status intend to, and almost universally do, disengage from the practice of law, whereas the great majority of complaints of unauthorized practice involve attorneys who are disbarred, suspended or transferred to inactive status by court order. Assigning the new status of "administratively suspended" to attorneys currently transferred to inactive status by court order will provide greater and unequivocal notice to the public, the courts and the profession of an attorney's ineligibility to practice law.

New Rule 219 continues the option of voluntary inactive status. Under new subsection (j), an attorney who desires to maintain inactive status must file an attorney registration statement and pay a fee on an annual basis. The annual assessment is consistent with the procedure in 40 other states that recognize that costs are incurred in maintaining rosters of attorneys who are admitted to

practice, who decide not to renew their licenses, and who want to maintain the option of returning to practice. An attorney on voluntary inactive status who fails to comply with the new requirements will be transferred to administrative suspension.

New subsection (k) of Rule 219 implements a procedure that will allow those attorneys who are currently on inactive status by court order to avoid being transferred to administrative suspension. Under that subsection, an attorney will have one year, commencing on July 1 of the year in which the next annual registration statement is due, to petition for reinstatement under Rule 218 or otherwise meet the requirements for transfer to active status. Attorneys who do not achieve active status during the grace period will be transferred to administrative suspension. Attorneys who do achieve active status will have the option of transferring to voluntary inactive status.

Under new Rule 217, the requirements and practice restrictions that currently apply to inactive, suspended and disbarred attorneys are extended to administratively suspended attorneys. An amendment to Rule 102(a) adds "administratively suspended attorney" to the definition of "Formerly admitted attorney."

Attorneys Convicted of Crimes

Under current Rule 214, disciplinary counsel must report all criminal convictions to the Supreme Court. In many cases, disciplinary counsel requests that the Court enter a rule directing the respondent-attorney to show cause why he or she should not be placed on temporary suspension pending a determination of final discipline after the institution of formal proceedings under Rule 208(b). This procedure will remain the same with some exceptions designed to decrease the amount of time from conviction to discipline, and to streamline the current procedure.

New Rule 214(c)(1)(i) allows disciplinary counsel to proceed with the filing of a petition for discipline prior to the Supreme Court's ruling on a request by disciplinary counsel for an order of temporary suspension.

New Rule 214(c)(1)(ii) allows disciplinary counsel to file a petition for discipline without referring the matter to the Supreme Court. Experience has shown that a first offense for certain types of crimes does not result in temporary suspension and typically results in private discipline. Since each matter must be evaluated on a case-by-case basis, new Rule 214(c)(2) identifies criteria to be considered by disciplinary counsel in determining whether to seek the respondent-attorney's temporary suspension.

Under certain circumstances, a minor offense or one that does not relate to the practice of law may not be an appropriate basis for professional discipline. Subsection (c)(1)(iii) of new Rule 214 allows disciplinary counsel to recommend to the Board Chairperson Vice-Chairperson that no formal action be taken, with respect to conditions for minor offenses.

New Rule 214 mandates that in all conviction matters except those minor matters in which the Board Chairperson or Vice-Chairperson approves a recommendation that no formal action be taken, disciplinary counsel will file a petition for discipline and proceed with formal proceedings unless the respondent-attorney resigns from the bar under current Rule 215(a) or agrees to consent discipline

under current Rule 215(d). The new rule ensures that all conviction matters will be subject to review at either the Disciplinary Board or Supreme Court level.

Reinstatement

Under current Rule 218(a), no attorney transferred to inactive status for more than 3 years may resume practice until reinstated by Supreme Court Order after petition pursuant to Rule 218. New Rule 218(a)(2) extends that requirement to an attorney on administrative suspension for more than 3 years.

Other proposed changes to Rule 218 will expedite the processing of petitions for reinstatement from inactive status and administrative suspension, and eliminate the expense and inconvenience to out-of-state petitioner-attorneys who return to Pennsylvania for a hearing that routinely proceeds under the abbreviated procedure of D.Bd. Rules § 89.181. If disciplinary counsel has completed the background investigation and is satisfied that the petitioner-attorney has the requisite moral qualifications, competency, and learning in law, then the matter will be forwarded directly to a Board Member designated by the Board Chair for review without the need for a hearing before a hearing committee member. The Board Member's approval then goes to the Prothonotary of the Supreme Court for the entry of an order of reinstatement.

In contrast, if there is concern at the investigatory stage or upon subsequent review by a designated Board Member about an inactive or administratively-suspended petitioner-attorney's ability to sustain his or her burden of demonstrating fitness for reinstatement, new Rule 218 requires a hearing before a hearing committee member followed by review before the full Board and the Supreme Court.

Reciprocal Discipline

Current Rule 216 provides that a reciprocal discipline proceeding may be initiated upon receipt of an "order" of "suspension or disbarment" entered in another jurisdiction. The proposed Rule expands the language of the current Rule to account for the Supreme Court's practice of exercising its reciprocal disciplinary jurisdiction when a respondent-attorney has been the subject of disciplinary action in another jurisdiction but the other jurisdiction's procedure or type of discipline does not fit squarely within the language of Rule 216.

Proposed Rule 216 recognizes the differences in procedure that exist in other jurisdictions. Most states, including Pennsylvania, impose discipline through the entry of an order. Some states, however, enter a judgment, while an administrative tribunal may enter some form of disciplinary directive.

Proposed Rule 216 recognizes the different types of discipline imposed in other jurisdictions, including revocation of license and resignation while under disciplinary investigation. A Pennsylvania attorney who engages in practice in a jurisdiction in which the attorney is not licensed generally may receive discipline in the form of revocation of pro hac vice admission or being barred from applying for pro hac vice admission.

The proposed revisions to Rule 216 articulate the various jurisdictional predicates for the authority of the Court to issue a rule to show cause under the Rule. Under current subsection (c), the Court retains the discretion not to impose reciprocal discipline when the respondent-attorney demonstrates the existence of one of the criteria set forth in that subsection.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before January 16, 2009.

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

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter A. PRELIMINARY PROVISIONS

Rule 102. Definitions.

(a) *General Rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

* * * * *

Administrative suspension—Status of an attorney, after Court order, who: failed to pay the annual fee and/or file the form required by subdivisions (a) and (d) of Enforcement Rule 219; was reported to the Court by the Pennsylvania Continuing Legal Education Board under Rule 111(b), Pa.R.C.L.E., for having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education; failed to pay any expenses taxed pursuant to Enforcement Rule 208(g); or failed to meet the requirements for maintaining a limited law license as foreign legal consultant, an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, or military attorney.

* * * * *

Attorney Registration Office—The administrative division of the Disciplinary Board which governs the annual registration of every attorney admitted to, or engaging in, the practice of law in this Commonwealth, with the exception of attorneys admitted to practice pro hac vice under Pa.B.A.R. 301.

* * * * *

Formerly admitted attorney—A disbarred, suspended, administratively suspended, retired or inactive attorney.

* * * * *

Petitioner-attorney—Includes any person subject to these rules who has filed a petition for reinstatement to the practice of law.

* * * * *

Subchapter B. MISCONDUCT

Rule 201. Jurisdiction.

(a) The exclusive disciplinary jurisdiction of the Supreme Court and the Board under these rules extends to:

* * * * *

(3) Any formerly admitted attorney, with respect to acts prior to suspension, disbarment, **administrative suspension**, or transfer to **retired or** inactive status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of the **Disciplinary Rules**, these rules or rules of the Board adopted pursuant hereto.

* * * * *

Rule 203. Grounds for discipline.

* * * * *

(b) The following shall also be grounds for discipline:

(1) Conviction of a crime [**which under Enforcement Rule 214 (relating to attorneys convicted of crimes) may result in suspension**].

* * * * *

Rule 204. Types of discipline.

* * * * *

(c) A reference in these rules to disbarment, suspension, temporary suspension, **administrative suspension**, or transfer to or assumption of inactive status shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license. A respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

* * * * *

Rule 214. Attorneys convicted of crimes.

* * * * *

(b) The clerk of any court within the Commonwealth in which an attorney is convicted of any crime[, **or in which any such conviction is reversed,**] shall within 20 days after such disposition transmit a certificate thereof to Disciplinary Counsel, who [**shall**] may file such certificate with the Supreme Court.

(c)(1) Upon being advised that an attorney has been convicted of a crime [**within this Commonwealth**], Disciplinary Counsel shall secure [**and file**] a certificate [**in accordance with the provisions of subdivision (b)**] **establishing the conviction. [If the conviction occurred in another jurisdiction, it shall be the responsibility of Disciplinary Counsel to secure and file a certificate of such conviction.]** Disciplinary Counsel may:

(i) **seek temporary suspension of the respondent-attorney, in which case Disciplinary Counsel shall file the certificate with the Supreme Court under paragraph (d)(1), and institute a formal proceeding with the Board under paragraph (f)(1);**

(ii) **institute a formal proceeding with the Board under paragraph (f)(1) without seeking the temporary suspension of the respondent-attorney; or**

(iii) **take no formal action with respect to the conviction. The decision to proceed under this paragraph shall be reviewed by the Board Chair or Vice-Chair. The decision of the Board Chair or Vice-Chair shall be final and not subject to further review. If the Board Chair or Vice-Chair rejects the recommendation of Disciplinary Counsel that no formal action be taken, the Board Chair or Vice-Chair shall abstain from future participation in the matter.**

(2) **In determining how to proceed under paragraph (c)(1), Disciplinary Counsel shall consider:**

(i) **the extent and seriousness of the criminal conduct and the sentence imposed;**

(ii) **whether the conviction involves moral turpitude;**

(iii) **whether the respondent-attorney has a record of discipline;**

(iv) **whether the conviction is likely to result in a final discipline of suspension or disbarment under applicable precedent;**

(v) **the impact of the conviction upon the courts and legal profession in the Commonwealth or any other jurisdiction;**

(vi) **whether the continued practice of law by the respondent-attorney would be detrimental to the integrity and standing of the bar or the administration of justice or be subversive of the public interest; and**

(vii) **the need to deter other attorneys from similar misconduct.**

(d)(1) Upon the filing with the Supreme Court of a certified copy of an order demonstrating that an attorney has been convicted of a [**serious**] crime, the Court may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be placed on temporary suspension, which rule shall be returnable within ten days.

* * * * *

Official Note: This provision permitting the respondent-attorney to continue representing existing clients for 30 days is intended to avoid undue hardship to clients and to permit a winding down of matters being handled by the respondent-attorney, and the permissible activities of the respondent-attorney are intended to be limited to only those necessary to accomplish those purposes.

(4) The respondent-attorney may at any time petition the Court for dissolution or amendment of an order of temporary suspension. A copy of the petition shall be served upon Disciplinary Counsel and the Secretary of the Board. A hearing on the petition before a member of the Board designated by the Chair of the Board shall be held within ten business days after service of the petition on the Secretary of the Board. The designated Board member shall hear the petition and submit a transcript of the hearing and a recommendation to the Court within five business days after the conclusion of the hearing. Upon receipt of the recommendation of the designated Board member and the record relating thereto, the Court shall dissolve or modify its order, if appropriate.

[Official Note: The subject of the summary proceedings authorized by subdivision (d) is limited to whether the conditions triggering the application of subdivision (d) exist, i.e., proof that the respondent-attorney is the same person as the individual convicted of the offense charged and that the offense is a serious crime, and will not include such subjects as mitigating or aggravating circumstances. The provision of subdivision (d)(3) permitting the respondent-attorney to continue representing existing clients for 30 days is intended to avoid undue hardship to clients and to permit a winding down of matters being handled by the respondent-attorney, and the permissible activities of the

respondent-attorney are intended to be limited to only those necessary to accomplish those purposes.]

(5) At any time before a plea or verdict or after a guilty plea or verdict of guilt in the criminal proceeding, Disciplinary Counsel and the respondent-attorney may file with the Court a joint petition for temporary suspension of the respondent-attorney on the ground that the respondent-attorney's temporary suspension is in the best interest of the respondent and the legal system.

(e) A certificate of conviction of an attorney for a [serious] crime [filed under subdivision (b) or (c)] shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction.

(f) (1) Upon the receipt of a certificate of conviction of an attorney for a [serious] crime, [the Court shall, in addition to any order of suspension it may enter in accordance with the provisions of subdivision (d), also refer the matter to the Board for the institution of a formal proceeding] Disciplinary Counsel shall institute a formal proceeding before the Board based upon the conviction unless the Board Chair or Vice-Chair approves a recommendation under paragraph (c)(1)(iii) that no formal action be taken. The Board Secretary shall schedule a hearing before a hearing committee in the appropriate disciplinary district in which the sole issue to be determined shall be the extent of the discipline or final discipline to be imposed, except that a disciplinary proceeding so instituted shall not be brought to hearing until all appeals from the conviction are concluded.

* * * * *

[(g) Upon receipt of a certificate of conviction of any attorney for a crime other than a serious crime, the Court shall take such action as it deems warranted. The Court may in its discretion take no action with respect to convictions for minor offenses.

Official Note: The actions the Court may take under subdivision (g) include reference of the matter to the Office of Disciplinary Counsel for investigation and possible commencement of either a formal or informal proceeding, or reference of the matter to the Board with direction that it institute a formal proceeding.

(h) [(g) An attorney suspended under the provisions of subdivision (d) may be reinstated immediately upon the filing by the Board with the Court of a certificate demonstrating that the underlying conviction has been reversed, but the reinstatement will not terminate any formal proceeding then pending against the attorney.

[(i)] (h) As used in this rule, the term "serious crime" means a crime that is punishable by imprisonment for one year or upward in this or any other jurisdiction.

Rule 216. Reciprocal discipline.

(a) Upon receipt of a certified copy of an order, judgment or disciplinary directive of another court, a government agency or a military tribunal demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension, [or] disbarment, or revocation of license or pro hac vice

admission, or has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction, the Supreme Court shall forthwith issue a notice directed to the respondent-attorney containing:

(1) a copy of said order, judgment or directive from the other [jurisdiction] court, government agency or military tribunal; and

* * * * *

(b) In the event the discipline imposed in the other [jurisdiction] court, government agency or military tribunal has been stayed there, any reciprocal discipline imposed in the Commonwealth shall be deferred until such stay expires.

* * * * *

(e) An attorney who has been disciplined in another court or by a government agency or a military tribunal, by suspension, [or] disbarment, or revocation of license or pro hac vice admission, or who has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction, shall report the fact of such suspension, [or] disbarment, revocation or resignation to the Secretary of the Board within 20 days after the date of the order, judgment or directive imposing or confirming the discipline.

Rule 217. Formerly admitted attorneys.

(a) A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere.

(b) A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney.

(c) A formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, by registered or certified mail, return receipt requested:

(1) all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, **administrative suspension** or transfer to inactive status, and

* * * * *

The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, **administratively suspended** or on inactive status.

(d) Orders imposing suspension, disbarment, **administrative suspension** or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, **administrative suspension** or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(e) Within ten days after the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing:

* * * * *

(f) The Board shall cause a notice of the suspension, disbarment, **administrative suspension** or transfer to inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced.

(g) The Board shall promptly transmit a certified copy of the order of suspension, disbarment, **administrative suspension** or transfer to inactive status to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced. The president judge shall make such further order as may be necessary to fully protect the rights of the clients of the formerly admitted attorney.

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the [**Court Administrator of Pennsylvania**] **Attorney Registration Office** under Rule 219(e) (relating to periodic assessment of attorneys; voluntary inactive status) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license) or limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys). The Board may destroy the annual certificate issued under Rule 219(e), but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

(i) A formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension, **administrative suspension** or transfer to inactive status order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

* * * * *

Rule 218. Reinstatement.

(a) [**No attorney suspended for a period exceeding one year, transferred to inactive status for more than three years prior to resumption of practice or transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or disbarred, may resume practice until reinstated by order of the Supreme Court after petition therefor pursuant to these rules.**] An attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to this rule if the attorney was:

- (1) **suspended for a period exceeding one year;**
- (2) **retired, on inactive status or administrative suspension for more than three years;**
- (3) **transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct;** or
- (4) **disbarred.**

* * * * *

(c) [(1)] **The procedure for petitioning for reinstatement from suspension for a period exceeding one year or disbarment is as follows:**

- (1) Petitions for reinstatement [**by formerly admitted attorneys**] shall be filed with the Board.
- (2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall file a response thereto with the Board and serve a copy on the formerly admitted attorney. Upon receipt of the response, the Board shall refer the petition and response to a hearing committee in the disciplinary district in which the formerly admitted attorney maintained an office at the time of the disbarment[,] or suspension [**or transfer to inactive status**]. If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

Official Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney, the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

(3) The hearing committee shall promptly schedule a hearing at which[]:

(i) **A**] a disbarred or suspended attorney shall have the burden of demonstrating by clear and convincing evidence that such person has the moral qualifications, competency and learning in law required for admission to

practice law in this Commonwealth and that the resumption of the practice of law within the Commonwealth by such person will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

Official Note: When the petitioner-attorney is seeking reinstatement from disbarment, the threshold inquiry articulated in *Office of Disciplinary Counsel v. Keller*, 509 Pa. 573, 579, 506 A.2d 872, 875 (1986) and its progeny applies.

[(ii) A formerly admitted attorney who has been on inactive status shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.]

* * * * *

(6) In the event the Board recommends reinstatement and the Supreme Court, after consideration of that recommendation, is of the view that a rule to show cause should be served upon the [**respondent-attorney**] **petitioner-attorney** why an order denying reinstatement should not be entered, the same shall be issued setting forth the areas of the Court's concern. A copy of the rule shall be served on Disciplinary Counsel. Within 20 days after service of the rule, [**respondent-attorney**] **petitioner-attorney**, as well as Disciplinary Counsel, may submit to the Supreme Court a response thereto. Unless otherwise ordered, matters arising under this rule will be considered without oral argument.

[(7) A petition for reinstatement to active status from inactive status by a formerly admitted attorney who has not been suspended or disbarred shall be considered by a single senior or experienced hearing committee member who shall perform the functions of a hearing committee under this subdivision (c), and the rules of the Board may provide for abbreviated procedures to be followed by that hearing committee member.]

(d) The procedure for petitioning for reinstatement from retired status, inactive status or administrative suspension for more than three years, or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct is as follows:

(1) Petitions for reinstatement shall be filed with the Board.

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall either:

(i) file a response thereto with the Board and serve a copy on the formerly admitted attorney; or

(ii) file a certification with the Board Secretary stating that after a review of the petition for reinstatement and reasonably diligent inquiry, Disciplinary Counsel has determined that there is no impediment to reinstatement and that the petitioner-attorney will meet his or her burden of proof under paragraph (d)(3) if the petition were to proceed to hearing under (d)(4).

Official Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney under (d)(2)(i), the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

(3) A formerly admitted attorney who has been on retired status, inactive status or administrative suspension shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.

(4) Upon receipt of a response under (d)(2)(i), the Board shall refer the petition and response to a single senior or experienced hearing committee member in the disciplinary district in which the formerly admitted attorney maintained an office at the time of transfer to or assumption of retired or inactive status, or transfer to administrative suspension; the single senior or experienced hearing committee member shall promptly schedule a hearing during which the hearing committee member shall perform the functions of a hearing committee under this subdivision (d). The rules of the Board may provide for abbreviated procedures to be followed by the hearing committee member, except that the abbreviated procedure shall not be available at any hearing conducted after review by a designated board member pursuant to paragraph (d)(6) of this rule. If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

(5) At the conclusion of the hearing, the hearing committee member shall promptly file a report containing the member's findings and recommendations and transmit same, together with the record, to the Board. Thereafter, the matter will proceed in accordance with the provisions of (c)(5) and (c)(6) of this rule.

(6) Upon receipt of a certification filed by Disciplinary Counsel under (d)(2)(ii), the Board Chair shall designate a single member of the Board to review the record and certification and to issue a report and recommendation.

(i) If the Board Member decides that reinstatement should be denied or that a hearing on the petition is warranted, the designated Board Member shall issue a report setting forth the areas of the designated Board Member's concern and direct the Board Secretary to schedule the matter for hearing pursuant to subdivision (d)(4) of this rule.

(ii) Upon receipt of a report and recommendation for an order of reinstatement, the Court shall enter an order reinstating the formerly admitted attorney to active status and direct that the necessary expenses incurred in the investigation and processing of the petition be paid by the petitioner-attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(iii) The annual fee required by Rule 219(a), and the reinstatement fee prescribed by subdivision (f) of this Rule (relating to any petitioner-attorney on administrative suspension) if applicable, shall be paid to the Attorney Registration Office.

[(d)] (e) In all proceedings upon a petition for reinstatement, cross-examination of the [**respondent-**

attorney's] petitioner-attorney's witnesses and the submission of evidence, if any, in opposition to the petition shall be conducted by Disciplinary Counsel.

[(e)] (f) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and processing of the petition for reinstatement be paid by the **[respondent-attorney] petitioner-attorney**. **A reinstatement fee of \$300 shall be assessed against a petitioner-attorney who was administratively suspended at the time of the filing of the petition.**

[(f)] (g) (1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

(2) Paragraph (1) of this subdivision shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on inactive status **or administrative suspension** for more than three years; or

(iii) the order of suspension has been in effect for more than three years.

[(g)] (h) Attorneys who have been on inactive status, **retired status or administrative suspension** for three years or less may be reinstated pursuant to Enforcement Rule 219(h), (i) or (j) (relating to periodic assessment of attorneys) as appropriate. This subdivision **[(g)] (h)** does not apply to an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

[(h)] (i) The Board may cause a notice of the reinstatement to be published in one or more appropriate legal journals and newspapers of general circulation.

[(i)] (j) The Board when appropriate shall promptly transmit to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced a copy of:

* * * * *

[(j)] (k) If Disciplinary Counsel shall have probable cause to believe that any formerly admitted attorney:

* * * * *

Rule 219. Periodic assessment of attorneys; voluntary inactive status.

(a) Every attorney admitted to practice law in this Commonwealth, **other than a military attorney holding a limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys)**, shall pay an annual fee of \$140.00 under this rule. The annual fee shall be collected under the supervision of the

[Administrative] Attorney Registration Office, which shall send and receive, or cause to be sent and received, the notices and **[statements] forms** provided for in this rule. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

(b) **The following shall be exempt from paying the annual fee required by subdivision (a):**

(1) Justices **[and] or [Judges] judges serving in the following Pennsylvania courts of record** shall be exempt for such time as they serve in office **[.]: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and justices or judges serving an appointment for life on any federal court;**

(2) **retired attorneys; and**

(3) **military attorneys holding a limited certificate of admission issued under Pa.B.A.R. 303 (relating to admission of military attorneys).**

Official Note: The exemption created by subdivision (b)(1) does not include Traffic Court judges, Pittsburgh Magistrates, magisterial district judges or administrative law judges.

(c) On or before May 15 of each year the **[Administrative] Attorney Registration Office** shall transmit by ordinary mail to all persons required by this rule to pay an annual fee a form **[for completing the statement]** required by subdivision (d) of this rule.

(d) On or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the **[Administrative] Attorney Registration Office** a signed **[statement on the]** form prescribed by the **[Administrative] Attorney Registration Office** in accordance with the following procedures:

(1) The **[statement] form** shall set forth:

(i) The date on which the attorney was **[first]** admitted to practice, licensed as a foreign legal consultant, **granted limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311**, or issued a Limited-In-House Corporate Counsel License, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

(ii) The current residence and office addresses of the attorney, each of which shall be an actual street address or rural route box number, and the **[Administrative] Attorney Registration Office** shall refuse to accept a **[statement] form** that sets forth only a post office box number for either required address. A preferred mailing address different from those addresses may also be provided on the **[statement] form** and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, will be accessible through the web site of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board.

Official Note: Public web docket sheets will show the attorney's address as entered on the court docket.

(iii) The name of each financial institution in this Commonwealth in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The **[statement] form** shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. The **[statement] form** provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

* * * * *

(vi) Such other information as the **[Administrative] Attorney Registration Office** may from time to time direct.

(2) Payment of the annual fee shall accompany the **[statement] form**. Where a check in payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee shall also have been paid. The amount of the collection fee shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for checks returned to the Board unpaid.

(3) Every person who has filed such a **[statement] form** shall notify the **[Administrative] Attorney Registration Office** in writing of any change in the information previously submitted within 30 days after such change.

(4) Upon original admission to the bar of this Commonwealth, licensure as a **[foreign legal consultant, or] Legal Consultant**, issuance of a Limited In-House Corporate Counsel License, or limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, a person shall concurrently file a **[statement] form** under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

(e) **[Within 20 days of the] Upon** receipt of a **[statement] form**, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of subdivision (d) of this rule, and of payment of **[any] the** required annual fee to practice law in this Commonwealth, receipt thereof shall be acknowledged **[,]** on a certificate **[issued by the Court Administrator of Pennsylvania, evidencing compliance with such subdivision] or license**.

(f) The **[Administrative] Attorney Registration Office** shall transmit by **[certified] ordinary mail [, return receipt requested,]** to every attorney who fails to timely file the **[statement] form** and pay the annual fee required by this rule, addressed to the last known mailing address of the attorney, a notice stating:

(1) That unless the attorney shall comply with the requirements of subdivision (d) of this rule within 30 days after the date of the notice, such failure to comply will be deemed a request **[for transfer to inactive status] to be administratively suspended**, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will **[immediately]** enter an

order **[transferring the attorney to inactive status] administratively suspending the attorney**.

(2) That upon the entry of an order **[transferring the attorney to inactive status] of administrative suspension**, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

(g) The **[Administrative] Attorney Registration Office [or the Board]** shall certify to the Supreme Court the names of every attorney who has failed to respond to a notice issued pursuant to subdivisions (f) and **[(k)] (l)** within the 30-day period provided therein and the Court shall **[immediately]** enter an order **[transferring the attorney to inactive status] administratively suspending the attorney**. A copy of any such certification from the **[Administrative] Attorney Registration Office** to the Supreme Court shall be given to the Board Secretary. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(h) **The procedure for reinstatement of an attorney who has been administratively suspended for three years or less pursuant to subdivision (g) is as follows:**

(1) **[Upon compliance by the formerly admitted attorney with the provisions of subdivision (d) of this rule, including payment of all arrears due from the date to which such person was last paid] The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:**

(i) the annual fees that would have been due if the person had not been administratively suspended;

(ii) the late payment penalty required by paragraph (3);

(iii) a reinstatement fee of \$300.00.

(2) **Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the [Administrative] Attorney Registration Office shall so certify to the Board Secretary and to the Supreme Court. Unless [such person] the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the [Administrative] Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.**

[(2)] (3) [For the purposes of this rule arrearages shall include a late payment penalty payable by every attorney to whom a notice has been transmitted under subdivision (f) of this rule plus the actual cost of any publication effected pursuant to Enforcement Rule 217(f).] A formerly admitted attorney who is administratively suspended pursuant to subdivision (g) must pay a late payment penalty with respect to that year. The amount of the late payment penalty shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs

incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the statement required by subdivision (d) of this rule.

(i) **Retired Status:** An attorney who has retired[, is not engaged in practice or who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct] shall file with the [Administrative] Attorney Registration Office [a notice in writing that the attorney desires voluntarily to assume inactive status and discontinue the practice of law] an application for retirement. Upon the transmission of such [notice] application from the [Administrative] Attorney Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to [inactive] retired status, and the attorney shall no longer be eligible to practice law [but shall continue to file the statement required by this rule for six years thereafter in order that the formerly admitted attorney can be located in the event complaints are made about the conduct of such person while such person was engaged in practice]. The [formerly admitted] retired attorney[, however,] will be relieved from the payment of the fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(j) **Inactive Status:** [Upon the filing of a notice voluntarily to assume inactive status, an] An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request voluntary inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until and unless such person requests and is granted reinstatement to the active rolls.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d) and shall pay an annual fee of \$99. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after the Attorney Registration Office provides notice in accordance with the provisions of paragraph (f). An attorney who voluntarily assumed inactive status under former subdivision (j) of this rule shall continue to file the annual form required by subdivision (d) and pay an annual fee of \$99 commencing with the next regular assessment year. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after notice in accordance with the provisions of paragraph (f).

(2) Reinstatement shall be granted unless the [formerly admitted] inactive attorney is subject to an outstanding order of suspension or disbarment or unless the [order] inactive status has been in effect for more than three years, upon the payment of [any assessment in effect] the active fee for the assessment year in which the [request] application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year, and any arrears accumulated prior to [transfer to] the assumption of inactive status.

(3) [Disciplinary proceedings may be initiated and maintained against a formerly admitted attorney who has voluntarily assumed inactive status. See Rule 201(a)(3).] In transmitting the annual fee form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (j).

Official Note: Under prior practice, an attorney who was neither retiring nor selling his or her law practice was given the option of assuming or continuing inactive status and ceasing the practice of law in Pennsylvania, and no annual fee was required. Under new subdivision (j), payment of an annual fee is required to assume and continue inactive status, and failure to pay the annual fee required by subdivision (j) and file the form required by subdivision (d) will result in an order administratively suspending the attorney.

(k) On the effective date of this subdivision (k), any attorney who is on inactive status:

(1) by order after having failed to pay the annual fee or file the form required by subdivisions (a) and (d) of this rule,

(2) by order pursuant to Rule 111(b), Pa.R.C.L.E., after having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education,

(3) by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g), or

(4) by order after having failed to meet the requirements for maintaining a limited law license as foreign legal consultant, an attorney participant in defender legal services programs pursuant to Pa.B.A.R. 311, or military attorney, shall have a grace period of one year, commencing on July 1 of the year in which the next annual form under paragraph (d) is due, in which to request reinstatement to active status under an applicable provision of this rule, or to be reinstated to active status under Rule 218(a), as the case may be. Failure to achieve active status before the expiration of the grace period shall be deemed a request to be administratively suspended. An attorney who is on inactive status by court order will not be eligible to transfer to voluntary inactive status under subdivision (j) of this rule until the attorney first achieves active status. During the grace period, the inactive attorney shall remain ineligible to practice law. In transmitting the annual form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (k).

Official Note: Attorneys who voluntarily assumed inactive status under former paragraph (j) of En-

forcement Rule 219 are governed by the provisions of paragraph (j). Attorneys who were transferred to inactive status by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g) are governed by the provisions of paragraph (m).

[(k)] (l) The Board shall transmit by certified mail, return receipt requested, to every attorney who fails to pay any expenses taxed pursuant to Enforcement Rule 208(g) (relating to costs), addressed to the last known address of the attorney, a notice stating:

(1) That unless the attorney shall pay all such expenses within 30 days after the date of the notice, such failure to pay will be deemed a request **[for transfer to inactive status]** to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will **[immediately]** enter an order **[transferring the attorney to inactive status]** administratively suspending the attorney.

(2) That upon entry of the order **[transferring the attorney to inactive status]** of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

[(l)] (m) Upon payment of all expenses taxed pursuant to Enforcement Rule 208(g) by a formerly admitted attorney **[transferred to inactive status]** on administrative suspension solely for failure to comply with subdivision **[(k)] (l)** of this rule, the Board shall so certify to the Supreme Court. Unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Board with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

[(m)] (n) A former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the **[Administrative]** Attorney Registration Office a notice in writing to that effect. The notice shall:

* * * * *

[Pa.B. Doc. No. 08-2054. Filed for public inspection November 14, 2008. 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 1]

Amendments to Rule 140 and Adoption of New Rule 141

Introduction

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rule 140 and new Rule 141 be adopted and prescribed. The proposed modified Rule 140 adds a paragraph that the bench warrant shall be entered in all appropriate registries. The new Rule 141

provides for the procedures of bench warrants for absconders. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rules. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than Friday, December 19, 2008.

By the Juvenile Court Procedural Rules Committee:

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 140. Bench Warrants for Failure to Appear.

A. Issuance of warrant.

1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

B. Entry of warrant information. Upon being notified by the court, the juvenile probation officer or other court designee shall enter the bench warrant in all appropriate registries.

C. Juvenile.

1) Where to take the juvenile.

a) When a juvenile is taken into custody pursuant to a bench warrant, the juvenile shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the juvenile is not brought before a judge, the juvenile shall be released unless:

i) the warrant specifically orders detention of the juvenile; or

ii) there are circumstances learned at the time of the surrender or apprehension that warrant detention of the juvenile.

c) If a juvenile is detained, the juvenile shall be detained in a detention facility or other facility designated in the bench warrant by the judge pending a hearing.

2) Prompt hearing.

a) If a juvenile is detained pursuant to a specific order in the bench warrant, the juvenile shall be brought before the judge who issued the warrant, a judge designated by the President Judge to hear bench warrants, or an out-of-county judge pursuant to paragraph (B)(4) within seventy-two hours.

b) If the juvenile is not brought before a judge within this time, the juvenile shall be released.

3) *Notification of guardian.* If a juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-county custody.*

a) If a juvenile is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) Arrangements to transport the juvenile shall be made immediately.

c) If transportation cannot be arranged immediately, then the juvenile shall be taken without unnecessary delay to a judge of the county where the juvenile is found.

d) The judge will identify the juvenile as the subject of the warrant, decide whether detention is warranted, and order that arrangements be made to transport the juvenile to the county of issuance.

5) *Time requirements.* The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

[C] D. Witnesses.

1) *Where to take the witness.*

a) When a witness is taken into custody pursuant to a bench warrant, the witness shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the witness is not brought before a judge, the witness shall be released unless the warrant specifically orders detention of the witness.

c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order detention of the witness pending a hearing.

1) *Minor.* If a detained witness is a minor, the witness shall be detained in a detention facility.

2) *Adult.* If a detained witness is an adult, the witness shall be detained at the county jail.

2) *Prompt hearing.*

a) If a witness is detained pursuant to paragraph (C)(1)(c) or brought back to the county of issuance pursuant to paragraph (C)(4)(f), the witness shall be brought before the judge by the next business day.

b) If the witness is not brought before a judge within this time, the witness shall be released.

3) *Notification of guardian.* If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-county custody.*

a) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) The witness shall be taken without unnecessary delay and within the next business day to a judge of the county where the witness is found.

c) The judge will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order that arrangements be made to transport the witness to the county of issuance.

d) Arrangements to transport the witness shall be made immediately.

e) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

i) *Minor.* If the witness is a minor, the witness may be detained in an out-of-county detention facility.

ii) *Adult.* If the witness is an adult, the witness may be detained in an out-of-county jail.

f) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

g) If the time requirements of this paragraph are not met, the witness shall be released.

[D] E. Return and execution of the warrant for juveniles and witnesses.

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

5) Once the warrant is vacated, the court shall order the probation officer or other court designee to remove the warrant from all appropriate registries.

Comment

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the juvenile or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. This rule, however, does not prohibit probation from recommending detention for a juvenile. The normal rules of procedure in these rules are to be followed if a juvenile is detained. See Chapter Two, Part D.

Pursuant to paragraph ([B]C), the “juvenile” is the subject of the delinquency proceedings. When a witness is a child, the witness is referred to as a “minor.” This distinction is made to differentiate between children who are alleged delinquents and children who are witnesses. See paragraph ([B]C) for alleged delinquents and paragraph ([C]D) for witnesses. See also Rule 120 for definition of “juvenile” and “minor.”

Pursuant to paragraph ([B]C)(1)(a), the juvenile is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph ([B]C)(1)(b), if a bench warrant specifically provides that the juvenile may be detained in a detention facility, the juvenile may be detained without having to be brought before the judge until a hearing within seventy-two hours under paragraph ([B]C)(2)(a). The juvenile is not to languish in a detention facility. Pursuant to this paragraph, if a hearing is not held promptly, the juvenile is to be released. See paragraph ([B]C)(2)(b).

Under paragraphs ([B]C)(2) and ([B]C)(4), a juvenile taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the juvenile is found. See Rule 240 (C).

Pursuant to paragraph ([B]C)(4), the juvenile may be detained out-of-county until transportation arrangements can be made.

Pursuant to paragraph ([B]C)(5), the time requirements of all other rules are to apply to juveniles who are detained. See, e.g., Rules 240, 391, 404, 510, and 605.

Pursuant to paragraph ([C]D)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph ([C]D)(1)(b), if the judge is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph ([C]D)(1)(c), a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph ([C]D)(2) is to be held by the next business day or the witness is to be released. See paragraph ([C]D)(2)(b).

Pursuant to paragraph ([C]D)(4)(b), a witness is to be brought before an out-of-county judge by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the judge who issued the bench warrant by the next business day. See paragraph ([C]D)(4)(f).

Pursuant to paragraph ([D]E)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. See paragraph ([D]E)(3).

Pursuant to paragraph ([D]E)(4), the bench warrant is to be vacated after the return of the warrant is executed [so the juvenile or witness is not taken into custody on the same warrant if the juvenile or witness is released]. “Vacated” is to mean that the bench warrant has been served, dissolved, executed,

dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to paragraph (E)(5), once the warrant is vacated, the juvenile probation officer or other court designee is to remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

See 42 Pa.C.S. § 4132 for punishment of contempt for juveniles and witnesses.

Official Note: Rule 140 adopted February 26, 2008, effective June 1, 2008.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 140 published with the Court’s Order at 38 Pa.B. [1145] 1142 (March 8, 2008).

Rule 141. Bench Warrants for Absconders.

A. Issuance of warrant. The juvenile probation officer shall immediately notify the court upon notification or recognition that a juvenile has absconded from the supervision of the court. The court may issue a bench warrant for the juvenile.

B. Entry of warrant information. Upon being notified by the court, the juvenile probation officer or other court designee shall enter the bench warrant in all appropriate registries.

C. Where to take the juvenile. The juvenile shall be detained in a detention facility or other facility designated in the bench warrant pending a hearing pursuant to paragraph (D).

D. Prompt hearing. The juvenile shall have a detention hearing within seventy-two hours of the placement in detention.

E. Time requirements. The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

F. Notification of guardian. When the juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile’s guardian of the juvenile’s whereabouts and the reasons for the issuance of the bench warrant.

G. Return & execution of the warrant.

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

5) Once the warrant is vacated, the court shall order the probation officer or other court designee to remove the warrant from all appropriate registries.

Comment

Pursuant to paragraph (A), when a juvenile: 1) escapes from a placement facility, detention facility, shelter care facility, foster-care, or other court-ordered program or placement; 2) fails to report to juvenile probation; 3) cannot be located by juvenile probation; or 4) otherwise leaves the jurisdiction of the court, the court may issue a warrant for the juvenile.

Pursuant to paragraph (B), the court is to notify juvenile probation or other court designee to enter the bench warrant in all appropriate registries, such as, JNET, CLEAN, PCIC, and NCIC.

Pursuant to paragraph (C), the juvenile is to be detained in a detention facility or any other facility designated in the bench warrant.

Pursuant to paragraph (D) and (E), the time requirements of the Rules of Juvenile Court Procedure are to apply, including the seventy-two hour detention hearing. See, e.g., Rules 240, 391, 404, 510, and 605.

The arresting officer is to notify the juvenile's guardian of the arrest, the reasons for the arrest, and the juvenile's whereabouts under paragraph (F).

Pursuant to paragraph (G)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the Presiding Judge to hear warrants by the arresting officer executing a return of warrant. See paragraph (G)(3).

Pursuant to paragraph (G)(4), the bench warrant is to be vacated after the return of the warrant is executed. "Vacated" is to mean that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to paragraph (G)(5), once the warrant is vacated, the juvenile probation officer or other court designee is to remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

EXPLANATORY REPORT*Rule 140—Bench Warrants for Failure to Appear*

A new paragraph (B) has been added. A bench warrant shall be entered in all appropriate registries, such as, JNET, CLEAN, PCIC, and NCIC, by the juvenile probation officer or other court designee once a warrant has been issued by the judge. This ensures that law enforcement is aware of the bench warrant so it may be executed.

Rule 141—Bench Warrants for Absconders

This new rule provides for the procedures when a juvenile absconds from the supervision of the court. This covers all incidences when the court no longer has contact with the juvenile. This would include, but is not limited to, a juvenile who: 1) has escaped from a placement facility, detention facility, shelter care facility, foster care, or other court-ordered programs or placements; 2) fails to report to juvenile probation; 3) cannot be located by juvenile probation; or 4) otherwise leaves the jurisdiction of the court.

Paragraph (B) ensures that the bench warrant is entered in all appropriate registries by the juvenile probation officer or other court designee once a warrant has been issued by the judge. This ensures that law enforcement is aware of the bench warrant so it may be executed.

Paragraph (C) requires that the juvenile is to be detained in a detention facility or any other facility deemed appropriate by the court until a prompt hearing pursuant to paragraph (D).

The guardian of the juvenile is to be notified immediately when a juvenile is taken into custody pursuant to a bench warrant. The arresting officer is to explain the reasons the warrant was issued and where the juvenile is being detained. See paragraph (F).

Paragraph (G) provides for the procedures on returning and executing the warrant.

[Pa.B. Doc. No. 08-2055. Filed for public inspection November 14, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CHESTER COUNTY**Juvenile Pre-Adjudication Conditions; Administrative Order No. 2-2008****Order**

And Now, this 12th day of March, 2008, in furtherance of the juvenile court goal to achieve balanced and restorative justice it is hereby *Ordered* and *Decreed* as follows: The Chester County juvenile probation office ("probation office") is hereby authorized to impose reasonable pre-adjudication conditions on all juveniles against whom Petitions have been filed or are pending under the Juvenile Act, including a requirement that the juvenile submit to a urinalysis to determine controlled substance use. Such conditions shall be from among those previously approved by the court to protect the public, maintain the competencies of the juvenile and/or assist the probation office in recommending an appropriate disposition in the event of an adjudication of delinquency. Any juvenile, or attorney representing a juvenile, may seek emergency relief from the juvenile court supervising judge if any pre-adjudication condition imposed by the juvenile probation office is deemed to be unreasonable. Any juvenile who refuses, explicitly or implicitly, to comply with any pre-adjudication condition, including the refusal to submit to a urinalysis, without providing an adequate medical or other extraordinary reason to justify that refusal, shall be presumed by the court to have failed to successfully comply with that condition. In no event shall the court consider a juvenile's compliance or failure to comply with a pre-adjudication condition when it determines whether the juvenile committed any charged crime.

By the Court

PAULA FRANCISCO OTT,
President Judge

[Pa.B. Doc. No. 08-2056. Filed for public inspection November 14, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 109 AND 110]

Water Resources Planning

The Environmental Quality Board (Board) by this order amends Chapter 109 (relating to safe drinking water) and adds Chapter 110 (relating to water resources planning). The amendments add a new chapter establishing the requirements for registration of water users and recordkeeping and reporting of water withdrawal and use information, as required by 27 Pa.C.S. Chapter 31 (relating to Water Resources Planning Act) (act). These regulations specify who is required to register, keep records and report information related to withdrawals of water in this Commonwealth and details the information that is to be recorded and reported to the Department of Environmental Protection (Department). The information collected under these regulations is essential to development of the State Water Plan, which is mandated by the act.

This order was adopted by the Board at its meeting of August 19, 2008.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Susan K. Weaver, Chief, Division of Water Use Planning, P. O. Box 8555, Rachel Carson State Office Building, Harrisburg, PA 17105-8555, (717) 783-8055, or Pamela G. Bishop, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department web site at www.depweb.state.pa.us.

C. *Statutory Authority*

The final-form regulations are being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4) and section 3118 of the act (relating to water use registration and reporting), which directs the Board to adopt regulations pertaining to reporting by public water suppliers and establishing requirements for the registration, periodic reporting and recordkeeping of water withdrawals and uses and under the authority of section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), authorizing and directing the Board to adopt regulations necessary for the proper performance of the work of the Department.

D. *Background of the Amendments*

The act requires the Department to complete a State Water Plan and establishes a water withdrawal registration program to collect data necessary to support the planning process. The Department does not currently know how much water is used, needed or available in this Commonwealth. The regulations will provide the data necessary to help answer those questions. The State Water Plan will provide a framework for managing this

Commonwealth's water resources to most effectively provide for public health and safety, while protecting aquatic resources. All citizens will benefit from the development of a State Water Plan, which will provide decision-makers a valuable tool to guide investment, development and land use management in a manner that is sustainable and will avoid water shortages and concomitant dislocation. The data collected by these regulations will help create economic opportunity by assisting State and local decision makers to identify water resources available to support sustainable development and will help to avoid unwise investments.

The regulations will require each public water supply agency and each hydropower facility, irrespective of the amount of withdrawal, and each person whose total withdrawal from one or more points of withdrawal within a watershed operated as a system either concurrently or sequentially exceeds an average rate of 10,000 gallons of water a day in a 30-day period to register, periodically report and keep records of their water use. In addition, each person who obtains water through interconnection with another person in an amount that exceeds an average rate of 100,000 gallons per day in any 30-day period will be required to register, periodically report and keep records of his water use. To avoid duplication of reporting requirements, the proposal recommends amending one section of Chapter 109 to indicate that compliance by public water supply agencies with Chapter 110 will fulfill compliance with the Chapter 109 annual water supply reporting requirements.

The act establishes a Statewide Water Resources Committee (Statewide Committee) to assist the Department in developing the State Water Plan. The Statewide Committee is also charged with reviewing and commenting on regulations proposed by the Department under the act. The Statewide Committee considered the final-form regulations at their public meeting on April 18, 2008, at which time there were no public comments on the final-form regulations. There were several minor comments from the Statewide Committee on the final-form regulations, including two that identified a typographical error and a dated citation of the Right-To-Know Law. The Statewide Committee has recommended moving these final-form regulations to the Board for consideration and has indicated in writing their support of the regulatory package.

Under 27 Pa.C.S. Chapter 7 (relating to Agricultural Advisory Board), the Department presented the final-form regulations to the Agricultural Advisory Board at that Board's meeting on April 16, 2008. The Agricultural Advisory Board was satisfied with the Department's presentation of the final-form regulations and presented no issues of concern regarding the final-form regulations.

The proposed regulations were published at 36 Pa.B. 7260 (December 2, 2006) with a 30-day comment period. No public meetings or hearings were held on the proposed regulations. During the 30-day public comment period, comments were received from eight commentators, including the Independent Regulatory Review Commission (IRRC).

E. *Summary of Changes to the Proposed Rulemaking*

No companion Federal regulations exist.

*Chapter 109**§ 109.701 (Reporting and recordkeeping)*

This section explains the reporting and recordkeeping requirements for community water systems.

Chapter 110

There were several comments of a general nature regarding enforcement and form content. One commentator suggested elaborating on enforcement provisions in the regulations. Since sections 3133 and 3134 of the act (relating to enforcement orders; and civil remedies) address these issues, they have not been repeated in the regulations. One commentator questioned the location of the referenced forms. The forms will be available on the Department's web site or by request from the Department at (717) 772-4048.

*Subchapter A. General Provisions**§ 110.1 (relating to definitions).*

Several commentators requested clarification of terms used in the proposed rulemaking and requested consistency in referencing definitions from the act. The section has been revised by adding several new definitions and revising proposed definitions to aid in clarifying the intent of the regulations. In addition, the definitions have been revised to consistently reference the definitions in section 3102 of the act (relating to definitions).

§ 110.2 (relating to purpose)

One commentator stated that if all customers of public water suppliers are to register and report, the requirement should be added to the purpose and general requirements sections. This section has been revised to clearly state the purpose without the duplicating registration requirement language that is contained in § 110.201 (relating to registration requirement). This section explains that the chapter establishes registration, monitoring, recordkeeping and reporting requirements for purposes of obtaining accurate information for water resources planning.

§ 110.3 (relating confidential information)

Several commentators suggested that criteria and a process would aid in the determination of confidential information. Section 110.3 has been modified to indicate that the Department will use its established protocols and procedures for submission and protection of confidential information and processing challenges to the designations. The procedures are outlined in the Department's "Confidential Security Information Guidance" document, which can be accessed on the Department's web site. The heading of the section has been modified to more accurately reflect the content of the section.

§ 110.4 (relating to inspection authorization)

Several commentators requested clarification of the circumstances when the Department would ask for records and access. The section has been modified to indicate that the Department will ask for records and access to determine compliance with the act as well as the regulations, in accordance with section 3131(c) of the act (relating to administration). While the Department may make the request in writing, the act does not require written notice of an inspection. Both the act and this section of the regulations require that the Department conducts the inspection during reasonable hours and upon reasonable notice.

§ 110.5 (relating to coordination with other water use reports)

Several commentators requested clarification on how the Department intends to avoid duplication of efforts for reporting. This section requires persons subject to § 110.201 to cooperate with the Department in its coordination of the submission of reports under this chapter with water use reports required by the Department and Compact Basin Commissions. There is additional language in section 3118(b)(4) of the act that indicates reports submitted under other applicable statutes and regulations may satisfy reporting under the act "to the extent that the reports provide the required information." Information on Discharge Monitoring Reports (DMRs) is not sufficient to comply with the data requirements of the regulations. Furthermore, few withdrawers are required to submit DMRs. Joint reporting forms have been developed to avoid duplication of reporting among the Department, Compact Basin Commissions, and other Federal and State agencies and to reduce costs to the submitter. Section 110.5 requires the regulated community to cooperate with coordinated submission of information in accordance with those forms. There were no existing reports that fulfilled all the reporting requirements.

§ 110.6 (relating to effect of registration)

One commentator questioned the appropriateness of the narrative statement description of potential benefits of registration and reporting water use. The Department agrees and subsection (a) has been deleted. This section explains that registration of a withdrawal or use under this chapter will not be construed as either a determination of a person's water rights or approval of a withdrawal or use by the Department, another agency of the Commonwealth or a Compact Basin Commission.

*Subchapter B. Registration**§ 110.201 (relating to registration requirements)*

Several commentators questioned the authority to collect withdrawal use information of those who obtain water through interconnections as well as the potential double-counting that may occur with the collection of the water use information. The terms "withdrawal" and "withdrawal use" both appear in section 3118 of the act and specifically, section 3118(a) and (b) of the act, both require persons to report their "withdrawal or withdrawal use." Taken together, the act's definitions of "withdrawal" and "withdrawal use" clearly indicate that withdrawal uses include use of water that is withdrawn by another entity and transferred through interconnections. The definition of "withdrawal" includes the phrase "whether or not returned to the water source," which implies that water not returned to the source but purveyed or transferred to another entity and consumed remains "water that is withdrawn." The term "withdrawal use" is defined as "any use of water that is withdrawn," which would then logically include water purveyed through a public water supply system. Section 3118(b) of the act requires all users subject to the registration requirement to report the amount of "consumptive use." The act defines "consumptive use" to include "such water that is purveyed through a public water supply system." Section 3118(b) of the act requires those users to register and report directly to the Department.

When implementing the interim registration provisions of Act 220, the Department did not require the registration of large users of water who obtained all their water from public water suppliers; however, that was not in-

tended to, nor does it, indicate that the act exempted the users from the registration and reporting requirements. At the time of interim registration, the information was not essential to the early stages of Statewide water resources planning and water use assessment. However, collection of the information from large water users who obtain water through interconnection is necessary for water use planning. In particular, the consumptive and nonconsumptive use information applicable to large users on public water supply systems may be of significant value in assessing potential critical water planning areas and in the development of critical area resource plans. The statute authorizes the registrations of those who obtain water through interconnection with a public water supply agency.

The analyses done for the State Water Plan, including the water budget process, are designed to account for the uses and to avoid redundancy and double-counting. Changes have been made to § 110.201 to clarify that only those persons who obtain more than 100,000 gallons per day of water through interconnection with another person are required to register, rather than only those with a consumptive use greater than 100,000 gallons per day. This revision captures a larger group of users, however, by eliminating the consumptive use requirement, it will be easier to calculate.

§ 110.202 (relating to submission of registrations)

One commentator requested the removal of the March 16, 2004, deadline. The act established the deadline of March 16, 2004, for the interim registration for then-existing withdrawals. The act also established a 30-day period for submission of registration applicable to all withdrawals and uses initiated after March 16, 2004. The final-form regulations have been revised to conform to the act's 30-day requirement.

§ 110.203 (relating to content of registration)

Several commentators questioned the level of detail required, in particular the amounts of consumptive and nonconsumptive uses and water returned. In addition, several commentators stated that source location should be considered confidential security information under the Public Utility Confidential Security Information Disclosure Protection Act (Act 156).

This section has been modified to delete the requirement to provide information in the registration related to consumptive and nonconsumptive uses and water returned and discharged, and the term "as appropriate" has been similarly deleted. The obligation to report those items has been added to § 110.304 (relating to general content of reports). The effect of these revisions is to simplify and clarify the registration contents.

Section 3118(b)(1) of the act requires water users subject to the registration requirements to monitor, maintain records and submit to the Department periodic reports that include the amount of consumptive and nonconsumptive uses. The information is essential for water resources planning. These items have appropriately been moved to § 110.304 and included in the content of the annual reports.

The act requires registrants to provide location information. The Department follows its sensitive information policy with regard to not disclosing location of a public water supplier's intake. As stated in response to comments in § 110.3, the Department will follow its established protocols and procedures for submission and protection of confidential information. This section has been modified to delete subsection (c) because the subject

matter is covered by § 110.3. This section establishes the required content of a registration, including registrant identification and description information; and for each source the name, description, location and amount.

§ 110.204 (relating to voluntary registration)

This section provides for voluntary registration by persons not subject to the regulation and minor revisions were made to clarify.

§ 110.205 (relating to transfer of registration)

This section provides for transfers of registrations and establishes the prerequisites for transfers and there were no revisions made to this section.

§ 110.206 (relating to termination of registration)

One commentator stated that sources may not be used for long periods of time and owners could face a burden of reregistering. This section provides for termination of registrations and establishes the prerequisites for termination.

To properly plan for water resources, it is essential to have accurate reliable databases, reflecting current water uses. The Department recognizes some sources may not be used for a certain period of time, which will be reflected on the reporting form. The regulation assigns a reasonable period of 7 years to keep the records and requires termination of a registration after this period. It is the responsibility of registrants to reregister a source when its use is resumed. Reregistration is not a burden on the registrant.

Subchapter C. Reporting

§ 110.301 (relating to reporting requirements)

This section establishes the requirement for reporting. One commentator requested clarification on whether an annual report must be submitted if the registered user does not exceed the threshold 10,000 gallon per day during the reporting year.

For clarity, § 110.301 has been modified to state that a report is required irrespective of the quantity of withdrawal or use during the reporting year.

§ 110.302 (relating to submission of reports)

This section establishes the dates for required submission of reports to the Department.

One commentator questioned under what circumstances that reporting would be less frequent than annual and whether the phrase "other user" is necessary when the term "including" is used.

As a result of the commentator's suggestion, the phrase "or less frequently as may be prescribed by the Department" has been deleted from § 110.302 and § 110.603 (relating to reporting). In addition, the words "other user" have been deleted in paragraph (2)(viii).

§ 110.303 (relating to reporting period)

This section establishes the reporting period for reports required to be submitted to the Department and no revisions were made.

§ 110.304 (relating to general content of reports)

This section prescribes the general contents of reports and was revised to include the information previously requested under § 110.203.

§ 110.305 (relating to user-specific contents of report)

This section prescribes user-specific contents of reports.

Several commentators stated that the term "storage" was vague and misleading. Two commentators questioned the statutory authority and water resources planning benefit of collecting employment data, as well as other details such as storage and irrigation information. One commentator suggested that the well construction information was not relevant to water resources planning.

The Department has added the word "water" before the word "storage" in § 110.305 in response to commentator's concern. In accordance with section 3114(c)(4) of the act (relating to Statewide Water Resources Committee), the draft proposed rulemaking was presented to the Statewide Committee for review and comment. The drafts of the regulations contained considerable detail on the data requirements for reporting contained in § 110.305. The Department received comments questioning the level of detail being required. Upon consideration of the comments, the proposed regulation was revised to eliminate the details and to incorporate the concept that the specific data requirements would be in accordance with forms prescribed by the Department. The forms will be developed in consultation with the Statewide Committee, with provision for public comment.

Water resources planning is based upon knowledge of when and how much water is being withdrawn and discharged. It is essential to know whether water is being returned or not returned to the watershed from which it was withdrawn. The Department agrees that the level of detail can be reduced and these forms are being revised to address this comment.

The information referenced in the question regarding well construction and pumping capacity is required by the Susquehanna River Basin Commission (SRBC) and Delaware River Basin Commission (DRBC) as part of their registration programs. The Compact Basin Commissions have authority to delegate to the Department their registration and reporting programs. To eliminate redundancy of registration and reporting programs, the rulemaking has been designed to accommodate the Compact Basin Commission requirements, thereby making the Department a one-stop registration and reporting agency. See § 110.5. The Department and the Commissions need water well, meter, and disposal information for water resources planning purposes.

Employment data is central to projections of water use in certain water use sectors, and thus is of significant use to water resources planning. This section has been modified to exclude the information that is not needed for water planning purposes. The statutory language quoted by the commentator authorizes collection of information "including" which term means "but not limited to" only the source, location and amount. The introductory language to section 3118(b) of the act indicates that the purpose for adopting regulations and establishing requirements for reporting is "to provide accurate information for water resources planning." The information requested in § 110.305 is necessary to make "an assessment and projection of existing and future withdrawal use demand and nonwithdrawal use needs" as required under section 3112 of the act (relating to plan contents).

Subchapter D. Recordkeeping

§ 110.401 (relating to recordkeeping requirement)

This section establishes the requirements for recordkeeping and a minor revision was made to clarify the language.

§ 110.402 (relating to retention of records)

This section establishes the requirement for retention of records and supporting data to be a period of at least 5 years. One commentator requested clarification on the format to be used for maintaining records. Section 110.402 has been modified to clarify that records shall be kept "in any format that allows the reproduction of the record."

Subchapter E. Monitoring

§ 110.501 (relating to metering and measuring requirement)

This section establishes the requirements for metering and measuring. Several commentators requested clarification on the 5% accuracy requirement.

Section 110.501(c) has been revised to indicate that only persons whose withdrawals equal or exceed 50,000 gallons per day and persons who obtain water through interconnection in excess of 100,000 gallons per day shall measure or calculate their withdrawals and purchased water by meter or other method, accurate to within 5% of actual flow and their consumptive use, by methods accurate to within 10% of actual flow.

Two commentators requested clarification on the alternate methods used for quantifying water use.

Section 3118(b)(1) of the act requires the regulations to "allow for use of the alternative methods to obtain a reasonable estimate or indirect calculation of such . . ." There is no requirement in the act to identify alternative methods. Section 110.501(e) has been revised to recognize methods based upon "established scientific principles, design or manufacturer's product specification, or research results."

One commentator expressed concern that the Department is applying more stringent requirements to those water users in river basin commissions.

Proposed § 110.501(e) has been deleted.

One commentator suggested to require a meter on an individual point of withdrawal that uses less than 50,000 gallons per day solely because it is part of a larger system is burdensome and unnecessary.

Section 110.501(c) has been revised and does not require meters on each point of withdrawal. Revised § 110.501(c) allows for measuring or calculating withdrawals by means of a meter "or other method."

One commentator expressed support for the inclusion of a provision for granting exceptions to the 5% accuracy standard if maintenance of the standard is not technically feasible or economically practicable.

§ 110.502 (relating to recording frequency)

This section establishes the recording frequency of withdrawals and withdrawal uses subject to the regulation.

Several commentators requested clarification on recording and recordkeeping frequencies for withdrawals and uses, as well as including provisions acknowledging river basin requirements.

The regulations have been modified to provide for monthly recording of consumptive uses and clarify the requirements.

One commentator suggested annual reporting for nonconsumptive and consumptive use be made on a facility basis, rather than by source.

The Department agrees and the annual reporting forms request facility-based reporting of uses.

§ 110.503 (relating to measuring requirement in critical water planning area)

This section provides the Department authority to require more accurate measurement of withdrawals or withdrawal uses in critical water planning areas and establishes the criteria for imposing the requirements.

Two commentators questioned the Department's authority for imposing additional requirements within critical water planning areas.

Section 3118(b) of the act authorizes the adoption of the regulations, establishing the requirements for reporting and recordkeeping to obtain accurate information for water resources planning. Section 110.503 has been revised and now provides that in a critical water planning area, the Department may require registrants in those areas to use more accurate measuring methods and to record measurements more frequently only when the Department issues a written notice including the explanation of the basis for determination that more accurate and frequent measurements are necessary to develop a critical area resource plan.

Subchapter F. Water Conservation

§ 110.601 (relating to registration)

This section provides that a person who has implemented a water conservation project or practice may register the project or practice with the Department and no revisions were made.

§ 110.602 (relating to registration information)

This section establishes the required information for registration of water conservation projects or practices. The act defines one term but uses both terms and this section was revised to incorporate the use of both terms.

§ 110.603 (relating to reporting)

This section requires each person who has registered a water conservation project or practice to submit annual reports to the Department documenting the continuing effectiveness of the project or practice. The term "or less frequently" was removed.

§ 110.604 (relating to Water Resources Technical Assistance Center)

This section requires the Department establish a water resources technical assistance center to promote voluntary water conservation and to provide technical assistance on water resources uses issues. This section was revised to reflect the correct citation of the act.

F. Benefits, Costs and Compliance

Benefits

Citizens of this Commonwealth will benefit from the development of a State Water Plan, which will provide decision-makers a valuable tool to guide investment, development and land use management in a manner that is sustainable and will avoid water shortages and concomitant dislocation. The data collected under this regulation is necessary to development of the State Water Plan.

These final-form regulations will help create economic opportunity by assisting decision makers in identifying water resources available to support sustainable development and will help to avoid unwise investment in unsustainable resources. The Commonwealth does not currently know how much water is used, needed or

available. The regulations will provide the data necessary to help answer those questions.

Compliance Costs

Persons who withdraw or use 10,000 gallons of water or more per day and all public water suppliers and hydropower facilities will be required to register and report under the regulations. One-time metering costs, for meter equipment, for a limited number of public water suppliers who don't currently meter their sources, may range from \$50 to \$2,000 per registered source. Annual costs for recordkeeping and reporting may range from 1 to 12 work-days per year per registrant. Many users, including most that are currently regulated by either the Department or the SRBC or the DRBC, already have the necessary recordkeeping and reporting processes in place and should incur no additional costs. Consolidation of reporting requirements may result in reduced costs for some of those users.

Compliance Assistance Plan

Registration workshops were held across this Commonwealth in 2004 to assist in the initial registration required by the act. No additional workshops are planned.

Paperwork Requirements

Persons subject to these regulations will be required to submit an initial registration form for each source of water withdrawal, describing the location and quantity of withdrawal and type of use. Annually, thereafter, they will be required to submit a report of their monthly total withdrawals from each source and their total monthly water use. Under the regulations, the registration and reporting requirements of the Department, including the Annual Water Supply Report under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), and the SRBC and the DRBC will be consolidated in single registration and reporting forms to be submitted solely to the Department.

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving State environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. These regulations has incorporated the following pollution prevention incentives.

Water conservation practices encouraged and fostered by these regulations will result in decreased withdrawals of water and discharges of wastewater. Reduced energy consumption and chemical use will also be realized. Less diminution of stream flows, particularly during periods of low flows is pollution prevention as recognized by the courts. In addition, reductions in wastewater discharges will reduce pollution of our water resources.

H. Sunset Review

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 7260 to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on October 1, 2008, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 2, 2008, and approved the final-form regulations.

J. Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law, and all comments were considered.
- (3) These regulations do not enlarge the purpose of the proposal published at 36 Pa.B. 7260.
- (4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

K. Order

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

- (1) The regulations of the Department of Environmental Protection, 25 Pa. Code Chapters 109 and 110, are amended by amending § 109.701 and by adding §§ 110.1—110.6, 110.201—110.206, 110.301—110.305, 110.401, 110.402, 110.501—110.503 and 110.601—110.604, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
- (2) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.
- (3) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.
- (4) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.
- (5) This order shall take effect immediately upon publication.

JOHN HANGER,
Acting Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 5818 (October 18, 2008).)

Fiscal Note: Fiscal Note 7-403 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES

§ 109.701. Reporting and recordkeeping.

* * * * *

(b) *Reporting requirements for community water systems.* In addition to the reporting requirements for a public water system, a community water supplier shall comply with the following requirements:

- (1) The water supplier shall prepare a monthly operational report on forms provided by the Department or in a form acceptable to the Department. The report shall be maintained on file by the operator for at least 2 years and submitted upon request of the Department. The report must include at least the following:
 - (i) The water produced daily.
 - (ii) The chemical added daily.
 - (iii) The physical and chemical determinations taken daily.
 - (iv) Water-level monitoring data for supply and any associated monitoring wells.
 - (v) The maintenance performed.
 - (vi) Operational problems.

(2) The water supplier shall comply with the applicable requirements of registration, reporting, recordkeeping and monitoring in Chapter 110, Subchapters B—E, regarding registration, reporting, recordkeeping and monitoring.

(3) The water supplier shall keep a record of complaints received from consumers related to the act or this chapter on forms provided by the Department or in a form acceptable to the Department. Water suppliers complying with the Pennsylvania Public Utility Commission (PUC) complaint recordkeeping requirements under 52 Pa. Code § 65.3 (relating to complaints) shall be in compliance with this subsection if the complaints related to the act or this chapter are cross referenced within the PUC required records in a manner to make them readily available. The records shall be maintained on file by the operator for at least 3 years and submitted upon request of the Department.

* * * * *

CHAPTER 110. WATER RESOURCES PLANNING

(Editor's Note: Chapter 110 is new and is printed in regular type to enhance readability.)

- Subchap.**
- A. GENERAL PROVISIONS**
 - B. REGISTRATION**
 - C. REPORTING**
 - D. RECORDKEEPING**
 - E. MONITORING**
 - F. WATER CONSERVATION**

Subchapter A. GENERAL PROVISIONS

Sec.	
110.1.	Definitions.
110.2.	Purpose.
110.3.	Confidential information.
110.4.	Inspection authorization.
110.5.	Coordination with other water use reports.
110.6.	Effect of registration.

§ 110.1. Definitions.

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

Act—27 Pa.C.S. Chapter 31 (relating to water resources planning).

Average rate—Total quantity in gallons of water withdrawn or used during a period of time divided by the number of days in the period.

Basin—As defined in section 3102 of the act (relating to definitions).

Calculate or *calculation*—Mathematical computations, or the act of computing, for the purposes of water use registration or reporting, or both, usually based on pump intake rate and duration of pumping or similar factors.

Compact basin commission—An interstate commission having jurisdiction with respect to the planning, development or regulation of water resources within a basin in this Commonwealth, created by interstate compact or Federal-interstate compact.

Confidential information—

(i) As defined in section 3102 of the act.

(ii) The term also includes confidential security information, as defined in the Public Utility Confidential Security Information Disclosure Protection Act, which has been designated by a public utility in accordance with that act.

Consumptive use—As defined in section 3102 of the act.

Critical area resource plan—As defined in section 3102 of the act.

Critical water planning area—As defined in section 3102 of the act.

Deep well injection—As defined in section 3102 of the act.

Groundwater—As defined in section 3102 of the act.

Hydropower facility—A facility that produces electricity by the action of water, not including steam, passing through a turbine.

Nonconsumptive use—As defined in section 3102 of the act.

Nonwithdrawal use—As defined in section 3102 of the act.

Person—As defined in section 3102 of the act.

Public Utility Confidential Security Information Disclosure Protection Act—36 P. S. §§ 2141.1—2141.6.

Public water supply agency—As defined in section 3102 of the act.

Source—

(i) The point of withdrawal.

(ii) The term includes point of interconnection through which water is obtained.

Statewide Committee—The Statewide Water Resources Committee established under section 3114(a) of the act (relating to Statewide Water Resources Committee).

Surface water—As defined in section 3102 of the act.

System—Two or more points of withdrawal that are adjacent or geographically proximate to each other, operated concurrently or sequentially for use in a common operation.

Use—The term may include withdrawal use, nonwithdrawal use, consumptive use or nonconsumptive use, or a combination of any of these.

Water conservation project or practice—

(i) As defined in section 3102 of the act, as “water conservation practices and measures.”

(ii) The term includes those projects and practices identified in section 3112(a)(11) of the act (relating to plan contents).

Water resource—As defined in section 3102 of the act.

Watershed—As defined in section 3102 of the act.

Withdrawal—As defined in section 3102 of the act.

Withdrawal use—As defined in section 3102 of the act.

§ 110.2. Purpose.

This chapter establishes the registration, monitoring, recordkeeping and reporting requirements for purposes of obtaining accurate information for water resources planning.

§ 110.3. Confidential information.

(a) Except as provided in subsection (b), information required to be submitted to the Department under this chapter shall be subject to the Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

(b) Each person who submits information under this chapter that the person claims is confidential information under either the act or the Public Utility Confidentiality Security Information Disclosure Protection Act, shall identify or designate the confidential information and provide a justification for its confidential nature, in accordance with protocols and procedures for submitting confidential information and addressing challenges to the designations as established by the Department.

§ 110.4. Inspection authorization.

The Department, its employees and authorized agents are authorized, during reasonable hours and upon reasonable notice, to make inspections and conduct tests or sampling, or examine books, papers and records, including electronic records, pertinent to a matter under investigation, to determine compliance with the act and this chapter, as it deems necessary. The persons subject to § 110.201 (relating to registration requirement) shall grant access to, and make available upon request of, the Department, its employees and authorized agents, the facilities and records necessary for conducting the inspections, tests, sampling or examinations.

§ 110.5. Coordination with other water use reports.

(a) The persons subject to § 110.201 (relating to registration requirement) shall cooperate with the Department in its coordination of the submission of reports under this chapter with water use reports required by the Department and compact basin commissions.

(b) The persons subject to § 110.201 shall submit information in accordance with joint reporting forms developed by the Department to facilitate the submission

of water use information required by the Department and compact basin commissions, to reduce duplicate and repetitious reporting requirements. The joint forms shall be used in lieu of individual forms for the required reports.

§ 110.6. Effect of registration.

Registration under this chapter will not be construed as either a determination of a person's water rights or approval of a withdrawal or use by the Department, another agency of the Commonwealth or a compact basin commission.

Subchapter B. REGISTRATION

- Sec.
- 110.201. Registration requirement.
- 110.202. Submission of registrations.
- 110.203. Content of registration.
- 110.204. Voluntary registration.
- 110.205. Transfer of registration.
- 110.206. Termination of registration.

§ 110.201. Registration requirement.

The following persons shall register the information specified in § 110.203 (relating to content of registration) with the Department:

- (1) Each owner of a public water supply agency.
- (2) Each owner of a hydropower facility.
- (3) Each person whose total withdrawal from a point of withdrawal, or from multiple points of withdrawal operated as a system either concurrently or sequentially, within a watershed exceeds an average rate of 10,000 gallons per day in any 30-day period.
- (4) Each person who obtains water through interconnection with another person in an amount that exceeds an average rate of 100,000 gallons per day in any 30-day period.
- (5) Within an area designated as a critical water planning area, each person who obtains water through interconnection with another person in an amount that exceeds an average rate of 10,000 gallons per day in any 30-day period.

§ 110.202. Submission of registrations.

Registrations shall be submitted to the Department by March 16, 2004, or 30 days following initiation of a water withdrawal or withdrawal use subject to § 110.201 (relating to registration requirement), whichever is later.

§ 110.203. Content of registration.

A registrant shall provide information, on forms prescribed by the Department and developed in consultation with the Statewide Committee, including:

- (1) Registrant identification and description information.
- (2) For each source:
 - (i) Name, description and location.
 - (ii) Amount of water withdrawn or obtained through interconnection with another person, or instream hydropower use.

§ 110.204. Voluntary registration.

(a) A person, not subject to § 110.201 (relating to registration requirement), may voluntarily register with the Department the water withdrawal or withdrawal use, in accordance with the registration provisions of this subchapter.

(b) Notwithstanding §§ 110.301 and 110.401 (relating to reporting requirement; and recordkeeping requirement), voluntary registrants shall monitor, maintain records and report to the Department in accordance with the other provisions of Subchapters C—E (relating to reporting; recordkeeping; and monitoring).

§ 110.205. Transfer of registration.

The Department will transfer a registration, if the following conditions are met:

- (1) The registrant and transferee are in compliance with this chapter.
- (2) No later than 30 days subsequent to the transfer, the transferee submits the following to the Department:
 - (i) A request for transfer of the registration, on a form prescribed by the Department.
 - (ii) A written statement signed by the registrant and the transferee, containing the date of the transfer of registration and acknowledging the transferee's recordkeeping and reporting responsibilities.

§ 110.206. Termination of registration.

(a) Except for a public water supply agency or hydropower facility, when a person's combined withdrawals from all sources decrease for a 12-month period so that the person is no longer subject to § 110.201 (relating to registration requirement), the person may file with the Department, on forms provided by the Department, a written notice of reduction and request for termination of registration.

(b) When a registered withdrawal for a source or use over a 12-month period is zero, or if a withdrawal or use has been terminated, the person responsible for the withdrawal or use may file with the Department, on forms provided by the Department, a written notice of termination and request for termination of registration related to that source or use.

(c) Upon receipt of proper written request for termination, the Department will terminate the registration and notify the registrant.

(d) When a registered withdrawal or use over seven consecutive 12-month periods is zero, based upon reports submitted in accordance with Subchapter C (relating to reporting), the Department will terminate the registration and notify the registrant.

Subchapter C. REPORTING

- Sec.
- 110.301. Reporting requirement.
- 110.302. Submission of reports.
- 110.303. Reporting period.
- 110.304. General contents of report.
- 110.305. User-specific contents of report.

§ 110.301. Reporting requirement.

Each person subject to § 110.201 (relating to registration requirement), irrespective of the quantity of withdrawal or use during the reporting year, shall submit reports to the Department in accordance with this subchapter, regarding the withdrawal and use, unless the registration has been terminated in accordance with § 110.206 (relating to termination of registration).

§ 110.302. Submission of reports.

Reports shall be submitted annually to the Department, on forms prescribed by the Department and developed in consultation with the Statewide Committee, no later than:

- (1) March 31—Public water supply agency.
- (2) June 30—Any user except a public water supply agency, including:
 - (i) Power generation facility.
 - (ii) Manufacturing industry user.
 - (iii) Mineral industry user.
 - (iv) Bulk, vended, retail and bottled water systems.
 - (v) Agricultural user.
 - (vi) Golf course user.
 - (vii) Ski resort.

§ 110.303. Reporting period.

Reports must provide information for the calendar year preceding the date of submission.

§ 110.304. General contents of report.

A report must include the following:

- (1) Items under § 110.203 (relating to content of registration).
- (2) Amount of consumptive and nonconsumptive uses.
- (3) Locations and amounts of any waters returned or discharged.
- (4) Amounts of water transferred between public water supply agencies by means of interconnections.

§ 110.305. User-specific contents of report.

In addition to the contents specified in § 110.203 (relating to content of registration), registrants shall submit user-specific information, including:

- (1) *Public water supply agency.*
 - (i) Connections and water transfers.
 - (ii) Service area map.
 - (iii) Metering.
 - (iv) Water storage information.
 - (v) Customer type information.
- (2) *Power generation facility including hydropower and thermo-electric.*
 - (i) Generating capacities.
 - (ii) Generating units.
 - (iii) Water storage information.
- (3) *Manufacturing industry.*
 - (i) Employment.
 - (ii) Water storage information.
- (4) *Mineral industry.*
 - (i) Types of operations.
 - (ii) Employment.
 - (iii) Water storage information.
- (5) *Bulk, vended, retail and bottled water.*
 - (i) Employment.
 - (ii) Water storage information.
- (6) *Agriculture.*
 - (i) Irrigation water use.
 - (ii) Animal water use.
 - (iii) Water storage information.
- (7) *Golf course.*

(i) Irrigated areas and water use by tees, greens, fairways and other land coverages.

(ii) Irrigation system information.

(iii) Employment.

(iv) Water storage information.

(8) *Ski resort.*

(i) Snowmaking acreage.

(ii) Employment.

(iii) Water storage information.

Subchapter D. RECORDKEEPING

Sec.

110.401. Recordkeeping requirement.

110.402. Retention of records.

§ 110.401. Recordkeeping requirement.

A person subject to § 110.201 (relating to registration requirement) shall make and maintain a record of the items required under Subchapters B and C (relating to registration; and reporting), including supporting data, unless the registration has been terminated in accordance with § 110.206 (relating to termination of registration).

§ 110.402. Retention of records.

Records required to be maintained under § 110.401 (relating to recordkeeping requirement), including supporting data, shall be kept for at least 5 years in any format that allows reproduction of the record.

Subchapter E. MONITORING

Sec.

110.501. Metering and measuring requirement.

110.502. Recording frequency.

110.503. Measuring requirement in critical water planning areas.

§ 110.501. Metering and measuring requirement.

(a) Each public water supply agency shall measure its withdrawals and water transferred through interconnection with another public water supply agency by means of a continuous-recording device or flow meter, accurate to within 5% of actual flow.

(b) Each hydropower facility shall measure its withdrawal and instream hydropower use by means of a continuous-recording device or flow meter or shall calculate its withdrawal and use based upon electrical generation or turbine flow rates or other method, accurate to within 5% of actual flow.

(c) Each person whose total withdrawal from a point of withdrawal, or from multiple points of withdrawal operated as a system either concurrently or sequentially, within a watershed equals or exceeds an average rate of 50,000 gallons per day in any 30-day period and each person who obtains water through interconnection with another person in an amount that exceeds an average rate of 100,000 gallons per day in any 30-day period shall measure or calculate:

(1) Withdrawals, and water obtained through interconnection with another person by means of a continuous-recording device or flow meter or other method, accurate to within 5% of actual flow.

(2) Consumptive uses by a means or method accurate to within 10% of actual flow.

(d) Upon written request from a registrant, the Department may grant exceptions to the 5% or 10% performance standards, if maintenance of the standard is not technically feasible or economically practicable.

(e) A person who is subject to § 110.204(b) (relating to voluntary registration) or § 110.301 (relating to reporting requirement) but is not subject to subsections (a)—(c) shall measure or calculate the withdrawals or uses by a means or method, which is based upon established scientific principles, design or manufacturer's product specifications, or research results.

§ 110.502. Recording frequency.

Withdrawals and uses subject to § 110.501(a) and (b) (relating to metering and measuring requirement) shall be recorded on a daily basis. Withdrawals and water obtained through interconnection with another person subject to § 110.501(c) shall be recorded on a weekly basis. Uses subject to § 110.501(c) shall be recorded monthly. Withdrawals and uses subject to § 110.501(e) shall be recorded monthly.

§ 110.503. Measuring requirement in critical water planning areas.

(a) The Department may require persons subject to § 110.201 (relating to registration requirement) located within a critical water planning area to measure or calculate their withdrawals and uses by means of a more accurate measuring method (but not more accurate than 5%) and record the measurements on a more frequent basis (not to exceed daily) than required in accordance with §§ 110.501 and 110.502 (relating to metering and measuring requirement; and recording frequency), if the Department determines that more accurate data is required for the development of a critical area resource plan in a watershed within a critical water planning area. Upon receipt of written notice from the Department, including an explanation of the basis for the determination, those persons shall begin the measurements or calculations within 180 days.

(b) In making the determination, the Department will consider the necessity of requiring more accurate data and having it recorded more frequently than required by §§ 110.501 and 110.502, from various categories of water users, for effective critical area resource planning in the specific watershed and the costs to registrants of providing the accuracy and frequency.

Subchapter F. WATER CONSERVATION

- Sec.
- 110.601. Registration.
- 110.602. Registration information.
- 110.603. Reporting.
- 110.604. Water Resources Technical Assistance Center.

§ 110.601. Registration.

A person who has implemented a water conservation project or practice may register the project or practice with the Department.

§ 110.602. Registration information.

Registration of water conservation projects or practices must be on forms, prescribed by the Department, containing information including the following:

- (1) The registrant name and address.
- (2) A 7.5-minute United States Geological Survey Quadrangle map, or acceptable substitute, showing the location of the project or practice.
- (3) A description of the project or practice, including information detailing a description of:
 - (i) Project or practice prior and subsequent to implementation of a water conservation program.

(ii) Quantity of demand and withdrawal prior and subsequent to implementation of a water conservation program, showing a reduction in demand or withdrawal.

(iii) Quantity of consumptive use prior and subsequent to implementation of a water conservation program, showing a reduction in consumptive use.

(iv) Improvements in water use efficiency, including plumbing retrofit programs.

(v) Reduction of water leakage, loss and waste.

(vi) Improvement in reuse and recycling of water.

(vii) Increase of supply or storage of water.

(viii) Improvements in land management practices to conserve water or to preserve or increase groundwater recharge.

(ix) Conservation-based rate structure.

(x) Water provided to offset water use during drought periods.

§ 110.603. Reporting.

Each person who has registered a water conservation project or practice in accordance with this subchapter shall submit annually to the Department, on forms prescribed by the Department and developed in consultation with the Statewide Committee, a report documenting the continuing effectiveness of the project or practice.

§ 110.604. Water Resources Technical Assistance Center.

The Department will establish a Water Resources Technical Assistance Center to promote voluntary water conservation and to provide technical assistance on water resources use issues, including programs identified in section 3120(a) of the act (relating to water conservation).

[Pa.B. Doc. No. 08-2057. Filed for public inspection November 14, 2008, 9:00 a.m.]

**ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHS. 218 AND 240]**

Radiological Health and Radon Certification Fees

The Environmental Quality Board (Board) by this order amends 25 Pa. Code Chapters 218 and 240 (relating to fees; and radon certification). These regulations revise the fees associated with Article V (relating to radiological health) programs including permits for radiation-producing machines, radioactive materials and radon certification. Appendix A of Chapter 218, dealing with radioactive material license fee categories, has been revised to better reflect the license categories covered under Pennsylvania's Agreement State status with the United States Nuclear Regulatory Commission. The radon certification fees in Chapter 240 have been organized into a new table designated as Appendix A and named the Radon Certification Fee Schedule. The Radon Certification Fee Schedule also includes new fees for certification of course providers, primary testing devices and additional testing employees within a firm as well as new fees for late submission of applications and late submission of required reports.

This order was adopted by the Board at its meeting of August 19, 2008.

A. *Effective Date*

These amendments are effective on January 1, 2009.

B. *Contact Persons*

For further information, contact Louis Ray Urciuolo, Chief, Division of Radiation Control, P. O. Box 8469, Rachel Carson State Office Building, Harrisburg, PA 17105-8469, (717) 787-3720 or Richard Morrison, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us.

C. *Statutory Authority*

These final-form regulations are being made under the authority of sections 301, 302 and 401 of the Radiation Protection Act (act) (35 P. S. §§ 7110.301, 7110.302 and 7110.401), which, respectively, direct the Department to develop and conduct comprehensive programs for the registration, licensing, control, management, regulation and inspection of radiation sources and radiation source users; collect reasonable annual fees in an amount at least sufficient to cover the Department's costs in administering programs; and delegates to the Board the power to adopt the regulations of the Department to implement the act.

These final-form regulations are also made under section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes and directs the Board to adopt regulations necessary for the proper performance of the work of the Department, and under the Radon Certification Act (63 P. S. §§ 2001—2014), which directs the Department to establish, by regulation, a fee schedule to cover the costs of radon certification programs. See 63 P. S. § 2008.

D. *Background of the Regulations*

The Radiation Control Act (35 P. S. §§ 7110.101—7110.604) requires the Department to establish fees in amounts at least sufficient to cover the costs of the radiation protection program mandated by that act. Similarly, the Radon Certification Act requires the Department establish fees for its certification activities. In 1991, the Board created fees in Chapter 240 (relating to radon certification). These fees were published at 21 Pa.B. 317 (January 19, 1991) and have not been adjusted since then. In 2001, the Board last updated Chapter 218 of the radiological health regulations to revise fees associated with programs for radiation-producing machines and radioactive materials. This update was published at 31 Pa.B. 6280 (November 17, 2001). In recent years, receipts from registrations, licenses and certifications have fallen short of the costs to operate those programs primarily due to contract labor increases for personnel and the cumulative effect of inflation.

The Department presented its Radiation Protection Advisory Committee (RPAC) with proposed amendments for fees in Chapters 218 and 240 at its meeting on August 21, 2007. The RPAC recommended by letter of the Chairperson dated September 12, 2007, that the proposal be forwarded, unchanged, to the Board for approval and publication as proposed rulemaking. The RPAC also recommended that due to the small and fragile nature of the radon industry, the Department evaluate the possibility of phasing in radon fees or scale fees, or both, to

business size. The RPAC also asked the Department to consider indexing fees to inflation to help avoid significant future fee increases. The Board reviewed the proposed amendments at its meeting on December 18, 2007. The proposed amendments were published at 38 Pa.B. 1246 (March 15, 2008) with a 30-day comment period. No public meetings were held. Two commentators filed responses to the proposed rulemaking, both of which were from the regulated community regarding radon fees. The Board received no comments from the Independent Regulatory Review Commission (IRRC) or the legislative oversight committees concerning the proposed rulemaking.

As requested by the RPAC, the Department considered indexing fees to inflation. However, at this time it is the Department's policy not to introduce the administrative complexity of indexing fees. The regulated community should find fiscal planning easier knowing that fees will be fixed for the next 4 years or so. The Department also considered phasing in the change in radon fees, but could not further delay increasing revenues since the certification process is already spread over a 2-year period. In response to the RPAC's request to evaluate scaling radon fees to business size, the Department determined that the regulation already effectively did that. The Department therefore returned to the RPAC on May 29, 2008, with a draft of the final-form regulations that was unchanged from proposed and discussed the Department's intended response to the commentators. By letter from the RPAC Chairperson dated May 30, 2008, the RPAC recommended the draft final-form regulations be forwarded unchanged to the Board for approval as final-form regulations.

E. *Summary of Changes to the Proposed Rulemaking*

The final-form regulations presented are unchanged from proposed except for a housekeeping change to correct an omission in § 240.123 (relating to radon laboratory application contents). When the fees in the individual sections of Chapter 240 were moved, updated and consolidated into Appendix A (relating radon certification fee schedule), the preamble to the proposed rule failed to show the deletion of the fee in § 240.123 that was moved to Appendix A. This was corrected in the final-form regulations using the same formatting as applied to the fees in other sections that were moved to Appendix A.

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

Comments were concerned with the impact of fees on the radon service industry, which is comprised of small businesses of varying size. From the start, the Department has tried to minimize that impact and still meet its statutory obligations. IRRC reviewed the proposed amendments and all comments received on it. IRRC did not comment, other than to say the final-form regulations would be deemed approved if presented unchanged from proposed.

A general comment was made that the radon industry derives no real benefit from the fees. The Department emphasizes that the fees are primarily used to protect the general public from potential harm from poor radon services. This is accomplished through the certification process for which costs must be recovered through the fees. The Department will review application materials, maintain databases on those certifications, answer questions from the public regarding radon service providers, and the like. Through this, the radon service industry does benefit indirectly. The Department engages in outreach to the general public on the dangers of radon and

the need to test and mitigate with certified testers and mitigators, respectively. Certification revenues are not used for public outreach; however, the Department's efforts to promote public awareness of potential radon problems in homes, coupled with the maintenance of lists of certified service providers and a toll free radon hot line, promotes business for the radon service industry. It reduces advertising costs and helps to minimize competitive pressure by excluding uncertified individuals.

Another general comment was received that the radon fee increases are exorbitant. The Department has not increased radon certification fees for over 16 years. One reason costs have been contained is that the Department's radon certification program maintains a minimum number of staff. The Department looked at the fee increase for an average radon laboratory, testing and mitigation firm and determined that the fee increase was no more than inflation, even though the Department's costs have risen from inflation and contracted labor costs for personnel. The current labor union contract will result in an additional 20% increase in salary, benefits and operational costs over the next 4 years.

Another commentator felt the regulated community had no control over the imposition of radon fees or their amount. The Department is reminded of the statutory requirement that certification fees be set at a level sufficient to recover the cost of the certification program. While the regulated community may not have a part in determining the overall cost of the program, it does have input in the way the costs are proportioned among the regulated community, because fees must be promulgated through this rulemaking process. This rulemaking process includes input from the RPAC and opportunities for public input through the formal public comment periods associated with regulation development.

The RPAC and the regulated community both expressed a desire to have radon fees scaled to business size. Apparently, it was not recognized that the radon fees are essentially scaled. The Department had considered three ways to scale radon certification fees to business size. One was to establish a small business fee based on gross receipts, similar to the method used with radioactive material license fees. This was not appropriate since using that standard would result in all radon service providers being categorized as small businesses. The second approach involved scaling fees according to the volume of radon services provided. This was not practical based on experience from other states that employ this approach. Volume-based scaling would significantly increase administrative overhead necessary to track and verify the volume of services provided. The Department instead chose the fairest alternative, which is to scale fees based on the number of certifications that a firm requires. This led to the creation of new fees for certification of primary testing devices, additional testing firm employees, certification of course providers, and the like. In effect, the more services a firm requests to have certified, the greater the cost because the Department would have to expend more effort. However, to balance that, it is expected the firm would be able to provide more services, do more business and be better able to afford the extra fees.

Comments were received questioning why there are fees for certification of additional testing employees and not mitigation employees. The Department noted that there are fewer individuals engaged in mitigation, less time is needed to review applications for mitigation, and certification is not as crucial in ensuring proper delivery

of mitigation services because warranty and liability factors also help ensure that services are done correctly.

A commentator asserted that the Department should allow approved annual conferences to meet the full 16 hours of continuing education requirements. The Department currently allows for 2 hours of conference attendance to qualify for 1 credit hour of continuing education, with no limitations. However, the Department-approved courses allow for improved quality control and oversight, thus ensuring that credible information is presented and retained through the administration of preapproved course materials, tests and quizzes.

A commentator suggested that the work of the radon section could be done by the regions, thus removing central office positions from the payroll. The Department's regional radon staff primarily carries out inspections, while the central office staff deals with registrations, certifications, fee collection, licensing, database management, outreach activities, the Radon Hotline and various other duties. These duties are most appropriately maintained in a centralized location. Inspection duties are better suited for dispersed, regionally-located staff.

G. Benefits, Costs and Compliance

Benefits

The Department is the main State agency charged with protecting the public and environment from radiation sources. The general public benefits in that user fees will continue to support the radiation protection program at a level adequate to accomplish its mission. The community of radioactive material users benefits by the Commonwealth being able to maintain a program that helps ensure that Pennsylvania's status as an NRC Agreement State is maintained. Under Agreement State, radioactive material license fees are generally lower than comparable Federal fees and the Department endeavors to be more responsive to its licensees than the NRC. Fees for the radon service industry will be apportioned more fairly. Instead of flat fees, the total cost of certification fees will be scaled based on the number of services and individuals requiring certification.

Compliance Costs

Compliance costs are directly related to either an increase in existing fees or imposition of new fees. In the case of radon certification fees, new fees were introduced to reduce the magnitude of the increase needed in the existing base fees. By diversifying the fee categories, the Department is minimizing the cost increase of each individual fee category. Fees in Chapter 218 for radiation-producing machines were increased across the board an average of about 40% and rounded off. This is expected to generate an increase in annual revenue of about \$1.2 million dollars from approximately 11,000 registrants and licensees. Chapter 218 fees for radioactive material licenses were increased an average of 30%. In addition, no individual radioactive material license category is more than the NRC fee category Pennsylvania licenses would have been under had the Commonwealth not become an NRC Agreement State. The increase in radioactive material license fees is expected to generate approximately an additional \$950,000 per year from about 927 licenses. The radon fee amendments are expected to generate an additional \$82,000 per year from about 750 certificate holders. The increase in all program fees is equivalent to an annual increase in fees of less than 3.7% per year which is comparable to inflation.

Compliance Assistance Plan

The radioactive material license fee categories include reduced fees for small businesses. The radon certification table was derived assuming all categories were small business. No additional assistance is planned in helping the regulated community pay the required fees.

Paperwork Requirements

No additional paperwork is involved in paying the amended fees. The reporting requirement contained in § 240.303 (relating to reporting of information) has been extended to include reporting periods of null activity. Since a report of no activity involves only a transmittal letter, the requirement will be of negligible impact unless noncompliance triggers the new \$100 late report fee in Chapter 240, Appendix A.

H. Sunset Review

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 14, 2008, the Department submitted a copy of the proposed rulemaking, published at 38 Pa.B. 1246 to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment. In addition to submitting the proposed amendments, the Department provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 1, 2008, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 2, 2008, and approved the final-form regulations.

J. Findings

The Board finds that:

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

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

(3) These regulations do not enlarge the purpose of the proposal published at 38 Pa.B. 1246.

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

K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapters 218 and 240, are amended by amending § 218.11, Chapter 218 Appendix A, §§ 240.3, 240.102—240.104, 240.113, 240.124, 240.303 and 240.306 and by adding Chapter 240, Appendix A to read as set forth at 38 Pa.B. 1246; and by amending § 240.123 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order, 38 Pa.B. 1246 and Annex A to the Office of General Counsel and the Office of the Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson shall submit this order, 38 Pa.B. 1246 and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order, 38 Pa.B. 1246 and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect January 1, 2009.

(Editor's Note: The amendment of § 240.123 was not included in the proposed rulemaking at 38 Pa.B. 1246.)

JOHN HANGER,
Acting Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 5818 (October 18, 2008).)

Fiscal Note: Fiscal Note 7-423 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 25. ENVIRONMENTAL PROTECTION****PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION****Subpart D. ENVIRONMENTAL HEALTH AND SAFETY****ARTICLE V. RADIOLOGICAL HEALTH****CHAPTER 240. RADON CERTIFICATION****Subchapter B. CERTIFICATION****CERTIFICATION FOR RADON LABORATORY****§ 240.123. Radon laboratory application contents.**

An application for radon laboratory certification shall be submitted to the Department in writing on forms provided by the Department and must contain:

(1) Evidence that the applicant has the certification prerequisites contained in § 240.122 (relating to prerequisites for radon laboratory certification), including the services offered and experience in each. If the applicant is a firm, the applicant shall also include the duties assigned to the certified individual.

(2) A nonrefundable fee as set forth in Appendix A (relating to radon certification fee schedule).

(3) The applicant's name, address and telephone number. It must also indicate if the applicant is an individual, partnership, limited partnership, corporation or other entity. The application must include, when appropriate, the name and address of every officer, general and limited partner, director, principal shareholder, parent corporation and certified person within the applicant's organization.

(4) Compliance information, including descriptions of notices of violation, administrative orders, civil penalty

assessments and actions for violations of the act, this chapter or a term or condition of a certification.

(5) Other information the Department may require related to an applicant's qualifications or technical or administrative information related to laboratory analysis of radon samples.

(6) A verification by a responsible official of the applicant that the information contained in the application is correct to the best of the official's information and belief.

[Pa.B. Doc. No. 08-2058. Filed for public inspection November 14, 2008, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Sexual Misconduct

The State Board of Dentistry (Board) hereby amends § 33.1 (relating to definitions) and adopts § 33.211a (relating to sexual misconduct), to read as set forth in Annex A.

Effective Date

The final-form regulations will be effective upon publication as final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Under section 3(c), (d), (d.1) and (o) of the Dental Law, (63 P.S. § 122(c), (d), (d.1) and (o)), the Board has authority to establish standards of professional conduct for Board-regulated practitioners under its jurisdiction. These individuals include dentists, dental hygienists, public health dental hygiene practitioners and expanded function dental assistants. These regulations define sexual misconduct and provide that sexual misconduct with a current patient is subject to disciplinary action under sections 4.1(a)(8) and 10.1 of the Dental Law (63 P.S. §§ 123.1(a)(8) and 129.1).

Background and Purpose

It should be axiomatic that it is unprofessional conduct for Board-regulated practitioners to engage in sexual misconduct with their patients. Past decisions of the Board, the Code of Professional Conduct of the American Dental Association and responsible professional publications addressing the issue denounce sexual exploitation of a patient by a practitioner. These regulations are intended to make it clear that sexual misconduct with a current patient constitutes unprofessional conduct and will subject a practitioner to disciplinary action.

The final-form regulations also provide that Board-regulated practitioners who engage in prohibited sexual conduct with patients will not be eligible for placement in the Board's impaired professional program in lieu of disciplinary or corrective actions. The impaired professional program is unable to effectively monitor Board-regulated practitioners who have engaged in sexual misconduct.

The final-form regulations also provide that patient consent will not be considered a defense to disciplinary action in these cases and provides an exception for conduct between a Board-regulated practitioner and that Board-regulated practitioner's spouse or person cohabitating with the Board-regulated practitioner.

Summary of Comments to Proposed Rulemaking and Responses to Comments

Notice of proposed rulemaking was published at 36 Pa.B. 6409 (October 21, 2006). During the public comment period, the Board received comments from the Pennsylvania Dental Association (PDA). In addition, as part of their review under the Regulatory Review Act, the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) submitted comments. Subsequently, the Pennsylvania Dental Hygienists' Association (PDHA) submitted a letter responding to IRRC's comments. The following represents a summary of the comments received and the Board's response.

Comments from the Pennsylvania Dental Association:

The PDA suggested that these regulations "would drastically change the supervisory responsibilities a dentist must have over a hygienist or expanded function dental assistant (EFDA)." The PDA's position is that these regulations would force a dentist to supervise the private relationships of his auxiliary and that dentists may be forced to terminate an employee and risk legal action in response, or terminate the patient, which may result in abandonment or other ethical issues. Further, PDA opined that there does not appear to be a legitimate rationale for including the auxiliary personnel in this prohibition and strongly recommended that the regulations for sexual misconduct do not include auxiliary staff.

The Board does not believe the final-form regulations would impose any additional burden on dentists with regard to supervising the private relationships of staff. The final-form regulations, as drafted, state that the Board-regulated practitioner would be subject to discipline for his own conduct. There is nothing in the final-form regulations that make the dentist responsible for the conduct of his staff in this regard. The final-form regulations are not intended to "force" dentists to take any particular action if a staff member is found in violation. The Board believes that any dental professional regulated by the Board should be subject to these final-form regulations. However, in the amendments to the final-form rulemaking, the Board has eliminated "auxiliary staff" from the definition of "Board-regulated practitioner" so that the regulations would only apply to those persons holding a license or certificate issued by the Board.

The PDA also objected to the clause that eliminates consent as a defense to a disciplinary proceeding under this section. In its place, the PDA would prefer a provision that requires a higher standard of proof to show that the relationship was undertaken with consent from both parties. In addition, the PDA believes that a clause eliminating consent as a consideration potentially violates the Board-regulated practitioner's and patient's constitutional rights to free association. Finally, the PDA points out that while it could be argued that a licensed professional may waive this right as a requirement for his license, the patient does not waive this right, and therefore should not be denied the right to a consensual relationship.

The Board notes that most of the regulations relating to sexual misconduct by a health-care practitioner pro-

mulgated by other health-related boards within the Bureau of Professional and Occupational Affairs contain a provision eliminating consent as a defense. See, for example regulations of the State Board of Medicine; State Board of Osteopathic Medicine; State Board of Physical Therapy; State Board of Psychology and State Board of Social Workers, Marriage and Family Therapists and Professional Counselors in 49 Pa. Code §§ 16.110(e), 25.216(e), 40.302(a), 41.84(a), 47.64(b), 48.24(b) and 49.24(b). To date, none of these regulations have been challenged on this basis. The Board does not believe that this provision would necessarily violate anyone's constitutional right to free association. If a Board-regulated practitioner and a current patient want to engage in a consensual sexual relationship, the practitioner-patient relationship must end. Either the patient finds another dental practice, with or without the assistance of the Board-regulated practitioner, or they simply end the practitioner-patient relationship and after 3 months, by definition, the person is no longer considered a "current patient." The Board is of the opinion that sexual relationships with current patients could impair Board-regulated practitioners' professional judgment or risk the possibility of exploiting the confidence placed in them by a patient. Therefore, it is a reasonable exercise of the Board's authority to prohibit sexual misconduct.

The PDA also complained that the regulations, if enacted, may leave a practitioner liable for patient abandonment. The PDA points out that the Board's regulation in § 33.211(a)(4) (relating to unprofessional conduct) provides that it is unprofessional conduct to "withdraw dental services after a dentist-patient relationship has been established so that the patient is unable to obtain necessary dental care in a timely manner." Thus, the PDA opined that if a dentist refers a patient to another practitioner because of a consensual relationship, or if the dentist refuses to treat the patient altogether, it is not unreasonable to expect a vindictive patient to accuse the dentist of unprofessional conduct for patient abandonment. Therefore, the PDA believes that these two provisions, one prohibiting sexual conduct with a current patient, and one prohibiting patient abandonment, are contradictory.

The Board does not find these two provisions inherently contradictory. Again, if a Board-regulated practitioner wishes to engage in a consensual sexual relationship with a patient, the professional relationship must end. But it must end in a manner to assure that the patient is not "unable to obtain necessary dental care in a timely manner." That is, the patient must be referred to another dental practice where the patient may obtain necessary dental care. In addition, the fact that vindictive patients may file complaints against Board-regulated practitioners is another good reason not to engage in sexual relations with patients.

The PDA also pointed out that while it may be relatively easy for a dentist in a heavily populated area to refer a patient to a colleague in the immediate vicinity, it may be "nearly impossible" for a dentist in rural Pennsylvania to refer. In those areas of the State, PDA stated, it is not uncommon for the nearest dentist to be located over 50 miles away. The Board acknowledges that there are some underserved areas in this Commonwealth. However, the fact remains that the Board does not believe dentists or other Board-regulated professionals should be engaging in sexual relations with current patients, with the exception of a spouse or person with whom the Board-regulated practitioner is cohabitating. The rule applies equally to dentists in heavily populated areas as

well as those in rural areas. It is possible for a dentist in a rural area to comply with the rulemaking. If it is truly "impossible" to arrange for alternate care, the dentist must refrain from engaging in sexual conduct with his patient.

Finally, the PDA asked that the requirement to transfer care to another dental office be clarified because as written, it is unclear whether dentists who practice through separate corporate structures, but share office space would constitute a permissible transfer. The Board is less concerned with physical office space than it is with the potential for exploitation of patients. However, to address this concern, the Board amended the final-form rulemaking to provide that a practitioner-patient relationship may be terminated by transferring the patient to another dental practice.

Comments of the House Professional Licensure Committee

The HPLC thanked the Board for its efforts to address sexual misconduct on the part of dentists, dental hygienists and expanded function dental assistants because in the HPLC's opinion, "sexual conduct between a patient and a health care practitioner is per se exploitative." However, the HPLC submitted a number of comments for the Board's consideration.

The HPLC asked the Board to address the issue of "significant others," which the HPLC believes is not fully addressed. The Board's rulemaking provides a rule that the Board believes is enforceable. In general, that rule is: A Board-regulated practitioner may not engage in sexual conduct with a current patient, unless that patient is a spouse or person with which the Board-regulated practitioner cohabitates. The Board did not address other types of relationships because the Board determined that if the regulations excluded more casual relationships, it would weaken the regulation and make it more difficult to enforce. Marriage and cohabitation are capable of objective proof. The Board intended only to exclude sexual relations between persons who are married or living together in an intimate relationship. To that degree, the Board believes it has addressed the HPLC's concerns about "significant others."

The HPLC also asked the Board again to consider whether to define sexual misconduct by providing specific examples of prohibited conduct. The HPLC refers the Board to regulations of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors and the regulations of the Board of Dental Examiners in Maryland, which both provide specific examples of prohibited conduct, such as sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person; nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature; masturbating in front of a patient; sexual invitations; taking photographs or videotapes of a patient for sexual purposes; and the use of a drug on a patient for the purpose of sexual behavior. The HPLC feared that the Board's definition of sexual misconduct lacks specificity and may not put practitioners on notice of what conduct is prohibited, as due process requires. Respectfully, the Board disagrees. The rule contained in the regulations is a simple one: do not engage in sexual conduct with a current patient. It also acknowledges that there is a continuum of sexual conduct that may consist of words, gestures, expressions or actions. The Board believes the standard provided by the final-form rulemaking is sufficient to provide adequate notice to comport to the requirements of due process. The Board declines to

attempt to draft a “laundry list” of examples that constitute “sexual misconduct.” It has been the Board’s experience that courts construing those lists often find behaviors not expressly contained in the list to be acceptable. The Board does not wish to inadvertently approve sexual misconduct by omission. It would be virtually impossible to write regulations for sexual misconduct that define every possible prohibited behavior; or to exclude every possible innocent behavior. The Board believes that any of the examples provided previously would clearly be considered sexual misconduct under the regulations, without the need to specifically enumerate them. The Board believes the proposed rulemaking is flexible enough to cover most situations, without being overly burdensome.

The HPLC asked the Board to consider placing the definitions in § 33.1 (relating to definitions) and to consider using the defined term “Board-regulated practitioner” throughout the regulations. Further, the HPLC noted that the definition of “Board-regulated practitioner” includes auxiliary personnel and asks whether the regulations should extend to auxiliary personnel. The Board has responded by moving the definitions to § 33.1, utilizing the term “Board-regulated practitioner” throughout the final-form rulemaking and by deleting the reference to auxiliary personnel from the definition. In addition, the Board has added “public health dental hygiene practitioner” to the definition of “Board-regulated practitioner” in response to Act 51 of 2007, which created a new category of dental professional regulated by the Board.

The HPLC pointed out that the Board already has existing regulations prohibiting “sexual abuse” of a patient and asked the Board to harmonize this rulemaking with the existing regulations. While sexual abuse of a patient would always constitute sexual misconduct, sexual misconduct would not necessarily always rise to the level of sexual abuse. The Board determined not to amend the existing regulations to provide the prosecutors the flexibility to charge sexual abuse as a separate, more serious, violation in those cases where it is merited.

The HPLC asked the Board to consider adding language which would speak to the inadmissibility of the patient’s past sexual conduct as evidence in disciplinary proceedings, noting the existence of that language in the regulations of the State Board of Psychology. The Board considered this comment and declined to add the language to the regulations. The Board notes that the Pennsylvania Rules of Evidence do not contain a provision making evidence of sexual conduct generally inadmissible in civil proceedings, but that where objectionable on other grounds, such evidence may be excluded.

Comments from the Independent Regulatory Review Commission

IRRC raised four concerns with the proposed rulemaking. First, like the HPLC, IRRC noted that the definitions should be moved to § 33.1. The Board has made this revision. Second, IRRC noted that the definition of “sexual misconduct” included two variations of the same word. The Board has addressed this comment by amending the definition of “sexual misconduct” to mean any conduct with a current patient, including words, gestures or expressions, actions or any combination thereof, which is sexual in nature or which may be construed by a reasonable person as sexual in nature. Next, IRRC also objected to the use of the term “practitioner” throughout the rulemaking instead of the defined term “Board-regulated practitioner.” The Board has amended the final-form rulemaking to use the defined term throughout. Finally, IRRC asked whether the Board

intended the rulemaking to apply to auxiliary personnel. As noted previously, the Board has addressed this comment by amending the definition of “Board-regulated practitioner” to exclude auxiliary personnel.

Comments from the Pennsylvania Dental Hygienists’ Association

In light of IRRC’s comment regarding whether the rulemaking is intended to apply to auxiliary personnel, PDHA recommended that the Board amend the definition of “Board-regulated practitioner” to exclude auxiliary personnel noting that the Board does not issue licenses or permits to auxiliary personnel and has no statutory authority to discipline auxiliary personnel. As noted previously, the Board has made this amendment to the final-form rulemaking.

Fiscal Impact and Paperwork Requirements

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

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 6409, to IRRC, the SCP/PLC and the HPLC for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC, the SCP/PLC and the HPLC with copies of comments received as well as other documents when requested. In preparing the final-form regulations, the Board has considered the comments received from IRRC, the HPLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form regulations were approved by the HPLC on September 17, 2008, and deemed approved by the SCP/PLC on October 15, 2008. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 16, 2008, and approved the final-form regulations.

Contact Person

Further information may be obtained by contacting Christopher Grovich, Board Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The State Board of Dentistry finds that:

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

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

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 36 Pa.B. 6409.

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

Order

The State Board of Dentistry, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 33, are amended by amending § 33.1 and adding § 33.211a to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

JOHN V. REITZ, D.D.S.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 6123 (November 1, 2008).)

Fiscal Note: Fiscal Note 16A-4618 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 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.1. Definitions.

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

* * * * *

Board-regulated practitioner—A dentist, dental hygienist, public health dental hygiene practitioner or expanded function dental assistant.

* * * * *

Current patient—

(i) A person that is in the process of dental treatment with a Board-regulated practitioner or who has been treated by the Board-regulated practitioner within the previous 3 months.

(ii) The term does not include a patient who has terminated the Board-regulated practitioner/patient relationship by being accepted as a patient of record at another dental practice.

* * * * *

Sexual misconduct—Any conduct with a current patient, including words, gestures or expressions, actions or any combination thereof, which is sexual in nature, or which may be construed by a reasonable person as sexual in nature.

Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

§ 33.211a. Sexual misconduct.

(a) *Disciplinary action authorized.* Unprofessional conduct, as defined in section 4.1(a)(8) of the act (63 P. S.

§ 123.1(a)(8)), includes sexual misconduct by a dentist, a dental hygienist, a public health dental hygiene practitioner or an expanded function dental assistant (EFDA), and subjects the Board-regulated practitioner to disciplinary action under section 4.1(a)(8) and section 10.1 of the act (63 P. S. § 129.1).

(b) *Impaired professional program.* A Board-regulated practitioner who engages in conduct prohibited by this section will not be eligible for placement into an impaired professional program in lieu of disciplinary action or correction.

(c) *Consent.* Consent is not a defense to conduct prohibited by this section.

(d) *Exclusion.* This section does not apply to conduct between a Board-regulated practitioner and the Board-regulated practitioner's spouse or a person cohabitating with the Board-regulated practitioner.

[Pa.B. Doc. No. 08-2059. Filed for public inspection November 14, 2008, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35]

Consumer Notice

The State Real Estate Commission (Commission) amends §§ 35.201 and 35.336 (relating to definitions; and disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant) to read as set forth in Annex A.

Statutory Authority

The amendments are authorized under section 608 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.608).

Response to Public Comments and Regulatory Review and Description of Amendments to the Final-Form Rule-making

Notice of proposed rulemaking was published at 37 Pa.B. 1499 (April 7, 2007). Publication was followed by a 30-day public comment period during which the Commission received comments from the Pennsylvania Association of Realtors (PAR). Following the close of the public comment period, the Commission received comments from the House Professional Licensure Committee (HPLC). The Independent Regulatory Review Commission (IRRC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

The following is a discussion of the comments received and the Commission's response:

§ 35.336—General Comments

PAR asked that the Commission explain whether the Commission intends to prescribe the "shape and size" of the Consumer Notice or merely the content in its requirement in subsection (c) that the Consumer Notice be in the "format available from the Commission." While the Commission has no preference whether the Consumer Notice is printed in portrait or landscape, the Commission's intention is for the Consumer Notice to not only contain the content required by § 35.336, but also the exact language in the order found in § 35.336.

The HPLC recommended that the Commission include the cautionary language about not disclosing confidential

information until after a business relationship agreement is signed at the beginning and end of the Consumer Notice for heightened impact. In proposed form, the Commission moved this cautionary language from the beginning of the Notice to immediately above the consumer's signature. In the Commission's experience, it has found that consumers pay more attention to bolded language located immediately above a signature than to language at the beginning of the document. As a result, it has not reinserted the cautionary language at the beginning of the Consumer Notice as recommended.

§ 35.336(c)—Seller Agent/Buyer Agent

The HPLC questioned why the Commission eliminated the duty that seller agents make a continuous and good faith effort to find a buyer for the property except while the property is subject to an existing agreement and that buyer agents make a continuous and good faith effort to find a property for the buyer/tenant. The Commission concurs with the HPLC and has reinserted this language under both seller agent and buyer agent.

PAR commented that the statement that licensees must reveal known material defects about the property is repeated in the specific sections for seller agent, buyer agent and again under the duties for all licensees. PAR suggested that to streamline the form, the requirement to disclose all material defects should be included under the duties of all licensees only. The Commission has not made this change because it wants to assure that consumers know about the disclosure requirement within each relationship.

§ 35.336(c)—Dual agent/Designated Agent

The HPLC questioned why the Commission eliminated the duty of the broker to take responsibility to direct and supervise the business activities of the licensees who represent the buyers and sellers without taking any action that is adverse or detrimental to either party's interest in the transaction. While the bullet that contained this information in the current Consumer Notice has been eliminated in the revised form, the Commission has not eliminated this requirement. Instead, it is found in part in the dual agent section and in part in the designated agent section. Under the designated agent section, the Consumer Notice advises, "Because the broker supervises all of the licensees, the broker automatically serves as a dual agent." Under the dual agent section, the Consumer Notice advises, "A dual agent may not take any action that is adverse or detrimental to either party."

§ 35.336(c)—Transaction licensee

PAR recommended that the section on transaction licensee be formatted similar to seller agent, buyer agent, dual agent and designated agent. Unlike the other relationships mentioned, transaction licensees do not have an agency relationship with the consumer. As such, the Commission cannot include transaction licensees under the categories of agency relationships that licensees may enter into with consumers.

§ 35.336(c)—Duty owed to all consumers

The HPLC questioned why the Commission deleted the phrase "which meets the practice standards required by the act" from the requirement that licensees exercise reasonable skill and care in the first bullet. Upon further reflection, the Commission has reinserted this language.

PAR recommended that the Commission change the fourth bullet to "Real Estate Seller Disclosure Law" rather than "Act." The Commission concurs and has made that change.

§ 35.336(c)—Negotiable terms

The HPLC recommended that the Commission substitute the phrase "the sharing of fees" in the fourth bullet for "compensation to other brokers." The Commission concurs with this suggestion, and since the broker may cooperate and share fees with other brokers, has revised the bullet to read "The broker's cooperation and sharing of fees with other brokers."

§ 35.336(c)—Acknowledgement

Finally, the HPLC recommended that the Commission add to the signature line for the licensee a space for the licensee's printed name and the date signed, as well as the license number to clearly identify the licensee. The Commission concurs and has made the recommended change to the form in the final-form regulations.

Other Amendments to the Final-Form Regulations

In the proposed rulemaking, the Commission intended to retain the requirements previously espoused in section 608 of the RELRA (63 P.S. § 455.608) that licensees retain a copy of the signed or refused acknowledgement for 6 months and that licensees provide the consumer a copy of the entire disclosure summary. However, this language was inadvertently replaced with the language that appeared in subsection (b) of the proposed rulemaking as published, which is identical to the first paragraph of the Consumer Notice. In the final-form rulemaking, the Commission is deleting the redundant language and is inserting the intended language as subsection (b).

Fiscal Impact and Paperwork Requirements

The final-form regulations will have no fiscal impact on the Commonwealth, its political subdivisions or the public. The regulations will have a positive fiscal impact on the regulated community because the amendments reduce the legal, accounting, reporting or other paperwork requirements on the regulated community.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 28, 2007, the Commission submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1499, to IRRC, 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. In preparing the final-form regulations, the Commission has considered all comments from the HPLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on September 17, 2008, the final-form regulations were approved by the HPLC. On October 15, 2008, the final-form regulations were deemed approved by SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 16, 2008, and approved the final-form regulations.

Contact Person

Further information may be obtained by contacting Patricia A. Ridley, Administrative Assistant, State Real

Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, www.state.pa.us/bpoa/recomm/mainpage.

Findings

The Commission finds that:

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

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

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 37 Pa.B. 1499.

(4) The final-form regulations are necessary and appropriate for administering and enforcing the authorizing act identified in this Preamble.

Order

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

(a) The regulations of the Commission, 49 Pa. Code Chapter 35, are amended by amending §§ 35.201 and 35.336 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) The amendments will be effective December 15, 2008; however, licensees will have until June 15, 2009, to begin using the new Consumer Notice form.

ANNIE HANNA CESTRA, Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 6123 (November 1, 2008).)

Fiscal Note: Fiscal Note 16A-5614 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 35. STATE REAL ESTATE COMMISSION

Subchapter B. GENERAL PROVISIONS

§ 35.201. Definitions.

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

* * * * *

Initial interview—The first substantive discussion between a licensee and a consumer about the consumer's real estate needs.

* * * * *

Subchapter E. STANDARDS OF CONDUCT AND PRACTICE

REAL ESTATE DOCUMENTS

§ 35.336. Disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant.

(a) Licensees shall provide the consumer with the Consumer Notice at their initial interview.

(b) Licensees shall retain a copy of the signed/refused acknowledgement for 6 months and provide the consumer a copy of the entire disclosure summary.

(c) The Disclosure Summary must be entitled "Consumer Notice" and must be in the following format available from the Commission office upon request by phone, fax or internet:

CONSUMER NOTICE

THIS IS NOT A CONTRACT

In an effort to enable consumers of real estate services to make informed decisions about the business relationships they may have with real estate brokers and salespersons (licensees), the Real Estate Licensing and Registration Act (RELRA) requires that consumers be provided with this Notice at the initial interview.

• Licensees may enter into the following agency relationships with consumers:

Seller Agent

As a seller agent, the licensee and the licensee's company works exclusively for the seller/landlord and must act in the seller's/landlord's best interest, including making a continuous and good faith effort to find a buyer/tenant except while the property is subject to an existing agreement. All confidential information relayed by the seller/landlord must be kept confidential except that a licensee must reveal known material defects about the property. A subagent has the same duties and obligations as the seller agent.

Buyer Agent

As a buyer agent, the licensee and the licensee's company work exclusively for the buyer/tenant even if paid by the seller/landlord. The buyer agent must act in the buyer/tenant's best interest, including making a continuous and good faith effort to find a property for the buyer/tenant, except while the buyer is subject to an existing contract, and must keep all confidential information, other than known material defects about the property, confidential.

Dual Agent

As a dual agent, the licensee works for both the seller/landlord and the buyer/tenant. A dual agent may not take any action that is adverse or detrimental to either party but must disclose known material defects about the property. A licensee must have the written consent of both parties before acting as a dual agent.

Designated Agent

As a designated agent, the broker of the selected real estate company designates certain licensees within the company to act exclusively as the seller/landlord agent and other licensees within the company to act exclusively as the buyer/tenant agent in the transaction. Because the broker supervises all of the licensees, the broker automatically serves as a dual agent. Each of the designated

licensees are required to act in the applicable capacity explained previously. Additionally, the broker has the duty to take reasonable steps to assure that confidential information is not disclosed within the company.

- In addition, a licensee may serve as a Transaction Licensee.

A transaction licensee provides real estate services without having any agency relationship with a consumer. Although a transaction licensee has no duty of loyalty or confidentiality, a transaction licensee is prohibited from disclosing that:

- The seller will accept a price less than the asking/ listing price,
- The buyer will pay a price greater than the price submitted in the written offer, and
- The seller or buyer will agree to financing terms other than those offered.

Like licensees in agency relationships, transaction licensees must disclose known material defects about the property.

- Regardless of the business relationship selected, all licensees owe consumers the duty to:
 - Exercise reasonable professional skill and care which meets the practice standards required by the RELRA.
 - Deal honestly and in good faith.
 - Present, as soon as practicable, all written offers, counteroffers, notices and communications to and from the parties. This duty may be waived *by* the seller *where* the seller's property is under contract and the waiver is in writing.
 - Comply with the Real Estate Seller Disclosure Law.
 - Account for escrow and deposit funds.
 - Disclose, as soon as practicable, all conflicts of interest and financial interests.

- Provide assistance with document preparation and advise the consumer regarding compliance with laws pertaining to real estate transactions.

- Advise the consumer to seek expert advice on matters about the transaction that are beyond the licensee's expertise.

- Keep the consumer informed about the transaction and the tasks to be completed.

- Disclose financial interest in a service, such as financial, title transfer and preparation services, insurance, construction, repair or inspection, at the time service is recommended or the first time the licensee learns that the service will be used.

- The following contractual terms are *negotiable* between the licensee and the consumer and must be addressed in an agreement/disclosure statement:

- The duration of the licensee's employment, listing agreement or contract.
- The licensee's fees or commission.
- The scope of the licensee's activities or practices.
- The broker's cooperation with and sharing of fees with other brokers.
- All sales agreements must contain the property's zoning classification except where the property is zoned solely or primarily to permit single family dwellings.
- The Real Estate Recovery Fund exists to reimburse any person who has obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call (717) 783-3658.

Before you disclose any financial information to a licensee, be advised that unless you select a business relationship by signing a written agreement, the licensee is NOT representing you. A business relationship is NOT presumed.

ACKNOWLEDGMENT

I acknowledge that I have received this disclosure.

Date: _____
 (Consumer's printed name) (Consumer's signature)

Date: _____
 (Consumer's printed name) (Consumer's signature)

I certify that I have provided this document to the above consumer during the initial interview.

Date: _____

 (Licensee's printed name) (Licensee's signature) (License #)

Adopted by the State Real Estate Commission in 49 Pa. Code § 35.336.

[Pa.B. Doc. No. 08-2060. Filed for public inspection November 14, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 126]

Diesel Vehicle Idling; and Auxiliary Power Systems; Notice of Withdrawal

The Environmental Quality Board (Board) announces its withdrawal of the Diesel Vehicle Idling final-rulemaking (7-422) from review by the Independent Regulatory Review Commission (IRRC) and the Standing Environmental Resources and Energy Committees. On October 9, 2008, Governor Rendell signed into law, the Diesel-Powered Motor Vehicle Idling Act (act) (P.L. 1511, No. 124). The act establishes provisions that are substantially similar to the Board's final-rulemaking, which was approved by the Board on September 16, 2008. To avoid unnecessary confusion that may result with the simultaneous implementation of both the legislation and regulations, the Board is withdrawing the final-form rulemaking, which shall in effect, prevent IRRC and the Standing Committees from taking further action on the final-rulemaking. The Board's diesel vehicle idling rulemaking was initiated by a rulemaking petition submitted to the Board on October 18, 2006, by the Clean Air Board of Central Pennsylvania.

Interested individuals may obtain additional information concerning the Board's withdrawal of the Diesel Vehicle Idling final-form rulemaking by contacting Michele Tate, Department of Environmental Protection, Regulatory Coordinator, at (717) 783-8727 or at mtate@state.pa.us.

JOHN HANGER,
Acting Chairperson

[Pa.B. Doc. No. 08-2061. Filed for public inspection November 14, 2008, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Governor's Office of the Budget

The Executive Board approved a reorganization of the Governor's Office of the Budget effective October 27, 2008.

The organization chart at 38 Pa.B. 6288 (November 15, 2008) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 08-2062. Filed for public inspection November 14, 2008, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Historical and Museum Commission

The Executive Board approved a reorganization of the Historical and Museum Commission effective October 27, 2008.

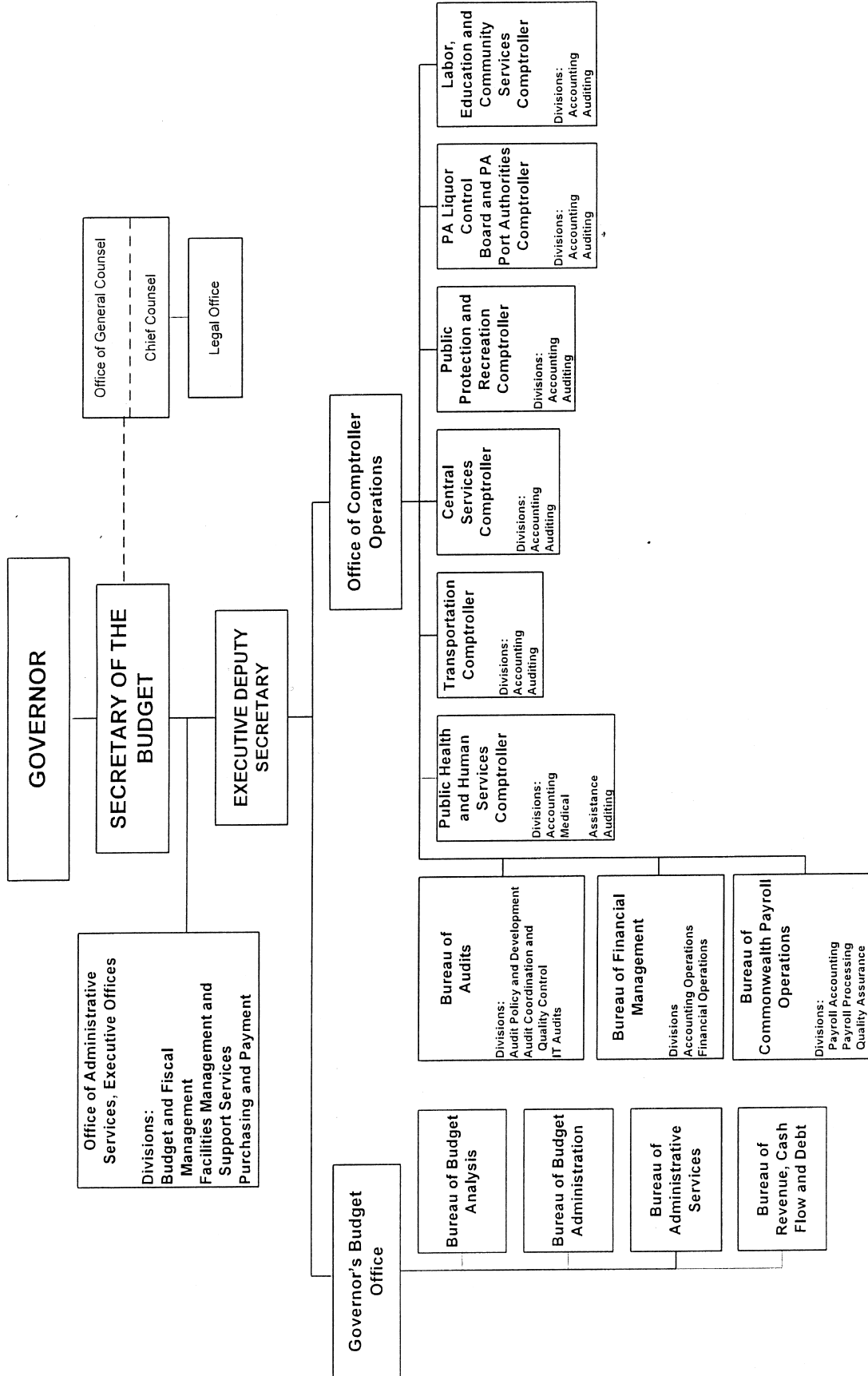
The organization chart at 38 Pa.B. 6889 (November 15, 2008) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

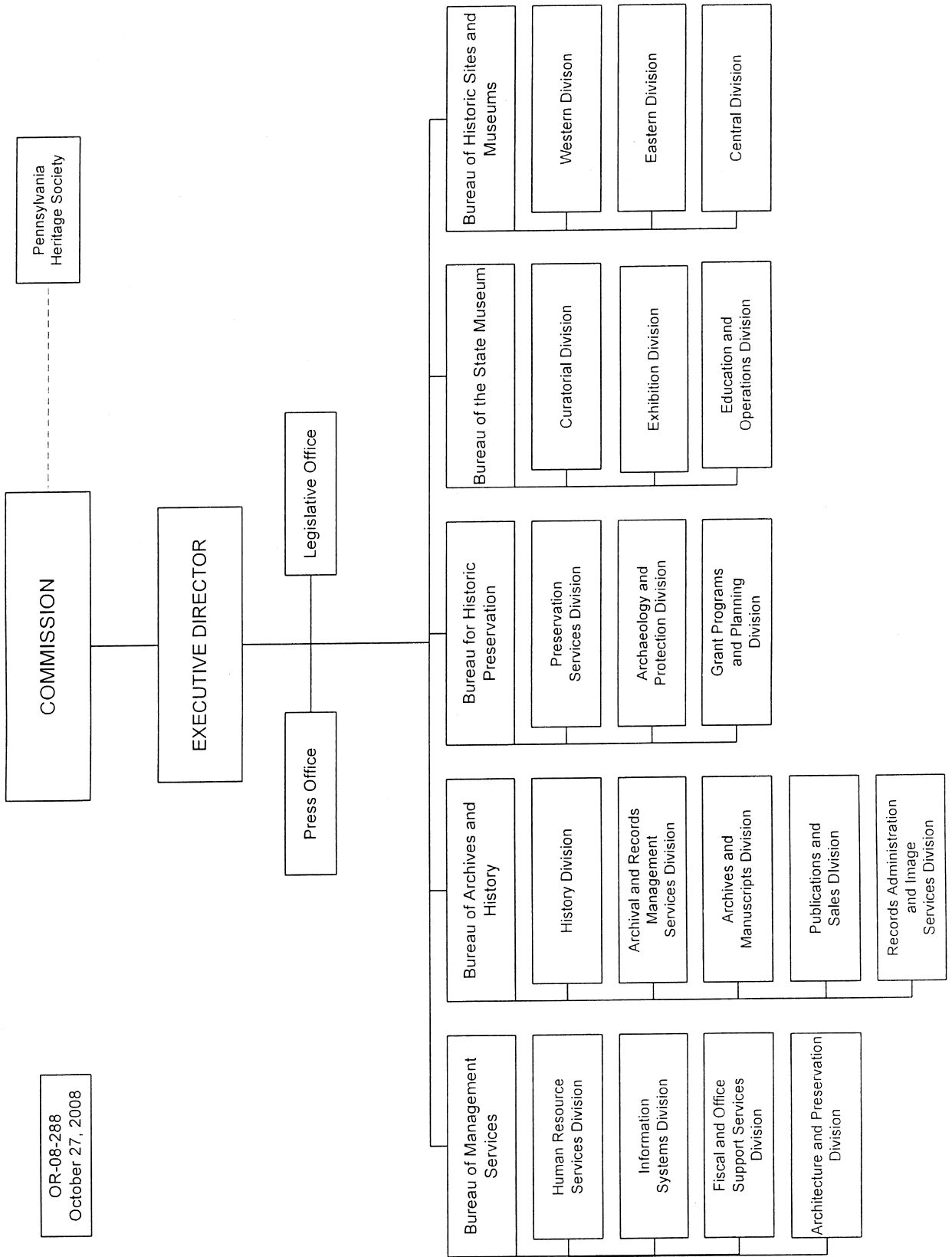
[Pa.B. Doc. No. 08-2063. Filed for public inspection November 14, 2008, 9:00 a.m.]

GOVERNOR'S OFFICE OF THE BUDGET

OR-08-277
October 27, 2008



HISTORICAL AND MUSEUM COMMISSION



OR-08-288
October 27, 2008

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 November 4, 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, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. 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

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-31-2008	Sharon Savings Bank, Darby, and Morton Savings Bank, Morton Surviving Institution: Sharon Savings Bank, Darby	Darby	Effective
	Subsequent to the previous merger, the principal place of business of Morton Savings Bank, at the following location, will be operated as a branch office of Sharon Savings Bank:		
		25 South Morton Avenue Morton Delaware County	
11-1-2008	Wilmington Trust Interim Savings Bank, Villanova, and Wilmington Trust of Pennsylvania, Villanova Surviving Institution: Wilmington Trust Interim Savings Bank, Villanova	Villanova	Effective
	Subsequent to the previous merger, Wilmington Trust Interim Savings Bank, Villanova, PA, merged with and into Wilmington Trust FSB, Baltimore, MD. Both institutions are wholly-owned subsidiaries of Wilmington Trust Corporation, Wilmington, DE.		

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-20-2008	Susquehanna Bank DV Bryn Mawr Montgomery County	One Market Street Camden Camden County, NJ	Opened
10-24-2008	CNB Bank Clearfield Clearfield County	5739 Buffalo Road Erie Erie County	Opened
10-30-2008	Fulton Bank Lancaster Lancaster County	Princess Anne and Dam Neck Roads Virginia Beach Virginia Beach County, VA	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-30-2008	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	5700 North Broad Street Philadelphia Philadelphia County	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 08-2064. Filed for public inspection November 14, 2008, 9:00 a.m.]

DEPARTMENT OF CORRECTIONS

Recidivism Risk Reduction Incentive Initiative Evidence-Based Program List

The Department of Corrections (Department), under the authority conferred by Act No. 81 of 2008 (act) (44 Pa.C.S. § 5304), publishes for public comment the following description of treatment and other programs it intends to designate as Recidivism Risk Reduction Incentive Programs. In addition to describing the various programs and the types of offenders who will be eligible to participate in the programs, the following information references the research reports that demonstrate the effectiveness of each program. A reference list containing detailed reference information for each publication appears at the conclusion of the material.

Public comments will be accepted for at least 60 days from the date of publication or until January 23, 2009, whichever is later. The information also is posted on the Department's web site at www.cor.state.pa.us. Public comments must be in writing and directed to Kathleen A. Gnall, Deputy Secretary for Reentry and Specialized Programs, Department of Corrections, P. O. Box 598, Camp Hill, PA 17001, (717) 975-4872.

The program plan for eligible offenders as defined in the act who have been sentenced to a Recidivism Risk Reduction Incentive (RRRI) minimum sentence may include one or more of the described programs as well as other programs intended to reduce the risk that the offender will commit additional crimes upon release and to be able to reenter society successfully. Assignment to specific programs is determined by the results of a battery of assessments provided to inmates upon intake, as well as by counselor review of the needs of individual inmates. The following provides a summary of these programs, as well as the research behind them.

Part A—Inmate Assessment Process

The assessment of an offender's risk of recidivating and needs for specific types of treatment programming is the cornerstone of effective correctional treatment practice (Andrews and Bonta, 2003). Before inmates are assigned to any treatment program, the Department administers a battery of assessment tools to them that provide information used to develop a specific treatment plan that is responsive to their criminogenic (crime-producing) needs. These assessments are conducted at intake at the Diagnostic and Classification Centers (DCC's) at the State Correctional Institutions (SCI's) at Camp Hill (for men) and Muncy (for women). The Principles of Effective Offender Intervention indicate that treatment should be

directed to inmates who are likely to recidivate if not treated (high risk inmates) and should address verifiable criminogenic needs, such as antisocial attitudes, substance abuse, hostility and education deficits (Andrews and Bonta, 2003). For a summary of the Principles, see the following link on the Department's web site: www.cor.state.pa.us/stats/lib/stats/PrinciplesofEffectiveIntervention.pdf.

In line with the assessment principle, all inmates newly committed to the Department receive the following risk and needs assessments:

A1.) Level of Service Inventory-Revised (LSI-R)—This tool produces a score that estimates the risk that the inmate will reoffend. The LSI-R is perhaps the most widely used general purpose offender risk assessment tool in the world and has been validated on inmate populations in many jurisdictions (Andrews and Bonta, 2001). The Department has conducted several in-house validations of the LSI-R on our inmate population, and has also conducted validations with external research partners (see, for example, Kelly and Welsh, 2008). These validations have found that the LSI-R is predictive of recidivism for the Department inmate population, and thus is an acceptable measure of risk. As this program report is being prepared, the Department has developed a briefer risk assessment tool that can produce comparable predictive results with a shorter administrative timeframe and reduced cost. Validation and refinement of this new tool is ongoing.

A2.) Criminal Sentiments Scale-Modified (CSS-M)—This tool provides information on an inmate's level of criminal attitudes, values and beliefs, which are key criminogenic needs. Like the LSI-R, the CSS-M is widely used in the U.S. and Canada. The CSS-M has been studied in a number of jurisdictions and has been found to be a reliable and valid measure of criminal thinking (see, for example, Simourd and Van De Ven, 1999). The Department has normed this tool on its inmate population.

A3.) Hostile Interpretations Questionnaire (HIQ)—This tool provides information on an inmate's level of hostile thinking and tendency towards anger-driven responses in social situations. Like the LSI-R and CSS-M, the HIQ is used in other jurisdictions and is found to be a reliable and valid measure of hostile thinking (Simourd and Mamuzza, 2000). The Department has normed this tool on its inmate population.

A4.) Texas Christian University Drug Screen II (TCUDSII)—This tool provides an assessment of an inmate's need for alcohol and other drug (AOD) treatment programs. The TCUDSII was developed by researchers at TCU under several federal grants and is available free of charge to correctional agencies. This and other TCU tools

are widely used by criminal justice agencies nationwide. The TCUDSII is validated against the diagnostic standards for substance abuse and dependence as codified in the Diagnostic and Statistical Manual of Mental Disorders—IV (DSM-IV), which is the official publication of the American Psychiatric Association. More information on the TCU family of AOD assessment tools can be found at: www.ibr.tcu.edu/pubs/datacoll/cjforms.html.

A5.) Pennsylvania Department of Corrections Initial Assessment (PADO CIA)—This tool is based upon the Texas Christian University Initial Assessment tool, and was developed with the consultation of TCU researchers. The PADO CIA is administered to inmates who score in the higher ranges of the TCUDSII and provides additional clinical information useful in the treatment planning process.

A6.) Test of Adult Basic Education (TABE)—This tool provides a measure of an inmate's level of educational functioning, producing a score equivalent to a grade level. The TABE is one of most widely used educational assessments for offenders and nonoffenders alike. Results from the TABE inform decisions about placement into the educational programs discussed.

A7.) Careerscope—This tool provides information about an inmate's vocational interests and aptitude, and informs decisions about placement into the Department's vocational programs discussed. Like the TABE, the Careerscope is one of the most widely used vocational assessments for offenders and nonoffenders.

A8.) Other—In addition to the instruments discussed previously, the Department uses a number of other general purpose psychological assessment tools, which provide additional information used to develop individual inmate treatment plans. These include the Personality Assessment Inventory and IQ testing.

The results of the risk and needs assessment process discussed previously are used to guide program placement decisions for individual inmates. The matrix found at the following link provides an overview of how assessment data is translated into program placement decisions: www.cor.state.pa.us/bis/lib/bis/Risk_and_Needs_Assessment_Guidelines.pdf.

Part B—Programs Targeting Criminal Thinking and Behavior

The Department offers a number of standardized programs that address core criminogenic needs, including criminal thinking, hostility/anger and substance use. Consistent with the Principles of Effective Offender Intervention, our standardized programs, regardless of which specific criminogenic need targeted, employ a cognitive-behavioral therapy (CBT) approach. The CBT approach emphasizes the connection between thinking and behavior, recognizing that offenders behave like criminals because they think like criminals. Thus, the first step in changing behavior is changing dysfunctional thinking patterns. CBT approaches also address decision making, problem solving and coping skills, which have been identified as being important to the rehabilitative process (Andrews and Bonta, 2003). One advantage to CBT is that it is a fairly generic treatment tool; it can be incorporated into any number of needs-specific programs such as AOD treatment, anger/violence prevention and other specialized groups. There is a strong body of evidence that supports the use of CBT approaches to reduce recidivism. Meta-analyses conducted by Landenberger and Lipsey (2005), Pearson, et al (2002) and Wilson, et al (2005) have summarized the evidence in

support of CBT approaches as a key component of an overall offender treatment strategy.¹ These research reviews have found an average reduction in recidivism of approximately 20% for programs employing a CBT approach. Thus, the core Department programs are grounded in one of the most effective general treatment approaches available.

Program Listing

B1.) Alcohol and Other Drug (AOD) Treatment—The AOD programs are designed to provide a comprehensive continuum of services to inmates in all SCI's. These services include screening and assessment, outpatient services, inpatient services (Therapeutic Communities), aftercare and specialized Therapeutic Community programs for dually-diagnosed inmates. The AOD programs that are provided at SCI Muncy and SCI Cambridge Springs (our two female prisons) focus on gender-specific AOD issues. The Department has recently revised this program so that it is in conjunction with the Principles of Effective Offender Intervention.

B1a.) Therapeutic Community (TC)—A TC is an intensive treatment modality, which is self-contained and semi-autonomous with shared responsibilities by staff and inmates. This program is developed to treat inmates who meet the diagnostic criteria for AOD dependence (that is, the most serious level of addiction). TC participation provides an opportunity to focus on learning and behavior change on a 24 hour-a-day basis. In a TC, CBT concepts are not just taught in group sessions, but they are carried through in individual counseling sessions, in regular conversational contacts, in other group activities, in homework assignments, in learning experiences, and the like. Inmates are expected to demonstrate, in all daily activities, what they are learning in the program through observable attitude and behavior changes. There are 3 phases to the TC.

The TC curriculum provides the following lesson plans for Phase I participants: Motivational Enhancement Therapy (MET)—four 1 1/2 hour sessions. CBT Addictions Concepts—eight 1 1/2 hour sessions, Criminal Thinking Overview—eight 1 1/2 hour sessions and Introduction to Self-Help—five 1 1/2 hour sessions. In Phase I, there are eight CBT sessions and eight sessions on Criminal Thinking Errors.

The TC curriculum provides the following lesson plans for Phase II participants: CBT Problem Solving Group—two 1 1/2 hour sessions per week in Phase 2 and CBT Skill Building Group—four 1 1/2 hour sessions per week in Phase 2. In Phase II, there are a total of 39 CBT sessions.

The purpose of TC Phase III is the transition and re-integration of the inmate into the community and/or general population, Phase III participants must attend CBT Aftercare Group (1 1/2 hours) once per week and they must attend Phase II group therapy with a Phase II member. This amounts to 6 additional CBT groups per week.

Therapy groups are to run on the CBT 30/30/30 model of providing 30 minutes of homework/journal review followed by 30 minutes of new topic presentation. The remaining 30 minutes is to be used for in class assignments, role plays and process sessions.

A TC is comparable to inpatient treatment in the community. The standard length of TC programming is 6

¹ Meta-analysis is a formal, rigorous synthesis of evaluation or other studies on a given topic. More than a simple research review, meta-analysis produces an evaluation of the evaluations and generates conclusions about overall treatment effects.

months. While participating in the TC, inmates cannot participate in other recommending programming until Phase III.

The TC Curriculum addresses thinking errors and therefore inmates in a TC do not need to also take *Thinking for a Change* (discussed as follows).

Inmates need to have a moderate to high LSI-R and a TCUDSII of 6-9 to participate in TC.

B1b.) Short Minimum TC—The Short Minimum Initiative is designed to program inmates identified as Short Min cases prior to their minimum dates. Short Min cases are defined as those with 12 months or less remaining on their sentences at the time of reception into the DCC's. This TC is condensed into 4 months. The curriculum is the same a 6 month TC. Inmates in the Short Min TC can also complete condensed versions of selected other programs in the TC environment.

Inmates need to have been identified as a Short Min initiative case by the DCC and have a moderate to high LSI-R and a TCUDSII of 3-9.

B1c.) Dual Diagnosis Therapeutic Community (DDTC)—An intensive treatment modality, which is self-contained and semi-autonomous with shared responsibilities by staff and inmates. This program is designed to treat inmates with co-occurring, mental health and AOD dependence/abuse disorders. It shares most of the features of the general TC discussed in 1a previously, but with the specialized focus on mental illness and addiction. The DDTC is available at SCI Retreat.

B1d.) Six Month Intensive Outpatient Program (IOP)—Six month IOP is offered at SCI-Chester and SCI-Pittsburgh. This IOP will be taken in place of the regular AOD Out-Patient Program. The 6 month IOP, like TC, replaces the need to take *Thinking for a Change*. IOP consists of three 90 minute sessions per week—two are content driven and one is a Thinking Error Skill Building session. There are a total of 72 Sessions. To be recommended for IOP an inmate must be housed at SCI-Chester or SCI-Pittsburgh and have a mod-high LSI-R and a TCU score of 3-5. Six month IOP completers will receive 3 months of community aftercare upon release. In a sense, IOP can be thought of as a less intensive version of a TC, but still representing a significant dose of treatment that incorporates many of the core features of TC.

B1e.) Short Minimum Intensive Outpatient Program (IOP)—Short Minimum IOP is offered at SCI-Chester and SCI-Pittsburgh. This IOP is 3 months. It consists of six 90 minute sessions per week—four are content driven and two are Thinking Error Skill Building sessions. There are a total of 72 Sessions. Inmates referred to this program must be housed at SCI-Chester and Pittsburgh and have a med-high LSI-R and a TCU score of 3-9. This program is designed for inmates identified by the DCC as short minimum cases. Short Minimum IOP completers will receive 3 months of Community Aftercare upon release. If Assessment scores warrant *Thinking for a Change*, the inmate must take Short Min IOP and *Thinking for a Change*. Like the 6 month IOP, the Short Min IOP can be thought of as a less intensive version of a TC, but still representing a significant dose of treatment that incorporates many of the core features of TC.

B1f.) Outpatient Treatment—Outpatient treatment is the provision of structured counseling or therapeutic services on a regular and predetermined basis. Services are generally provided weekly, in a group setting, using a module format. The inmate meets specific Department

approved criteria for outpatient treatment based on a comprehensive screening and assessment described previously. Based on the initial and ongoing assessments, inmates may attend a combination of treatment modules.

Supporting Research for AOD Treatment

The Department has undertaken an extensive and long term evaluation of its AOD programs, in partnership with Dr. Wayne Welsh of Temple University, with funding by the Pennsylvania Commission on Crime and Delinquency (PCCD) and the National Institute of Justice. This partnership began in 1998 and is ongoing. This project has included a comprehensive process evaluation of the Department's system of AOD treatment, and a long term outcome evaluation of our TC's. The process evaluation was completed in 2000 and produced numerous recommendations for programmatic improvement, culminating in the evidence-based AOD treatment system currently in place within the Department (Welsh 2002, Welsh and Zajac, 2004a&b). The full process evaluation report is available on the Department's web site: www.cor.state.pa.us/stats/lib/stats/Temple_Process_Final_Report_to_NIJ.pdf.

A summary of this report and discussion of how the Department utilized the findings is presented in the Department's in-house journal *Research in Review*, at the following link (Volume 6, Number 1): www.cor.state.pa.us/doc/lib/stats/RIR/Volume%206%20-%202003/RIRV6N1.pdf.

Looking at outcomes for AOD treatment, the Department's evaluation partnership with Temple University has to date documented a reduction in recidivism of 11 percentage points (or 27%) over a 2 year post release follow-up period (Welsh, 2003, 2007). The outcome phase of this study is ongoing, with a final report anticipated by the end of 2008. This report will show outcomes for a 5 to 7 year post release follow-up period, one of the longest follow-ups of any evaluation of prison-based AOD treatment. Preliminary indications from Dr. Welsh are that the earlier findings of a 27% reduction in recidivism are holding up even with the longer follow-up period. A summary of the findings to date is found in *Research in Review* at the following link (Volume 6, Number 4): www.cor.state.pa.us/doc/lib/stats/RIRV6N4.pdf.

Looking more broadly at research into the effectiveness of prison-based drug treatment, we find substantial evidence of strong treatment effects, especially for intensive programs such as TC's. Recent meta-analyses of prison based AOD treatment evaluations conducted by Pearson and Lipton (1999) and Mitchell et al (2007) concluded that such treatment does reduce recidivism. There has been a great deal of research on prison-based TC's, with major evaluations in states such as California, Delaware and New York (in addition to our own evaluation in Pennsylvania). These studies have consistently documented strong treatment effects from TC's. This body of research is reviewed in the Department's in-house journal *Research in Review* in the following issues (Volume 3, Number 1 and Volume 7, Number 1): www.cor.state.pa.us/doc/lib/stats/RIR/Volume%203%20-%202000/RIRV3N1.pdf and www.cor.state.pa.us/doc/lib/stats/RIR/Volume%207%20-%202004/RIRV7N1.pdf.

In sum, there is sufficient evidence, both in Pennsylvania and Nationally, to conclude that prison-based AOD treatment, and TC in particular, constitutes an evidence-based treatment that can reduce recidivism of addicted offenders.

B2.) Thinking for a Change—Thinking for a Change (T4C) is a 22 session general CBT program that utilizes

cognitive restructuring and social skills interventions as methods of changing criminal thinking. This group targets inmates with poor decision making skills to work on cognitive self-change, social skills improvement and problem solving skills development. The program is broken down into sessions focusing on communication skills, thinking processes, emotional interpretations and problem solving. While all sessions utilize CBT techniques such as journaling and role playing, the thinking processes segments form the core of the CBT approaches offered by this program.

Inmates recommended for this program must have medium to high scores on the LSI-R and CSS-M, a demonstrated pattern of poor decision making, criminal thinking or an institutional pattern of behavior demonstrating these behaviors.

Programming can be conducted over a 3 to 6 month period.

T4C was developed by researchers under the auspices of the National Institute of Corrections (NIC). As such, T4C is available free of charge to any corrections agency that wishes to use it. NIC will even provide training on T4C. T4C is widely used in corrections agencies across the nation. There are any number of generic CBT programs available to corrections agencies. Many are proprietary, thus involving a licensing cost to the agency. Research on CBT programs indicates that "brand" is less important than whether the program is actually following CBT principles (Landenberger and Lipsey, 2005). Thus, there is an advantage to using a free CBT curriculum such as T4C.

Supporting Research for T4C

As noted previously, numerous studies have found that CBT programs are effective at reducing recidivism, and that "brand" may be relatively less important in determining outcomes. A evaluation of T4C by Golden et al (2006), however, found that T4C reduced recidivism by 33% compared to offenders not receiving the program. The findings noted previously about the irrelevance of "brand" notwithstanding, the Department has been conducting a cross evaluation of T4C against two other CBT curricula. One important aspect of this evaluation is the examination of how participants change on their CSS-M scores before and after treatment. Changes on such scores are indicative of attitudinal shifts that translate into recidivism reduction. Results to date indicate that T4C is somewhat outperforming the other two programs being evaluated. We are presently examining recidivism outcomes for these programs. A summary of these evaluation findings to date is available in the latest issue of the Department's in-house journal *Research in Review* (Volume 11, Number 3): www.cor.state.pa.us/stats/lib/stats/RIRV11N3.pdf.

B3.) Violence Prevention—Violence Prevention is a 25 session program that also utilizes a CBT approach including Cognitive Behavioral Restructuring and Social Interventions as methods to provide inmates with appropriate alternatives for dealing with their aggressive behavior and their feelings of anger and frustration. It also addresses errors in thinking that involve criminal mentality. The main foci of this program are educational aspects to understand the roots of anger and aggression as well as coping mechanisms for the behaviors associated with anger and aggression. This is achieved through the use of modeling, role playing and journaling as well as in-cell assignments. While enhancing coping skills are a primary purpose of this program, secondary goals help reinforce the inmate's ability to employ these skills.

Inmates recommended for this program must have moderate to high scores on the LSI-R and HIQ, a history of violence towards people/property, current violent offense, pattern of institutional violence/aggression and be psychiatrically stable.

This program can be conducted over a 3 to 6 month period.

Supporting Research for Violence Prevention

The Department has recently conducted a Correctional Program Assessment Inventory (CPAI) on the Violence Prevention program, in partnership with Dr. Edward Latessa at the University of Cincinnati, with funding from the National Institute of Corrections. The CPAI is a tool that benchmarks a given program against the Principles of Effective Offender Intervention. Programs that more closely adhere to these principles will be more likely to reduce recidivism. This evaluation concluded that the Violence Prevention program is an evidence-based program that incorporates CBT principles within a structured treatment approach (Latessa and Carter, 2005). One recommendation of this study was that the Violence Prevention program has now been in operation long enough to sustain an outcome evaluation.² The Department is presently planning such an evaluation.

B4.) Community Orientation Reintegration Program—COR is a reentry preparation program that addresses general reentry needs, such as job search, money management and other basic life skills. While such issues may seem mundane, they can be a challenge to someone who has been incarcerated for a period of years. COR is a 4 week program that is delivered in the months immediately prior to an inmate's release. Weeks one and two provide 30 hours of programming on employability, such as job search, interviewing techniques and how to succeed on the job. Week three provides 15 hours of programming on life skills and related issues such as housing. Week four provides eight hours of programming on money management skills, which has been found to be a key problem area for parole violators (Bucklen, et al, 2004). To complete COR, follow-up services are provided by parole agents on the street depending upon the needs of the individual inmate.

Supporting Research for COR

COR was implemented during 2002. The Department conducted a formative process evaluation of COR at that time, in partnership with researchers at the Urban Institute. Their report informed early refinements to COR (La Vigne and Lawrence, 2002). This report is available on the Department's web site at: www.cor.state.pa.us/stats/lib/stats/Urban_Institute_-_COR_Process_Evaluation_Consolidated_Report.pdf.

More recently, the Department partnered with Dr. Linda Smith of the International Association of Reentry to conduct an outcome evaluation of COR, with funding from PCCD. This study used random assignment to treatment and control conditions and followed inmates for approximately 5 years post release. The results from this evaluation were mixed, concluding that overall, COR had little impact upon recidivism (Smith and Suttle, 2008).

There is a consensus that correctional agencies should provide some sort of structured reentry program to soon-to-be-released inmates, although in another sense all prison programming can be viewed as preparation for reentry (Petersilia, 2003). Accordingly, the Department

² Many evaluators agree that outcome evaluation is more meaningful once a program has had the opportunity work out initial implementation difficulties and become fully operational. This can take several years, depending upon the program.

has revised COR using the findings from the recent outcome evaluation to bring it more in line with the Principles of Effective Offender Intervention. The new COR is presently being pilot tested and re-evaluated, and will be rolled out system-wide in early 2009.

Future Research into Core Department's Programs

The Department is presently working with Drs. Edward Latessa, Christopher Lowenkamp and colleagues at the University of Cincinnati to conduct a basic process evaluation of many core treatment programs at all SCI's, with funding from PCCD. This study is utilizing the Correctional Program Checklist (CPC) to assess these programs. The CPC is a descendent tool of the aforementioned CPAI, and benchmarks programs against the Principles of Effective Offender Intervention. When completed in late 2009, this project will provide valuable insight into the implementation of our evidence-based programs and will allow for additional program refinement.

Part C—Programs Targeting Educational and Vocational Needs

The Department offers a wide variety of programs that address educational and vocational training deficits of inmates. Low levels of educational and vocational achievement are found to correlate with recidivism, thus, it is valuable to address these needs.

Program Listing

C1.) Adult Basic Education (ABE)—Designed for adults functioning in the lower levels of achievement roughly equivalent to grade levels K—8.

C2.) Secondary Education (GED)—Includes instruction at grade levels 9—12 in reading, writing/language, math, science and social studies, focusing on the successful completion of the General Educational Development Test (GED Test). All new inmates are mandated to work toward earning a GED.

C3.) GED Test—Administered on-site at each SCI, an established GED Testing Center. Our academic programs contain basic and advanced skills necessary to pass the GED Test.

C4.) Commonwealth Secondary Diploma Program—Offered at designated SCI's for under 21 year olds by a certified teaching staff in accordance with Act 15 and Act 35.

C5.) Post Secondary Education—Offers certificate programs from accredited institutions in business management, introduction to computers, fiber optics and telecommunications to name a few. The Youthful Offenders program is a significant part of post secondary education with a Federal grant subsidizing costs.

C6.) Vocational Education/Training—Provides entry-level skills in 26 vocational areas. Every effort is made to identify a trade-based competency certification or assessment closely aligned with each vocational program. Currently the Department offers credentials/assessments in over 75% of its vocational programs. See attached Excel spreadsheet for a detailed listing of vocational programs by SCI. This spreadsheet also lists industry certifications associated with successful program completion, where applicable.

Supporting Research for Educational/Vocational Programming

The Department has conducted a formal process and outcome evaluation of its educational and vocational program offerings. This study is being conducted in partnership with Dr. Linda Smith of the International

Association on Reentry, with funding by PCCD. This project began in 2001, and is scheduled to be completed in early 2009. This study involved a comprehensive evaluation of the entire Department's education and vocational program system. The process evaluation phase of this study was completed in 2003 and produced numerous recommendations for programmatic improvement.

The following link is to the completed process evaluation report on the Department's web site: www.cor.state.pa.us/stats/lib/stats/EducationProcessEvaluationFinalReport.pdf.

The following link is to the Department's in-house journal *Research in Review* that provides a summary of this study as well as programmatic changes made in response to the study (Volume 6, Number 4): www.cor.state.pa.us/doc/lib/stats/RIRV6N4.pdf.

The outcome evaluation phase of this study is still underway, and will be completed in early 2009. This study will show the impact of the Department's education and vocational programs on recidivism, employment and other indicators. Preliminary findings to date, however, do indicate that these programs are having a positive impact on recidivism. For example, participation in educational and vocational programs reduced re-arrest rates by nearly 6 percentage points (or 20%) over a 1 to 2 years post-release follow-up period. The effects were most pronounced for inmates who participated in multiple education and vocational programs, thus pointing to a program "stacking" effect. Program participants also worked for a longer time after release from prison than did inmates in the comparison group who did not receive these programs. The final outcome evaluation report will follow study participants for 3 to 5 years post release, tracking recidivism and other outcomes.

Looking more broadly at education and vocational programs in prison, there is a growing body of evidence that such programs are effective at reducing recidivism. Prior to conducting her evaluation in Pennsylvania, Dr. Smith and colleagues conducted a similar study in Maryland, Minnesota and Ohio (the "Three State Study"). This study found that such programs reduced recidivism by as much as 10 percentage points over a 3 year post release follow-up period. Program participants in this study also had higher wages post release than did inmates in the comparison group (Steurer, et al, 2001).

Other National research has shown positive impacts for education and vocational programs. A recent meta-analysis of evaluations of such programs conducted nationwide concluded that there is sufficient evidence to place these programs into the "what works" category of offender programming (Jensen and Reed, 2006). This echoes an earlier meta-analysis of over 30 evaluations which found that participants in education programs were 1.44 times *less* likely to recidivate than inmates in a comparison group, and 1.7 times *more* likely to be employed after release (Wilson, et al, 2000).

Thus, from research conducted within the Department's and based upon reviews of national research on corrections education and vocational programs, we have a reasonable basis to conclude that such programs *are* evidence based and do contribute to an overall recidivism risk reduction treatment plan.

References

Andrews, D.A. and James Bonta. 2003. *The Psychology of Criminal Conduct*. Cincinnati: Anderson Publishing.

- Andrews, Don A. and James L. Bonta. 2001. *The Level of Service Inventory-Revised: User's Manual*. Toronto: Multi-Health Systems, Inc.
- Bucklen, Kristofer Bret, Gary Zajac and Kathleen Anne Gnall. 2004. "Understanding and Responding to the Needs of Parole Violators." *Corrections Today*, 66(2), 84-87.
- Golden, Lori Suzanne, Robert J. Gatchel and Melissa Anne Cahill. 2006. "Evaluating the Effectiveness of the National Institute of Corrections' 'Thinking for a Change' Program Among Probationers." *Journal of Offender Rehabilitation*, 43(2), 55-73.
- Jensen, Eric L and Gary E. Reed. 2006. "Adult Correctional Education Programs: An Update on Current Status Based on Recent Studies." *Journal of Offender Rehabilitation*, 44(1), 81-98.
- Kelly, Christopher E. and Wayne N. Welsh. 2008. "The Predictive Validity of the Level of Service Inventory-Revised for Drug-Involved Offenders." *Criminal Justice and Behavior*, 35(7), 819-831.
- Landenberger, Nana A. and Mark W. Lipsey. 2005. "The Positive Effects of Cognitive-Behavioral Programs for Offenders: A Meta-Analysis of Factors Associated with Effective Treatment." *Journal of Experimental Criminology*, 1(4), 451-476.
- Latessa, Edward J. and David Carter. 2005. *Correctional Program Assessment Inventory: Conducted on the Violence Prevention Treatment Program at State Correctional Facility at Camp Hill*. Cincinnati: University of Cincinnati.
- La Vigne, Nancy G. and Sarah Lawrence. 2002. *Process Evaluation of the Pennsylvania Community Orientation and Reintegration (COR) Program*. Washington, DC: Urban Institute.
- Mitchell, Ojmarrh, David B. Wilson and Doris L. MacKenzie. 2007. "Does Incarceration-Based Drug Treatment Reduce Recidivism? A Meta-Analytic Synthesis of the Research." *Journal of Experimental Criminology*, 3(4), 353-375.
- Pearson, Frank S., Douglas S. Lipton, Charles M. Cleland and Dorline S. Yee. 2002. "The Effects of Behavioral/Cognitive-Behavioral Programs on Recidivism." *Crime & Delinquency*, 48(3), 476-496.
- Pearson, Frank S. and Douglas S. Lipton. 1999. "A Meta-Analytic Review of the Effectiveness of Corrections-Based Treatments for Drug Abuse." *The Prison Journal*, 79(4), 384-410.
- Petersilia, Joan. 2003. *When Prisoners Come Home: Parole and Prisoner Reentry*. New York: Oxford University Press.
- Simourd, David J. and Joelle M. Mamuza. 2000. "The Hostile Interpretations Questionnaire: Psychometric Properties and Construct Validity" *Criminal Justice and Behavior*, 27(5), 645-663.
- Simourd, David J. and Jennifer Van De Ven. 1999. "Assessment of Criminal Attitudes: Criterion-Related Validity of the Criminal Sentiments Scale-Modified and Pride in Delinquency Scale." *Criminal Justice and Behavior*, 26(1), 90-106.
- Smith, Linda and Denise R. Suttle. 2008. *An Outcome Evaluation of the Pennsylvania Department of Corrections' Community Orientation and Reintegration Program*. Columbus, OH: International Association of Reentry.
- Steurer, Stephen J., Linda Smith and Alice Tracy. 2001. *Three State Recidivism Study*. Lanham, MD: Correctional Education Association.
- Welsh, Wayne N. 2007. "A Multisite Evaluation of Prison-Based Therapeutic Community Drug Treatment." *Criminal Justice and Behavior*, 34(11), 1481-1498.
- Welsh, Wayne N. 2003. *Evaluation of Prison-Based Therapeutic Community Drug Treatment Programs in Pennsylvania*. Philadelphia: Temple University. Report to the Pennsylvania Commission on Crime and Delinquency.
- Welsh, Wayne N. 2002. *Evaluation of Prison Based Drug Treatment in Pennsylvania: A Research Collaboration Between the Pennsylvania Department of Corrections and the Center for Public Policy at Temple University*. Philadelphia: Temple University. Report to the National Institute of Justice.
- Welsh, Wayne N. and Gary Zajac. 2004a. "Building an Effective Research Partnership Between a University and a State Correctional Agency: Assessment of Drug Treatment In Pennsylvania Prisons." *The Prison Journal*, 84(2), 143-170.
- Welsh, Wayne N. and Gary Zajac. 2004b. "A Census of Prison-Based Drug Treatment Programs: Implications for Programming, Policy and Evaluation." *Crime & Delinquency*, 50(1), 108-133.
- Wilson, David B., Leana Allen Bouffard and Doris L. Mackenzie. 2005. "A Quantitative Review of Structured, Group-Oriented, Cognitive-Behavioral Programs for Offenders." *Criminal Justice and Behavior*, 32(2), 172-204.
- Wilson, David B., Catherine A. Gallagher and Doris L. MacKenzie. 2000. "A Meta-Analysis of Corrections-Based Education, Vocation, and Work Programs for Adult Offenders." *Journal of Research in Crime and Delinquency*, 37(4), 347-368.

JEFFREY A. BEARD, Ph.D.,
Secretary

PENNSYLVANIA DEPARTMENT OF CORRECTIONS VOCATIONAL PROGRAMS/TRADES AND CERTIFICATIONS - 2008												
INSTITUTIONS THAT OFFER THE CERTIFICATIONS												
PROGRAMS/TRADES	SMR	COA	FAY	FRS	PNG	ROC	SMI					
Air Conditioning and Refrig												
EPA												
EPA TECHNICIAN												
NCCER												
APPRENTICESHIP												
ASE												
STATE LICENSURE												
ASE												
MACS												
STATE LICENSURE												
APPRENTICESHIP												
NCCER												
VSI												
COOPER BUSSMAN												
CERT MASTER SHINGLER												
NOCTI												
EPA												
NOCTI												
ICDL												
CERT BRAIL TRANSCRIBERS												
NCCER												
VSI												
Carpet Installation												
Com Art/Printing/Photography												
GATF												
NOCTI												
Computer Repair/Technology												
ICDL												
Custodial Maintenance												
TPC												
VSI												
ADDA												
NOCTI												
NCCER												
NOCTI												
Electricity (Electrician)												
NCCER												
ETA												
FCC												
Home Economics												
APPRENTICESHIP												
Hort/Landscaping												
NOCTI												
UNIVERSITY COLLEGE VOC												

Continued Pg 2

PROGRAMS/TRADES	CERTIFICATIONS	INSTITUTIONS THAT OFFER THE CERTIFICATIONS									
Machine Shop											
Masonry	NCCER VSI	PIT ROC									
Optical Assistant											
Plumbing	NCCER		SMR								
Restaurant Trades	NOCTI	GRA RET									
	HACCP	GRA RET	SMR WAM								
	APPRENTICESHIP	RET									
Small Gas Engine Repair	OUTDOOR POWER EQUIP	CRE									
	APPRENTICESHIP	CRE									
Upholstery/Furniture	NCCER	COA									
	APPRENTICESHIP	MUN									
Warehouse Operations	EASTERN FORKLIFT	ALB GRA	HOU HUN								
	MHIA	ALB GRA	HOU HUN								
Welding	NCCER	DAL	FAY ROC								
	APPRENTICESHIP	DAL									

VOCATIONAL TRADES AND CERTIFICATIONS FOR PA DEPARTMENT OF CORRECTIONS	
Acronyms and Certificate Legend	
ACCA	Air Conditioning Contractors of America
ADDA	American Drafters Designers Association
ASE	Automotive Service Excellence
EPA	Environmental Protection Agency Refrigerant Handling
EPA T	EPA Section 608/609/610/410 Technician Certification
ETA	Electronics Technicians Association
FCC	Federal Communications Commission
GATF	Graphic Arts Technical Foundation
HACCP	Serve Safe hazard Analysis and Critical Control Point and Serving Safe Food Certification Course
ICDL	International Computer Driving License
MACS	Mobile Air Conditioning Society
MHIA	Material Handling Industry of America
NCCER	National Center for Construction Ed & Research
NOCTI	National Occupational Competency Testing Institute
OSHA	Occupational Safety and Health Administration
TPC	Technical Publishing Company, Telemedia Corporated
VSI	Vinly Siding Institute
	Apprenticeship
	Certainted Master Shingler
	Certified Braille Transcribers thru Library of Congress
	Cooper Bussman Electrical Safety
	Eastern Forklift Company Certification
	State Licensure
	Outdoor Power Equipment
	University/College Voc Certificate

[Pa.B. Doc. No. 08-2065. Filed for public inspection November 14, 2008, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Resolution Approving the Petition of the Center Area School District and the Monaca School District to Combine Into One School District

Whereas, on the 18th day of September 2008, the State Board of Education, acting under section 224 of the Public School Code of 1949 (School Code) (24 P. S. § 2-224), adopted a resolution approving the petition of the Center Area School District and the Monaca School District to combine into one school district, finding that the combination of the two school districts would be in the best interests of the educational system of the Commonwealth of Pennsylvania; and

Whereas, as part of its Resolution and acting under section 224 of the School Code, the State Board of Education (Board) directed the Secretary of Education to

issue a certificate creating the new school district, effective July 1, 2009.

Now, Therefore, acting under section 224 of the School Code and the Resolution of the Board, and with the power vested in me, I, Gerald L. Zahorchak, Secretary of Education, issue this Certificate creating, effective July 1, 2009, a new school district of the third class consisting of the Township of Center, the Township of Potter and the Borough of Monaca, all situate in Beaver County, and to be known as the Center-Monaca School District or such other name upon which the boards of school directors of the two school districts might, in accordance with law, mutually agree and certify to the Department of Education before July 1, 2009.

Given under my hand and seal this 27th day of October, 2008.

GERALD L. ZAHORCHAK,
Secretary

[Pa.B. Doc. No. 08-2066. Filed for public inspection November 14, 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.

Location	Permit Authority	Application Type or Category
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>
PA0087793 (IW)	United Water Pennsylvania, Inc. 4211 East Park Circle Harrisburg, PA 17111-0151	Cumberland County Mechanicsburg Borough	Yellow Breeches Creek 7-E	Y
PA0024023 (Sew)	Bernville Borough P. O. Box 40 Bernville, PA 19506-0040	Berks County Bernville Borough	Northkill Creek 3-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0112054	Mifflin Manor STP 2152 Heim Hill Road Montoursville, PA 17754	Lycoming County Mifflin Township	Larrys Creek SWP 10A	Y
PA0112305 Sewerage	Wyalusing Municipal Authority P. O. Box 61 Wyalusing, PA 18853-0061	Wyalusing Borough Bradford County	Susquehanna River 4D	Y
PA0209627 (Sewage)	Stoltzfus Farms, Inc. 2620 Egypt Road Norrstown, PA 19403	Shippen Township Lycoming County	UNT to Stowell Run HQ-CWF	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>
PA0239356	Robert C. Montgomery 1042 Enterprise Road Grove City, PA 16127	Pine Township Mercer County	UNT to Swamp Run 20-C	Y
PA0002534	Morgan Advanced Materials and Technology 441 Hall Avenue St. Marys, PA 15857-1422	City of St. Marys Elk County	Elk Creek 17-A	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 0024431, Sewage, **Dillsburg Area Authority**, 98 West Church Street, Dillsburg, PA 17109. This facility is located in Carroll Township, **York County**.

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

The receiving stream, Dogwood Run, is in Watershed 7-E, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for United Water Company is located on the Yellow Breeches Creek, approximately 18.2 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the interim milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads, and clarifies the effective date for compliance with the cap loads. The final date for complying with the nutrient cap loads has not been amended.

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.

Application No. 0026263, Sewage, **York City Sewer Authority**, 17 East Market Street, York, PA 17401. This facility is located in Manchester Township, **York County**.

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

The receiving stream, Codorus Creek, is in Watershed 7-H, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Company is located on the Susquehanna River, approximately 17 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the interim milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads, and clarifies the effective date for compliance with the cap loads. The final date for complying with the nutrient cap loads has not been amended.

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.

Application No. PA 0038415, Sewage, **East Pennsboro Township**, 98 South Enola Drive, Enola, PA 17025. This facility is located in East Pennsboro Township, **Cumberland County**.

Description of activity: The application is for amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Conodoguinet Creek, is in Watershed 7-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Steelton Municipal Waterworks is located on the Susquehanna River, approximately 3.85 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the interim milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads, and clarifies the effective date for compliance with the cap loads. The final date for complying with the nutrient cap loads has not been amended.

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.

Application No. PA 0023744, Sewage, **Northeastern York County Sewer Authority**, 175 Chestnut Street, Mount Wolf, PA 17347. This facility is located in East Manchester Township, **York County**.

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

The receiving stream, Susquehanna River, is in Watershed 7-H, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Company is located on the Susquehanna River, approximately 9.8 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the interim milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads, and clarifies the effective date for compliance with the cap loads. The final date for complying with the nutrient cap loads has not been amended.

The EPA waiver is not in effect.

Application No. PA 0087904, Industrial Waste, SIC Code 2086, **Roaring Spring Water**, 740 Spang Street, P. O. Box 97, Roaring Spring, PA 16673. This facility is located in Roaring Spring Borough, **Blair County**.

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

The receiving stream, Halter Creek, is in Watershed 11-A, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Newport Borough Water Authority located on the Juniata River, approximately 138 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 0.15 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		From 6.0 to 9.0 inclusive	
CBOD ₅		Monitor and Report	

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

The EPA waiver is in effect.

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

PA0023531, Sewage, SIC 4952, **Borough of Danville**, 239 Mill Street, Danville, PA 17821. This existing facility is located in the Borough of Danville, **Montour County**.

Description of Proposed Activity: The applicant seeks to renew the major NPDES permit for the wastewater treatment facility consisting of primary settling, contact stabilization, final settling and chlorine disinfection.

The receiving stream for Outfall 001, the Susquehanna River, is in the State Water Plan Watershed 5E and is classified for: WWF. The nearest public water supply surface water intake, owned by Merck and Company, Inc., is located on the Susquehanna River, 0.95 mile below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.62 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Mass (lbs)</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
CBOD ₅	25	40		50		
Total Suspended Solids	30	45		60		
Total Chlorine Residual	0.5			1.6		
Fecal Coliforms (5-1 to 9-30)	200 col/100 ml as a Geometric Mean					
(10-1 to 4-30)	2,000 col/100 ml as a Geometric Mean					
pH	Within the range of 6.0 to 9.0					

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	Report**
Nitrate-Nitrate as N	Report	Report	Report	Report
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen		Report	Report	66,118*
Net Total Phosphorus		Report	Report	8,816*

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2011. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2011.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012.

Outfall S01—Stormwater—Best Management Practices

In addition to the effluent limits and best management practices, the permit contains the following major permit conditions:

1. Chesapeake Bay Nutrient Requirements.
2. Requirements Applicable to Stormwater Outfalls.

PA0025933, Sewerage, 4952, **City of Lock Haven**, 20 East Church Street, Lock Haven, PA 17745. The existing facility is located in the City of Lock Haven, **Clinton County**.

Description of Proposed Activity: The applicant wishes to renew their NPDES permit for the Lock Haven Sewage Treatment Plant.

The receiving stream, Bald Eagle Creek, is in the State Water Plan Watershed 9C and is classified for: CWF. The nearest downstream public water supply intake is approximately 1.6 miles.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.75 mgd and are as follows:

NOTICES

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor and Report		
Fecal Coliforms (5-1 to 9-30)	200/100 ml		
(10-1 to 4-30)	2,000/100 ml		
C-BOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Chlorine Residual	0.5		1.6
Ammonia (NH ₃ -N)	20	30	40
pH	Within the Range of 6.0 to 9.0		

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>	<i>Mass (lbs)</i>	<i>Annual Load</i>
	<i>Monthly Average</i>	<i>Monthly Load</i>	
Ammonia-N	Report	Report	Report**
Kjeldahl-N	Report	Report	
Nitrate-Nitrate as N	Report	Report	
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen		Report	90,192*
Net Total Phosphorus		Report	9,132*

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2011. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2011.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012.

In addition to the effluent limits the permit a major permit conditions regarding the operation and implementation of a Pretreatment Program.

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

PA0263443, Sewage, **Linesville Pine Joint Municipal Authority**, P. O. Box 382, Linesville, PA 16424. This proposed facility is located in Pine Township, **Crawford County**.

Description of Proposed Activity: New treated sewage discharge.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Tuttle Point, Pymatuning State Park is located on Pymatuning Creek and is approximately 3 miles below point of discharge.

The receiving stream, the Pymatuning Reservoir, is in Watershed 20-A and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.480 mgd.

<i>Parameters</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Average Weekly (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)			XX		
CBOD ₅	100	160	25	40	50
Total Suspended Solids	120	180	30	45	60
Phosphorus			1		2
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Average				
(10-1 to 4-30)	2,000/100 ml as a Geometric Average				
Total Residual Chlorine			0.5		1.2
pH	6.0 to 9.0 Standard Units at all times				

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

PA0027138, Sewage, **City of Sharon Sanitary Authority**, 155 West Connelly Boulevard, Sharon, PA 16146. This proposed facility is located in City of Sharon, **Mercer County**.

Description of Proposed Activity: Renewal/transfer of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the PA American Water Company, New Castle District intake, located on the Shenango River, approximately 22 miles below point of discharge.

The receiving stream, the Shenango River, is in Watershed 20-A and is classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 4.5 mgd. Interim Limits.

Parameters	Loadings		Concentrations		Instantaneous Maximum (mg/l)
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	
Flow (mgd)	XX	XX			
CBOD ₅	938	1,501	25	40	50
Total Suspended Solids	1,126	1,689	30	45	60
NH ₃ -N					
(5-1 to 10-31)	563		15		30
(11-1 to 4-30)	XX		XX		
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a Geometric Average			
(10-1 to 4-30)		24,000/100 ml as a Geometric Average			
Total Residual Chlorine			0.5		1.6
pH		6.0 to 9.0 Standard Units at all times			

The proposed effluent limits for Outfall 001 are based on a design flow of 8.66 mgd. Final Limits.

Parameters	Loadings		Concentrations		Instantaneous Maximum (mg/l)
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	
Flow (mgd)	XX	XX			
CBOD ₅	1,806	2,889	25	40	50
Total Suspended Solids	2,167	3,250	30	45	60
NH ₃ -N					
(5-1 to 10-31)	722		10		20
(11-1 to 4-30)	XX		XX		
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a Geometric Average			
(10-1 to 4-30)		2,000/100 ml as a Geometric Average			
Total Residual Chlorine			0.5		1.6
pH		6.0 to 9.0 Standard Units at all times			

Special Conditions:

- Supercedeous of discharge conditions/requirements in other permits.
- Total Residual Chlorine Minimization.
- Whole Effluent Toxicity testing for the renewal permit.
- Continued Implementation of the Federal Pretreatment Program.
- Stormwater Best Management Practices (Outfall 002 and 003).
- Prohibition of Sanitary Sewer Overflows.

XX—Monitor and report on monthly DMRs.

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)

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

WQM Permit No. WQG02060802, Sewerage, **Allegheny East Conference of the Seventh Day Adventist Church**, P. O. Box 266, Pine Forge, PA 19548. This proposed facility is located in Douglass Township, **Berks County**.

Description of Proposed Action/Activity: Construction/Operation of the Office Complex Pump Station No. 1.

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**

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1508068	Robert Davis 273 Polly Drummond Hill Road Newark, DE 19711	Chester	Franklin Township	Big Elk Creek HQ-TSF-MF
PAI01 1508069	Greater Delaware Valley Holdings 541 Lawrence Road Broomall, PA 19008-3599	Chester	Willistown Township	UNT Ridley Creek HQ
PAI01 1508070	West Pikeland Township 1645 Art School Road P. O. Box 6 Chester Springs, PA 19425-1402	Chester	West Pikeland Township	Pine Creek HQ-TSF
PAI01 4608005	Glenn Springs Holding, Inc. 375 Armand Hammer Boulevard Pottstown, PA 19464	Montgomery	Lower Pottsgrove Township	Schuylkill River WWF-MF
PAI01 4608006	Star Link Logistics, Inc. 1041 Route 202—206 Mailcode J103F Bridgewater, NJ 08807	Montgomery	Lower Gwynedd Township	Wissahickon Creek TSF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041408012	Michael Lorenz Nittany Farms Subdivision 1309 Shally Lane Cherry Hill, NJ 08034	Centre	Marion Township	Cedar Run HQ-CWF

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

Erie County Conservation District: 1927 Wager Road, Erie, PA 16509, (814) 825-6403.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062508003	Birkmire Trucking Company 1612 Filmore Avenue Erie, PA 16505	Erie	McKean Township	Bear Run CWF; MF

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

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

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should in-

clude 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. 6408503, Public Water Supply.

Applicant **Wayne Economic Development Corporation**
Sterling Township
Wayne County

Responsible Official Mary Beth Wood
WEDCO Executive Director
32 Commercial Street
Suite A
Honesdale, PA 18431

Type of Facility Industrial Park

Consulting Engineer Joseph S. Durkin, P. E.
Reilly Associates
49 South Main Street
Pittston, PA 18640
(570) 654-2473

Application Received Date September 2, 2008

Description of Action Application for construction of a nontransient, noncommunity water system to support the Sterling Business Park.

Application No. 3908503, Public Water Supply.

Applicant **Lehigh County Authority**
Lower Macungie Township
Lehigh County

Responsible Official Aurel M. Arndt
LCA General Manager
1053 Spruce Street
P. O. Box 3348
Allentown, PA 18106

Type of Facility Community Water system

Consulting Engineer Charles E. Volk, P. E.
ARRO Consulting, Inc.
1150 Glenlivet Drive
Allentown, PA 18106
(484) 664-7310

Application Received Date September 3, 2008

Description of Action Application for a new well source and wellhouse, along with replacement of the existing booster pump and refurbishing two existing chlorine contact tanks.

Application No. 3908504, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
Lower Macungie Township
Lehigh County

Responsible Official Patrick R. Burke
Regional Manager
NE & Central Ops.
50 East Woodhaven Drive
White Haven, PA 18661

Type of Facility Community Water System

Consulting Engineer William A. LaDieu, P. E.
CET Engineering Services

Application Received Date September 5, 2008

Description of Action Application for construction of a new well station and a new storage tank.

Application No. 3908505, Public Water Supply.

Applicant **Lehigh County Authority**
Lower Macungie Township
Lehigh County

Responsible Official Aurel M. Arndt
LCA General Manager
1053 Spruce Street
P. O. Box 3348
Allentown, PA 18106

Type of Facility Community Water System

Consulting Engineer Charles E. Volk, P. E.
ARRO Consulting, Inc.
1150 Glenlivet Drive
Allentown, PA 18106
(484) 664-7310

Application Received Date October 21, 2008

Description of Action Application for a new well source and booster pump station to replace an existing well and booster pump station.

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

Permit No. 2108508, Public Water Supply.

Applicant **Pennsylvania American Water**

Municipality Silver Spring Township

County **Cumberland**

Responsible Official Paul A. Zielinski
Director Water Quality
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Public Water Supply

Consulting Engineer Diana Young, P. E.
 Buchart-Horn, Inc.
 P. O. Box 15040
 York, PA 17405-7040

Application Received October 17, 2008

Description of Action Construction of a new clearwell.

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 alter-

native form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

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

Bey Residence, City of Philadelphia, **Philadelphia County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Doris Bey, 4927 Pulaski Avenue, Philadelphia, PA 19144 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site is residential. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Tribune* on September 23, 2008.

UPenn 210 South 30th Street, City of Philadelphia, **Philadelphia County**. Glenn Randall, URS Corporation, 335 Commerce Drive, Fort Washington, PA 19034 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The future use of the site will be redeveloped into athletic fields and open space by the University of Pennsylvania. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on October 4, 2008.

Crease Street, City of Philadelphia, **Philadelphia County**. Staci Cottone, J&J Spill Service and Supplies, P. O. Box 370, Blue Bell, PA 19422 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of leaded gasoline and used motor oil. The property is currently being redeveloped for residential purpose.

1504—1512 Catharine Street Property, City of Philadelphia, **Philadelphia County**. Stephen Brower, Environmental Standards, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482 on behalf of Tamelia Hinson, Salaam Enterprises, Inc., 814 South 15th Street, Philadelphia, PA 19146 has submitted a Notice of Intent to Remediate. The property is currently vacant. It is anticipated that the property will be redeveloped as a playground for the Universal Institute Charter School. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on October 15, 2008.

Mercy Family Center, City of Philadelphia, **Philadelphia County**. Douglas Schott, P. G., Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of Sister Ann Provost, Mercy Neighborhood Ministries of Philadelphia, Inc., 3535 North 19th Street, Philadelphia, PA 19140 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of PAHs and metals.

Siegfried Residence, Hilltown Township, **Bucks County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of John and Tina Siegfried, 1106 Souderton Road, Hatfield, PA 18944 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of heating oil. The future use of the site will continue to be used as a primary residence.

Passanante Residence, Bedminster Township, **Bucks County**. Richard Werner, Environmental Consulting, Inc., 500 West Washington Street, Suite 375, Norristown,

PA 19401 on behalf of Paul and Kimberly Passanante, 277 Swamp Road, Fountainville, PA 18923 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The site will continue to use as a primary residence.

MRB Investments, Spring City Borough, **Chester County**. Stephan B. Rower, Environmental Standards, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482 on behalf of Charles McFarland, MRB Investment, 141 South Main Street, P. O. Box 369, Spring City, PA 19745 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of leaded and unleaded gasoline. The current and future intended uses of the property will remain nonresidential. A summary of the Notice of Intent to Remediate was reported to have been published in *The Phoenixville Newspapers* on September 8, 2008.

410 Monastery Avenue, City of Philadelphia, **Philadelphia County**. Brenda MacPhail, REPSG, 6901 Kingsessing Avenue, Philadelphia, PA 19142 on behalf of Laura Boylan, 410 Monastery Avenue, Philadelphia, PA 19128 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of heating oil. The site is used as a residential dwelling and will remain as one.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

PREIT/Logan Valley Mall, Logan Township, **Blair County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of PA Real Estate Investment Trust, 200 South Broad Street, Philadelphia, PA 19102, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX, PAHs and lead. The site, which will continue to be used for commercial purposes, will be remediated to the Residential Statewide Health Standard.

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

CORRECTION—Robert M. Chambers, Inc.—Solid Waste Disposal Facility, Taylor Township, **Lawrence County**. R.A.R Engineering Group, Inc., 1135 Butler Avenue, New Castle, PA 16101 on behalf of RWE Realty, LLC, Currie Road, P. O. Box 296, Portersville, PA 16051 has submitted a Notice of Intent to Remediate. Previous investigations conducted at the subject site indicated that site soils and groundwater have been impacted by heavy metals and semi-volatile organics. The intended future use of the property is nonresidential for industrial and commercial use. The Notice of Intent to Remediate was published in *The New Castle News* on December 18, 2007.

Mallery Lumber Wolf Run Project (Wolf Run), Jones Township, **Elk County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of Mert Holding, LLC, 214 West Fourth Street, Emporium, PA 15834 has submitted a Notice of Intent to Remediate. The soil is impacted with arsenic from historic lumbering operations. Future use of the property will be nonresidential. The Notice of Intent to Remediate was published in *The Johnsonburg Press* on August 27, 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 the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

64-303-012: Hanson Aggregates Pennsylvania (7660 Imperial Way, Allentown, PA 18195) for modification of their existing batch asphalt plant to use waste derived liquid fuel at their site in Lake Township, **Wayne County**.

40-317-032A: Mission Foods (15 Elmwood Avenue, Mountaintop, PA 18707) for modification of their existing thermal oxidizer at their facility in Wright Township, **Luzerne County**.

48-399-060: Steel Management Systems, LLC (3045 Bath Pike, Nazareth, PA 18064) for operation of a shot blast machine at their facility in Upper Nazareth Township, **Northampton County**.

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

42-184I: Keystone Powdered Metal Co. (8 Hanley Drive, Lewis Run, PA 16738) for transfer of an existing induction heater and associated electrostatic precipitator from their facility in City of St. Marys, **Elk County** to their facility in Lewis Run Borough, **McKean County**.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

PA No. 66-315-053: The Procter & Gamble Paper Products Co. (P. O. 31, Mehoopany, PA 18692) for modification of paper machines 1M (Source ID 501), 3M (Source ID 503), 4M (Source ID 504), 5M (Source ID 505) and 6M (Source ID 506) for their plant in Washington Township, **Wyoming County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval No. 66-315-053 to The Procter & Gamble Paper Products Co., P. O. 31, Mehoopany, PA 18692, for their plant in Washington Township, Wyoming County. The facility currently has Title V Permit No. 66-00001. This plan approval will be incorporated into the Title V operating permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 66-315-053 is for the modification of paper machines 1M (Source ID 501), 3M (Source ID 503), 4M (Source ID 504), 5M (Source ID 505) and 6M (Source ID 506). These modifications involve changing the paper drying scheme on 1M, 3M, 4M and 6M machines and installing a dust collection system for PM control on 3M and 6M paper machines. These modifications to the paper machines will provide for increase drying capacity rate, thereby allowing the speed of the paper machines to increase. The resulting increase in production from these units will be approximately 10 to 14%. The existing capacity of the furnace and the combustion turbine is sufficient for this changes and no increase in the allowable emission will results. The increase throughput on these machines will results in increased chemical additive usages which will results in increase in VOC emission from these paper machines. This project does not impact emissions from other sources at the site. The VOC emissions increase due to modification will be 7.0 tpy, based on a 12-month rolling sum.

In addition, the existing dust control equipment will be moved from the 5M paper machine to the 3M paper machine. A drop out chamber (settling chamber) with estimated control efficiency for the paper dust of 60% will be installed to control dust emissions from 5M paper machine. Resulting PM10 emissions will be less than 2.0 tpy. Same exhaust system will also be added to paper machines 3M and 6M with drop out chambers under

repulper. The future potential PM emissions will be 3.3 tpy from each (3M and 6M) paper machines.

The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions 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 of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 66-315-053.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper 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 Raymond Kempa, P. E., Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2531 within 30 days after publication date.

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

28-05002B: Letterkenny Army Depot—United States Department of Defense (AMSAM-LE-EE-N, Chambersburg, PA 17201) for construction of a new coating booth at the facility in Greene—Letterkenny Townships, **Franklin County**.

Operation of this coating booth is estimated to increase potential VOCs and HAPs by less than 12 tons and one tpy, respectively. The plan approval and subsequent Title V operating permit amendment will include emission restrictions, work practice standards, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

30-00077: Texas Eastern Transmission, LP (P. O. Box 1642, Houston, TX 77251-1642) for installation of a new Solar Mars 100-150002S III turbine rated at 15,000 hp, the installation of a turbine fuel gas heater rated at 0.874 mmBtu/hr, the installation of a remote reservoir parts washer, the update of transient emission estimates for an existing Solar Mars 100-150002S II turbine and the removal of four existing Cooper Bessemer GMV-10-S internal combustion engines (Sources 103—105, 107) at Texas Eastern's Holbrook Station in Wind Ridge, Richhill Township, **Greene County**.

In accordance with 25 Pa. Code §§ 127.44—127.46, the Department of Environmental Protection (Department) intends to issue Air Quality Plan Approval PA-30-00077B to allow Texas Eastern to make some changes at the Holbrook Compressor Station located in Wind Ridge, Richhill Township, Greene County, PA. The facility currently has a Title V Operating Permit, TVOP-30-00077. Once compliant with all conditions of this Plan Approval, TVOP-30-00077 will be administratively amended to incorporate the provisions of this plan approval in accordance with 25 Pa. Code § 127.450. This installation is subject to State and Federal regulations. To ensure compliance with all applicable requirements, the Department proposes to place the following conditions in the Plan Approval.

Special Conditions

1. This Plan Approval authorizes the installation of a new Solar Mars 100-150002S III turbine rated at 15,000

hp, the installation of a turbine fuel gas heater rated at 0.874 mmBtu/hr, the installation of a remote reservoir parts washer, the update of transient emission estimates for an existing Solar Mars 100-150002S II turbine and the removal of four existing Cooper Bessemer GMV-10-S internal combustion engines (Sources 103—105, 107) at Texas Eastern's Holbrook Station located in Wind Ridge, Richhill Township, Greene County.

2. Commencement of commercial service operation of the new equipment shall not take place until the four Cooper Bessemer engines are physically disabled, such that they are removed from service.

3. The new turbine shall be equipped with dry low NOx combustion technology along with oxidation catalyst to control CO and VOCs emissions.

4. Emissions from the new turbine, during normal operation, shall not exceed the following:

<i>Pollutant</i>	<i>Scenario</i>	<i>Emission Limit</i>	<i>Averaging Time</i>
NOx	Normal	15 ppmvd at 15% O ₂	15-minute avg.
		7.55 lbs/hr	60-minute avg.
		30.12 tpy	12-month rolling avg.
CO		25 ppmvd at 15% O ₂	15-minute avg.
		0.38 lbs/hr	60-minute avg.
		8.97 tpy	12-month rolling avg.
VOC		25 ppmvd at 15% O ₂	15-minute avg.
		0.48 lbs/hr	60-minute avg.
		2.03 tpy	12-month rolling avg.
Formaldehyde		91 ppbvd at 15% O ₂	
		0.1 tpy	

5. The short-term emission limits found previously do not apply during startup, shutdown and low ambient temperature events.

6. Emissions from the new turbine, during startup, shutdown and low ambient temperature events, shall not exceed the following:

<i>Pollutant</i>	<i>Scenario</i>	<i>Emission Limit</i>	<i>Averaging Time</i>
NOx	Start-up	50 ppmvd at 15% O ₂	60-minute avg.
	Shutdown	62 ppmvd at 15% O ₂	
	-20° F < T ≤ 0° F	42 ppmvd at 15% O ₂	
	T ≤ -20° F	120 ppmvd at 15% O ₂	
	All	62.21 lbs/hr	
CO	Startup	10,000 ppmvd at 15% O ₂	60-minute avg.
	Shutdown	8,800 ppmvd at 15% O ₂	
	-20° F < T ≤ 0° F	100 ppmvd at 15% O ₂	
	T ≤ -20° F	150 ppmvd at 15% O ₂	
	All	297.09 lbs/hr	
VOC	Startup	1,000 ppmvd at 15% O ₂	60-minute avg.
	Shutdown	880 ppmvd at 15% O ₂	
	-20° F < T ≤ 0° F	50 ppmvd at 15% O ₂	
	T ≤ -20° F	75 ppmvd at 15% O ₂	
	All	5.49 lbs/hr	

7. Emissions from the existing turbine, during normal operation, shall not exceed the following:

<i>Pollutant</i>	<i>Scenario</i>	<i>Emission Limit</i>	<i>Averaging Time</i>
NOx	Normal	25 ppmvd at 15% O ₂	15-minute avg.
		7.55 lbs/hr	60-minute avg.
		30.12 tpy	12-month rolling avg.
CO		50 ppmvd at 15% O ₂	15-minute avg.
		0.38 lbs/hr	60-minute avg.
		8.97 tpy	12-month rolling avg.

<i>Pollutant</i>	<i>Scenario</i>	<i>Emission Limit</i>	<i>Averaging Time</i>
VOC		25 ppmvd at 15% O ₂ 0.48 lbs/hr 2.03 tpy	15-minute avg. 60-minute avg. 12-month rolling avg.

8. The short-term emission limits found previously do not apply during startup, shutdown and low ambient temperature events.

9. Emissions from the existing turbine, during startup, shutdown and low ambient temperature events, shall not exceed the following:

<i>Pollutant</i>	<i>Scenario</i>	<i>Emission Limit</i>	<i>Averaging Time</i>
NOx	Start-up	50 ppmvd at 15% O ₂	60-minute avg.
	Shutdown	62 ppmvd at 15% O ₂	
	-20° F < T ≤ 0° F	42 ppmvd at 15% O ₂	
	T ≤ -20° F	120 ppmvd at 15% O ₂	
CO	All	62.21 lbs/hr	60-minute avg.
	Startup	10,000 ppmvd at 15% O ₂	
	Shutdown	8,800 ppmvd at 15% O ₂	
	-20° F < T ≤ 0° F	100 ppmvd at 15% O ₂	
	T ≤ -20° F	150 ppmvd at 15% O ₂	
VOC	All	593.56 lbs/hr	60-minute avg.
	Startup	1,000 ppmvd at 15% O ₂	
	Shutdown	880 ppmvd at 15% O ₂	
	-20° F < T ≤ 0° F	50 ppmvd at 15% O ₂	
	T ≤ -20° F	75 ppmvd at 15% O ₂	
All	7.45 lbs/hr	60-minute avg.	

10. Emissions from periods of startup, shutdown and low ambient temperature events shall be tracked and included with annual emissions.

11. Emissions from the turbine fuel gas heater shall not exceed 0.45 ton NOx per year, 0.29 ton CO per year, 0.03 ton PM10 per year and 0.02 ton VOC per year. Compliance with this limit shall be demonstrated using fuel consumption (or hours of operation) and AP-42 emission factors.

12. Emissions from the parts washer shall not exceed 0.42 ton VOCs per year. Compliance with this limit shall be demonstrated using purchase records and material balance calculations.

13. Parts washer shall comply with the applicable requirements of 25 Pa. Code § 129.63.

14. The new turbine is subject to the applicable requirements of 40 CFR 60, Subpart KKKK—Standards of Performance for Stationary Combustion Turbines.

15. In accordance with 40 CFR 60.4330(a)(2), permittee must not burn in the new turbine any fuel which contains total potential sulfur emissions in excess of 0.060 lb SO₂/mmBtu heat input.

16. In accordance with 25 Pa. Code § 123.21(b), SO₂ emissions from the turbine shall not exceed 500 ppmvd. Compliance with SO₂ limitations shall be determined using a current tariff sheet that specifies that the total sulfur content of the natural gas is 20.0 grains/100 SCF or less and engineering calculations.

17. The opacity of the exhaust from the turbine at this facility shall not exceed 10% at any time.

18. Particulate emissions shall not exceed 0.02 gr/dscf.

19. Within 180 days of commencement of operation, permittee shall conduct initial compliance tests on the exhaust from the new turbine to demonstrate compliance with the NOx, CO, VOC and formaldehyde limits contained herein.

(a) Under 25 Pa. Code § 139.3 to at least 60 calendar days prior to commencing an emissions testing program, a test protocol shall be submitted to the Department for review and approval. The test protocol shall meet all applicable requirements specified in the most current version of the Department's Source Testing Manual.

(b) Under 25 Pa. Code § 139.3 at least 15 calendar days prior to commencing an emission testing program, notification as to the date and time of testing shall be given to the appropriate Regional Office. Notification shall also be sent to the Division of Source Testing and Monitoring. Notification shall not be made without prior receipt of a protocol acceptance letter from the Department.

(c) Under 25 Pa. Code § 139.53(a)(3) within 15 calendar days after completion of the onsite testing portion of an emission test program, if a complete test report has not yet been submitted, an electronic mail notification shall be sent to the Department's Division of Source Testing and Monitoring indicating the completion date of the onsite testing.

(d) Under 40 CFR Part 60.8(a), 40 CFR Part 61.13(f) and 40 CFR Part 63.7(g) a complete test reports shall be submitted to the Department no later than 60 calendar days after completion of the onsite testing portion of an emission test program. For those tests being conducted pursuant to 40 CFR Part 61, the, a complete test report shall be submitted within 31 days after completion of the test.

(e) Under 25 Pa. Code § 139.53(b) a complete test report shall include a summary of the emission results on the first page of the report indicating if each pollutant measured is within permitted limits and a statement of compliance or noncompliance with all applicable permit conditions. The summary results will include, at a minimum, the following information:

(1) A statement that the owner or operator has reviewed the report from the emissions testing body and agrees with the findings.

(2) Permit numbers and conditions which are the basis for the evaluation.

(3) Summary of results with respect to each applicable permit condition.

(4) Statement of compliance or noncompliance with each applicable permit condition.

(f) Under 25 Pa. Code § 139.3 to all submittals shall meet all applicable requirements specified in the most current version of the Department's Source Testing Manual.

(g) All testing shall be performed in accordance with the provisions of Chapter 139 of the Rules and Regulations of the Department.

(h) Under 25 Pa. Code §§ 139.53(a)(1) and (3) all submittals, besides notifications, shall be accomplished through PSIMS* Online available through www.depgreen.port.state.pa.us/ecommm/Login.jsp when it becomes available. If internet submittal can not be accomplished, three copies of the submittal shall be sent to the Department of Environmental Protection, Bureau of Air Quality, Division of Source Testing and Monitoring, 400 Market Street, 12th Floor, Rachael Carson State Office Building, Harrisburg, PA 17105-8468 with deadlines verified through document postmarks.

(i) The permittee shall ensure all Federal reporting requirements contained in the applicable subpart of 40 CFR are followed, including timelines more stringent than those contained herein. In the event of an inconsistency or any conflicting requirements between state and the Federal, the most stringent provision, term, condition, method or rule shall be used by default.

20. In accordance with 40 CFR 60.4340(a), permittee shall demonstrate continuous compliance with NOx limitations by performing annual performance tests in accordance with 40 CFR 60.4400.

21. Permittee shall continuously record the following for the new turbine: Hours of operation, fuel consumption, date, start time and end time of all startup, shutdown, and low ambient temperature events and catalyst inlet temperatures. All records shall be retained for 5 years, and shall be made available to the Department upon request.

22. Permittee shall comply with the applicable reporting requirements of 40 CFR 60.7, 60.4375 and 63.6145.

23. In accordance with 40 CFR 60.4, copies of all requests, reports, applications, submittals and other communications shall be forwarded to both the Environmental Protection Agency (EPA) and the Department at the addresses shown, unless otherwise noted:

US Environmental Protection Agency, Region III
Director, Air, Toxics, and Radiation
Office of Air Quality
1650 Arch Street
Philadelphia, PA 19103

Department of Environmental Protection
Regional Air Quality Program Manager
400 Waterfront Drive
Pittsburgh, PA 15222-4745

24. In accordance with 60 CFR 60.4330, permittee shall operate and maintain the new turbine, air pollution control equipment and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at all times including during startup, shutdown, and malfunction.

General Conditions

25. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA).

26. 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.

27. 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; 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 180 days.

(e) The notice submitted by the permittee under subpart a previously, prior to the expiration date of the plan approval, shall modify the plan approval expiration date on Page 1 of this plan approval. The new plan approval expiration date shall be 180 days from the date of commencement of operation.

28. 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 sections 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.

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

(a) 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:

- (1) A justification for the extension,
- (2) A schedule for the completion of the construction.

(b) 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.

(c) 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 (relating to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted.

30. 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.

(a) 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.

(b) This plan approval is valid only for the specific source and the specific location of the source as described in the application.

31. 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.

(a) 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.

(b) Nothing in this plan approval condition shall limit the ability of the EPA to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA.

32. 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.

33. 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.

34. 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.

35. If required by section 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.

36. A person may not cause or permit the operation of a source subject to 25 Pa. Code § 127.11 (relating to plan approval requirements), unless the source and air cleaning devices identified in the application for the plan approval and the plan approval issued to the source, are operated and maintained in accordance with specifications in the application and conditions in the plan approval issued by the Department. A person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.

Copies of the application, the Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at this address.

Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222
(412) 442-4000

Any person wishing to provide the Department with additional information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department at the address shown previously. A 30-day comment period, from the date of this publication, will exist for the submission of comments. 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.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in this newspaper or by the *Pennsylvania Bulletin* or by telephone where the Department determines such notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Barbara R. Hatch, P. E., Environmental Engineer Manager, at the address shown previously.

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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

19-00006: Del Monte Corporation (6670 Low Street, Bloomsburg, PA 17815) for modification of Title V Operating Permit 19-00006 for a pet food manufacturing facility in South Centre Township, **Columbia County**.

The proposed modification to the operating permit consists of modifying a permit condition which currently requires the enclosure on a meat scrap storage operation to be maintained at a negative pressure of .2 inch of water at all times except when exchanging containers to require the enclosure to be maintained at a negative pressure in relation to the outside air pressure at all times except when exchanging containers.

The proposed modification will not result in any change in the emission of any air contaminant from the meat scrap storage operation.

The facility in which the meat scrap storage operation is located is a major (Title V) facility for SO_x emissions.

The Department of Environmental Protection (Department) proposes to approve the proposed modification to Title V Operating Permit 19-00006. The Department also proposes to remove a 75 horsepower propane-fired emergency generator, and all conditions pertaining to the generator, from the permit as the respective generator no longer exists at the facility. The modified permit will be submitted to the United States Environmental Protection

Agency (EPA) for approval as a permit issued in accordance with the permit program requirements of 40 CFR Part 70.

A copy of the permit modification application is available for public inspection during normal business hours at the address listed. Persons interested in inspecting the application must schedule an appointment in advance.

Any person wishing to protest the issuance of the modified Title V operating permit or provide the Department with additional information which they believe should be considered in the Department's review of the permit modification application may do so by submitting the protest or information in writing to the Department at the address listed.

Protests or comments must be received by the Department within 30 days of the last date of publication of this notice in order to be considered. Each protest or comment should include the name, address and telephone number of the person submitting the protest or comment and a concise statement explaining the relevancy of the protest or comment being presented to the Department.

A public hearing may be held if the Department, in its discretion, decides that such a hearing is warranted based on the information received. All persons protesting the issuance of the modified Title V operating permit, 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 in the South Centre Township area or by letter or telephone if the Department feels that such notification is sufficient.

Written comments, protests or requests for a public hearing should be directed to David W. Aldenderfer, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

For additional information regarding the respective permit modification application, contact Richard L. Maxwell, Jr., Chief, New Source Review Section, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3640.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

45-00018: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) for operation of a batch asphalt plant and associated air cleaning devices at their Locust Ridge Quarry facility in Tobyhanna Township, **Monroe County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

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

06-05097: Berks Products Corp. (P. O. Box 421, Reading, PA 19603) for operation of its stone crushing plant at the existing facility in Ontelaunee Township, **Berks County**. This is a renewal of the State-only operating permit issued in October 2003.

21-03021: Amsted Rail, d/b/a ASF Keystone (3420 Simpson Ferry Road, Camp Hill, PA 17011) for a coating spray booth in Lower Allen Township, **Cumberland County**. The annual emissions of VOC from the coating operations are less than 5 tpy. This is a renewal of natural minor operating permit issued in August 2003.

28-03022: Valley Quarries, Inc., Mt. Cydonia Sand Plant 1 (169 Quarry Road, Chambersburg, PA 17201) for rock crushing operations in Guilford Township, **Franklin County**. The annual emissions of PM from the crushing operations are less than 5 tpy. This is a renewal of natural minor operating permit issued in March 2004.

36-03056: Weaver Industries, Inc. (425 South Fourth Street, Denver, PA 17517-1224) for operation of their existing industrial machinery operation facility in Denver Borough, **Lancaster County**. This is a permit renewal of their existing operating permit.

36-05010: American LaFrance, LLC (64 Cocalico Creek Road, Ephrata, PA 17522-9455) for their Ephrata Aerials Facility in West Earl Township, **Lancaster County**. This is a renewal of the State-only operating permit issued in 2003.

67-05069: Oldcastle Stone Products (550 South Biesecker Road, Thomasville, PA 17364) for their Thomasville Facility in Jackson Township, **York County**.

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

14-00017: Supelco, Inc. (595 North Harrison Road, Bellefonte, PA 16823) for modification of a State-only operating permit for a chromatographic equipment manufacturing facility in Spring Township, **Centre County**.

The proposed modifications to the operating permit consist of establishing new annual throughputs for a 3,000 gallon waste solvent storage tank and modifying an activated carbon drum monitoring requirement to require weekly monitoring of a solvent breakthrough detector.

As the waste solvent storage tank is equipped with an activated carbon drum for VOC/VHAP emission control, any change in VOC/VHAP emissions which will result from the proposed new annual tank throughputs are expected to be inconsequential.

The facility in which the waste solvent storage tank is located is not a major (Title V) facility for any air contaminant.

The Department proposes to incorporate the following modified conditions in State-only Operating Permit 14-00017:

1. The throughput through the waste solvent storage tank shall not exceed:

methanol: 9,591 gallons per year
 methylene chloride: 2,069 gallons per year
 toluene: 1,824 gallons per year
 acetonitrile: 2,168 gallons per year
 chloroform: 527 gallons per year
 carbon tetrachloride: 12 gallons per year
 hexane: 617 gallons per year
 isopropanol: 1,561 gallons per year
 ethanol and miscellaneous organic solvents (other than acetone): 224 gallons per year

The waste solvent storage tank may also be used for the storage of waste acetone without restriction on throughput.

2. The permittee shall monitor the exhaust of the activated carbon drum associated with the waste solvent storage tank for breakthrough on a weekly basis (or a less frequent basis if the Department of Environmental Protection determines that a less frequent basis is acceptable) by visually inspecting the carbon drum's breakthrough detector and shall replace the carbon, or the entire drum, within one business day after detecting a color change in the breakthrough detector.

3. The air contaminant emissions from the waste solvent storage tank shall be controlled by an activated carbon drum which incorporates a breakthrough detector.

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 previously 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
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 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.

17841607 and NPDES Permit No. PA0100803, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to transfer the permit and related NPDES permit for the Bigler Coal Prep Plant in Bradford Township, **Clearfield County** to Rosebud Mining Company from Energy Resources, Inc. No additional discharges. Application received August 22, 2008.

30940701 and NPDES Permit No. PA0215465, Coresco, LLC, (308 Dents Run Road, Morgantown, WV

26501), to renew the permit and to transfer the permit for the Refuse Dump No. 4 in Monongahela Township, **Greene County** and related NPDES permit from Cobra Mining, LLC to Coresco, LLC. No additional discharges. Application received August 1, 2008.

56021301 and GP-12 56021301 and NPDES Permit No. PA0235547, Elk Lick Energy, Inc., (P. O. Box 240, Friedens, PA 15541-0240), to renew the permit for the Roytown Deep Mine in Lincoln Township, **Somerset County** and related NPDES permit. Includes renewal of Bureau of Air Quality GPA/GP-12 Authorization under GP-12 56021301-R8. No additional discharge. Application received October 1, 2008.

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

56930110 and NPDES No. PA0212610, Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Black Township,

Somerset County, affecting 129.0 acres. Receiving streams: UNTs to Rhoades Creek; Rhoades Creek; UNT to Isers Run; and UNT to Casselman River classified for the following uses: WWF; WWF; EV; CWF, respectively. There are no potable water supply intakes within 10 miles downstream. Application received October 27, 2008.

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

02070105 and NPDES Permit No. PA0251275. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Revision application to add 4.9 acres and revise E & S Controls for an existing bituminous surface mine, located in Jefferson Hills Borough, **Allegheny County**, affecting 56.6 acres. Receiving streams: UNTs to Monongahela River, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received October 24, 2008.

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

10970105 and NPDES Permit No. PA0227625. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Renewal of an existing bituminous surface strip, auger and coal ash placement operation in Concord and Fairview Townships, **Butler County** affecting 234.7 acres. Receiving streams: Three UNTs to Bear Creek and Bear Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received October 27, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17050109 and NPDES No. PA0256293. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661), revision of an existing bituminous surface mine for variance on T-348 in Bloom Township, **Clearfield County**, affecting 116.0 acres. Receiving streams: UNT to Little Anderson Creek and UNT to Bell Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 22, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain

the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the 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

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E64-277. Richard A. Dyer, P. O. Box 462, Newfoundland, PA 18445-5212, in Dreher Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 920 square foot deck onto the southwest corner of an existing, single-family dwelling located within the floodway of a tributary to Wallenpaupack Creek (HQ-CWF). The project is located 2.61 miles south of the intersection of I-84 and SR 507 in Dreher Township, Wayne County (Newfoundland, PA Quadrangle Latitude: 41° 18' 16"; Longitude: 75° 19' 19").

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

E67-859: Larry C. Dolinger, Defense Distribution Depot, Susquehanna, Pennsylvania (DDSP), 2001 Mission Drive, Building 1-3 Environmental Office, New Cumberland, PA 17070-5002, Defense Supply Depot, Fairview Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To fill two emergent wetlands using approximately 8,510.0 cubic yards of fill totaling 0.779 acre of permanent wetland impacts located in the Marsh Run (WWF) Watershed. The project is located at the Defense Distribution Depot (Steelton, PA Quadrangle N: 3.75 inches; W: 3.25 inches, Latitude: 40° 12' 1"; Longitude: 76° 49' 40") in Fairview Township, York County. The purpose of the project is to provide additional bulk storage space. The applicant is required to provide 0.800 acre of onsite mitigation.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063240	Lehigh Township Municipal Authority 1069 Municipal Drive Walnutport, PA 18088	Northampton County Lehigh Township	Bertsch Creek CWF 2C	Y
PA0063231	Lehigh Township Municipal Authority 1069 Municipal Drive Walnutport, PA 18088	Northampton County Lehigh Township	Indian Creek CWF 2C	Y
PA-0070220 (Minor Sewage)	NIS Hollow Estates, LLC 1170 Pittsford Victor Road P. O. Box 549 Victor, NY 14564	East Penn Township Carbon County	UNT to Lehigh River	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>
PA0239399	Craig V. and Julie K. King 2552 Mercer Butler Pike Grove City, PA 16127	Liberty Township Mercer County	UNT to Black Run 20-C	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. PA0021075, Amendment No. 2, Sewage, **Borough of Myerstown**, 101 East Washington Street, Myerstown, PA 17067-1142. This proposed facility is located in Jackson Township, **Lebanon County**.

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

NPDES Permit No. PA0026743, Amendment No. 1, Sewage, **City of Lancaster**, 120 North Duke Street, Lancaster, PA 17602. This proposed facility is located in Lancaster Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to the Conestoga River in Watershed 7-J.

NPDES Permit No. PAS803501, Industrial Waste, **Susquehanna Area Regional Airport Authority, Harrisburg International Airport**, One Terminal Drive, Suite 300, Middletown, PA 17057 and 14 co-permittees. This proposed facility is located in Lower Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to the Susquehanna River and Post Run in Watershed 7-C.

NPDES Permit No. PA0259853, Amendment No. 1, CAFO, **Hillandale Gettysburg, LP**, 370 Spicer Road, Gettysburg, PA 17325. This proposed facility is located in Tyrone Township, **Adams County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 10,376-AEU layer and pullet operation in Watershed 7-F.

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

NPDES Permit No. PA0240231, Sewage, **Ernest and Joyce Beach**, 510 Pittsville Road, Kennerdell, PA 16374. This proposed facility is located in Rockland Township, **Venango County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant discharging to the Shull Run in Watershed 16-G.

NPDES Permit No. PA0026387, Sewage, **St. Marys Municipal Authority**, P. O. Box 1994, 11 Lafayette Street, St. Marys, PA 15857-1994. This proposed facility is located in St. Marys, **Elk County**.

Description of Proposed Action/Activity: Issuance of a new NPDES permit for an existing discharge of treated sewage.

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

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

WQM Permit No. WQG012225, Sewerage, **Jill Mickley**, 2634 Easton Road, Hellertown, PA 18055. This proposed facility is located in Lower Saucon Township, **Northampton County**.

Description of Proposed Action/Activity: This project is for construction of a small flow treatment facility to repair an existing malfunctioning system for a single-family residence.

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

WQM Permit No. 0184401, Amendment 08-1, Sewage, **White Run Regional Municipal Authority**, 2001 Baltimore Pike, Gettysburg, PA 17325-7015. This proposed facility is located in Mount Joy and Straban Townships, **Adams County**.

Description of Proposed Action/Activity: This amendment approves the construction of sewerage facilities consisting of: Approximately 3,300 linear feet of 8-inch diameter gravity sewer, a suction lift pumping station and approximately 1,100 linear feet of 4-inch diameter force main.

WQM Permit No. 3678402, Amendment 08-1, Sewage, **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: This amendment approves the construction, modification and operation of sewerage facilities consisting of the conversion of the existing plant to a Symbio process, plus the addition of denitrification filters and ultraviolet disinfection.

WQM Permit No. WQG-02220801, Sewage, **West Hanover Township Water and Sewer Authority**, 7901 Jonestown Road, Harrisburg, PA 17112. This proposed facility is located in West Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Approval for the construction and operation of the Old Towne Hanover Pump Station.

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

WQM Permit No. WQG018656, Sewerage, **Norris Vogan**, St. Paul Home Heritage, Apartment 218, 339 East Jamestown Road, Greenville, PA 16125. This proposed facility is located in Greenwood Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a Water Quality Permit for a single-residence Sewage Treatment Plant.

WQM Permit No. 6108401, Sewerage, **Ernest and Joyce Beach**, 510 Pittsville Road, Kennerdell, PA 16374. This proposed facility is located in Rockland Township, **Venango County**.

Description of Proposed Action/Activity: Issuance of a Water Quality Permit for a single-residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1508040	East Goshen Township Municipal Authority 1580 Paoli Pike West Chester, PA 19380	Chester	East Goshen Township	Ridley Creek HQ-TSF
PAI01 1508057	Robert R. Berry 1779 Pickering Road Phoenixville, PA 19460	Chester	Charlestown Township	Pickering Creek HQ

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>
PAI024508006	Pocono Mountains Municipal Airport P. O. Box 115 Mount Pocono, PA 18344	Monroe	Coolbaugh Township	Red Run HQ-CWF

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

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

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
East Nottingham Township Chester County	PAG200 1503044-R	Wilmer L. Hostetter 481 Limestone Road Oxford, PA 19363	UNT Northeast Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Honey Brook Township Chester County	PAG200 1502006-R	The Hankin Group 707 Eagleview Boulevard Box 561 Exton, PA 19341	Conestoga River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Tredyffrin Township Chester County	PAG200 508050	Montessori Childrens Home of Valley Forge P. O. Box 687 Southeastern, PA 19399 Valley Forge National Historic Park 1400 North Outer Line Drive King of Prussia, PA 19406	Trout Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Montgomery Township Montgomery County	PAG200 4608040	Emil and Nancy Saladik 123 Runnymede Drive Lansdale, PA 19446	Little Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitemarsh Township Montgomery County	PAG200 4608137	Whitemarsh Township 616 Germantown Pike Lafayette Hill, PA 19444	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Royersford Borough Montgomery County	PAG200 4608052	RAP Royersford, LP 100 Colliery Road Kickson City, PA 18519	Mingo Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Moore Township Northampton County	PAG2004808013	Concordia Lutheran Church Attn: Raymond A. Malec 1240 East 4th Street Bethlehem, PA 18015	Hokendauqua Creek CWF	Northampton County Conservation District (610) 746-1971
Lehigh Township Northampton County	PAG2004807034	L. & H. H., Inc. Attn: Loretta Hriacack 649 Hauser Drive Walnutport, PA 18088	Tributary to Lehigh River CWF	Northampton County Conservation District (610) 746-1971
Springettsbury Township York County	PAG2006708058	Robert Kinsley KV Springettsbury Partners, LLC 6259 Reynolds Mill Road Seven Valleys, PA 17360	UNT to Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Shrewsbury Township York County	PAG2006708047	Ed Personette E Squared Properties, LLC 19418 Spooks Hill Road Freeland, MD 21053	UNT to South Branch Codorus Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Logan Township Blair County	PAG2000708019	Blair County Industrial Development Authority Devorn's Center for Business Development 3900 Industrial Park Drive Altoona, PA 16602	Brush Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5

*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>
Clearfield County Sandy Township	PAG2001708008(1)	Jones Development Company, LLC 4520 Madison Suite 100 Kansas City, MO 64111	Sandy Lick Creek TSF-CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clinton County Noyes Township	PAG2001807007	North-Lands, Inc. Shintown Vista Phase II 15 Pontiac Drive Medford, NJ 08055	West Branch Susquehanna River WWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798
Tioga County Mansfield Borough	PAG2005908007	Ronald Blauch Department of General Services 18th and Herr Streets, Room 101 Harrisburg, PA 17125	Corey Creek CWF Tioga River CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 3
Butler County Butler Township	PAG2001008021	Butler Healthcare Providers Butler Memorial Hospital 911 East Brady Street Butler, PA 16001	UNT Connoquenessing Creek WWF	Butler County Conservation District (724) 284-5270

*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>
Lower Saucon Township Northampton County	PAG042225	Jill Mickley 2634 Easton Road Hellertown, PA 18055	East Branch of Saucon Creek	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Greenwood Township Crawford County	PAG049471	Norris Vogan St. Pauls Home Heritage Apartment 218 339 East Jamestown Road Greenville, PA 16125	UNT to Conneaut Outlet 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Delaware Township Mercer County	PAG048523	Richard A. Pearce 29 Kremis Road Greenville, PA 16125	UNT to Lawango Run 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-12**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>
Lebanon County Swatara Township	PAG123655	Alvin Weaver 9991 Houltztown Road Myerstown, PA 17067	Elizabeth Run WWF 7-D	DEP—SCRO Watershed Management Program 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802

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. 3396420, Operations Permit, Public Water Supply.

Applicant	Nestle Waters North America, Inc. 405 Nestle Way Breinigsville, PA Upper Macungie Township
County	Lehigh
Type of Facility	Bottling Plant: Spring source addition: Arrowhead Farm Springs
Consulting Engineer	Edward Davis, P. E. Forino Company, LP 555 Mountain Home Road Sinking Spring, PA
Permit to Operate Issued	September 24, 2008

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

Permit No. 3808503, Public Water Supply.	
Applicant	The Bethel Point Foundation d/b/a Hill Farm Estates
Municipality	North Annville Township
County	Lebanon
Type of Facility	Installation of a disinfection system.
Consulting Engineer	Thomas W. Schreffler, P. E. Light-Heigel & Associates, Inc. 430 East Main Street Palmyra, PA 17078
Permit to Construct Issued	October 31, 2008

Permit No. 3608506, Public Water Supply.	
Applicant	Penn Manor School District
Municipality	Martic Township
County	Lancaster
Type of Facility	Installation of a softener and nitrate removal system.
Consulting Engineer	William E. Fleischer, P. E. Moore Engineering Company 3637 Columbia Avenue Lancaster, PA 17603
Permit to Construct Issued	October 31, 2008

Permit No. 3608512 MA, Minor Amendment, Public Water Supply.	
Applicant	Denver Borough
Municipality	Denver Borough
County	Lancaster
Type of Facility	Installation of baffles in the filter plant sedimentation basin.
Consulting Engineer	Farley F. Fry, P. E. Hanover Engineering Associates, Inc. 20-C Snyder Lane Ephrata, PA 17522-9101
Permit to Construct Issued	October 31, 2008

Operations Permit issued to **City of Lancaster**, 7360058, Manor Township, **Lancaster County** on October 31, 2008, for the operation of facilities approved under Construction Permit No. 3608516 E.

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

Permit No. MA—5386501—Construction, Public Water Supply.	
Applicant	Ulysses Municipal Authority
Township or Borough	Ulysses Borough
County	Potter
Responsible Official	Betty Jo Hilfiger Ulysses Municipal Authority 518 Main Street Ulysses, PA 16948
Type of Facility	Public Water Supply—Construction

Consulting Engineer Michael J. Peleschak, P. E.
alfred benesch & company
400 One Norwegian Plaza
P. O. Box 1090
Pottsville, PA 17901

Permit Issued Date October 28, 2008

Description of Action Construction of a steel pole barn
to cover the existing Big Spring
reservoir.

Permit No. 1406505—Construction, Public Water Supply.

Applicant **Waterstone Residential Development**

Township or Borough Spring Township

County **Centre**

Responsible Official Bradley E. Sinrod, President
Spring Mill Group, LP
20 Penarth Road
Bala Cynwyd, PA 19004

Type of Facility Public Water
Supply—Construction

Consulting Engineer Andrew Johnson, P. E.
Gwin Dobson & Foreman, Inc.
3121 Fairway Drive
Altoona, PA 16602-4475

Permit Issued Date November 3, 2008

Description of Action Construction of the Waterstone
Residential Development water
system, including a distribution
system, a 225,000 gallon finished
water storage tank, a booster
pump station and a transmission
line to convey finished water
from Bellefonte Borough Water
Authority.

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

Permit No. 2508501, Public Drinking Water.

Applicant **Presque Isle Wine Cellars, Inc. The Five Restaurant**

Township or Borough North East Township

County **Erie**

Type of Facility Public Water Supply

Consulting Engineer Steven R. Halmi, P. E.
Deiss & Halmi Engineering
105 Meadville Street
Edinboro, PA 16412

Permit to Construct Issued October 29, 2008

Permit No. 2084503-MA1, Minor Amendment.

Applicant **Springboro Area Water Authority**

Township or Borough Spring Township

County **Crawford**

Type of Facility Public Water Supply

Consulting Engineer Robert L. Rabell, P. E.
RL Rabell Surveying &
Engineering
10560 Walnut Street
Albion, PA 16401

Permit to Construct Issued October 30, 2008

Operations Permit issued to **St. Paul Homes**, PWSID No. 6430024, West Salem Township, **Mercer County**, on October 30, 2008, for the operation of the renovated 100,000 gallon water storage tank, per specifications approved by construction permit 4304501-MA1, issued August 19, 2008.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act, (35 P. S. § 750.5)

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

Plan Location:

Borough or Township	Borough or Township Address	County
Adams Township	690 Valencia Road Mars, PA 16046	Butler County

Plan Description: The approved plan provides for an extension of the Breakneck Creek Regional Authority sewerage system to service existing needs and also allow for growth. The area to be served is in Adams Township and includes Dobson Road, Stoup Road, Hutchman Road, Valencia-Brownsdale Road, Williams Lane, Ridge Road, Denny Road, Downieville Road, Three Degree Road, Route 228, Davidson Road, Oak Lane, Good Luck Lane and Butler Street. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

Borough or Township	Borough or Township Address	County
North Codorus Township	1986 Stoverstown Road Spring Grove, PA 17362	York County

Plan Description: Lynwood Phase II—C, Planning Module Code No. C3-67946-264-2: The plan consists of a 10 lot single-family residential subdivision on 6.81 acres with total proposed sewage flows of 4,000 gpd to be treated by individual onlot disposal systems. The proposed development is located on the north and south sides of Lynwood Drive, approximately 600 feet east of Oak Ridge Drive in North Codorus Township, York County. The plan was disapproved because the hydrogeologic study submitted with the planning information, as required by 25 Pa. Code § 71.62(c), contained information showing the groundwater will be polluted on a portion of the property and that some of onlot sewage

disposal systems proposed for the subdivision will pollute the water of the Commonwealth in violation of The Clean Streams Law. Such a condition is considered a nuisance and is prohibited.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

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

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

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

The Department has received the following plans and reports:

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

2345—2351 South Swanson Street Site, City of Philadelphia, **Philadelphia County**. Michael Christie, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Eli and Leon Silverman, S & S Family Partnership, 230 South Broad Street, Philadelphia, PA 19102 has submitted a Remedial Investigation and Cleanup Plan concerning remediation of site groundwater and soil contaminated with inorganics and other organics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

70 Hilton Street Property, Williams Township, **Northampton County**. David Fennimore and George Seidman, Earth Data Northeast, Inc., Whiteland Technology Center, 924 Springdale Drive, Exton, PA 19341 has submitted a Final Report (on behalf of their client, Quantico Associates, Ltd., 50 Hilton Street, Easton, PA 18042), concerning soils sampled because of historical site operations, including foundry operations and manufacturing at the property. The report was submitted to document attainment of the Statewide Health Standard for soils. A public notice regarding the submittal of the Site Characterization/Final Report was published in *The Morning Call* on October 20, 2008.

Mack Trucks, Inc., Lower Macungie Township, **Lehigh County**. Sergio H. Rojas, Brinkerhoff Environmental Services, Inc., 1913 Atlantic Avenue, Suite R5, Manasquan, NJ 08736 has submitted a Final Report (on behalf of his client, Mack Trucks, Inc., 7000 Alburdis Road, Macungie, PA 18062), concerning the remediation of soils found to have been impacted by releases of ethylene glycol from newly manufactured trucks as a result of coolant system gasket failure. The report was submitted to document attainment of the Statewide Health Standard for soils. A public notice regarding the submittal of the Final Report was published in *The Morning Call* on September 16, 2008.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Manheim Plaza, Manheim Township, **Lancaster County**. Rettew Associates, Inc., 3020 Columbia Avenue, Lancaster, PA 17603, on behalf of Horst Venture I, LP, 205 Granite Run Drive, Suite 280, Lancaster, PA 17601-6821, submitted a Final Report concerning remediation of site soils and groundwater contaminated with petroleum hydrocarbons and metals. The report is intended to document remediation of the site to meet the Site-Specific and Statewide Health Standards.

Former Schmidt & Ault/Regis Paper Company, York City and Spring Garden Township, **York County**. Herbert, Rowland, & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Tyler Run, LLC, 11915 Park Heights Avenue, Owings Mills, MD 21117, submitted a remedial investigation report concerning site soils and groundwater contaminated with benzene, chlorinated solvents and PCBs. The applicant is seeking to remediate the site to a combination of Site-Specific and Statewide Health Standards.

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

Axeman-Anderson Company. Fuel Oil Release, South Williamsport Borough, **Lycoming County**. Pennsylvania Tectonics, 826 Main Street, Peckville, PA 18452 on behalf Axeman-Anderson Company, 300 East Mountain Avenue, South Williamsport, PA 17702 has submitted a Final Report within 90 of the release concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Target Distribution Center, Gregg Township, **Union County**. Pavex, Inc., 4400 Gettysburg Road, Camp Hill, PA 17011 has submitted a Final Report within 90 days of the release concerning remediation of site soil contami-

nated with hydraulic fluid. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Mallery Lumber Wolf Run Project (Mert Holdings LLC—Wolf Run), Jones Township, **Elk County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of Mert Holdings, LLC, 214 West Fourth Street, Emporium, PA 15834, has submitted a Final Report concerning remediation of site soil contaminated with arsenic. The report is intended to document remediation of the site to meet the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the

notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Thorndale Pumping Station, Downingtown Borough **Chester County**. Michael Edelman, Malcolm Pirnie, Inc., 111 South Independent Mall, Suite 1010, Philadelphia, PA 19106 on behalf of Mark Hemberger, Pennziol Quaker State Co., d/b/a SOPUS Products, 12700 Northborough Drive, 300 E-11, Houston, TX 77067 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with No. 6 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on October 10, 2008.

10475 Drummond Road, City of Philadelphia, **Philadelphia County**. John Mihalich, P. G., MACTEC Engineering and Consulting, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462 on behalf of Hardeep Chawla, 10475 Drummond Road Associates, 10475 Drummond Road, Philadelphia, PA 19154 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on October 22, 2008.

56 West Lincoln Highway, Middletown Township and Pennel Borough, **Bucks County**. Charlene Drake, React Environmental Professional Services Group, 6901 Kingessing Avenue, Suite 210, Philadelphia, PA 10142 on behalf of Chris Neill, Primax Properties, LLC, 1065 East Moreland Street, 4th Floor, Charlotte, NC 28204 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with inorganic. The Final report was place on hold by the Department of Environmental Protection on October 22, 2008.

Imperial Plaza Shopping Center, City of Philadelphia, **Philadelphia County**. John Flower, GZA GeoEnvironmental, Inc., 501 Office Center Drive, Suite 220, Fort Washington, PA 19034 on behalf of Jon Liang, Imperial/Aramingo, LLP, Closter, NJ 07624 has submitted a Remedial Investigation Report concerning the remediation of site groundwater contaminated with diesel fuel. The Remedial Investigation Report was disapproved by the Department of Environmental Protection on October 17, 2008.

Bealer Property, Upper Township, **Montgomery County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Robert Bealer, 1930 Coventryville Road, Pottstown, PA 19465 has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on October 8, 2008.

Stenton Avenue Furniture, City of Philadelphia, **Philadelphia County**. Michelle Flowers, REPSG, 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Lee Brahin, Brahin Properties, Inc., 1535 Chestnut Street, Philadelphia, PA 19102 has submitted a 90

day Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on October 22, 2008.

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

Former Ballard/Kara Property, Butler Township, **Luzerne County**. Richard Karr, MACTEC Engineering and Consulting, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462 submitted a Final Report (on behalf of his client, Amarjit Grewal, 193 Route 17 North, Mahwah, NJ 07430), concerning the remediation of soils and groundwater found to have been impacted by petroleum constituents and chlorinated solvents. The report was submitted to document attainment of the Statewide Health Standard and the Background Standard for soils and groundwater. The Final Report was denied on August 6, 2008.

Giorgianni Residence (Jeffers Road), Harford Township, **Susquehanna County**. Quad Three Group, Inc., Glenmaura Professional Center, 72 Glenmaura National Boulevard, Suite 105, Moosic, PA 18507 submitted a Final Report (on behalf of their client, Emily Giorgianni, R. R. 1, Box 6, Kingsley, PA 18826), concerning the remediation of soils and groundwater found to have been impacted by petroleum constituents from a release of No. 2 fuel oil. The report demonstrated attainment Statewide Health Standard for both matrixes and was approved on October 29, 2008.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former Trojan Yacht Site/Central Penn Transport, East Lampeter Township, **Lancaster County**. RETTEW Associates, Inc., 3020 Columbia Avenue, Lancaster, PA 17603, on behalf of Shippen Realty Partners, 1032 Buchanan Avenue, Lancaster, PA 17603, submitted a Final Report concerning remediation of site soils and groundwater contaminated with VOCs. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on October 28, 2008.

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

R & L Carriers I-80 MM 190.5W Accident, Green Township, **Clinton County**, Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of R & L Carriers, 600 Gilliam Road, Wilmington, OH 45177 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel within 90 days of the release. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on October 27, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit Renewal 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.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 301306. Sunbury Generation, LP, P. O. Box 517, Old Susquehanna Trail, Shamokin Dam, PA 17876, located in Monroe Township, **Snyder County**. The permit renewal for the residual waste disposal impoundment known as Ash Basin No. 1 was issued by the Williamsport Regional Office on October 27, 2008.

Persons interested in reviewing the permit should contact David Garg, P. E., Environmental Engineer Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users should contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Draft permits issued, revised or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

PAD010154045. Envirite of Pennsylvania, Inc., 730 Vogelsong Road, York, PA 17404, City of York, **York County**. Class I Permit Modifications for construction of portions of proposed processes in the approved Part B Permit and minor updates to emergency equipment locations on their inspection forms, issued on November 14, 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.

54-301-042GP14: Ringtown Wilbert Vault Co. (710 West Main Street, Ringtown, PA 17967) on October 7, 2008, to install and operate a human remains crematory at their site in Ringtown Borough, **Schuylkill County**.

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

GP3-41-06: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on October 7, 2008, for construction and operation of a Nordberg LT 1213 portable nonmetallic mineral processing plant under the General Plan Approval and/or General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at Plant No. 15 (Montoursville Plant) in Loyalsock Township, **Lycoming County**.

GP11-41-02: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on October 7, 2008, for construction and operation of a 425 horsepower diesel engine under the General Plan Approval and/or General Operating Permit for Nonroad Engines (BAQ-GPA/GP-11) at Plant No. 15 (Montoursville Plant) in Loyalsock Township, **Lycoming County**.

GP5-41-01A: Chief Gathering, LLC (6051 Wallace Run Road Extension, Suite 210, Wexford, PA 15090) on

October 15, 2008, for construction and operation of a 200,000 Btu/hr glycol dehydrator under the General Plan Approval And/Or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production Facilities (BAQ-GPA/GP-5) at the Canoe Run Compressor Station in Mifflin Township, **Lycoming County**.

GP5-41-02A: Chief Gathering, LLC (6051 Wallace Run Road Extension, Suite 210, Wexford, PA 15090) on October 15, 2008, for the construction and operation of a 200,000 Btu/hr glycol dehydrator under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production Facilities (BAQ-GPA/GP-5) at the Barto Compressor Station in Penn Township, **Lycoming County**.

GP5-17-28: Chief Gathering, LLC (6051 Wallace Run Road Extension, Suite 210, Wexford, PA 15090) on October 20, 2008, for construction and operation of a 670 brake horsepower natural gas-fired reciprocating internal combustion compressor engine and a 200,000 Btu/hr glycol dehydrator under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production Facilities (BAQ-GPA/GP-5) at the Clearfield Compressor Station in Boggs Township, **Clearfield County**.

GP5-08-04: Chief Gathering, LLC (6051 Wallace Run Road Extension, Suite 210, Wexford, PA 15090) on October 20, 2008, for construction and operation of a 670 brake horsepower natural gas-fired reciprocating internal combustion compressor engine and a 200,000 Btu/hr glycol dehydrator under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production Facilities (BAQ-GPA/GP-5) at the Bradford Compressor Station in West Burlington Township, **Bradford County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-26-00582: Chief Gathering, LLC, (6051 Wallace Road Extension, Suite 210, Wexford, PA 15090-7386) on October 28, 2008, to construct and operate a natural gas production facility at their Fayette Compressor Station in Henry Clay Township, **Fayette County**.

GP5-32-00396: US Energy Exploration Corp. (P. O. Box 237, Rural Valley, PA 16249-0237) on September 4, 2008, to construct and operate a natural gas production facility at the R & P Compressor Station in Young Township, **Indiana County**.

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

GP-24-129A: American Exploration Co.—Benezette Compressor Station (Quehanna Highway, Medix Run, PA 15868) on October 31, 2008, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Benezette Township, **Elk 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.

58-303-007: Eastern Industries, Inc. (4401 Camp Meeting Road, Center Valley, PA 18034) on October 27, 2008, to install a new RAP crusher w/screen to their existing asphalt plant at their facility in Clifford Township, **Susquehanna County**.

35-318-094: Gentex Optics, Inc. (P. O. Box 336, Carbondale, PA 18407) on October 23, 2008, to install a new Regenerative Thermal Oxidizer to control emissions at their facility in Fell Township, **Lackawanna County**.

45-303-010: Hanson Aggregates Pennsylvania (5245 Lycoming Mall Drive, Montoursville, PA 17754) on October 20, 2008, to modify their existing batch asphalt plant to use waste derived liquid fuel at their site in Hamilton Township, **Monroe County**.

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

36-03067A: Covance Research Products, Inc. (310 Swamp Bridge Road, Denver, PA 17517-8723) on October 29, 2008, to install an animal crematory in West Cocalico Township, **Lancaster County**.

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

41-313-003F: Lonza, Inc. (3500 Trenton Avenue, Williamsport, PA 17701) on October 28, 2008, for construction of an Acrawax grinder and rework station and associated air cleaning devices (two cartridge collectors) and for the installation of air cleaning devices (four cartridge collectors) on an existing Acrawax grinder, conveying system and two bins in the City of Williamsport, **Lycoming County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

15-0013B: Huhtamaki Flexible, Inc. (2400 Continental Boulevard, Malvern, PA 19355) On October 28, 2008, to operate a new press and laminator in Tredyfflin Township, **Chester County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog & B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

65-00713B: Greenridge Reclamation, LLC (232 Landfill Road, Scottdale, PA 15683-7762) on October 30, 2008, to control additional landfill gas throughput, an increase from 3,500 scfm to 5,000 scfm, with no increase in landfill capacity or waste acceptance rate, at their Greenridge Reclamation/East Huntingdon Plant located in East Huntingdon Township, **Westmoreland County**. This plan approval has been extended.

63-00027B: Jessop Steel, LLC (100 River Road, Brackenridge, PA 15014-1597) has a plan approval allowing the installation of one anneal furnace and one charge-fire furnace at their Washington Specialty Plate plant, a Title V facility in Washington City, **Washington County**. The company was issued an extension of the plan approval, effective November 8, 2008, allowing additional time to demonstrate compliance with applicable

regulations and plan approval conditions and to update the pending renewal application for the facility's Title V operating permit.

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.

28-05028: Allegheny Energy Supply Company, LLC (800 Cabin Hill Drive C109, Greensburg, PA 15601) on October 29, 2008, to operate two combustion turbines to be used as a peaking station in Guilford Township, **Franklin County**. The facility is subject to Title V and Title IV (Acid Rain). This permit is a renewal of the Title V and Acid Rain Permits issued in 2003.

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

10-00021: INDSPEC Chemical Corp. (133 Main Street, Petrolia, PA 16050-0307) on October 28, 2008, the Department of Environmental Protection Administratively Amended the Title V Operating Permit to incorporate Plan Approval No. 10-021P for a 9,940 gallon styrene tank in Petrolia Borough, **Butler County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

40-00050: Pioneer Aggregates, Inc. (202 Main Street, Laflin, PA 18702) on October 30, 2008, to re-issue a State-only (Natural Minor) Operating Permit for operation of a rock crushing operation and associated air cleaning devices at their facility in Dennison Township, **Luzerne County**.

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

21-03048: Carlisle Small Animal Veterinary Clinic (25 Shady Lane, Carlisle, PA 17013-1634) on October 29, 2008, to operate their animal crematory in Middlesex Township, **Cumberland County**. This is a renewal of the State-only operating permit.

28-05027: Chambersburg Hospital (112 North 7th Street, Chambersburg, PA 17201-1720) on October 29, 2008, to operate the boiler plant and emergency equipment at their hospital in Chambersburg Borough, **Franklin County**. This is a renewal of the State-only operating permit.

28-05042: Armaclad Doors & Windows, LLC (P. O. Box 455, Mont Alto, PA 17237) on October 28, 2008, to operate their door manufacturing facility in Quincy Township, **Franklin County**.

29-03008: LaFarge Mid-Atlantic, LLC (300 East Joppa Road, Suite 200, Towson, MD 21286-3015) on October 29, 2008, to operate a limestone crushing plant in Bethel Township, **Fulton County**. This is a renewal of the State-only operating permit.

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) on October 7, 2008, for operation of a prison (Allenwood Federal Correctional Complex) in Gregg Township, **Union County**.

60-00014: Evangelical Community Hospital (1 Hospital Drive, Lewisburg, PA 17837) on October 14, 2008, for operation of a hospital in Kelly Township, **Union County**.

41-00026: Alcan Products Corp. (409 Reighard Avenue, Williamsport, PA 17701) on October 21, 2008, for operation of an insulated aluminum cable manufacturing facility in the City of Williamsport, **Lycoming County**.

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

37-00181: Xaloy—Tanner Plating Division (925 Industrial Drive, New Castle, PA 16101) on October 28, 2008, the Department of Environmental Protection re-issued the Natural Minor Operating Permit to operate the facility's air contamination source consisting of: 4.8 mmBtu/hr natural gas usage, hard chromium plating systems (three tanks and 13 rectifiers), sandblasting unit and hand wiping solvent usage. The facility is subject to 40 CFR Part 63, Subpart N—Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, classified as a "small" facility and located in the City of New Castle, **Lawrence County**.

42-00009: PGH Corning Corp. (701 North Main Street, Port Allegany, PA 16743-0039) on October 28, 2008, for re-issuance of a Title V Permit to operate a pressed and blown glass manufacturing facility in Port Allegany Borough, **McKean County**. The facility's major emission sources include melting furnace (lines 1—4), melting furnace (lines 5—6), glass block edge coaters (2), glass block edge coaters (5), distributors, forehearths, presses/sealers, glass block annealing lehrs (1—8), No. 2 batch mixer and conveyer. The facility is a major facility due to its potential to emit of NOx and VOC. The facility is not subject to CAM plan requirement.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

25-00360: The Electric Materials Co. (50 South Washington Street, North East, PA 16428-0390) on October 30, 2008, the Department of Environmental Protection Administratively Amended the Natural Minor Operating Permit to incorporate the change of responsible official and permit contact person into the State-only Permit located in the Borough of North East, **Erie County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

56070108 and NPDES No. PA0262323. Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface auger, blasting mine in Paint Township, **Somerset County**, affecting 135.5 acres. Receiving streams: Shade Creek and UNTs to Shade Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Border Dam SWI. The permit also includes approval for a variance to conduct surface mining activities within 100 feet of three UNTs. The stream encroachment activities consist of ponds and ditches within 100 feet but no closer than 75 feet and haul road crossings. Application received August 8, 2007. Permit issued October 29, 2008.

32980110 and NPDES No. PA0234869. Opal Industries, Inc., P. O. Box 980, Latrobe, PA 15650, revision of an existing bituminous surface mine to add auger mining 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; CWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received August 13, 2008. Permit issued October 29, 2008.

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. Permit issued October 30, 2008.

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

02070104 and NPDES Permit No. PA0251224. Collier Land & Coal Development, LP (P. O. Box 62278, Upper St. Clair, PA 15241). Permit issued for commence-

ment, operation and reclamation of a bituminous surface mining site located in Collier Township, **Allegheny County**, affecting 33.3 acres. Receiving streams: UNTs to Robinson Run. Application received October 5, 2007. Permit issued October 31, 2008.

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

24000101 and NPDES Permit No. PA0241733. Tamberlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830) Renewal of an existing bituminous strip operation in Fox Township, **Elk County** affecting 62.1 acres. This renewal is issued for reclamation only. Receiving streams: Little Toby Creek. Application received April 28, 2008. Permit issued October 28, 2008.

16080102 and NPDES Permit No. PA0258563. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a bituminous strip operation in Redbank Township, **Clarion County** affecting 73.5 acres. Receiving streams: UNT No. 1 to Town Run. Application received March 21, 2008. Permit issued October 28, 2008.

10820122 and NPDES Permit No. PA0604852. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201) Renewal of an existing bituminous strip, auger and limestone removal operation in Marion and Mercer Townships, **Butler County** affecting 598.6 acres. Receiving streams: Two UNTs to the North Branch Slippery Rock Creek. Application received May 20, 2008. Permit issued October 30, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17040902 and NPDES No. PA0243752. Larry Fahr Coal Company (2062 Ashland Road, Osceola Mills, PA 16666), revision of an existing bituminous surface mine to change land use in Decatur Township, **Clearfield County**, affecting 11.9 acres. Receiving stream: Morgan Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 23, 2008. Permit issued October 21, 2008.

17663037 and NPDES No. PA0611328. 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 Decatur and Woodward Townships, **Clearfield County**, affecting 405.5 acres. Receiving streams: Goss and Little Beaver to Beaver Run to Moshannon Creek to West Branch of Susquehanna, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 3, 2008. Transfer issued October 20, 2008.

17030120 and NPDES No. PA0243663. 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 Beccaria and Bigler Townships, **Clearfield County**, affecting 96.3 acres. Receiving stream: UNT to Banian Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 26, 2008. Transfer issued October 23, 2008.

17960113 and NPDES 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. Transfer issued October 23, 2008.

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

54080201. Waste Management & Processors, Inc., (P. O. Box K, Frackville, PA 17931), commencement, operation and restoration of an anthracite coal refuse reprocessing operation in Mechanicsville, Port Carbon and Palo Alto Boroughs, **Schuylkill County** affecting 162.0 acres, receiving stream: none. Application received April 30, 2008. Permit issued October 31, 2008.

54-305-009GP12. Waste Management & Processors, Inc., (P. O. Box K, Frackville, PA 17931), general operating permit to operate a coal preparation plant on Surface Mining Permit No. 54080201 in Mechanicsville, Port Carbon and Palo Alto Boroughs, **Schuylkill County**. Application received August 1, 2008. Permit issued October 31, 2008.

Noncoal Permits Actions

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

4876SM18. G. L. Carlson, Inc. (P. O. Box 97, Turtlepoint, PA 16750) Renewal of NPDES permit No. PA0211222 in Annin Township, **McKean County**. Receiving streams: Allegheny River. Application received September 11, 2008. Permit issued October 29, 2008.

62820301. John D. Anderson (P. O. Box 676, Warren, PA 16365) Transfer of an existing sand and gravel operation from Yeagle Excavating in Pine Grove Township, **Warren County** affecting 5.4 acres. Receiving streams: North Branch Akeley Run. Application received February 4, 2008. Permit issued October 28, 2008.

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

58080850. JEB'S Pennsylvania Bluestone Quarry, LLC, (850 Baptist Hill Road, Hallstead, PA 18822), commencement, operation and restoration of a quarry operation in Great Bend Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received August 21, 2008. Permit issued October 28, 2008.

8274SM4A2C9. Rohrer's Quarry, Inc., (70 Lititz Road, Lititz, PA 17543), boundary correction to a quarry operation in Penn and Warwick Townships, **Lancaster County** affecting 191.3 acres, receiving stream: UNT to Little Conestoga Creek. Application received July 17, 2008. Correction issued October 29, 2008.

22880301C8 and NPDES Permit No. PA0223948. Rocky Licensing Corp., (P. O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Swatara Township, **Dauphin County**, receiving stream: Swatara Creek. Application received September 11, 2008. Renewal issued October 29, 2008.

36080301 and NPDES Permit No. PA0224651. Donegal Rock Products, LLC, (1330 Charlestown Road, Phoenixville, PA 19460), commencement, operation and restoration of a quarry operation (replacing SMP No. 6276SM6) in West Donegal and Mt. Joy Townships, **Lancaster County** affecting 102.64 acres, receiving

stream: UNT to Donegal Creek. Application received January 22, 2008. Permit issued October 31, 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.

28084127. Warrens Excavating & Drilling, Inc., P. O. Box 214, Myerstown, PA 17067-0214, blasting activity permit issued for residential development in Antrim Township, **Franklin County**. Blasting activity permit end date is October 1, 2009. Permit issued October 20, 2008.

21084156. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for residential development in Carlisle Borough, **Cumberland County**. Blasting activity permit end date is October 31, 2009. Permit issued October 21, 2008.

21084157. Douglas Explosives, Inc., P. O. Box 77, Philipsburg, PA 16866-0077, blasting activity permit issued for water treatment plant development in Hampden Township, **Cumberland County**. Blasting activity permit end date is January 1, 2009. Permit issued October 23, 2008.

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

52084119. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Tink Wig Development in Lackawaxen Township, **Pike County** with an expiration date of October 23, 2009. Permit issued October 27, 2008.

64084116. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for John Marshall Shale Pit Berlin Township, **Wayne County** with an expiration date of October 20, 2009. Permit issued October 27, 2008.

360841111. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for a septic tank in Conestoga Township, **Lancaster County** with an expiration date of October 23, 2009. Permit issued October 28, 2008.

38084129. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for a single dwelling in Jackson Township, **Lebanon County** with an expiration date of December 30, 2008. Permit issued October 28, 2008.

45084147. Ed Wean Drilling & Blasting, Inc., (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Smithfield Stone in Smithfield Township, **Monroe County** with an expiration date of October 16, 2009. Permit issued October 29, 2008.

67084130. Abel Construction Co., Inc., (P. O. Box 476, Mountville, PA 17554), construction blasting for Delta Ridge in Peach Bottom Township, **York County** with an expiration date of November 1, 2009. Permit issued October 30, 2008.

06084002. PACT Construction, Inc., (P. O. Box 74, Ringoes, NJ 08551), construction blasting for the Borough of Strausstown Contract No. 1 Sanitary Sewer Collection System in Strausstown Borough and Upper Tulpehocken Township, **Berks County** with an expiration date of October 23, 2009. Permit issued October 31, 2008.

46084003. PACT Construction, Inc. (P. O. Box 74, Ringoes, NJ 08551), construction blasting for the Franconia Sewer Authority Contract No. 08-6 Earlington Sewers Phase 2 in Franconia Township, **Montgomery County** with an expiration date of October 23, 2009. Permit issued October 31, 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

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

E07-423: Grace Baptist Church, Dan Albright, 1553 Columbia Avenue, Tyrone, PA 16686, Tyrone Borough, **Blair County**, United States Army Corps of Engineers, Baltimore District.

To fill in a 0.0057 acre of de minimis wetland along the watershed of Bald Eagle Creek (TSF) to construct a new worship center located along Adams Avenue about 900 feet southwest of the Decker Run culvert (Tyrone, PA Quadrangle N: 11.25 inches; W: 15.70 inches, Latitude: 40° 41' 13"; Longitude: 78° 14' 18") in Tyrone Borough, **Blair County**.

E44-135: David Frey, Lewistown Borough Recycling Center, Borough of Lewistown, David Frey, 2 East Third Street, Lewistown, PA 17044, Borough of Lewistown, Mifflin County, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 50.0-foot by 100.0-foot building addition to an existing structure located in the floodplain of the Juniata River (WWF). The project is located at 207 Washington Avenue (Lewistown, PA Quadrangle N: 15.8 inches; W: 9.4 inches, Latitude: 40° 35' 14"; Longitude: 77° 34' 9") in the Borough of Lewistown, **Mifflin County**. The construction of the building will increase recycling capacity to accommodate a larger region.

E38-160: Jeff Kenderdine, Lancaster Family YMCA/Camp Shand, 572 North Queen Street, Lancaster, PA 17603, Cornwall Borough and South Lebanon Township, **Lebanon County**, United States Army Corps of Engineers, Baltimore District.

1. To construct and maintain: (1) 20.0 feet of 24.0" diameter RCP with concrete headwall/endwalls and rip rap protection, also to construct and maintain two 2.0" diameter sanitary sewer force mains and one electrical services conduit through a forested wetland (PFO) permanently impacting 600 square feet (0.014 acre) within the watershed of a UNT to Shearers Creek (HQ-CWF) (Manheim, PA Quadrangle N: 20.9"; W: 2.6", Latitude: 40° 14' 43.00"; Longitude: 76° 23' 36.24") in Cornwall Borough and South Lebanon Township, Lebanon County.

2. To construct and maintain: (2) a 2.0" sanitary sewer force main crossing the forested wetland (PFO) in three locations, temporarily impacting 550 square feet (0.013 acre) within the watershed of a UNT to Shearers Creek (HQ-CWF) (Manheim, PA Quadrangle N: 20.9"; W: 2.6", Latitude: 40° 14' 43.00"; Longitude: 76° 23' 36.24") in Cornwall Borough and South Lebanon Township, Lebanon County.

3. To construct and maintain: (3) a 2.0" diameter SDR 21 PVC sanitary sewer force main discharging from an outfall to a lined discharge channel permanently impacting 10 linear feet into a UNT to Shearers Creek (HQ-CWF) (Manheim, PA Quadrangle N: 20.9"; W: 2.6", Latitude: 40° 14' 43.00"; Longitude: 76° 23' 36.24") in Cornwall Borough and South Lebanon Township, Lebanon County.

4. To construct and maintain: (4) a 1,200 square foot wooden fishing pier extending 35 linear feet into an open water pond, permanently impacting 1,200 square feet of open water in a UNT to Shearers Creek (HQ-CWF) (Manheim, PA Quadrangle N: 20.9"; W: 2.6", Latitude: 40° 14' 43.00"; Longitude: 76° 23' 36.24") in Cornwall Borough and South Lebanon Township, Lebanon County.

5. To construct and maintain (5) a dry hydrant along the bank of an open water pond, temporarily impacting 10 square feet of pond bank in a UNT to Shearers Creek (HQ-CWF) (Manheim, PA Quadrangle N: 20.9"; W: 2.6", Latitude: 40° 14' 43.00"; Longitude: 76° 23' 36.24") in Cornwall Borough and South Lebanon Township, Lebanon County.

Total proposed temporary impacts to forested wetland are 550 square feet (0.013 acre). Total permanent impacts to the forested wetland are 600 square feet (0.014). Total proposed temporary impacts to a UNT to Shearers Creek (HQ-CWF) are 10 square feet (0.0002 acre) and total permanent impacts are 1,200 square feet (0.028 acre) of open water and 10 Linear Feet of stream channel impacts.

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E32-257-A1. Department of Conservation and Natural Resources, Yellow Creek State Park, 170 Route 259, Highway, Penn Run, PA 15765. To replace and expand existing recreational dock in Cherryhill Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (Brush Valley, PA Quadrangle N: 15 inches; W: 6 inches, Latitude: 40° 34' 59.4"; Longitude: 79° 2' 43"). To (work authorized as stated on permit):

1. Remove the existing floating dock constructed under Permit E32-357; to amend Permit E32-357 to include the following activities.

2. Removal of material from approximately 0.35 acre of an existing bathing beach and replacing it with clean sand and replenishing pea gravel in the existing bathing area.

3. Installation of a 3,350 square foot wooden dock (total impact 0.43 acre or 18,596 sq. ft.).

4. Installation of three sections of wooden access walkways, with a total length of approximately 98.5'; all with a width of 5', to access the dock area, in the floodway of Yellow Creek Lake.

5. Installation of a 10' by 14' metal gangway anchored on a poured concrete bulkhead.

For the purpose of replacing and expanding an existing recreational dock and refurbishing an existing bathing beach. The project is located approximately 0.6 mile southeast along the eastern shore of Yellow Creek Lake (CWF) in Yellow Creek State Park.

E63-609. Department of Transportation, District 12-0, 825 North Gallatin Avenue Extension, Uniontown, PA 15401. To construct and maintain bridge replacement which extends between East Bethlehem Township, **Washington County** and Jefferson Township, **Greene County**, United States Army Corps of Engineers, Pitts-

burgh District (Mather, PA Quadrangle N: 19.7 inches; W: 1.5 inches, Latitude: 39° 58' 59"; Longitude: 80° 00' 38"). To remove the existing SR 88, two lane, two span, 212 ft. total length, steel thru truss bridge, having an underclearance of 14.2 ft. over Tenmile Creek's (WWF) normal pool elevation; and to construct and maintain approximately 20 ft. downstream and to the east, a two lane, three span, 384 ft. total length, replacement bridge, with a underclearance of 14.2 ft. over normal pool elevation. In addition, remove the existing SR 2039, 24 ft. span, 62 ft. wide, concrete slab bridge with a underclearance of 7.2 ft; construct and maintain a 61 ft. span 42 ft. wide by 12.2 ft. maximum underclearance replacement on the adjoining UNT (WWF) to accommodate the relocation and raising of the northern SR 88 approach road to the Tenmile Creek Bridge replacement; install a temporary causeway for construction of the SR 88 replacement bridge; install a temporary bridge for the replacement of the SR 2039 bridge; and construct and maintain associated stormwater outfalls. The project, is centered approximately 3,000 ft. upstream of Tenmile Creek's confluence with the Monongahela River.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

E10-447, Rebecca Fike, 124 West Diamond Street, Butler, PA 16003. McFann Bridge replacement over Glade Run along Sheldon Road (T-384), in Middlesex, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Valencia, PA Quadrangle N: 40° 43' 39"; W: 79° 56' 56").

This project includes the removal and replacement of the existing McFann Bridge structure at Sheldon Road (T-384) over Glade Run with minor roadway work on the approaches. New structure to have a span of 42' 11.5", under clearance of 4' 5", skew of 75° and a clear roadway width of 22'.

ENVIRONMENTAL ASSESSMENTS

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

D49-021EA and D49-022EA. Anthony Fernandes, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. Mount Carmel Township, **Northumberland County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Mt. Carmel No.1 Dam and Storage Reservoir No. 2 Dam across a tributary to Shamokin Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dams are located approximately 1,700 feet south of the intersection of SR 54 and SR 2040 (South Hickory Street) (Mount Carmel, PA Quadrangle Latitude: 40° 47' 25"; Longitude: 76° 24' 37") (Mount Carmel, PA Quadrangle Latitude: 40° 47' 26"; Longitude: 76° 24' 35").

STORAGE TANKS**SITE-SPECIFIC INSTALLATION PERMITS**

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021. 102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
08-42-007	American Refining Group, Inc. 77 North Kendall Avenue Bradford, PA 16701 Attn: Steve Sherk	McKean	Bradford City	1 AST storing Diesel Fuel	345,450 gallons

SPECIAL NOTICES**Certification to Perform Radon-Related Activities in Pennsylvania**

In the month of October 2008, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
B & T Inspections, Inc.	2843 North Front Street Harrisburg, PA 17110	Testing
Jason Bancroft	P. O. Box 261 Gilbertsville, PA 19525	Testing
Daniel Festa Festa Radon Technologies, Co.	47-A Progress Avenue Cranberry Township, PA 16066	Mitigation
Kevin Fischer, P. E.	P. O. Box 586 Yardley, PA 19067	Testing
Christopher Ford	2450 Brookdale Avenue Abington, PA 19001	Mitigation
James Kline	6097 Route 15 South Selinsgrove, PA 17870	Testing and Mitigation
Kenneth Ladlee	134 Broad Street Suite 3 Stroudsburg, PA 18360	Mitigation
Edward Lasorda	526 Ferncastle Drive Downingtown, PA 19335	Testing
Michael Lay	P. O. Box 7455 3050 Goldens Path York, PA 17404	Testing
Robert Meyer	124 Partridge Way Landenberg, PA 19350	Testing
David Miller	3049 Enterprise Drive State College, PA 16801	Testing and Mitigation
Randolph Payne	1232 Raven Drive Pittsburgh, PA 15243	Testing
Roger Priest	P. O. Box 200 Salfordville, PA 18050	Mitigation
Joseph Schwab	521 North Ramunno Drive Middletown, PA 19709	Testing
Marc Shanley	55 Country Acres Drive Kunkletown, PA 18058	Testing
The Home Inspector, Inc.	2061 Kenbrook Road Lebanon, PA 17046	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Diana Vaccarello	P. O. Box 373 Murrysville, PA 15668	Testing
Glenn Vernon Certified Radon Services	210 Church Place Pittsburgh, PA 15216	Testing
Douglas Weise	1021 Cider Lane Lebanon, PA 17046	Mitigation

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

EGS No. 11004. Clearfield Creek Watershed Association, 216 Beldin Hollow Road, Ashville, PA 16613. Rehabilitation of an abandoned mine treatment system located on land owned by J. H. Hommer Family in Reade Township, **Cambria County**. Project received July 22, 2008. Project issued October 29, 2008.

[Pa.B. Doc. No. 08-2067. Filed for public inspection November 14, 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.

Draft Technical Guidance—Substantive Revision:

DEP ID: 012-0200-001. Title: Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP Review of Authorizations for Facilities and Infrastructure. Description: This policy, which was effective on March 6, 2004, provides direction and guidance to Department staff, permit applicants and local and county governments concerning the Department's implementation of Acts 67, 68 and 127 of 2000. The policy guidance addresses how the Department considers and relies upon comprehensive planning and zoning ordinances in its authorization of facilities and infrastructure. Substantive revisions were previously made to the guidance document, which were advertised for comment at 35 Pa.B. 6283 (November 12, 2005). Due to changes between the November 2005 version of the guidance document and the

most recently revised version of the document, the Department is reissuing the guidance as draft for additional public comment. The revised policy requires applicants to submit County and Municipal Land Use Letters with their authorization application packages to assist the Department in their decision making process. Additionally, the revised guidance now provides that the Department's Office of Community Revitalization and Local Government Support will be involved in the review and determination of facility and infrastructure authorization applications when potential land use and zoning issues arise. Written Comments: Interested persons may submit written comments on this guidance document by January 15, 2009. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Denise Brinley, Department of Environmental Protection, Office of Community Revitalization and Local Government Support, Rachel Carson State Office Building, 16th Floor, P. O. Box 2063, Harrisburg, PA 17105-2063, dbrinley@state.pa.us. Contact: Questions regarding the draft technical guidance document should be directed to Denise Brinley at (717) 783-1566, dbrinley@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2068. Filed for public inspection November 14, 2008, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program; Nutrient Trading Program Activities and NPDES Permits

The Department of Environmental Protection (Department) hereby provides notice of the following actions regarding the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These actions were taken in relation to the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID No. 392-0900-001) (see 36 Pa.B. 7999 (December 30, 2006)). The Policy called for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by

going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System (NPDES) permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

The actions described in this notice relate to: (1) submitted proposals; (2) approved proposals; and (3) registered credits, through October 28, 2008.

Background

Before a credit can be used by an NPDES permittee, a three-step process is followed. First, the credit or offset proposal must be approved, second, it must be verified and third, it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of proposed or implemented activities to generate credits (in some cases the person generating the credits is not permitted to transfer them to another person, in which case they are called "offsets"). Certifications are based on at least: (1) a credit or offset proposal to be submitted describing the qualifying activities that will reduce the nutrient loadings delivered to the applicable watershed; (2) the calculation to quantify the pounds of reductions expected; and (3) a verification plan that, when implemented, ensures that the qualifying nutrient reduction activities have taken place. All of the proposals, certifications and registrations described in this notice apply to the Chesapeake Bay Watershed.

Once the credits or offsets are certified, they must be verified. Verification means implementation of the verification plan contained in a certified credit or offset proposal as required by the Department. Verification plans require annual submittal of documentation to the Department that demonstrates that the qualifying nutrient reduction activities have taken place for the applicable compliance year.

The credits or offsets also need to be registered by the Department before they can be used in an NPDES permit. Registration occurs only after credits or offsets have been certified and verified, and a trading contract for credits has been submitted to the Department. For the Chesapeake Bay Watershed, the Department will register credits on an annual basis for use during the compliance year in which the qualifying nutrient reduction activities have taken place and will provide such credits with an annual registry number for reporting and tracking purposes.

The Department has received 63 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 36 have been approved, 14 are in review, one has been withdrawn and the remaining need additional clarification prior to certification.

Proposals under Review

The following proposals are being reviewed by the Department. Comments will be received on these projects for 30 days.

Proposal Applicant

1. Chesapeake Nutrient Management Environmental Planners
2. Chesapeake Nutrient Management Environmental Planners

Proposal Description

- Nitrogen and Phosphorus credits generated by exporting poultry manure from Lancaster to location outside of the watershed.
- Nitrogen and Phosphorus credits generated by exporting poultry manure from Lancaster to location outside of the watershed.

Correction: At 38 Pa.B. 5502 (October 4, 2008), a proposal applicant was incorrectly referenced. It was stated that Bedford County Conservation District submitted a proposal for nitrogen credits generated by implementation of no-till. It should have been noticed that Capital RC&D submitted a proposal for nitrogen credits generated by the implementation of no-till in Bedford County.

Certifications

There are no new certifications.

Verifications and Registrations

To date, there are no verifications and registrations

For further information about the previous information or the Department's Nutrient Trading Program, contact Ann Smith, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, annsmith@state.pa.us or visit the Department's web site at www.depweb.state.pa.us (DEP Keywords: "Nutrient Trading").

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2069. Filed for public inspection November 14, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Allegheny General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Allegheny General Hospital has requested an exception to the requirements of 28 Pa. Code §§ 107.64 and 117.30 (relating to administration of drugs; and emergency paramedic services).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation

to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2070. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Altoona Regional Health System for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Altoona Regional Health System has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.1.1.4 (relating to desk in patient rooms), 2.2.1 (relating to seclusion rooms), 2.2.1.3 (relating to space requirements), 2.2.1.5 (relating to details and finishes) and 2.8.1 (relating to staff lounge).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2071. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Berwick Hospital Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Berwick Hospital Center has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of

Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2072. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Charles Cole Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Charles Cole Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication 2.1.8 (relating to toilets for patient use).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2073. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Excela Health, Westmoreland Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Excela Health, Westmoreland Hospital has requested an exception to the requirements of 28 Pa. Code § 117.57 (relating to religious and moral exemptions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2074. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of FoxChase Cancer Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that FoxChase Cancer Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication 5.2.1.1 (relating to corridor width).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and

require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2075. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Phoenixville Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Phoenixville Hospital has requested an exception to the requirements of 28 Pa. Code § 131.22 (relating to treatment orders).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2076. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Progressive Vision Institute Eye Care Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Progressive Vision Institute Eye Care Center has requested an exception to the requirements of 28 Pa. Code § 553.31 (relating to administrative responsibilities).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2077. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Select Specialty Hospital—Erie for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital—Erie has requested an exception to the requirements of 28 Pa. Code § 107.26(b)(2) (relating to tissue committee).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2078. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of UPMC Braddock for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Braddock has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication 2.1-3.1.5.9 paragraph 2 (relating to bathing facilities).

The facility is also requesting exception to 28 Pa. Code § 103.31 (relating to the chief executive officer).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2079. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of UPMC McKeesport for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC McKeesport has requested an exception to the requirements of 28 Pa. Code § 103.31 (relating to the chief executive officer).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2080. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application of Washington Square Endoscopy Center, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Washington Square Endoscopy Center, LLC has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2081. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application for Exception to 28 Pa. Code § 127.32

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 127.32 (relating to written orders):

Alle-Kiski Medical Center
Frankford Hospital
Highlands Hospital
Jameson Memorial Hospital
Jefferson Regional Medical Center
Jersey Shore Hospital
Schuylkill Medical Center
The Western Pennsylvania Hospital
The Western Pennsylvania Hospital-Forbes Regional Campus

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

These facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or

hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2082. Filed for public inspection November 14, 2008, 9:00 a.m.]

Application for Exception to 28 Pa. Code § 551.21

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 551.21 (relating to criteria for ambulatory surgery):

Crossroads Surgery Center
Hazleton Surgery Center, LLC, d/b/a Center for Advanced Surgery
Laurel Surgical Center, LLC
The Susquehanna Endoscopy Center

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2083. Filed for public inspection November 14, 2008, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Prevailing Wage Appeals Board Meeting

The Prevailing Wage Appeals Board will hold a public meeting on Tuesday, November 18, 2008, at 10 a.m. in the Capitol Associates Building, 901 North Seventh Street, 3rd Floor Conference Room, Harrisburg, PA.

The Americans With Disability Act contact is Gina Meckley, (717) 783-9276.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 08-2084. Filed for public inspection November 14, 2008, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Availability of the Temporary Assistance for Needy Families State Plan; Office of Income Maintenance

Purpose of Notice

The Department of Public Welfare (Department) is making available for comment an updated Temporary Assistance for Needy Families (TANF) State Plan. The State Plan was developed in accordance with the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (act) (Pub. L. No. 104-193). The act provides each state with a TANF Block Grant and the opportunity, with broad Federal guidelines, to design and operate its own programs. The original State Plan was published at 27 Pa.B. 342 (January 18, 1997). Updated Plans were published at 29 Pa.B. 5658 (October 30, 1999) and 32 Pa.B. 6401 (December 28, 2002). The availability of the 2005 TANF State Plan was published at 35 Pa.B. 6289 (November 12, 2005).

The updated State Plan incorporates changes identified through suggestions and recommendations from the public and through an ongoing review of the TANF program. The updated State Plan will be submitted to United States Department of Health and Human Services in December 2008.

Public Comment

Future amendments to the State Plan will incorporate suggestions and recommendations received during the comment period. The 45-day comment period begins on the date this notice is published in the *Pennsylvania Bulletin*.

Copies of the State Plan are available for all interested individuals and groups by written request or at the Department's web site at www.dpw.state.pa.us. Written requests should be directed to Edward J. Zogby, Attention: TANF State Plan, Director, Bureau of Policy, Office of Income Maintenance, Room 431, Health and Welfare Building, Harrisburg, PA 17120. Persons may also request copies by facsimile machine at (717) 787-6765, using the previously listed address on the cover document.

Interested persons are invited to submit written comments regarding this notice to the Department at the previously listed address. Comments received within 45 days will be reviewed and considered for any subsequent revision of the State Plan.

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

[Pa.B. Doc. No. 08-2085. Filed for public inspection November 14, 2008. 9:00 a.m.]

Payment for Nursing Facility Services Provided by County Nursing Facilities; Change in Methods and Standards of Setting Payment Rates

Purpose

This notice announces updated proposed annual rates for Medical Assistance (MA) county nursing facilities for State Fiscal Year (FY) 2008-2009 and updated information regarding the budget adjustment factor (BAF) that the Department of Public Welfare (Department) will apply to MA county nursing facility payment rates for FY 2008-2009.

Background

On July 19, 2008, the Department published a notice announcing its proposed annual payment rates for MA county nursing facilities for FY 2008-2009. See 38 Pa.B. 3943 (July 19, 2008). As explained in that notice, the Department determined the proposed rates in accordance with 55 Pa. Code Chapter 1189, Subchapter D (relating to rate setting). The Department also explained that Chapter 1189 requires that the Department multiply each county nursing facility's annual rate by a BAF which is determined in accordance with the Commonwealth's approved State Plan. See 55 Pa. Code § 1189.91(b) (relating to per diem rates for county nursing facilities). The Department advised that it was taking steps to include a BAF formula in the State Plan for FY 2008-2009 and that, in determining the proposed rates, the Department calculated and applied a BAF which was based upon the level of funding requesting in the Governor's executive budget.

After the Department had submitted the notice for publication in the *Pennsylvania Bulletin*, the Pennsylvania General Assembly enacted two laws that affect MA nursing facility payment rates and the BAF for FYs 2008-2009, 2009-2010 and 2010-2011: the act of July 4, 2008 (P. L. 31, No. 44) (Act 44); and the General Appropriation Act of 2008 (Act 38A). In response to the request of the trade associations, the Department is updating its proposed annual rates and BAF calculation.

Act 44

Among other things, Act 44, amended section 443.1 of the Public Welfare Code. Act 44 directed the Department to:

- Calculate payments to county nursing facilities in accordance with the methodologies for establishing payment rates specified in the Department's regulations and approved State Plan in effect after June 30, 2007.
- Apply a BAF to county nursing facility payment rates for each fiscal year between July 1, 2008, and June 30, 2011, that limits the estimated aggregate increase in the Statewide day-weighted average payment rate for each fiscal year based upon the funds appropriated by the General Appropriations Act.

Act 38A

The funds appropriated by the General Appropriations Act of 2008 for nursing facility payment rates for FY 2008-2009 provide for a percentage rate of increase of 1%. Using the formula described as follows, the Department has recalculated the BAF to be applied to county nursing facility payment rates for FY 2008-2009 based on this percentage rate of increase.

FY 2008-2009 BAF Formula for County Nursing Facility Payment Rates

The BAF = 1.00 + .01 (the percent increase permitted by the General Appropriations Act).

Using this formula the Department has determined that the BAF that will be applied to county nursing facility payment rates for FY 2008-2009 is 1.01.

State Plan Amendment

A State Plan Amendment (SPA 08-008) was submitted to the Centers for Medicare and Medicaid Services (CMS) to amend the Commonwealth's Title XIX Plan to specify the BAF the Department intends to apply to county nursing facility payment rates for FY 2008-2009. Application of the BAF in FY 2008-2009 is subject to Federal approval of the amendments to the Commonwealth's State Plan.

The updated proposed per diem rates for FY 2008-2009 are available on the web site for the Department of Public Welfare at www.dpw.state.pa.us/PartnersProviders/LongTermLiving/ and at local county assistance offices throughout the Commonwealth or by contacting Gail Weidman, Department of Public Welfare, Office of Long-Term Living at (717) 705-3705.

Fiscal Impact

These changes will result in an estimated cost of \$8.482 million (\$3.867 million in State funds) for county nursing facilities in 2008-2009 compared to the final April 1, 2008, rates. Funding for these changes has been included in the MA Long-Term Care appropriation.

Public Comment

Interested persons are invited to submit written comments regarding the BAF formula to the Department of Public Welfare, Office of Long-Term Living, Attention: Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Services at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-573. (1) General Fund; (2) Implementing Year 2008-09 is \$3,545,000; (3) 1st Succeeding Year 2009-10 is \$3,867,000; 2nd Succeeding Year 2010-11 is \$3,867,000; 3rd Succeeding Year 2011-12 is \$3,867,000; 4th Succeeding Year 2012-13 is \$3,867,000; 5th Succeeding Year 2013-14 is \$3,867,000; (4) 2007-08 Program—\$762,585,000; 2006-07 Program—\$695,279,000; 2005-06 Program—\$817,890,000; (7) Medical Assistance—Long-Term Care; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 08-2086. Filed for public inspection November 14, 2008. 9:00 a.m.]

Payment for Nursing Facility Services Provided by Nonpublic Nursing Facilities; Change in Methods and Standards of Setting Payment Rates

Purpose

This notice announces updated proposed annual rates for Medical Assistance (MA) nonpublic nursing facilities for State Fiscal Year (FY) 2008-2009 and updated information regarding the budget adjustment factor (BAF) that the Department of Public Welfare (Department) will apply to MA nonpublic nursing facility payment rates for FY 2008-2009.

Background

On July 19, 2008, the Department published a notice announcing its proposed annual rates for MA nonpublic nursing facilities for FY 2008-2009. See 38 Pa.B. 3943 (July 19, 2008). As explained in that notice, the Department determined the proposed rates in accordance with 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting). The Department also explained that will adjust each facility's CMI-adjusted quarterly rate by multiplying the rate by a BAF.

After the Department had submitted the notice for publication in the *Pennsylvania Bulletin*, the Pennsylvania General Assembly enacted two laws that affect MA nursing facility payment rates and the BAF for FYs 2008-2009, 2009-2010 and 2010-2011: the act of July 4, 2008 (P.L. 31, No. 44) (Act 44); and the General Appropriation Act of 2008 (Act 38A). In response to the request of the trade associations, the Department is updating its proposed annual rates and BAF calculation.

Act 44

Among other things, Act 44, amended section 443.1 of the Public Welfare Act. Act 44 directed the Department to:

- Calculate payments to nonpublic nursing facilities in accordance with the methodologies for establishing payment rates specified in the Department's regulations and approved State Plan in effect after June 30, 2007.
- Apply a BAF to nonpublic nursing facility payment rates for each fiscal year between July 1, 2008, and June 30, 2011, that limits the estimated aggregate increase in the Statewide day-weighted average payment rate for each fiscal year based upon funds appropriated by the General Appropriations Act.
- Continue to include the costs incurred by county nursing facilities in the rate-setting database used for the purpose of calculating nonpublic nursing facility payment rates.

Act 38A

The funds appropriated by the General Appropriations Act of 2008 for nursing facility payment rates for FY 2008-2009 provide for a percentage rate of increase of 1%. Using the formula described as follows, the Department recalculated the BAF to be applied to nonpublic nursing facility payment rates for FY 2008-2009 based on this percentage rate of increase.

FY 2008-2009 BAF Formula for Nonpublic Nursing Facilities

BAF = (nonpublic nursing facilities' share of total appropriated funds + estimated annual patient pay amount) divided by estimated acuity-adjusted annual payments.

Using this formula the Department has determined that the BAF that will be applied to nonpublic nursing facility payment rates for FY 2008-2009 is .90891.

State Plan Amendments

Two State Plan Amendments (SPA 08-007 and 08-015) were submitted to the Centers for Medicare and Medicaid Services (CMS) to amend the Commonwealth's Title XIX Plan. SPA 08-007 specifies the BAF the Department intends to apply to nonpublic nursing facility payment rates for FY 2008-2009. SPA 08-015 provides for continuing the inclusion of county nursing facility costs in the process of computing the peer group prices used to set per diem rates for nonpublic facilities for FY 2008-2009.

Application of the BAF in FY 2008-2009 and continuing the inclusion of county nursing facility costs in the rate setting process for nonpublic nursing facilities is subject to Federal approval of the amendments to the Commonwealth's State Plan.

The updated proposed annual per diem rates for FY 2008-2009 are available on the web site for the Department of Public Welfare at: www.dpw.state.pa.us/PartnersProviders/LongTermLiving/ and at local county assistance offices throughout the Commonwealth or by contacting Gail Weidman, Department of Public Welfare, Office of Long-Term Living, at (717) 705-3705. In addition, the Department will calculate adjusted quarterly rates for the October, January and April quarters of FY 2008-2009 for each nonpublic MA nursing facility provider.

After the quarterly rates are finalized, they will be posted on the Department's web site, and be available at local county assistance offices or by contacting Gail Weidman.

Fiscal Impact

These changes will result in an estimated cost of \$32.302 million (\$14.726 million in State funds) for nonpublic nursing facilities 2008-2009 compared to the final April 1, 2008, rates. Funding for these changes has been included in the MA Long-Term Care appropriation.

Public Comment

Interested persons are invited to submit written comments regarding the BAF formula to the Department of Public Welfare, Office of Long Term Living, Attention: Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Services at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-574. (1) General Fund; (2) Implementing Year 2008-09 is \$14,726,000; (3) 1st Succeeding Year 2009-10 is \$16,065,000; 2nd Succeeding Year 2010-11 is \$16,065,000; 3rd Succeeding Year 2011-12 is \$16,065,000; 4th Succeeding Year 2012-13 is \$16,065,000; 5th Succeeding Year 2013-14 is \$16,065,000; (4) 2007-08 Program—\$762,585,000; 2006-07 Program—\$695,279,000; 2005-06 Program—\$817,890,000; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 08-2087. Filed for public inspection November 14, 2008, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$500 A Week For Life '08 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$500 A Week For Life '08.

2. *Price:* The price of a Pennsylvania \$500 A Week For Life '08 instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania \$500 A Week For Life '08 instant lottery game ticket will contain one play area containing nine prize play symbols. The prize play symbols and their captions located in the play area are: FREE (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$100 (ONE HUN), \$\$ (DBLS) and LIFE (\$500/WK).

4. *Prizes:* The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$100, and \$500 a week for life (\$520,000 lifetime minimum).

5. *Approximate Number of Tickets Printed For the Game:* Approximately 24,000,000 tickets will be printed for the Pennsylvania \$500 A Week For Life '08 instant lottery game. A player can win 1 time on a ticket.

6. *Determination of Prize Winners:*

(a) Holders of tickets with three matching prize play symbols of LIFE (\$500/WK) in the play area, on a single ticket, shall be entitled to a prize of \$500 a week for life (\$520,000 lifetime minimum) which shall be paid by an initial cash payment of \$26,000 plus equal annual payments of \$26,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$520,000 minimum has been paid. If the winner of the Pennsylvania \$500 A Week For Life prize is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(b) Holders of tickets with three matching prize play symbols of \$100 (ONE HUN) in the play area, on a single ticket, shall be entitled to a prize of \$100.

(c) Holders of tickets with three matching prize play symbols of \$40⁰⁰ (FORTY) in the play area, on a single ticket, shall be entitled to a prize of \$40.

(d) Holders of tickets with two matching prize play symbols of \$20⁰⁰ (TWENTY) and a \$\$ symbol (DBLS) in the play area, on a single ticket, shall be entitled to a prize of \$40.

(e) Holders of tickets with three matching prize play symbols of \$20⁰⁰ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(f) Holders of tickets with two matching prize play symbols of \$10⁰⁰ (TEN DOL) and a \$\$ symbol (DBLS) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(g) Holders of tickets with three matching prize play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(h) Holders of tickets with two matching prize play symbols of \$5⁰⁰ (FIV DOL) and a \$\$ symbol (DBLS) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(i) Holders of tickets with three matching prize play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(j) Holders of tickets with three matching prize play symbols of \$4⁰⁰ (FOR DOL) in the play area, on a single ticket, shall be entitled to a prize of \$4.

(k) Holders of tickets with two matching prize play symbols of \$2.⁰⁰ (TWO DOL) and a \$\$ symbol (DBL\$) in the play area, on a single ticket, shall be entitled to a prize of \$4.

(l) Holders of tickets with three matching prize play symbols of \$2.⁰⁰ (TWO DOL) in the play area, on a single ticket, shall be entitled to a prize of \$2.

(m) Holders of tickets with two matching prize play symbols of \$1.⁰⁰ (ONE DOL) and a \$\$ symbol (DBL\$) in the play area, on a single ticket, shall be entitled to a prize of \$2.

(n) Holders of tickets with three matching prize play

symbols of \$1.⁰⁰ (ONE DOL) in the play area, on a single ticket, shall be entitled to a prize of \$1.

(o) Holders of tickets with three matching prize play symbols of FREE (TICKET) in the play area, on a single ticket, shall be entitled to a prize of one Pennsylvania \$500 A Week For Life '08 instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

Get 3 Like Amounts, Win That Prize. Get 2 Like Amounts And A \$\$ Symbol, Win Double That Prize. Win With Prize(s) Of:

	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 24,000,000 Tickets</i>
3—FREE's	FREE \$1 TICKET	12	2,000,000
3—\$1's	\$1	42.86	560,000
3—\$2's	\$2	42.86	560,000
2—\$1's w/\$\$	\$2	37.50	640,000
3—\$4's	\$4	85.71	280,000
2—\$2's w/\$\$	\$4	85.71	280,000
3—\$5's	\$5	75	320,000
3—\$10's	\$10	200	120,000
2—\$5's w/\$\$	\$10	200	120,000
3—\$20's	\$20	600	40,000
2—\$10's w/\$\$	\$20	600	40,000
3—\$40's	\$40	4,800	5,000
2—\$20's w/\$\$	\$40	4,800	5,000
3—\$100's	\$100	2,759	8,700
3—LIFE's	\$500/WK/LIFE	4,800,000	5

\$\$ (DBL\$) = Win double that prize.

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$500 A Week For Life '08 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$500 A Week For Life '08, prize money from winning Pennsylvania \$500 A Week For Life '08 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$500 A Week For Life '08 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania \$500 A Week For Life '08 or through normal communications methods.

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 08-2088. Filed for public inspection November 14, 2008, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Fee Increase for Photo Driver's License or Photo Identification Card

The Department of Transportation, Bureau of Driver Licensing, under the authority contained in 67 Pa. Code 73.5(d) (relating to cost of photograph) gives notice that, effective December 15, 2008, the cost of the photograph associated with the issuance of a photo driver's license or photo identification card will be \$7. This will result in a \$2 increase to the cost of a driver's license or identification card.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-2089. Filed for public inspection November 14, 2008, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Meeting Cancellation

The November 18, 2008, meeting of the Environmental Quality Board (EQB) is cancelled. The next regularly scheduled meeting of the EQB is scheduled for Tuesday, December 16, 2008, at 9 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. An agenda and meeting materials for the December 16, 2008, meeting will be available on the Department of Environmental Protection's website at www.depweb.state.pa.us (DEP Keywords: EQB).

Questions concerning the EQB's next scheduled meeting may be directed to Michele Tate at (717) 783-8727 or mtate@state.pa.us.

JOHN HANGER,
Acting Chairperson

[Pa.B. Doc. No. 08-2090. Filed for public inspection November 14, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-4514	State Board of Cosmetology General Revisions	11/3/08	12/18/08
16A-5721	State Board of Veterinary Medicine Professional Conduct	11/3/08	12/18/08
16A-4817	State Board of Funeral Directors Renewal Fee	11/3/08	12/18/08
16A-4926	State Board of Medicine Nurse Midwife Prescriptive Authority	11/3/08	12/18/08

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2091. Filed for public inspection November 14, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Bruno Investments, LP

Bruno Investments, LP has applied for a Certificate of Authority to operate two Continuing Care Retirement Communities at Humbert Lane Senior Living in Washington, PA and at Baldock Hills Senior Living in North Huntingdon, PA. The initial filing was received on October 30, 2008, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2092. Filed for public inspection November 14, 2008, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection (b) or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution No. CB-08-262, Dated September 22, 2008. Authorizes the Side Agreement with AFSCME that establishes a new pay program for Parole Agents 2 and Parole Supervisors in Philadelphia County. This Resolution is effective September 13, 2008, and shall continue through June 30, 2011.

Resolution No. CB-08-274, Dated October 7, 2008. Authorizes the Side Letter of Agreement with AFSCME that provides for flight pay of \$5 per hour for employees involved in no-scheduled aerial flights. This side letter replaces a previous side letter dated March 7, 2008.

Resolution No. CB-08-278, Dated October 7, 2008. Authorizes the Side Letter which amends Recommendation 26 (Quality Assurance Program) of the Memorandum of Understanding between the Commonwealth of Pennsyl-

vania and the Pennsylvania Doctors Alliance effective July 1, 2005 through June 30, 2009.

Resolution No. CB-08-288, Dated October 7, 2008. Authorizes the Side Letter which amends Article 26 (Quality Assurance Program) of the Collective Bargaining Agreement between the Commonwealth of Pennsylvania and the Pennsylvania Doctors Alliance effective July 1, 2005 through June 30, 2009.

Resolution No. CB-08-289, Dated October 7, 2008. Authorizes the Side Letter with AFSCME that provides for a \$200. Tool allowance for Diesel Mechanics in the Department of Transportation.

Governor's Office

Management Directive No. 315.15—Withholding of Pennsylvania Higher Education Assistance Agency Loans from Employee Paychecks, Amended August 28, 2008.

Management Directive No. 325.2—Audit Inquiry Relative to Agency Litigation, Claims, and Assessments, Amended September 12, 2008.

Management Directive No. 507.7—Personnel Rules, Amended October 9, 2008.

Management Directive No. MD525.20—Implementation & Maintenance of Local Service Tax, Dated October 10, 2008.

Management Directive No. 530.31—Workplace Safety and Health Program, Dated September 29, 2008.

Management Directive No. 625.2—Inventory of Commonwealth Real Property, Amended September 16, 2008.

Administrative Circular No. 08-15—Lodging Payments with an Agency Lodging Card, Dated September 8, 2008.

Administrative Circular No. 08-16—Holidays—2009, Dated October 9, 2008.

MARY JANE PHELPS,
Director
Pennsylvania Bulletin

[Pa.B. Doc. No. 08-2093. Filed for public inspection November 14, 2008, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Philadelphia County, Wine & Spirits Store #5137, (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space. Location must be within a 1/4 mile radius of Rhawn Street and Dungan Road, Philadelphia, PA.

Proposals due: December 5, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, (215) 482-9670

Philadelphia County, Wine & Spirits Store #5139, (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space. Location must be within a 1/4 mile radius of 2nd and Spring Garden Streets, Philadelphia, PA.

Proposals due: December 5, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, (215) 482-9670
PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 08-2094. Filed for public inspection November 14, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Order

Public Meeting held
October 23, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

In the Matter of the Request of the Commonwealth of Pennsylvania Department of Transportation to be Recognized and Assigned as the Sole Administrator of the 511 Dialing Code that Will be Implemented Statewide as a Means to Access Traveler Information;
Doc. No. M-2008-2061434

Order

On August 15, 2008, pursuant to the provisions of 52 Pa. Code § 5.11, the Pennsylvania Department of Transportation (PennDOT) filed an application for authority to be the sole administrator of the 511 abbreviated dialing code for the provision of its Traveler Information System for the State of Pennsylvania. In accordance with 52 Pa. Code § 5.14, notice of the application was published in the *Pennsylvania Bulletin* on September 20, 2008. Interventions were due on or before October 6, 2008. Verizon Pennsylvania, Inc. and Verizon North, Inc. (hereinafter jointly referred to as "Verizon") filed a Petition to Intervene and Comments in the proceeding.

Verizon indicates that it has a material interest in this proceeding because several of its regulated entities will likely have to perform switch translations or other facilities work to implement 511 service as requested by PennDOT. Additionally, Verizon emphasizes that it does not oppose the granting of the application. Based on the information submitted by PennDOT and Verizon, the Commission grants the application.

Background

On July 21, 2000, the Federal Communications Commission ("FCC") ruled that the 511 abbreviated dialing code should be used exclusively to provide traveler information services.¹ The FCC, acting on a petition filed by

¹ *In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, 15 FCC Red 16753 (July 31, 2000).

the U.S. Department of Transportation (“USDOT”), held that a nationwide, three-digit number for traveler information would “stimulate the deployment and use of travel-related information” in a way that the existing traveler information telephone services could not.²

The FCC also concurred with USDOT’s argument that a three-digit number would be easier to remember and that it would be particularly useful for travelers moving across local boundaries. The FCC recognized that enabling travelers to make better-informed travel choices would also allow “better, safer traffic and travel management” and help reduce congestion and air pollution.³ The FCC also noted that “state public utilities commissions may continue to exercise jurisdiction over N11 codes to the extent necessary to ensure that carriers comply with transportation agencies’ requests to deploy 511 expeditiously.”⁴ However, the FCC’s ruling leaves nearly all implementation issues to state and local agencies and telecommunications carriers.

Furthermore, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”) in 2005 that specifically calls for the implementation of a “national, interoperable 511 system . . . by September 30, 2010.” 23 U.S.C. § 512(b).

Discussion

PennDOT is seeking to establish “511 Pennsylvania,” which will provide users with timely, reliable and relevant traffic, weather and inter-modal information via telephone and the internet. The automated Advanced Traveler Information System will provide statewide traveler information, including, among other things, road conditions, weather information, incidents and road closures, as well as Statewide road maintenance and construction projects where potential delays might exist. A call to 511 will route to a toll-free number and the information provided by this system will be available 24 hours a day, 7 days a week, 365 days a year, and will be updated as needed. PennDOT is currently in the process of selecting a vendor to establish, host and operate the telephone and web service. Additionally, the Pennsylvania Turnpike Commission supports the assignment of 511 to PennDOT.

We find that PennDOT has shown good cause to grant its request for the authority to use the 511 abbreviated dialing code on a statewide basis. We find that statewide 511 traffic and traveler service will benefit the citizens of Pennsylvania by providing a simple, universal, easy-to-remember number to access road travel information. Moreover, no party opposes the assignment of 511 to PennDOT. Verizon’s primary concern in this matter is the appropriate compensation, terms, and conditions for making and maintaining the system changes necessary to provide the 511 dialing functionality in Pennsylvania. Verizon asserts that it intends to provide this service to PennDOT through an individual case basis contract and will negotiate this commercial contract with PennDOT at market-based terms and conditions.

As PennDOT wants to provide 511 Pennsylvania statewide, we are sure that other jurisdictional local exchange carriers may have the same concerns that Verizon has expressed. We acknowledge, as mentioned above, that the FCC’s ruling left the details of 511 implementation up to the states and localities. There are no Federal requirements and no mandated way to pay for 511. This presents

a challenge; however, we agree with the FCC that a three-digit number is easier to remember and would be particularly useful for travelers moving across local boundaries. Accordingly, we will direct that all jurisdictional local exchange carriers expeditiously perform all analyses required to quantify its costs for the necessary translations and/or facilities work if it plans to seek recovery of internal costs associated with enabling 511 call completion and estimate the time required to perform the necessary translations and/or facilities work to allow 511 call completion from its subscribers. We also recognize that wireless callers will access 511. Therefore, we encourage wireless carriers to coordinate and work with PennDOT in an expeditious manner as well regarding any implementation issues. Likewise, we will direct PennDOT to provide access to a copy of its implementation plan for 511 to assist jurisdictional local exchange carriers in compiling the information necessary to provide “511 Pennsylvania” Statewide in an expeditious manner; *Therefore,*

It Is Ordered:

1. The Application of the Pennsylvania Department of Transportation to be Recognized and Assigned as the Sole Administrator for the Provision of the 511 Dialing Code in Pennsylvania is hereby granted.

2. That Verizon Pennsylvania, Inc.’s and Verizon North, Inc.’s Petition to Intervene is hereby granted.

3. That the Pennsylvania Department of Transportation shall provide all jurisdictional local exchange carriers with access to a copy of its implementation plan for 511 dialing, when available.

4. That within 30 days of the entry date of this Order, all jurisdictional local exchange carriers shall immediately discontinue using 511 for purposes other than access to intelligent transportation systems or other transportation information.

5. That within 30 days of the entry date of this Order, all jurisdictional local exchange carriers shall perform all analyses required to quantify its costs for the necessary translations and/or facilities work if it plans to seek recovery of internal costs associated with 511 call completion; and estimate the time required to perform the necessary translations and/or facilities work to allow 511 call completion from its subscribers.

6. That within 45 days of the entry date of this Order, any affected jurisdictional local exchange carriers shall provide PennDOT with an estimate of the time required to perform the necessary translation and/or facilities work to allow 511 call completion and the internal costs associated with 511 call completion.

7. That all affected jurisdictional local exchange carriers shall comply with the assignment and implementation schedule established by PennDOT unless a petition for waiver is filed with the Commission pursuant to 52 Pa. Code § 5.41.

8. That a copy of this order shall be served on all jurisdictional local exchange carriers and published in the *Pennsylvania Bulletin*.

9. That the Secretary’s Bureau mark this matter closed.

By the Commission:

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2095. Filed for public inspection November 14, 2008, 9:00 a.m.]

² *Id.*

³ *Id.*

⁴ *Id.*

Telecommunications

A-2008-2071409. Verizon North, Inc. and Access Integrated Networks, Inc. Joint petition of Verizon North, Inc. and Access Integrated Networks, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and Access Integrated Networks, Inc., by its counsel, filed on October 24, 2008, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and Access Integrated Networks, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2096. Filed for public inspection November 14, 2008, 9:00 a.m.]

Telecommunications

A-2008-2071272. Verizon Pennsylvania, Inc. and Access Integrated Networks, Inc., d/b/a Birch Communications. Joint petition of Verizon Pennsylvania, Inc. and Access Integrated Networks, Inc., d/b/a Birch Communications for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Access Integrated Networks, Inc., d/b/a Birch Communications, by its counsel, filed on October 24, 2008, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of Verizon Pennsylvania, Inc. and Access Integrated Networks, Inc., d/b/a Birch Communications joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2097. Filed for public inspection November 14, 2008, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

December 17, 2008 Elizabeth J. Ball 2:30 p.m.
(Purchase of Service)

Persons with a disability, wish to attend the previously-listed hearing, and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Barbara Flurie, Assistant to the Executive Director at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties 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 22 Pa. Code § 201.1, (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure), unless specific exemption is granted.

JEFFREY B. CLAY,
Executive Director

[Pa.B. Doc. No. 08-2098. Filed for public inspection November 14, 2008, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

Bureau of Professional and Occupational Affairs v. 2000 Homes Realty, Inc., ERA 2000 Homes Realty; File No. 08-56-02708

On July 29, 2008, 2000 Homes Realty, Inc., ERA 2000 Homes Realty, license no. RB-062849-C, of Milford, Pike County, had their license automatically suspended based on a payment totaling \$20,000 being made from the Real Estate Recovery Fund to satisfy the claim of Gary and Nancy Little, c/o Mark E. Moulton, Esquire, who has uncollectible civil judgments against them.

Individuals may obtain a copy of the order by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the State Real Estate Commissioner's (Commission) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of

Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of your petition for review. The Commission contact for receiving service of the appeals is the previously-named Commission counsel.

ANNIE HANNA CESTRA,
Chairperson

[Pa.B. Doc. No. 08-2099. Filed for public inspection November 14, 2008, 9:00 a.m.]
