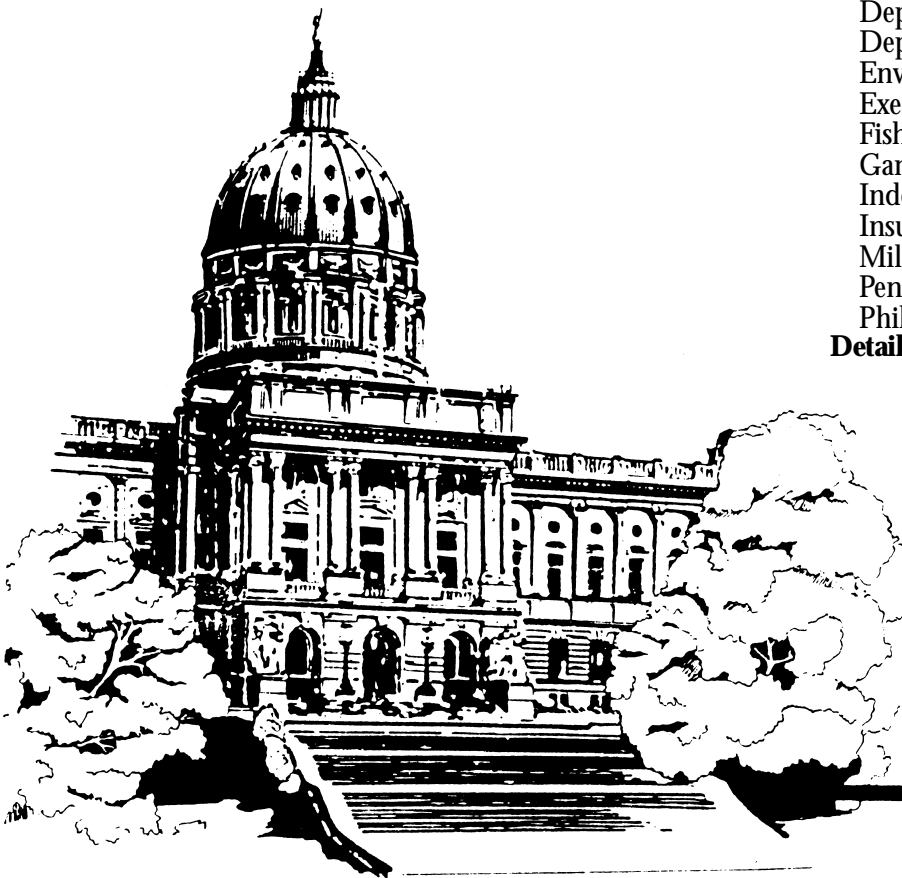


PENNSYLVANIA BULLETIN

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Agencies in this issue

The Courts
Department of Agriculture
Department of Banking
Department of Environmental Protection
Department of Health
Department of Labor and Industry
Department of Revenue
Department of Transportation
Environmental Hearing Board
Executive Board
Fish and Boat Commission
Game Commission
Independent Regulatory Review Commission
Insurance Department
Milk Marketing Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Detailed list of contents appears inside.



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No. 409, December 2008

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CONTENTS

THE COURTS

| | |
|--|------|
| DISCIPLINARY BOARD OF THE SUPREME COURT | |
| Notice of suspension | 6604 |
| JUVENILE RULES | |
| Adopted modifications of rules 120, 160, 166, 220, 232, 330, 362, 408, 409 and 515 | 6598 |
| LOCAL COURT RULES | |
| Pike County | |
| Amendment to criminal local rule 571; civil division; doc. no. 2187-2008 | 6601 |
| RULES OF CIVIL PROCEDURE | |
| Order amending rules 1915.1 and 1915.2, the notes to 1915.3, 1915.5, 1915.6 and 1915.12 and the explanatory comment to 1915.15; civil procedural rules; no. 503; doc. no. 5 | 6596 |

EXECUTIVE AGENCIES

| | |
|---|------|
| DEPARTMENT OF AGRICULTURE | |
| Notices | |
| Partial revocation of plum pox virus quarantine . . . | 6624 |
| Year 2009 Dog Control Facility Bill Reimbursement Grant Program | 6624 |
| DEPARTMENT OF BANKING | |
| Notices | |
| Actions on applications | 6627 |
| DEPARTMENT OF ENVIRONMENTAL PROTECTION | |
| Notices | |
| Applications, actions and special notices | 6628 |
| DEPARTMENT OF HEALTH | |
| Notices | |
| Amendments to charges for medical records | 6660 |
| Long-term care nursing facilities; request for excep- tion | 6661 |
| Rescheduling of Health Policy Board meeting | 6661 |
| DEPARTMENT OF LABOR AND INDUSTRY | |
| Rules and Regulations | |
| Registration of sign language interpreters and transliterators | 6605 |
| DEPARTMENT OF REVENUE | |
| Notices | |
| Pennsylvania Deluxe Winner Take All '08 instant lottery game | 6662 |
| Pennsylvania Triple Cash instant lottery game | 6664 |
| Realty Transfer Tax revised; 2007 common level ratio real estate valuation factors | 6667 |

DEPARTMENT OF TRANSPORTATION

| | |
|--|------|
| Notices | |
| Draft public participation plan for Statewide planning | 6667 |
| ENVIRONMENTAL HEARING BOARD | |
| Notices | |
| Clarke Summit-South Abington Joint Sewer Au- thority v. DEP; EHB doc. no. 2008-324-MG; 10- 17-08 NPDES permit; no. PA-0028576 | 6667 |
| EXECUTIVE BOARD | |
| Statements of Policy | |
| Reorganization of the Office of Administration | 6622 |
| FISH AND BOAT COMMISSION | |
| Rules and Regulations | |
| General provisions; boating | 6614 |
| Proposed Rulemaking | |
| Fishing | 6617 |
| GAME COMMISSION | |
| Rules and Regulations | |
| Corrective amendment to 58 Pa. Code § 139.17 | 6615 |
| INDEPENDENT REGULATORY REVIEW COMMISSION | |
| Notices | |
| Action taken by the Commission | 6668 |
| Notice of comments issued | 6668 |
| INSURANCE DEPARTMENT | |
| Notices | |
| Application for approval of the recapitalization of a domestic stock property insurance company | 6669 |
| Application and request for a certificate of authority to provide a continuing care retirement commu- nity by Birchwood SNF, LLC | 6669 |
| Pennsylvania National Mutual Casualty Insurance Company; homeowners program; rate filing | 6670 |
| Qualified unlicensed reinsurers list | 6670 |
| MILK MARKETING BOARD | |
| Notices | |
| Hearing and presubmission schedule; milk market- ing area no. 6 | 6671 |
| PENNSYLVANIA PUBLIC UTILITY COMMISSION | |
| Notices | |
| Service of notice of motor carrier applications | 6672 |
| Tentative order | 6673 |
| PHILADELPHIA REGIONAL PORT AUTHORITY | |
| Notices | |
| Request for bids | 6675 |

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 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, 6499, 6622 |
| 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 |
| 83 | 6459 |
| 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 |
| 109 | 6483 |
| 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
 501 6605

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
 5 6471
 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
 75 6473
 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
 51 6614
 53 1584
 63 1584, 4900
 65 1468, 5962
 69 4765
 91 1725
 101 6614
 111 1468
 137 3490, 3499
 139 3490, 3491, 4615, 6615
 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, 6617
 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
 431a 6496
 433a 2054
 434a 3980
 435a 1151, 2054, 3505, 6496
 437a 6496
 438a 3980

439a 1151
 441a 1039, 1041, 1151, 2269, 3505, 3980, 6158
 443a 3820
 451a 6496
 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)

Statements of Policy

31 6502
 431 6502

Proposed Statements of Policy

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
 82 6360
 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, 6596
 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, 6598
 2 6598
 3 6598
 4 6598
 5 63, 5594, 6598
 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, 6360, 6457, 6601

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Order Amending Rules 1915.1 and 1915.2, the Notes to 1915.3, 1915.5, 1915.6 and 1915.12 and the Explanatory Comment to 1915.15; Civil Procedural Rules; No. 503; Doc. No. 5

Order

Per Curiam:

And Now, this 19th day of November, 2008, Rules 1915.1 and 1915.2, the Notes to Rules 1915.3, 1915.5, 1915.6 and 1915.12 and the Explanatory Comment to Rule 1915.15 of the Pennsylvania Rules of Civil Procedure are amended as follows.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.1 Scope. Definitions.

(a)(1) These rules govern the practice and procedure in all actions for custody, partial custody and visitation of minor children, including habeas corpus proceedings [**therefor**] and claims for custody, partial custody or visitation asserted in an action of divorce or support.

* * * * *

(b) As used in this chapter, unless the context of a rule indicates otherwise,

* * * * *

Official Note: The definitions of the terms legal custody, physical custody and shared custody are taken from 23 Pa.C.S.A. § 5302.

For additional definitions, see the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5343] 5402.

Explanatory Comment—1994

* * * * *

Explanatory Comment—2008

The Uniform Child Custody Jurisdiction Act, formerly at subchapter B of Chapter 53 of the Domestic Relations Code, was repealed by Act 2004-39 and replaced by the Uniform Child Custody Jurisdiction and Enforcement Act at Chapter 54 of the Domestic Relations Code. Amendments throughout the rules governing procedures in child custody matters were necessary to make the rules consis-

tent with the Uniform Child Custody Jurisdiction and Enforcement Act and to update the citations to the statutory provisions.

Rule 1915.2. Venue.

(a) An action may be brought in any county

(1) (i) which is the home county of the child at the time of commencement of the proceeding, or

(ii) which had been the child's home county within six months before commencement of the proceeding and the child is absent from the county [**because of the child's removal or retention by a person claiming the child's custody or for other reasons and**] but a parent or person acting as parent continues to live in the county; or

(2) [**in which it is in the best interest of the child that the court decide the matter because**] when the court of another county does not have venue under subdivision (1), and the child and the child's parents, or the child and at least one [**party**] parent or a person acting as a parent, have a significant connection with the county **other than mere physical presence** and there is available within the county substantial evidence concerning the child's [**present or future care**], protection, training and personal relationships; or

(3) [**in which the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because the child has been subjected to or threatened with mistreatment or abuse and is otherwise neglected or dependent**] when all counties in which venue is proper pursuant to subdivisions (1) and (2) have found that the court before which the action is pending is the more appropriate forum to determine the custody of the child; or

(4) [**in which**] when it appears that venue would not be proper in any other county under prerequisites substantially in accordance with paragraph (1), (2) or (3) [**, or another court has declined to decide the matter on the ground that the court before which the action is pending is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that the court decide the matter.**]; or

(5) when the child is present in the county and has been abandoned or it is necessary in an emergency to protect the child because the child or a sibling or parent of the child is subjected to or threatened with mistreatment or abuse.

[(b) Except under paragraphs (3) and (4) of subdivision (a), physical presence of the child within a county, or of the child and one of the parties, is not alone sufficient to establish venue.]

[(c)](b) Physical presence of the child or a party, while desirable, is not [**a prerequisite to venue**] necessary or sufficient to make a child custody determination except as provided in subdivision (a)(5) above.

[(d)](c) [**For the convenience of parties and witnesses,**] [**the**] The court [**upon petition of any**

party] at any time may transfer an action to the appropriate court of any other county where the action could originally have been brought or could be brought [at the time of filing the petition to transfer] if it determines that it is an inconvenient forum under the circumstances and the court of another county is the more appropriate forum. It shall be the duty of the prothonotary of the court in which the action is pending to forward to the prothonotary of the county to which the action is transferred certified copies of the docket entries, process, pleadings and other papers filed in the action. The costs and fees of the petition for transfer and the removal of the record shall be paid by the petitioner in the first instance to be taxable as costs in the case.

Official Note: Under the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5341] 5401 et seq., the court may decline to exercise its jurisdiction in a particular action despite the action having been brought in a county of proper venue. Section [5347] 5426 of the [Domestic Relations Code] act, relating to simultaneous proceedings in other courts, provides for the mandatory refusal by the court to exercise its jurisdiction in an action. Section [5348] 5427 of the [Code] act, relating to inconvenient forum, and [Sections 5349] § 5428 [and 5364(f)] of the [Code] act, relating to jurisdiction declined by reason of conduct, provide for the discretionary refusal by the court to exercise its jurisdiction. [See 23 Pa.C.S. §§ 5347, 5348, 5349 and 5364(f).]

Explanatory Comment—[1994] 2008

Subdivision (a) of Rule 1915.2 incorporates the [four] categories of jurisdiction for initial custody determinations and temporary emergency proceedings in the Uniform Child Custody Jurisdiction and Enforcement Act [of] at 23 Pa.C.S.A. §§ [5344(a)(1) to (4)] 5421 and 5424 as the venue provisions for these rules, restating them in rule form without change in substance. Subdivision (a) follows the policy of [Section 5364(a)] § 5471 of the [Domestic Relations Code] Uniform Child Custody Jurisdiction and Enforcement Act, which provides that[, except as otherwise provided by that section,] the provisions of the [UCCJA] act “allocating jurisdiction and functions between and among courts of different states shall also allocate jurisdiction and functions between and among courts of common pleas of this Commonwealth.”

[Subdivisions] Subdivision (b) [and (c)], relating to the effect of the physical presence of the child or a party within a county, [follow Section 5344(b) and (c) of the Domestic Relations Code] § 5421(c) without substantial change.

Subdivision (c) follows the inconvenient forum provisions or 23 Pa.C.S.A. § 5427.

[Subdivision (d) incorporates the forum non conveniens provision of Assumpsit Rule 1006(d), with one change. Under Rule 1006(d), an action may be transferred only to a county where the action could originally have been brought at the time of filing the petition to transfer. This permits the court to evaluate the situation of the parties at the time they are before the court on the petition to transfer.]

Rule 1915.3. Commencement of Action. Complaint. Order.

(a) Except as provided by subdivision (c), an action shall be commenced by filing a verified complaint substantially in the form provided by Rule 1915.15(a).

(b) An order shall be attached to the complaint directing the defendant to appear at a time and place specified. The order shall be substantially in the form provided by rule 1915.15(b).

Official Note: See [Section 5352(c)] § 5430(d) of the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5352(c)] 5430(d), relating to costs and expenses for appearance of parties and child, and [Section 5364(a),] 23 Pa.C.S.A. § [5364(a)] 5471, relating to intrastate application of the Uniform Child Custody Jurisdiction and Enforcement Act.

* * * * *

Rule 1915.5. Question of Jurisdiction or Venue. No Responsive Pleading by Defendant Required. Counterclaim. Discovery.

(a) A party must raise any question of jurisdiction of the person or venue by preliminary objection filed within twenty days of service of the pleading to which objection is made or at the time of hearing, whichever first occurs. No other pleading shall be required, but if one is filed it shall not delay the hearing.

Official Note: The court may raise at any time a question of (1) jurisdiction over the subject matter of the action or (2) the exercise of its jurisdiction pursuant to [Section 5347] § 5426 of the [Domestic Relations Code] Uniform Child Custody Jurisdiction and Enforcement Act, relating to simultaneous proceedings in other courts, [Section 5348] § 5427, relating to inconvenient forum, and [Sections 5349 and 5364(f)] § 5428, relating to jurisdiction declined by reason of conduct. [See 23 Pa.C.S. §§ 5347, 5348, 5349 and 5364(f).]

The Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5366] 5407, provides that, upon request of a party, an action in which a question of the existence or exercise of jurisdiction is raised shall be given calendar priority and handled expeditiously.

* * * * *

Rule 1915.6. Joinder of Parties.

* * * * *

(b) If the court learns from the pleadings or any other source that any other person who claims to have custody or visitation rights with respect to the child is not a party to the action, it shall order that notice be given to that person of the pendency of the action and of the right to intervene therein. The notice shall be substantially in the form prescribed by Rule 1915.16(b).

[Official Note: Subdivision (a) incorporates the provision of the Uniform Child Custody Jurisdiction Act, 23 Pa.C.S. § 5351, requiring a person not a party who has physical custody of the child to be joined as a party and notified of the pendency of the proceeding. Subdivision (a) also extends the requirement of the Uniform Act, 23 Pa.C.S. § 5345, that a parent whose parental rights have not been previously terminated be given notice of the proceeding and an opportunity to be heard by requir-

ing the joinder of such parent. Subdivision (b), in providing for intervention by persons claiming custody or visitation rights, is inconsistent with and therefore suspends the Uniform Act, 23 Pa.C.S. § 5351, insofar as the Act requires the joinder of such persons.]

Explanatory Comment—1994

* * * * *

Rule 1915.12. Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order.

* * * * *

(e) After hearing, an order committing a respondent to jail for contempt of a custody, partial custody or visitation order shall specify the condition which must be fulfilled to obtain release of the respondent.

Official Note: See 23 Pa.C.S.A. § 4346 relating to contempt for noncompliance with visitation or partial custody order.

See [Section 5356 of] the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. §§ [5356] 5443 and 5445, relating to [filing] registration and enforcement of custody decrees of another state, and [Section 5364(a),] 23 Pa.C.S.A. § [5364(a)] 5471, relating to intrastate application of the Uniform Child Custody Jurisdiction and Enforcement Act.

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order.

* * * * *

Explanatory Comment—[1994] 2008

In an effort to promote uniformity of practice throughout the Commonwealth, several forms are included in the rules. Two aspects of these forms are worthy of mention. First, much of the information which must be set forth in the complaint is required by the [Domestic Relations Code] Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.A. § [5350] 5429. Second, the complaint is verified by use of a statement that it is subject to the penalties of the Crimes Code relating to unsworn falsification to authorities. A notary public is not needed.

By the Domestic Relations Procedural Rules Committee

STEWART L. KUTZ, Chair

[Pa.B. Doc. No. 08-2191. Filed for public inspection December 5, 2008, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 2, 3, 4 and 5]

Adopted Modifications of Rules 120, 160, 166, 220, 232, 330, 362, 408, 409 and 515

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania

that the modification of Rules 120, 160, 166, 220, 232, 330, 362, 408, 409 and 515 be adopted and prescribed. The proposed modifications define the official court record and require notations for fingerprinting and photographing of the juvenile. 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 Monday, January 12, 2009.

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 120. Definitions.

* * * * *

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law and local practice to maintain the official [juvenile court file] court record and docket, without regard to that person's official title.

* * * * *

MINOR is any person, other than a juvenile, under the age of eighteen.

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all filed original records, papers, orders, court notices, docket entries, other legal documents, and other court designated documents in each juvenile case.

ORDINANCE is a legislative enactment of a political subdivision.

* * * * *

Comment

“Clerk of courts” is the person given the power under state and local law to maintain the official court record. See Rule 166 for additional responsibilities of the clerk of courts.

Under the term "court," to determine if masters are permitted to hear cases, see Rule 187. See Rule 210 for the power of magisterial district judges to issue arrest warrants.

The "official court record" is to contain all filed legal documents, original records, papers, orders, court notices, and docket entries in each case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation's reports and files unless they are made a part of the official record by being filed with the clerk of courts.

* * * * *

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 120 published with the Court's Order at 38 Pa.B. [1145] 1142 (March 8, 2008).

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspection of Juvenile File/Records.

A. General Rule. [All files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166, are] The official court record is only open to inspection [only] by:

* * * * *

Comment

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

See Rule 120 for definition of the "official court record."

This rule is meant to include the contents of the juvenile court file as described in Rule 166 [and the contents of the juvenile probation records or reports]. [Juvenile probation records or reports, include, but are not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, and placement facility records and reports.]

* * * * *

PART C(2). MAINTAINING RECORDS

Rule 166. Maintaining Records in the Clerk of Courts.

A. Generally. The juvenile court file is the official court record and shall contain all filed original records, papers, [and] orders, [filed, copies of all] court notices, [and] docket entries, and other court designated documents. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

* * * * *

CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION
PART B. ARREST PROCEDURES IN DELINQUENCY CASES

(b) Arrests Without Warrant

Rule 220. Procedure in Cases Commenced by Arrest Without Warrant.

* * * * *

Comment

The juvenile probation officer can accept juveniles for the court as described in paragraph (A)(2)(b).

The release of the juvenile does not eliminate the requirement of submission of a written allegation. For the general procedures governing written allegations, see Chapter Two, Part (C).

See 42 Pa.C.S. § 6326.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs by law enforcement officers. The arresting officer is to ensure that the fingerprints and photographs are forwarded to the central repository as required by the Pennsylvania State Police. 42 Pa.C.S. § 6309(c).

* * * * *

PART C. WRITTEN ALLEGATION PROCEDURES

Rule 232. Contents of Written Allegation.

Every written allegation shall contain:

* * * * *

9) a notation on whether the juvenile has or has not been fingerprinted and photographed;

10) a notation if criminal laboratory services are requested in the case;

[10] (11) a verification by the person making the allegation that the facts set forth in the written allegation are true and correct to the person's personal knowledge, information, or belief, and that any false statement made is subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and

[11] (12) the signature of the person making the allegation and the date of execution of the written allegation.

Comment

This rule sets forth the required contents of all written allegations whether the person making the allegation is a law enforcement officer, a police officer, or a private citizen. See http://www.courts.state.pa.us for a copy of the written allegation form that is to be submitted.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (9).

* * * * *

CHAPTER 3. PRE-ADJUDICATORY PROCEDURES

PART C. PETITION

Rule 330. Petition: Filing, Contents, Function.

* * * * *

C. Petition contents. Every petition shall set forth plainly:

9) a notation on whether the juvenile has or has not been fingerprinted and photographed;

10) a notation if criminal laboratory services are requested in the case;

[10] (11) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;

[11] (12) the signature of the petitioner and the date of the execution of the petition;

[12] (13) the whereabouts of the juvenile and if taken into custody, the date and time thereof;

[13] (14) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; and

[14] (15) an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(ii) for limited public information.

Comment

Petitions should be filed without unreasonable delay. See Commonwealth v. Dallenbach, 729 A.2d 1218 (Pa. Super. Ct. 1999).

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (C)(9).

The contents of a petition are the same as a written allegation except for the additional requirements in paragraphs (C)(12), (13), and (14).

* * * * *

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 330 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 330 published with the Court's Order at 37 Pa.B. [4868] 4866 (September 8, 2007).

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

Rule 362. Requirements of the Summons.

* * * * *

4) give a warning stating that the failure to appear for the hearing may result in arrest[.]; [and]

5) include a copy of the juvenile petition; and

6) include an order directing the juvenile to submit to fingerprinting and photographing by a law enforcement agency in all cases in which the juvenile has not previously been fingerprinted or photographed.

Comment

Section 6335(a) of the Juvenile Act requires a copy of the petition to accompany the summons. 42 Pa.C.S. § 6335(a).

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs.

* * * * *

CHAPTER 4. ADJUDICATORY HEARING

Rule 408. Ruling on Offenses.

* * * * *

B. If the court finds the juvenile did not commit all of the alleged delinquent acts, the court shall dismiss the allegations and release the juvenile, if detained, unless there are other grounds for the juvenile's detention. The court shall also order the destruction of any fingerprints or photographs which have been taken and shall expunge the records pursuant to Rule 172.

C. If the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409.

Comment

* * * * *

Under paragraph (B), if all the allegations are dismissed, the court is to order the destruction of fingerprints and photographs. See 42 Pa.C.S. § 6341(a). The court also is to expunge the records pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172. In its order, the court is to specify the case reference number or other identifying number so the order only applies to the specified case. See Comment to Rule 170 for further definition of a reference number.

* * * * *

Rule 409. Adjudication of Delinquency.

A. Adjudicating the juvenile delinquent. Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

1) If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation, the court shall enter an order providing that:

a) jurisdiction shall be terminated and the juvenile shall be released, if detained, unless there are other reasons for the juvenile's detention; and

b) any fingerprints and photographs taken shall be destroyed.

2) If the court determines that the juvenile is in need of treatment, supervision, or rehabilitation, the court shall enter an order adjudicating the juvenile delinquent and proceed in determining a proper disposition under Rule 512. The court also shall order a law enforcement agency to take, or cause to be taken, the fingerprints and photographs of the juvenile if not previously taken pursuant to this case, and to ensure that these records are forwarded to the Central Repository maintained by the Pennsylvania State Police.

* * * * *

Comment

* * * * *

This rule addresses adjudicating the juvenile delinquent or releasing the juvenile from the court's jurisdiction. This determination is different from finding the juvenile committed a delinquent act under Rule 408.

Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed upon order of the court if the juvenile is not adjudicated delinquent.

A report on the disposition is to be sent to the Juvenile Court Judges' Commission. See 42 Pa.C.S. § 6309(d).

For dispositional hearing procedures, see Chapter Five.

* * * * *

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 515. Dispositional Order.

A. *Generally.* When the court enters a disposition for a juvenile who is adjudicated delinquent pursuant to Rule 409, the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

* * * * *

4) a directive that the juvenile shall submit to fingerprinting and photographing in all cases in which the juvenile has not previously been fingerprinted or photographed;

5) the date of the order; and

[5] (6) the signature and printed name of the judge entering the order.

* * * * *

D. Disposition reporting. The court shall forward the case disposition to the Juvenile Court Judges' Commission.

Comment

* * * * *

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. §§ 6308, 6309 and 6310.

* * * * *

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 515 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 37 Pa.B. [4868] 4866 (September 8, 2007).

EXPLANATORY REPORT

Rule 120—Definitions.

The Committee is proposing a new definition for "official court record." This will alleviate any confusion between the official court record and those records kept by the juvenile probation office. This definition also provides clarification that the clerk of courts is the keeper of the record. These clarifications are important so when an appeal is taken, the official court record is clearly defined.

The "official juvenile court file" in the definition of "clerk of courts" was relabeled "official court record" to correspond with its new definition.

Rule 160—Inspection of Juvenile File/Records.

In paragraph (A), the "official court record" replaced "all files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166" to correspond with the new definition.

The Comment was also modified to reflect that the official court record does not include the confidential files and records maintained by the juvenile probation office.

Rule 166—Maintaining Records in the Clerk of Courts.

This rule was modified to reflect the new definition of "official court record."

Rule 220—Procedures in Cases Commenced by Arrest without Warrant.

The Comment has been modified to include the Juvenile Act references for the taking of fingerprints and photographs and forwarding them to the Central Repository.

Rule 232—Contents of Written Allegation and Rule 330—Petition: Filing, Contents, Function.

The written allegation and the petition were modified to include a reference as to whether fingerprints or photographs have been taken. This requirement will alert the juvenile probation officer or the court if they have been taken.

Rule 362—Requirements of the Summons and Rule 409—Adjudication of Delinquency.

If fingerprints or photographs have not been taken, the court must order them to be taken as required by the Juvenile Act. See 42 Pa.C.S. § 6308.

Rule 408—Ruling on Offenses, Rule 409—Adjudication of Delinquency and Rule 515—Dispositional Order.

If the courts find that the juvenile did not commit ALL of the alleged delinquent acts pursuant to Rule 408(B) or the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A), the court must order the destruction of the fingerprints and photographs pursuant to 42 Pa.C.S. § 6341(a) and the records pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172.

If the court does find that the juvenile committed at least one of the offenses petitioned, there is no destruction of the fingerprints, photographs, or records.

If the court finds the juvenile is in need of treatment, supervision, or rehabilitation and fingerprints and photographs have not been taken, the court must order that they are taken and forwarded to the Central Repository pursuant to the statutory requirements.

[Pa.B. Doc. No. 08-2192. Filed for public inspection December 5, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

PIKE COUNTY

Amendment to Criminal Local Rule 571; Civil Division; Doc. No. 2187-2008

Order

And Now, this 17th day of November, 2008, the Court Orders the following:

1. Local Rule of Criminal Procedure 571 is hereby amended effective thirty (30) days after publication in the *Pennsylvania Bulletin*;

2. The Court Administrator of the 60th Judicial District is hereby Ordered to do the following:

a. File seven (7) certified copies of this *Order* and the pertinent Rules with the Administrative Office of Pennsylvania Courts;

b. File two (2) certified copies and a computer diskette containing this *Order* and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. File one (1) certified copy of this *Order* and the pertinent Rule with the Civil Procedural Committee;

d. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintain an active practice in Pike County; and

e. Keep continuously available for public inspection, copies of this *Order* and the Local Rules.

By the Court

HONORABLE JOSEPH F. KAMEEN,
President Judge

Local Rule 571. Arraignment Procedures.

1. Procedure for Arraignment

a. All arraignments shall be in accordance with Pennsylvania Rule of Criminal Procedure 571.

b. The District Attorney's Office is designated to handle the scheduling and disposition of all arraignments unless otherwise directed by the Court.

c. Arraignment shall take place no later than ten (10) days after indictment or information has been filed unless otherwise postponed by the Court for cause shown.

d. The defendant and counsel, if an appearance has been entered, shall receive written notice of the arraignment not later than five (5) days before the date scheduled for the arraignment. Notice shall be given by first class mail to the last known address of the defendant in accordance with the following:

ARRAIGNMENT
NOTICE TO APPEAR
COMMONWEALTH OF PENNSYLVANIA

v.

No. _____ -20 _____

You are directed to appear under penalty of forfeiture of bail at the Pike County Courthouse, Milford, Pennsylvania on the ____ day of _____, 20 ____ at _____ .M. for arraignment.

INSTRUCTIONS

1. You have been directed to appear for arraignment. At the arraignment, you will be advised of the nature of the charges against you, after which you are asked to state whether you plead "guilty" or "not guilty".

2. If you have an attorney, contact him/her immediately. If you do not have an attorney it would be to your advantage to retain one without further delay. You have a right to be represented by a lawyer. If you believe you cannot afford a lawyer, then you should immediately make application to the Office of the Public Defender.

3. The arraignment procedure may be waived, making it unnecessary for you to appear as scheduled above, BUT ONLY IF YOU ARE REPRESENTED BY COUNSEL AND BOTH YOU AND COUNSEL HAVE SIGNED A FORMAL WAIVER OF ARRAIGNMENT, and have properly filed that waiver with the Court and the District Attorney.

4. You may enter a plea of guilty to these charges. If you desire to plead guilty, notify the District Attorney at the below address, and he will arrange for a guilty plea at the time of arraignment or at a time to be scheduled following arraignment.

DISTRICT ATTORNEY
PIKE COUNTY ADMINISTRATION BUILDING
506 BROAD STREET
MILFORD, PENNSYLVANIA 18337
570-296-3482

e. A defendant who is represented by counsel may waive arraignment. When a defendant represented by counsel waives arraignment prior to the scheduled formal arraignment, the original waiver must be delivered to the District Attorney at least 48 hours prior to the arraignment date. The waiver will be presented to the Court by the District Attorney at the scheduled time for arraignment for Court approval before the waiver is formally entered in the docket. Compliance with these time periods shall excuse Defendant and counsel from appearance at the scheduled arraignment. The time periods for filing the request for a bill of particulars, the discovery motion and the omnibus pretrial motion shall begin and be calculated from the date on which the Court approves the waiver. Waiver of Arraignment shall be in accordance with the following form:

f. If a defendant is incarcerated in the Pike County Correctional Facility, the arraignment shall be conducted by two-way simultaneous audio-visual communication (i.e., video conferencing). If a defendant is incarcerated in a facility other than Pike County Correctional Facility, the arraignment may be conducted by video conferencing at the discretion of the Court.

g. If a defendant is unrepresented when he appears for arraignment, the Court will reschedule the arraignment and defendant will be directed to immediately apply for a Public Defender. The Public Defender will determine whether the defendant is qualified for representation and, if so, will undertake representation of the defendant. If the defendant fails to qualify for Public Defender representation and appears at the rescheduled arraignment unrepresented, the defendant will be formally arraigned at that time by the Court.

[Pa.B. Doc. No. 08-2193. Filed for public inspection December 5, 2008, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Neal Sharma having been suspended from the practice of law in the State of New Jersey for a period of 3 months by Order of the Supreme Court of New Jersey dated February 26, 2008; the Supreme Court of Pennsylvania issued an Order dated November 21, 2008, suspending Neal Sharma from the practice of law in this Commonwealth for a period of 3 months. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 08-2194. Filed for public inspection December 5, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 501]

Registration of Sign Language Interpreters and Transliterators

The Department of Labor and Industry (Department) added Chapter 501 (relating to registration of sign language interpreters and transliterators) to read as set forth in Annex A.

Statutory Authority

The Sign Language Interpreter and Transliterators State Registration Act (act) (63 P. S. §§ 1725.1—1725.11) provides the legal authority for these final-form regulations.

The act charges the Office for the Deaf and Hard of Hearing (Office) within the Department with the responsibility to promulgate regulations that are necessary to carry out the provisions of the act. See 63 P. S. § 1725.3(4). These provisions include approval of an examination which tests knowledge and proficiency, fees, disciplinary violations, registration and the reactivation of registration after suspension or revocation. See 63 P. S. §§ 1725.5(a)(1)(iii) and (d), 1725.8(a)(6) and 1725.9(c)(1).

Comments

Notice of proposed rulemaking was published at 36 Pa.B. 3822 (July 22, 2006) affording the public, the Legislature and the Independent Regulatory Review Commission (IRRC) the opportunity to offer comments. The Department received comments from the public and IRRC. It did not receive any comments from the Legislature.

In addition to IRRC and individuals, the Department received comments from the Pennsylvania Registry of Interpreters for the Deaf (Pa RID), the National Registry of Interpreters for the Deaf, Inc. (RID), the Advisory Council for the Deaf and Hard of Hearing (ACDHH) and Sorenson Communications. The comments and the Department's responses to these comments are addressed as follows.

§ 501.1. Definitions.

NAD

IRRC and Marc Holmes commented that the definition of the NAD (National Association for the Deaf) should be amended to remove the incorrect address and clarify that the NAD previously offered certification. The National RID and the Pa RID also suggested that the address for the RID be removed and suggested expansion of this definition. IRRC suggested that an alternative would be for the Department to distribute information regarding addresses to individuals upon request or to include links to the organizations on its web site. The Department made these changes.

NAD National Interpreter Certification

IRRC and the National RID, Pa RID and Marc Holmes commented that the Department should amend the definition of the NAD National Interpreter Certification to reflect the following: (1) the test is the former examina-

tion offered by the NAD for certification; (2) the test was performance based only; and (3) the certifications obtained from passage of the examination remain valid. The final-form regulations contain these changes.

NAD-RID NIC

The ACDHH commented that this definition should be expanded to include the Certified Deaf Interpreter (CDI) examination. The CDI examination is a separate testing instrument. As such, it is not appropriate to include it within this definition. Accordingly, the Department will not amend this definition. It should be noted however, that after the publication of the proposed regulations, RID ceased using "NAD-RID" in the title of this examination. Consequently, the Department amended the definition to reflect that the accurate examination name is "NIC."

The Pa RID and Marc Holmes also requested the deletion of this definition. These commentators stated that the definition was redundant because it is considered an RID Generalist examination. However, the RID utilizes the term "NIC" as the name of the examination and does not include it under "generalist" exams. Consequently, this definition will remain in the final-form regulations.

Rid Generalist Examinations

IRRC commented that the Department needed to amend this definition to reflect that the generalist examinations are former examinations which are no longer offered, but that the certifications are still valid. The Department has amended the definition to clarify that the examinations for the Certified Interpreter (CI), Certified Transliterators (CT), Oral Transliterators Certificate (OTC) and Certified Deaf Interpreter (CDI) are current examinations and that the examinations for Comprehensive Skills Certificate (CSC), Master Comprehensive Skills Certificate (MCSC) and the Oral Interpreter Certificate: Comprehensive (OIC:C) are former examinations. All of these certifications remain valid. Additionally, based upon comments received from IRRC, the Department has added definitions for the certification acronyms.

Other terms

Comments were received by the Pa RID and Marc Holmes requesting additional definitions for the terms "day," "internship," "practicum" and "emergency." Under the Statutory Construction Act, words are to be construed according to "rules of grammar and according to their common and approved usage." See 1 Pa.C.S. § 1903 (relating to words and phrases). Section 1991 of the Statutory Construction Act contains a definition for "day." Therefore, further definitions are unnecessary.

ACDHH suggested that the term "qualified interpreter" be defined consistent with the definition of that term contained in the Americans With Disabilities Act of 1990. Because the act already defines "qualified interpreter" as an individual who is registered with the Office, a regulatory definition would be redundant. See 63 P. S. § 1725.2.

§ 501.2. Fees.

ACDHH suggested that the Department include a \$25 fee for students who are providing interpreting services in supervised internships or practicum. However, individuals providing services as interns are exempt from registration. See 63 P. S. § 1725.4(b)(3). Consequently, there is no authority under the act to impose fees on these students.

§ 501.3. Examination.

IRRC recommended deletion of references to the NAD NIC and the RID Generalist examinations because these examinations are no longer offered. It further recommended clarification that the NAD-RID NIC is the only examination approved for registration. The Department declines to remove these examinations from the list of approved examinations for the reasons that follow.

The act requires that applicants provide proof of passage of an examination approved by the Office that tests knowledge and proficiency. See 63 P. S. § 1725.5(a)(1)(iii). Although the NAD NIC and RID Generalist examinations are no longer offered, the Department will continue to accept these older examinations for purposes of registration.

Ann Sidone suggested that the Office create quality assessments for nonregistered interpreters and limit their practice areas. This commentator also suggested that the Office require interpreters to score a 4 on the Educational Interpreter Performance Assessment to interpret in postsecondary educational settings. The act does not require nonregistered interpreters to pass an examination or a quality assessment. See 63 P. S. § 1725.4. Further, the act does not limit the practice areas of registered interpreters. Accordingly, this revision will not be made.

IRRC commented that since subsection (b) requires applicants to obtain examinations and applications directly from and pay the required fee to the examination provider, the Department's web site should provide a link to the providers. The Department's web site currently contains a link to the examination providers' web sites.

§ 501.4. Registration.

Comments were received from Pa RID, the National RID and Marc Holmes requesting that the reference to the NAD-RID NIC be removed from § 501.4(a) because it is a test and not a certification. The final-form regulation reflects this change.

IRRC stated that the final-form regulation should include a time frame in which the Department will issue the registration. A 60-day time frame was added to the regulation.

Pa RID suggested that applicants be required to submit "current" certification to ensure that registered interpreters are up-to-date on continuing education units, changing "may" to "shall" in subsection (a)(1), and capitalizing "office" in (2). The proposed and final-form regulations require the submission of current certification. The Department did not change "may" to "shall." This will allow the Office to consider other forms of evidence as proof that an applicant has passed an approved examination. The term "office" has been capitalized.

IRRC commented on incorrect citation form in this section. These corrections were made. IRRC further stated that the Department should add a new section to the regulations listing the violations for the portions of the regulated community who do not have to reference the act since the regulations include a reference to section 8 of the act in this section. IRRC believed that inclusion of the violations in the regulations will allow the regulated community to know what constitutes a violation without having to reference the act. The Department has added a section which lists the violations. This section is § 501.7 (relating to violations). Consequently, this has resulted in the renumbering of other provisions as noted below. Additionally, the Department will publish the act and the regulations on its web site.

§ 501.5. Exemptions.

IRRC recommended that all eight exemptions listed in section 4 of the act be included in the regulation. The Department has made this change. The addition of all exemptions has resulted in renumbering in this section.

Subsection (a) Interpreting in a religious setting—IRRC requested that the Department explain why the phrase "religious-study purposes" is used in this subsection rather than the phrase "educational purposes" found in the act. Two other commentators, ACDHH and Ann Sidone, requested deletion of the term "study." The Department used the phrase "religious-study purposes" to clarify that the exemption only applies to interpreting services performed for religious instruction instead of instruction in secular subjects at a religiously affiliated school. Sign language interpreting and transliterating services during secular instruction must be provided by an individual who is registered with the Office or who meets the requirements established by the State Board of Education. The Department believes that the term study accomplishes its intended purpose and declines to eliminate it from the regulations.

Subsection (a)(1)—Pa RID requested a definition clarifying what constitutes a worship service. The Department declines to add a definition for this term. Whether a service constitutes a worship service is dependent upon the particular religious sect's beliefs, is not specified by statute or judicial cases and cannot be enumerated by regulation. Consequently, a single definition for "worship service" would not respond to varying philosophies. Accordingly, the term "worship service" should be determined on a case by case basis with input from the particular religious sect.

Subsection (d) Out-of-State interpreter (previously subsection (b) in proposed regulation)—Pa RID and Marc Holmes stated that the regulations provided that out-of-State interpreters must possess current certification from a "national certifying body," while the act specifically references certification by the NAD or RID, Inc. This correction has been made.

IRRC questioned how soon the Office must be notified of an out-of-State interpreter providing services. Due to the possibility that some services might be requested and performed with short notice, the Department amended the regulation to require that notice must be provided to the Office within 5 business days of the provision of services.

Other comments were received from Marc Holmes, Barbara Anthony and Ann Sidone stating that the requirements for out-of-State interpreters should be the same for nonregistered in-State interpreters who provide up to 14 days of services in a calendar year. The act exempts out-of-State interpreters who provide services for no more than 14 days in a calendar year. See 63 P. S. § 1725.4(b)(4). However, the act does not exempt nonregistered in-State interpreters. The regulation cannot be used to expand the exemptions beyond the act's parameters.

IRRC and Pa RID questioned whether the required forms to comply with the requirements of this subsection and other provisions of the act would be available from the Office. The regulation was amended to clarify that forms are available from the Office or the Department's web site.

Additionally, subsection (b)(1)(3)(i) was amended by deleting the reference to the time and nature of the service being provided. The Department believes that

furnishing the date of service is sufficient and the exact time is not necessary. Furthermore, the nature of the service would be sign language interpreting or transliterating. Accordingly, further information is not required.

Subsection (e) Interpreting at the request of a deaf or hard of hearing individual (previously subsection (c) in proposed regulations)—Pa RID suggested that a hearing individual who relies on the services of a sign language interpreter or transliterator be allowed to approve the use of a nonregistered interpreter. However, section 4(b)(5) of the act specifically provides that a nonregistered individual may provide services at the request of an individual who is deaf or hard of hearing. See 63 P. S. § 1725.4(b)(5). Consequently, it is clear that the act did not intend to provide a hearing individual with a right of approval.

Eve Adelman requested that the Department eliminate subsection (c) because the subsection is unethical and undermines the original purpose of the act. However, this subsection is necessary because it contains clarification of a provision contained in section 4(b)(5) of the act. See 63 P. S. § 1725.4(b)(5).

Additionally, the Department made additional amendments to this subsection to clarify that the individual referenced is the person providing sign language interpreting or transliterating services. Further, changes were made to evidence that the deaf or hard of hearing individual was choosing to use the services of an unregistered individual.

Subsection (f)—Educational interpreters (previously numbered subsection (d) in proposed regulations)—IRRC, Pa RID, ACDHH, Marc Holmes and Rose Breinich commented that the proposed regulation does not correspond with section 4(b)(7) of the act since the enactment of Act 92 of 2006. Previously, the act provided for an exemption from registration for individuals who provided sign language interpreting services for a school-related activity if the individual was employed in a public or private elementary or secondary school or institution chartered by the Commonwealth and the individual received a rating equal to or exceeding 70% on the Educational Interpreter Performance Assessment.

On July 7, 2006, Act 92 of 2006 was enacted which deleted these requirements and added language that provides that an individual is exempt from registration if the individual is employed in a public or private elementary or secondary school or institution chartered by the Commonwealth and providing services for the instruction of students or other school-related activity. The act further provides that exempt individuals shall comply with regulations promulgated by the State Board of Education establishing criteria for persons providing sign language interpreting and transliterating services to students. See 63 P. S. § 1725.4(b)(7).

Accordingly, the Department changed the language in the final-form regulation to be consistent with the amendment to the act made since submission of proposed rulemaking. Additionally, the Department has added the *Pennsylvania Code* citations to the applicable Department of Education regulations. See 22 Pa. Code §§ 14.105 and 711.5 (relating to personnel).

Subsection (g)—Interpreting in physician's office (previously numbered subsection (e) in proposed regulations)—A comment was received from the Pennsylvania Academy of Otolaryngology, Head and Neck Surgery requesting clarification that a physician has the discretion to determine whether an interpreter is necessary in the first instance.

After reviewing this comment, the provisions of the Americans With Disabilities Act of 1990 and the act, the Department has rewritten the provisions of this subsection.

The revisions clarify that the individual being regulated is the individual providing sign language interpreting or transliterating services. These revisions also clarify that a sign language interpreter or transliterator may not be required in all instances. However, when these services are required for effective communication, the interpreter must be registered with the Office unless the patient is notified that the individual is not registered and that the patient has a right to the services of a registered interpreter.

IRRC questioned how long a physician's office must keep a copy of the patient's signed statement. Additionally, the Pa RID questioned whether a form from the Office would be available. The final-form regulation clarifies that forms are available from the Office or the Department's web site and that physicians are required to maintain the forms in a patient's file consistent with record retention requirements of the relevant professional licensure statute or regulation.

Pa RID suggested that this subsection require physicians to submit the waiver forms to the Office. The Department believes this requirement would potentially violate privacy rights of a patient who is deaf or hard of hearing. As such, this provision will not be added.

Eve Adelman suggested the addition of language that limits the use of nonregistered interpreters in the medical field unless the interpreter is referred from a referral service that is liable for any mistakes caused by the interpreter. However, the act provides no authority for the Department to regulate where individuals are required to obtain interpreters.

Mentorships—Comments were received from the Pa RID, Sorenson Communications and Marc Holmes requesting the addition of a subsection addressing individuals who are participating in a "mentorship." The act does not address these types of programs. The act exempts individuals from registration who are participating in a supervised internship or practicum at an accredited college or university or the RID or NAD. See 63 P. S. § 1725.4(b)(3). Internships and practicum are official or formal programs or school courses that provide practical experience for beginners in a particular field of study. Mentorships, on the other hand, are quasi-personal/professional relationships between advisors or teachers and individuals to provide counsel, direction and advice. These relationships do not qualify as internships or practicum. Accordingly, the Department declines to make this revision.

Another commentator, Pamela Cosper, requested a similar exemption for students who have graduated from an accredited Interpreter Training Program (ITP) and requested that these individuals receive a 3- to 5-year grace period to pass the examination approved by the Office. The Department is mindful that individuals graduating from ITPs need an opportunity to hone their skills prior to sitting for a certification examination; however, the act does not contain an exemption for these individuals. Consequently, the regulations cannot contain this exemption.

Emergency—In addition to requesting a definition for the term "emergency," Cindi Brown requested that the Department require hospital emergency rooms to develop policies to ensure the availability of registered interpret-

ers to patients who are deaf and hard of hearing. Section 4(b)(2) of the act defines "emergency" as a situation where a delay of interpreting services might lead to injury or loss to the individual requiring services. See 63 P.S. § 1725.4(b)(2). Further, the act regulates the community of sign language interpreters and transliterators and does not provide authority for the Department to regulate hospitals. Consequently, the Department declines to include these suggestions in the final-form regulation.

Subsection (h)—A new exemption has been added to this section since publication of the proposed regulations. The exemption was required due to the passage of Act 172 of 2006, 2 Pa.C.S. Chapter 5, Subchapter C and 42 Pa.C.S. Chapter XX, Subchapter C (relating to administrative proceeding interpreters for persons with limited english proficiency; and court interpreters for the deaf) which requires the Administrative Office of the Pennsylvania Courts (AOPC) and the Department to certify and approve foreign language interpreters, sign language interpreters and transliterators, and otherwise qualified interpreters who may provide services in judicial and administrative proceedings. Although individuals who are registered with the Office may be deemed certified and otherwise qualified to provide services under Act 172, the AOPC and the Department may certify or approve otherwise qualified individuals who may not be registered with the Office. Accordingly, this section provides an exemption for those individuals who are providing services in judicial and administrative proceedings consistent with the provisions of Act 172.

§ 501.6. Complaints.

Subsection (a)—Pa RID and Marc Holmes suggested that the Department allow the submission of videotaped complaints because English is not the native language for many sign language users. As such, writing a complaint in English could prove to be a hardship. The Department has determined this to be a legitimate concern and amended the provisions of this section in the final-form regulations. However, the Department specified that complaints can be "written" or in "visual language." Using the phrase "visual language complaint" allows for advancements in technology and other various types of media beyond current technology levels.

Pa RID and ACDHH requested that the Department replace "may investigate" with "shall investigate." The Department has discretionary authority to investigate complaints under the act and will investigate viable or legitimate complaints.

Barbara Anthony requested that the Department allow for the filing of anonymous complaints. Anonymous complaints increase the risk of individuals filing false or harassing complaints and are often unsubstantiated. However, the regulations do not preclude the Department from investigating anonymous complaints where appropriate.

The National RID expressed concern that an interpreter filing a complaint or reporting information might violate the RID Code of Conduct, if that information were obtained through an interpreting assignment. The RID Code of Conduct is a private internal standard of conduct that does not have the force or effect of law. Further, Part B of the Applicability Section of this code recognizes that State and Federal laws and regulations take precedence over the Code. Accordingly, this issue does not justify amending the regulation.

§ 501.7. Violations.

As noted previously, based upon comments received from IRRC, the Department has added a separate section to the regulations that lists the various violations including violations enumerated in the act.

§ 501.8. Hearings/appeals (as proposed regulation § 501.7).

Subsection (a)—IRRC requested that the Department include references to the subject matter of sections 8 and 9 of the act (63 P.S. §§ 1725.8 and 1725.9) regarding registration violations and suspension, denial, nonrenewable, or revocation of state registration of the act. The Department has included subject matter references in the final-form regulation.

Subsection (b)—The Department amended this subsection to add language clarifying the effect of a respondent's failure to respond to an order to show cause.

Subsection (e)—IRRC questioned how much time a presiding officer has to issue a proposed report and order, and requested that the Department include a time frame. Hearing complexity and length have a direct impact on the time for a presiding officer to prepare a proposed report and order. Significantly, 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (GRAPP), governing hearings and appeals before administrative agencies does not enumerate a time in which a presiding officer must issue a proposed report and order. Consequently, the Department declines to do so.

Subsection (f)(1)—IRRC also noted a typographical error contained in this subsection relating to the time frame in which exceptions must be filed. The final-form regulation reflects the appropriate time period of 30 days contained in GRAPP. See 1 Pa. Code § 35.211 (relating to procedure to except to proposed report).

The National RID, Pa RID and Marc Holmes also recommended that the term "registrant" in subsections (b) and (c) be changed because a nonregistered individual could be in violation of the act. The Department has substituted the term "respondent" in the final-form regulation.

§ 501.9. Reconsideration (as proposed regulation § 501.8).

Subsections (a) and (b)—IRRC questioned how an applicant for registration would be notified of a denial, whether the notice would specify the reasons for the denial, and how long the applicant would have to file reconsideration. These subsections have been amended to clarify that applicants will be notified by mail and the notice will specify both the reasons for the denial and the procedures for requesting reconsideration. The time period for requesting reconsideration is 30 days from the date of the notice.

Subsection (f)—IRRC requested that subject matter references to sections 10 and 11 of the act (63 P.S. §§ 1725.10 and 1725.11) regarding appeals and effect of an order be included in the final-form regulations. The Department has made this change.

§ 501.10. Biennial registration renewal (as proposed regulation § 501.9).

Subsection (a)—The Department received comments from Pa RID that the registration cards be issued in paper and electronic form within 30 days. The act provides that registration cards be issued in paper or electronic form. See 63 P.S. § 1725.5(b)(2). The final-form regulation provides that registration cards will be issued within 60 days.

Subsection (d)—Pa RID suggested that the language be amended to clarify that the Office does not have the option of failing to send a renewal notice to a registrant. While the Office does not anticipate that it will fail to send a renewal notice, the individual registrant will be responsible for ensuring that a registration is current. Accordingly, no change to the language of this subsection was made.

§ 501.11. Reactivation of registration (as proposed regulation § 501.10).

IRRC commented that, although this section addresses reactivation of a suspended registration, it fails to address the procedure for a revoked registration. Section 9(c) of the act covers reactivation of suspended and revoked registrations. Accordingly, this section of the final-form regulations has been amended to include procedures for reactivation of revoked registrations.

IRRC also requested the removal of the word “certain” from proposed section 10(a)(1). This change is reflected in the final-form regulations.

Additionally, Pa RID suggested that the Office maintain proof of compliance with the terms and conditions of any suspension order. Because compliance information is required as part of the reactivation application process and will be reviewed by the Office, there is no need to include this language in the regulations.

§ 501.12. Change of address/name/information (as proposed regulation § 501.11).

IRRC and Pa RID noted that there was a discrepancy between the act and the proposed regulations. The act requires that change of information be provided to the Office within 10 days of the change. 63 P. S. § 1725.6. The final-form regulation reflects the 10-day period of the act.

IRRC also requested that the Department amend the language to clarify what is meant by “other personal or professional information.” This phrase is meant to include updated information pertaining to disciplinary or administrative actions taken by other states in accordance with section 8(a)(3) of the act (63 P. S. § 1725.8(a)(3)). The final-form regulation reflects this clarification.

§ 501.13. Confidential communications.

IRRC recommended that the Department include a section corresponding to section 7 of the act (63 P. S. § 1725.7) regarding confidential communications. IRRC stated that this would assist members of the regulated community who rely solely on the regulations. Consistent with IRRC’s recommendation, the Department has added this section.

Miscellaneous Comments

Sorenson Communications suggested that interpreters who provide Video Relay Services (VRS) should be exempt from the regulations. VRS is a part of the Federal Telecommunications Relay Services (TRS) that is regulated by the Federal Communication Commission. The Pennsylvania Public Utility Commission operates a TRS certified by the FCC, which adheres to the Federal regulations. Although the FCC regulates TRS services in this Commonwealth, the FCC does not regulate the provision of interpreter services within this Commonwealth. Furthermore, the FCC rules allow for more stringent requirements to be imposed by individual states. Finally, the Department is not authorized to exempt any individual or entity from the act through regulation.

Melanie Holmes expressed concern about limiting the use of nonregistered interpreters within this Commonwealth and suggested that a particular interest group was the driving force behind the regulations. The proposed-regulation process allows comment from all concerned members of the public. Comments were reviewed and considered in the drafting of these final-form regulations. No outside entity controlled or directed this process.

Ann Sidone suggested that the act and the regulations will have a negative impact and result in a shortage of interpreters. The commentator therefore suggested that the act be temporarily suspended. The Department has no authority to suspend the enforcement of a statute, particularly through regulation. Furthermore, the Department believes that the exemptions to registration will alleviate any concerns about the shortage of registered interpreters.

IRRC and ACDHH noted that the Table of Contents was misnumbered. The Table of Contents has been numbered correctly in the final-form regulations.

Finally, IRRC recommended, for consistency purposes, that the Department include parallel citations to *Purdon’s Statutes* where a section of the act has been referenced. The Department made this change.

Affected Persons

Individuals who provide sign language interpreting and transliterating services within this Commonwealth will be affected. The Office estimates that approximately 250 individuals will register under this act. These registrants will be impacted by the act’s requirements which include a demonstration of competency to provide interpreting and transliterating services and the registration fee. Pennsylvanians who are deaf or hard of hearing and who rely on interpreting and transliterating services will benefit from uniform standards relating to knowledge and proficiency.

A physician’s office will have to complete and maintain records and provide notification to patients to comply with the exemption provided in section 4(b)(8) of the act and § 501.3(d) of the proposed rulemaking. A physician’s office will have to allow a patient to utilize a registrant, if requested.

Fiscal Impact

It is anticipated that there will be costs to the Department as a result of this final-form rulemaking. These costs should be offset by the registration and renewal fees contained in these final-form regulations. It is anticipated that the Department will receive \$20,000 in initial registration fees.

The Department cannot anticipate the costs of investigating, prosecuting and adjudicating alleged violations because there is no basis for comparison for this activity. The Office cannot predict the costs of monitoring compliance with the registration exclusions provided in § 501.4. It is not expected that the levying of administrative fines will demonstrably offset costs.

Paperwork Requirements

The Office will need to develop forms for registration and renewals and for filing complaints. It will develop a registration card or identification for registrants. Related forms include registration denial and notifications concerning reconsideration. The Office will have to keep records indicating registration status, hearings and disci-

pline. Many of these records will have to be accessible to the public under section 3(3) of the act.

Applicants will have to provide documentation to register and renew registrations, including certification requirements under § 501.3. A physician's office will have to complete and keep records concerning patient notification under § 501.4(d).

Effective Date

These final-form regulations will be effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

A sunset date is not appropriate for these final-form regulations. However, the Department will continue to monitor the impact and effectiveness of the regulations.

Contact Person

Persons who require additional information about these final-form regulations may submit inquiries to Sharon Behun, Director, ODDH, 1521 North 6th Street, Harrisburg, PA 17102, (717) 783-4912 (v/tty), (800) 233-3008 v/tty (PA only) and (717) 783-4913 (fax), sbahun@state.pa.us.

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. 3822, to IRRC and the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee for review and comment. In addition to submitting the proposed rulemaking, the Department also provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department.

In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Department also provided IRRC and the Committees 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 considered all the comments from IRRC and the public. The House and Senate Committees did not provide comments.

Under section 5.1(j.1)—(j.4) of the Regulatory Review Act (71 P. S. § 745.5a(j.1)—(j.4)), these final-form regulations were deemed approved by the House and Senate Committees on August 20, 2008. IRRC met on August 21, 2008, and disapproved the regulations in accordance with section 5.1(e) and 6 of the Regulatory Review Act.

In compliance with section 7(c) of the Regulatory Review Act (71 P. S. § 745.7(c)), the Department submitted a report to the Committees and IRRC which included these revised final-form regulations. Under section 7(c.1) of the Regulatory Review Act, IRRC met on October 2, 2008, and approved the regulations. These revised final-form regulations were deemed approved by the Committees on October 16, 2008.

Findings

The Department finds that:

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

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

(c) The final-form regulations are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

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

(1) The regulations of the Department, 34 Pa. Code, are amended by adding §§ 501.1—501.13 to read as set forth in Annex A.

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

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

(4) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin* as a final-form regulations.

SANDI VITO,
Acting Secretary

(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 12-71 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART IX. OFFICE OF THE DEAF AND HARD OF HEARING

CHAPTER 501. REGISTRATION OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

| | |
|---------|---|
| Sec. | |
| 501.1. | Definitions. |
| 501.2. | Fees. |
| 501.3. | Examination. |
| 501.4. | Registration. |
| 501.5. | Exemptions. |
| 501.6. | Complaints. |
| 501.7. | Violations. |
| 501.8. | Hearings/appeals. |
| 501.9. | Request for reconsideration of registration denial. |
| 501.10. | Biennial registration renewal. |
| 501.11. | Reactivation of registration. |
| 501.12. | Change of address/name/information. |
| 501.13. | Confidential communications. |

§ 501.1. Definitions.

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

Act—The Sign Language Interpreter and Transliterator State Registration Act (63 P. S. §§ 1725.1—1725.12).

CDI—*Certified Deaf Interpreter*—A certification issued by RID.

CI—*Certificate of Interpretation* issued by RID.

CSC—*Comprehensive Skills Certificate* issued by RID.

CT—*Certificate of Transliteration* issued by RID.

Department—The Department of Labor and Industry of the Commonwealth.

MCSC—*Master Comprehensive Skills Certificate* issued by RID.

NAD—National Association of the Deaf, an advocacy group for deaf and hard of hearing individuals which previously offered certification in sign language interpreting and transliterating.

NAD National Interpreter Certification Test—The former performance examinations conducted by the NAD for Level IV (Master) or V (Advanced) certification as a sign language interpreter or transliterator.

NIC—The National Interpreter Certification test which is the knowledge and proficiency examination conducted for RID's National Interpreter Certification as a sign language interpreter or transliterator.

Office—The Office for the Deaf and Hard of Hearing within the Department, 1521 North 6th Street, Harrisburg, PA 17102.

OIC:C—Oral Interpreting Certificate: Comprehensive issued by RID.

OTC—Oral Transliteration Certificate issued by RID.

RID—Registry of Interpreters for the Deaf, Inc. A National membership organization of professionals and its state affiliates that provides certification for sign language interpreters and transliterators.

RID Generalist examinations—The knowledge and proficiency examinations which are conducted by RID for CI/CT, CDI and OTC certifications in sign language interpreting or transliterating and which were formerly conducted by RID for CSC, MCSC and OIC:C certifications in sign language interpreting and transliterating.

Secretary—The Secretary of the Department or the Secretary's designee.

Year—A calendar year.

§ 501.2. Fees.

The Office will charge the following nonrefundable fees:

- (1) Registration \$100.
- (2) Biennial renewal of existing registration \$100.
- (3) Surcharge for late renewal of biennial registration \$50.
- (4) Reactivation following suspension. \$100.
- (5) Registration identification card replacement. \$10

§ 501.3. Examination.

(a) The following examinations are approved as the examination which tests knowledge and proficiency under section 5(a)(1)(iii) of the act (63 P. S. § 1725.5(a)(1)(iii)):

- (1) NAD National Interpreter Certification.
- (2) RID Generalist Examinations.
- (3) NIC.

(b) An applicant for any of the approved examinations shall obtain applications directly from and pay the required examination fee directly to the examination provider.

§ 501.4. Registration.

(a) An applicant for registration shall submit the following to the Office:

- (1) Proof of receiving a passing score on any of the approved examinations. This may include proof of current certification by NAD or RID.
- (2) A completed registration application. Applications may be obtained from the office or the Department's web site www.dli.state.pa.us/odhh.

(3) The required registration fee under § 501.2 (relating to fees). Checks shall be made payable to the Commonwealth of Pennsylvania.

(b) The Office will issue a paper or electronic registration to an applicant within 60 days of the date of receipt of the application if the applicant complies with subsection (a) and meets the following criteria:

- (1) Is 18 years of age or older.
- (2) Has passed the examination required by subsection (a).
- (3) Has paid applicable fees.
- (4) Possesses the general fitness, competence and reliability sufficient to satisfy the office that the applicant is worthy of State registration.

(c) The Office may deny an application for registration if the applicant:

- (1) Does not comply with this section.
- (2) Fails to meet the requirements of section 5(a) of the act (63 P. S. § 1725.5(a)).
- (3) Committed a violation enumerated in section 8(a) of the act (63 P. S. § 1725.8(a)) and § 501.7 (relating to violations).

(d) The Office will comply with the procedures contained in § 501.9 (relating to request for reconsideration of registration denial) if an application for registration is denied.

§ 501.5. Exemptions.

(a) An individual engaged in interpreting or transliterating services in a religious setting is exempt from registration under section 4(b)(1) of the act (63 P. S. § 1725.4(b)(1)) if the services are provided either:

- (1) During a worship service conducted by a religious entity.
- (2) Exclusively for religious-study purposes for a religious entity or religiously affiliated school.

(b) An individual engaged in sign language interpreting or transliterating during an emergency when a delay in obtaining a State-registered interpreter or transliterator might lead to injury or loss to the individual requiring the services is exempt.

(c) An individual engaged in interpreting or transliterating as part of a supervised internship or practicum at an accredited college or university, RID or NAD if it is not in a legal, medical or mental health setting is exempt.

(d) An individual who does not reside in this Commonwealth is exempt from registration under section 4(b)(4) of the act in accordance with the following:

- (1) The individual possesses current certification from NAD or RID.
- (2) The individual provides interpreting or transliterating services in this Commonwealth for no longer than 14 days each year.

(3) The individual provides the following to the Office within 5 business days of providing the interpreting or transliterating service:

- (i) Written notice of the date and duration of each sign language or transliterating service that the individual provides or intends to provide within this Commonwealth. Forms may be obtained from the Office or the Department's web site www.dli.state.pa.us/odhh.

(ii) Proof of current certification.

(4) The Office will provide notice to a sign language interpreter or transliterator that he has provided 14 days of services during the year and that the individual is prohibited from providing any further interpreting or transliterating services within this Commonwealth during the year unless the individual registers with the Office in accordance with section 5 of the act (63 P. S. § 1725.5).

(e) An individual engaged in interpreting or transliterating at the request of a client who is deaf or hard of hearing is exempt from registration under section 4(b)(5) of the act in accordance with the following:

(1) The interpreter or transliterator notifies the client that the individual is not registered with the Office.

(2) The client signs a written confirmation acknowledging that the individual is not registered and acknowledging that the client desires the individual's services. Forms may be obtained from the Office or the Department's web site at www.dli.state.pa.us/odhh.

(3) The individual providing services shall provide a copy of the confirmation to the client and maintain a copy of the client's signed statement for 2 years.

(f) An individual who engages in interpreting or transliterating strictly as a volunteer is exempt.

(g) An individual is exempt from registration under section 4(b)(7) of the act for a school-related activity if the individual complies with the State Board of Education regulations establishing criteria for persons providing sign language and interpreting services for a school-related activity. See 22 Pa. Code §§ 14.105 and 711.5 (relating to personnel).

(h) If a sign language interpreter or transliterator is required for effective communication at a physician's office, an individual is exempt from registration under section 4(b)(8) of the act if the individual provides sign language interpreting or transliterating services to a patient who is deaf or hard of hearing in accordance with the following:

(1) The patient signs a written confirmation acknowledging that the individual providing the interpreting or transliterating services is not registered, that the patient has the right to request or provide an interpreter or transliterator who is registered with the Office and the patient desires the services of the unregistered individual. This confirmation must be completed during every office visit. Forms may be obtained from the Office or the Department's web site at www.dli.state.pa.us/odhh.

(2) The individual providing sign language interpreting or transliterating services informs the patient in writing that a request for a registered interpreter or transliterator made after the commencement of the office visit may result in a delay of physician services.

(3) The physician's office shall maintain a copy of the patient's signed statement in the patient's health care file consistent with the regulations of the State Board of Medicine and the State Board of Osteopathic Medicine. See 49 Pa. Code §§ 16.95 and 25.213 (relating to medical records).

(4) The interpreter or transliterator shall maintain a copy of the signed statement for 2 years from the date of service.

(5) A copy of the signed statement shall be provided to the patient.

(i) An individual engaged in interpreting or transliterating in a judicial or in an administrative proceeding is exempt from registration if the individual is providing services under 42 Pa.C.S. Subchapter C (relating to court interpreters for the deaf) or 2 Pa.C.S. Subchapter D (relating to administrative proceeding interpreters for persons who are deaf).

§ 501.6. Complaints.

(a) Upon the receipt of a written or visual language complaint or upon its own initiative, the Office may investigate allegations of violations of section 8 of the act (63 P. S. § 1725.8) and § 501.7 (relating to violations).

(b) Complaints must contain:

(1) The name and address of complainant.

(2) The name and address, if known, of the individual against whom the complaint is filed.

(3) A statement of the facts forming the basis of the complaint or conclusion that there has been a violation of the act.

(4) The name of any witnesses and other information that may be pertinent to an investigation.

(c) Complaints shall be submitted to the Office which may commence an investigation.

§ 501.7. Violations.

The Department may impose disciplinary or corrective measures under section 9(a) of the act (63 P. S. § 1725.9(a)) or levy administrative fines of up to \$500 under section 8(b) of the act (63 P. S. § 1725.8(b)) on a registrant for doing one or more of the following:

(1) Obtaining a State registration or renewal of a registration through fraud, deceit or misrepresentation.

(2) Being convicted of a felony or a crime in this Commonwealth or other jurisdiction relating to the provision of interpreter or transliterator services.

(3) Being the subject of a disciplinary or other administrative action taken against this registration, certificate or license to provide interpreting or transliterating services in another state by a government agency.

(4) Committing fraud, gross negligence or misconduct relating to the provision of interpreting or transliterating services as determined by the office.

(5) Engaging in any other misconduct relating to the provision of interpreting or transliterating services as determined by the office.

(6) Violating the provisions of the act or this chapter.

§ 501.8. Hearings/appeals.

(a) Actions under sections 8 and 9 of the act (63 P. S. §§ 1725.8 and 1725.9) and § 501.7 (relating to violations) will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure). Hearings shall be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and this section.

(b) The Office will serve the respondent with an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). The order to show cause will contain notification that the registration may be subject to action and the grounds for the action. The order to show cause will contain notification that the respondent is to respond in writing within 30 days after the date of the service of the order or in accordance with another

date designated by the Office. Failure to respond will be deemed a default and relevant facts stated in the order to show cause may be deemed admitted under 1 Pa. Code § 35.37 (relating to answers to orders to show cause).

(c) The respondent may respond in writing to the allegations of the order to show cause under 1 Pa. Code § 35.37. If made, the answer shall be filed with the Office within 30 days after the date of the order to show cause or within another time period specified by the Office.

(d) The Office will provide the opportunity for a recorded hearing on the allegations. The Office will designate a presiding officer to conduct the hearing under 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers).

(e) The presiding officer will prepare and issue a proposed report and order under 1 Pa. Code §§ 35.201—35.207 (relating to proposed reports generally). The presiding officer will serve the proposed report upon counsel of record or to the parties in the hearing. The proposed report will contain the Department address where an appeal may be filed.

(f) A party may appeal the proposed report and order to the Secretary within 30 days of service of the proposed report under section 10 of the act (63 P. S. § 1725.10). Appeals are governed by the following:

(1) A party desiring to appeal to the Secretary shall file exceptions to the proposed report and order within 30 days of service in accordance with 1 Pa. Code § 35.211 (relating to procedure to except to proposed report). The party may seek the reopening of the record to present testimony or evidence by filing a request with the exceptions.

(2) A party may file a written response to the exceptions within 20 days of service of the exceptions. The party may seek the reopening of the record to present testimony or evidence by filing a request with the response.

(3) If a timely appeal is filed, the presiding officer will transmit the proposed report and order and the certified record to the Secretary.

(4) If a timely appeal is filed, the Secretary will issue the final order under 1 Pa. Code § 35.226 (relating to final orders). The Secretary may reopen the record and order additional briefs.

(5) The presiding officer's proposed report and order will be the Department's final order under section 11 of the act (63 P. S. § 1725.11) if a timely appeal is not made under this section.

(g) This section supplements 1 Pa. Code §§ 35.14, 35.37, 35.185—35.190, 35.201—35.207, 35.211 and 35.226.

§ 501.9. Request for reconsideration of registration denial.

(a) The Office may deny an application for registration if an applicant does not meet the registration requirements of section 5(a) of the act (63 P. S. § 1725.5(a)) or for the grounds contained in section 8(a) of the act (63 P. S. § 1725.8(a)). The Office will provide the applicant with written notification of the denial which states the statutory and regulatory reasons for the denial and sets forth the procedure for requesting reconsideration.

(b) An applicant for registration whose application was denied by the Office may file a request for reconsideration with the Office within 30 days of the date of the notice of denial.

(c) The request for reconsideration must be in writing and include the following:

(1) The applicant's name and address.

(2) The facts supporting the applicant's request for reconsideration.

(3) Supporting documentation demonstrating that the applicant meets the requirements for registration under section 5(a)(2) of the act.

(d) The Office will review the request for reconsideration and issue a written determination containing its decision. If reconsideration is denied, the Office will provide a summary of the reasons in the determination.

(e) If the request is granted, the Office will issue a registration to the applicant if the applicant pays the renewal fee and completes the application under section 5(a)(1) of the act.

(f) An applicant may seek a hearing and appeal the denial of registration under sections 10 and 11 of the act (63 P. S. §§ 1725.10 and 1725.11). The Office and Department will conduct hearings and resolve appeals under § 501.8 (relating to hearings/appeals).

§ 501.10. Biennial registration renewal.

(a) A registrant shall renew the registration biennially to retain the right to continue to provide interpreting or transliterating services, or offer to provide sign language interpreting or transliterating services, or hold himself out as a qualified sign language interpreter or a qualified transliterator or use similar titles or designations under the act.

(b) Registration for a biennium expires December 31 of every even-numbered year.

(c) To renew a registration, a registrant shall submit to the Office before the expiration of the renewal period a completed renewal application supplied by the Office along with the required renewal fee and any late or reactivation fees under § 501.2 (relating to fees).

(d) Biennial registration forms and other forms or literature to be distributed by the Office will be forwarded to the last mailing or electronic address provided to the Office by the registrant. Failure of the Office to send, or of the registrant to receive, a biennial registration application does not relieve the registrant of the biennial registration responsibility.

(e) The Office will issue a nontransferable biennial registration to a registrant who renews registration under this section within 60 days.

§ 501.11. Reactivation of registration.

(a) An individual may reactivate a suspended registration under section 9(c)(1) of the act (63 P. S. § 1725.9(c)(1)) if the following conditions are met:

(1) The suspension term has fully elapsed.

(2) The individual has complied with all of the terms and conditions of the suspension order.

(3) The individual has not violated the act or this chapter during the suspension term.

(4) The individual pays the reactivation fee under § 501.2(4) (relating to fees).

(5) The individual complies with the renewal requirements of § 501.10 (relating to biennial registration renewal).

(b) An individual may obtain registration following revocation of a registration under section 9(c)(2) of the act if the following conditions are met:

(1) At least 5 years have elapsed from the date of the registration revocation.

(2) The individual complied with terms and conditions of the revocation order.

(3) The individual did not violate the act or this chapter during the revocation term.

(4) The individual pays the reactivation fee under § 501.2.

(5) The individual complies with the registration requirements of section 5 of the act and § 501.4 (relating to registration).

§ 501.12. Change of address/name/information.

A registrant shall notify the Office in writing of the following within 10 days:

(1) Any change of name or mailing address

(2) Disciplinary action taken against the registrant's registration, certification or license to provide interpreting or transliterating services by another state or government agency.

§ 501.13. Confidential communications.

Except as provided by law, a sign language interpreter who acquires confidential information while interpreting or transliterating may not be required to disclose the information in any legal proceeding, trial or investigation before a governmental unit without the consent of the individual receiving interpreting or transliterating services. The sign language interpreter shall hold any legal privilege that the individual receiving the services holds.

[Pa.B. Doc. No. 08-2195. Filed for public inspection December 5, 2008, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION [58 PA. CODE CHS. 51 AND 101] General Provisions; Boating

The Fish and Boat Commission (Commission) amended Chapters 51 and 101 (relating to administrative provisions; and boating accidents). The Commission is publishing these final-form regulations under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

The final-form regulations will go into effect on January 1, 2009.

B. Contact Person

For further information on the final-form regulations, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. These final-form regulations are available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The amendments to § 51.9 (relating to release of documents and records) are published under the statutory authority of section 504 of the Right-to-Know Law (65 P. S. § 67.504) and section 506 of The Administrative

Code of 1929 (71 P. S. § 186). The amendment to § 101.6 (relating to investigation reports by commission officers) is published under the statutory authority of section 506 of The Administrative Code of 1929.

D. Purpose and Background

The final-form regulations are designed to update the Commission's regulations to be consistent with the new Right-to-Know Law and to consolidate its regulations relating to records. The specific purpose of the regulations is described in more detail under the summary of changes.

E. Summary of Changes

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

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

In addition to and separate from the Right-to-Know Law requests, the Commission receives requests for documents through subpoenas. Section 101.6(d) provides for a \$0.50 per page reproduction fee for responses to subpoena requests for investigative reports by Commission officers. The Commission receives subpoenas for a number of documents other than investigative reports. Accordingly, the Commission also proposed to add new subsection (d) to § 51.9 to cover reproduction costs for all subpoena requests and to remove that provision from § 101.6.

On final-form rulemaking, the Commission adopted the amendments as set forth in the notice of proposed rulemaking.

F. Paperwork

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

G. Fiscal Impact

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

H. *Public Involvement*

A notice of proposed rulemaking was published at 38 Pa.B. 4909 (September 6, 2008). The Commission did not receive any public comments regarding the proposal.

Findings

The Commission finds that:

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

(2) A public comment period was provided, and no public comments were received.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 51 and 101, are amended by amending §§ 51.9 and 101.6 to read as set forth at 38 Pa.B. 4909.

(b) The Executive Director will submit this order and 38 Pa.B. 4909 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 38 Pa.B. 4909 and deposit them with the Legislative Reference Bureau as required by law.

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

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

Fiscal Note: Fiscal Note 48A-206 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 08-2196. Filed for public inspection December 5, 2008, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 139]

Corrective Amendment to 58 Pa. Code § 139.17

The Game Commission has discovered a discrepancy between the agency text of 58 Pa. Code § 139.17 (relating to wildlife management units) as deposited with the Legislative Reference Bureau and published at 38 Pa.B. 3490 (June 28, 2008) and the official text which appeared in MTS 406 (September 2008) and as currently appears in the *Pennsylvania Code*. The reference to Appendix B was inadvertently referred to as Appendix H. Additionally, the text of the appendix was incorrectly placed in Chapter 141 and should be eliminated from that chapter.

Therefore, under 45 Pa.C.S. § 901: The Game Commission has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 139.17. The corrective amendment to 58 Pa. Code § 139.17 is effective as of June 28, 2008, the date the defective text appeared in the *Pennsylvania Bulletin*.

The correct version of 58 Pa. Code § 139.17 and Appendix B (Wildlife Management Units) appear in Annex A.

CARL G. ROE,
Executive Director

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.17. Wildlife management units.

(a) The divisional line between two or more wildlife management units shall be the center of the highway, natural water course or other natural boundary.

(b) The outline map of Pennsylvania found in Appendix B sets forth wildlife management units.

APPENDIX B

[Pa.B. Doc. No. 08-2197. Filed for public inspection December 5, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 75]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 75 (relating to endangered species). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments add the salamander mussel, the rabbitsfoot mussel and the snuff-box mussel to the list of endangered species and add the sheepnose mussel and the rayed bean mussel to the list of threatened species.

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect immediately upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

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

C. Statutory Authority

The proposed amendments to §§ 75.1 and 75.2 (relating to endangered species; and threatened species) are published under the statutory authority of section 2305 of the code (relating to threatened and endangered species).

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to endangered and threatened species. The specific purpose of the proposed amendments are described in more detail under the summary of proposal.

E. Summary of Proposal

(1) Salamander mussel (*Simpsonaias ambigua*). Salamander mussels occur in sand or silt under large, flat stones in swift current in streams and rivers. Unlike other mussel species in this Commonwealth, it is the only species whose glochidia (mussel larvae) host is not a fish, but the mudpuppy (*Necturus maculosus*), which typically occupies similar rock shelter habitat.

Historically, salamander mussels occurred in the Great Lakes Basin and throughout most of the Mississippi River system. The salamander mussel was known from 90 streams/lakes in 15 states and Canada. The salamander historically occurred within the lakes, streams and rivers of the following states and provinces: Pennsylvania, Minnesota, Wisconsin, Michigan, Tennessee, Ohio, Missouri, Kentucky, Indiana, Illinois, Iowa, Arkansas, New York, West Virginia and Ontario, Canada. Recent occurrences have been reported from only 53 of these streams/lakes in the following 11 states: Pennsylvania, Ohio, West Virginia, New York, Kentucky, Tennessee, Michigan, Illinois, Indiana, Iowa and Missouri. Multiple streams may comprise single salamander mussel population segments, essentially decreasing the number of extant populations. Existing populations are generally sepa-

rated and genetically isolated from each other by barriers such as impoundments or riverine reaches of unsuitable or otherwise unoccupied habitat.

Only three waterbodies in this Commonwealth have records of the salamander mussel. Research suggests that live salamander mussels are not easily detected; the oldest historic record (collected by Stansbery 1970 (Clarke 1985)) indicates the presence of salamander mussels in Navigational Pool 5 of the Allegheny River. Presently the salamander mussel is considered to exist only in Navigational Pool 5 and 6 of the Allegheny River (Smith 2005, 2007). Shells were found in 1985 and 1995 (T. Smith, personal communication), but no live individuals were detected. Surveys of French Creek and its tributaries did not detect the presence of the salamander mussel (Smith and Crabtree 2005, Smith and Crabtree, in review).

Salamander mussel was evaluated by staff using the Commission's mussel species documentation and listing/delisting criteria. The species review showed that a population reduction is projected to be greater than 80% in the next 10 years, the extent of stream/river occupancy is projected to be less than 10 miles, the species exists at less than six sites, and a continued, documented decline has occurred, all of which satisfies endangered status.

These mussels face direct and indirect threats to their habitat from a number of industrial activities. The potential also exists for a single catastrophic event (such as, sodium hydroxide spill) to compromise the Allegheny River/French Creek/Dunkard Creek populations or their host species.

The Bivalve Technical Committee of the Pennsylvania Biological Survey (PABS) reviewed the Heritage rank of the salamander mussel and recommended that it be designated for "critically imperiled" (S1) status. Critically imperiled is defined as extremely rare or having factors making it especially vulnerable to extirpation from the state, that is, five or fewer occurrences or very few remaining individuals or acres (State Rank Definitions 1996). The PABS committee additionally recommended endangered listing status based on the aforementioned data and potential endangerment of the species in this Commonwealth.

Sufficient information has been collected from streams and rivers within this Commonwealth to warrant the species to be elevated from rare (nonlisted) to endangered status. Therefore, the Commission proposes that the salamander mussel be added to the Pennsylvania list of endangered species.

(2) Rabbitsfoot mussel (*Quadrula cylindrica cylindrica*). The rabbitsfoot mussel is a freshwater mussel that inhabits small to medium-sized streams and some larger rivers. It usually occurs in shallow areas along the bank and adjacent runs and shoals where the water velocity is reduced. Specimens may also occupy deep-water runs and have been reported in 9–12 feet of water. Bottom substrates generally include sand and gravel. This species seldom burrows but lies on its side on the stream bottom (Ecological Specialists, Inc. 1993, Parmalee and Bogan 1998, Watters 1988).

The rabbitsfoot historically occurred in Alabama, Arkansas, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee and West Virginia. The rabbitsfoot was previously known from 138 streams in 15 states.

Rabbitsfoot populations are considered to still exist in only 49 streams in 13 states, which represents a 65% decline (USFWS 2008). Furthermore, in the streams where it does exist, populations with few exceptions are highly fragmented and restricted to short reaches. The rabbitsfoot mussel is designated Federally as a candidate species to be listed as threatened or endangered.

In this Commonwealth, rabbitsfoot populations are known to currently occur in the Allegheny River, French Creek, Muddy Creek, LeBoeuf Creek and Conneautee Creek. Current threats to the rabbitsfoot in the Allegheny River include channel maintenance activities, sedimentation, bridge replacement projects, agricultural activities, silvicultural activities and rapid expansion of the oil and gas industry. There is always potential for a single, catastrophic event (such as, sodium hydroxide spill) to impact the French Creek or Allegheny River subpopulations. Other threats to the rabbitsfoot in French Creek include nutrients from agriculture, aging septic systems (R. R. Evans, WPC, pers. comm., 2003), sedimentation, and municipal runoff and effluents. As with the Allegheny River, the rapid expansion of oil and gas development in northwestern Pennsylvania is a concern within the French Creek Watershed. LeBoeuf and Conneautee Creeks are both tributaries to French Creek and face similar threats. Portions of Muddy Creek occur on the Erie National Wildlife refuge, which affords these portions protection. However, Muddy Creek is still threatened by sedimentation, agricultural runoff, expanding development in nonrefuge lands, and the rapid expansion of oil and gas development.

Rabbitsfoot was evaluated by staff using the Commission's mussel species documentation and listing/delisting criteria. The species review showed that a population reduction of greater than 80% is projected in the next 10 years.

The Bivalve Technical Committee of PABS reviewed the Heritage rank of the rabbitsfoot and recommended that it be designated for "critically imperiled" (S1) status. Critically imperiled is defined as extremely rare or having factors making it especially vulnerable to extirpation from the state, that is five or fewer occurrences or very few remaining individuals or acres (State Rank Definitions 1996). The PABS committee additionally recommended endangered listing status based on the aforementioned data and potential endangerment of the species in Pennsylvania. Enough information has been collected from streams and rivers within this Commonwealth to warrant the rabbitsfoot to be elevated from rare (nonlisted) to endangered status. Therefore, the Commission proposes that rabbitsfoot mussel be added to the Pennsylvania list of endangered species.

(3) Snuffbox mussel (*Epioblasma triquetra*). The snuffbox mussel is found in small to medium-sized creeks to larger rivers and lakes. It occurs in swift currents of riffles, shoals and wave-washed lakeshores over gravel and sand with occasional cobble and boulders, and generally burrows deep into the substrate except when spawning or attracting a host (Parmalee and Bogan 1998).

Historically, the snuffbox mussel occurred in portions of the Great Lakes basin and throughout most of the Mississippi River system. The snuffbox was historically known from 208 streams/lakes in the following 18 states and Canada: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin and in Ontario, Canada. Existing populations are known from 73 streams and lakes in

14 states and Canada. However, it is probable that the species persists in some of the 135 streams/lakes where it is considered extirpated and it may occur in some other streams. Multiple streams may comprise single snuffbox populations, essentially decreasing the number of existing populations. Current populations are generally separated and genetically isolated from each other by barriers such as impoundments or riverine reaches of unsuitable and otherwise unoccupied habitat (Butler 2007).

Historical literature suggests that at one time the snuffbox mussel was relatively abundant in certain Pennsylvanian streams such as the upper Ohio River and Beaver River (Rhoads 1899) and Allegheny River (Ortmann 1909). The Lake Erie population is considered extirpated. Besides these waters, snuffbox have been reported from French Creek, West Branch French Creek, LeBoeuf Creek, Muddy Creek, Conneaut Outlet, Woodcock Creek, Little Mahoning Creek, Dunkard Creek, Shenango River and Little Shenango River.

Snuffbox collections occurred sporadically since 1898 (Rhoads 1899). Populations were documented in the Allegheny River from Forest County downstream to Armstrong County. The construction of nine locks and dams on 72 miles of the Allegheny River between Armstrong County and Pittsburgh and other activities disrupted historical mussel habitat and snuffbox populations. Completion of the Kinzua Dam on the upper Allegheny River main stem in 1965 destroyed potential snuffbox habitat.

Muddy Creek contains snuffbox mussels that are considered part of the more extensive French Creek population (Mohler et al. 2006). Smith and Crabtree (2005) reported abundance estimates from quantitative samples in French Creek which suggest that although present in most locations, snuffbox occur at relatively low mean densities. No snuffbox were found in Little Mahoning Creek during 15 timed-area surveys (T.A. Smith, personal communication). Snuffbox habitat in the Shenango River has been destroyed by two reservoirs (Pymatuning Lake and Shenango River Lake). These impoundments eliminated snuffbox habitat in about 50% of the 75-mile river. Snuffbox are currently present in the upper reaches of the Shenango River basin (Butler 2007). The Little Shenango River has a population reported from the lower portion of the river basin. The remaining habitat is separated by dams and reservoirs.

No snuffbox were found during recent mussel surveys of New York's tributaries to the Allegheny River (Smith and Horn 2006, Smith 2007, Smith and Meyer 2008b), and no snuffbox were found in the pooled portions of the Allegheny River (Smith and Meyer 2008c). Only French Creek is considered a stronghold for the species in this Commonwealth. Presently, snuffbox mussels can be collected throughout French Creek but usually at relatively low numbers. Snuffbox are also sporadically collected from the Allegheny River from Forest to Armstrong County.

The snuffbox population is declining Nationwide and within this Commonwealth. The snuffbox is proposed as a candidate at the Federal level. The proportion of watersheds occupied by this Commonwealth's snuffbox population declined by approximately 23%, that is, from 22 watersheds to 17 watersheds within the past 25 years. Several streams with snuffbox populations may occur within the same watershed in some cases. Of 107 individual streams with historic snuffbox populations, only 40 streams remain, which represents a 37% reduction (Butler 2007).

The construction of the navigational lock and dam system in the Allegheny River in the 1920's and 1930's invariably changed the character of the river habitat. The locks and dams were built along a 72 mile section of the river. The construction of the Kinzua Dam for flood control has altered the natural flow regime and habitat of the upper Allegheny River. These mussels face direct and indirect threats to their habitat from a number of industrial activities. Formerly, a stronghold for this Commonwealth's rich mussel fauna, the river bottom habitat in the Allegheny River, which is important for the survival of this mussel species, is rapidly being depleted by these practices. Other direct and indirect threats to the Allegheny River include sedimentation and pollution from oil and gas development, bridge replacement projects, and silvicultural activities. Coal mining activities in southwestern Pennsylvania have contributed to the degradation of the Monongahela River and its tributaries, which may have provided suitable habitat to the snuffbox at one time. Threats to French Creek include sedimentation, municipal runoff and industrial and municipal waste water treatment plant discharges. Aquatic invasives, such as zebra mussels, have been observed in the upper Allegheny River Watershed (such as, Edinboro Lake) and within French Creek. A single catastrophic event (such as, sodium hydroxide spill) could impact the French Creek population or their host fish species.

The snuffbox mussel was evaluated by staff using the Commission's mussel species documentation and listing/delisting criteria. The species review showed that a population reduction of greater than 80% is projected in the next 10 years. A continued decline of this species has been documented. These factors support endangered status.

The Bivalve Technical Committee of the PABS reviewed the Heritage rank of the snuffbox and recommended it be designated as "critically imperiled" (S1) status. Critically imperiled is defined as extremely rare or having factors making it especially vulnerable to extirpation from the state, that is, five or fewer occurrences or very few remaining individuals or acres (State Rank Definitions 1996). The PABS committee additionally recommended endangered listing status based on the aforementioned data and apparent endangerment of the species in this Commonwealth.

Enough information has been collected from streams and rivers within this Commonwealth to justify that the snuffbox be elevated from rare (nonlisted) to endangered status. Therefore, the Commission proposes that the snuffbox mussel be added to the Pennsylvania list of endangered species.

(4) Sheepnose mussel (*Plethobasus cyphus*). The sheepnose mussel is primarily a larger-stream species. It occurs primarily in shallow shoal habitats with moderate to swift currents over coarse sand and gravel. Habitats with sheepnose mussels may also have mud, cobble and boulders. Specimens in larger rivers may occur in deep runs (Butler 2002, Oesch 1984, Parmalee and Bogan 1998).

Historically, the sheepnose occurred throughout much of the Mississippi River system with the exception of the upper Missouri River system and most lowland tributaries in the lower Mississippi River system. This species is known from the Mississippi, Ohio, Cumberland, Tennessee and Ohio Rivers, and scores of tributary streams rangewide. The sheepnose was historically known from 77 streams in 15 states: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Minnesota, Mississippi, Missouri,

Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin (Butler 2002). According to Parmalee and Bogan (1998) and Neves (1991), the sheepnose has been extirpated throughout much of its former range or reduced to isolated populations. The only records known from some streams are archeological specimens (Butler 2002).

The sheepnose mussel has been eliminated from 51 of the 77 streams from which it was historically known, which represents a decline of 66% (Butler 2002). This species has also been eliminated from long reaches of former habitat in hundreds of miles of the Illinois, Cumberland, and other rivers, and from several reaches of the Mississippi and Tennessee Rivers. In addition, the species is no longer present in the state of Arkansas (Butler 2002). Sheepnose are designated Federally as a candidate species.

Historically, Ortmann (1909) considered the sheepnose mussel to occur "more abundantly" in the Allegheny in Armstrong County than it did in the Ohio in the Commonwealth, where he sampled it "sparingly." Records indicate that sheepnose were collected within the Monongahela River near Monessen, Ohio River near Shippingport (New Cumberland Pool, Dashields Pool), Beaver River near Wampum, and Allegheny River Pools 5 and 8.

Populations of the sheepnose mussel in this Commonwealth were generally considered to exist if live or fresh dead specimens had been collected after 1982 (~25 years ago). Currently, populations of the sheepnose are only known from the Allegheny River in Forest and Venango Counties. Zimmerman (2002) reported several live and fresh dead specimens, including juveniles, near Oil City. This evidence suggests the presence of a viable population of the sheepnose in the upper Allegheny River (Butler 2002). The proportion of watersheds occupied by the Commonwealth's sheepnose population has declined from seven to two, or 71%, within the past 25 years. Several streams may occupy the same watershed.

Threats to sheepnose include direct and indirect threats to their habitat from a number of industrial activities, sedimentation and pollution. There is potential for a single, catastrophic event (such as, sodium hydroxide spill) to impact the Allegheny River population.

The majority of the remaining sheepnose populations appear to be small and geographically isolated. The one factor that most noticeably results in population isolation is impoundment of rivers as well as stream reaches heavily impacted by toxic effluents and contaminated sediments. The patchy distributional pattern of populations in short river reaches makes them much more susceptible to extirpation due to the lack of recolonization from other populations. A single catastrophic event, such as a toxic chemical spill, could cause the extirpation of small, isolated sheepnose occurrences. High levels of isolation make natural repopulation of any extirpated population impossible without human intervention. Population isolation also prohibits the natural interchange of genetic material between populations (USFWS 2008).

The likelihood is high that some or all of this Commonwealth's sheepnose mussel populations are below the effective population size (EPS) required to maintain long-term genetic and population viability. Recruitment reduction or failure is a potential problem for many small mussel populations rangewide, a potential condition exacerbated by reduced range sizes and increasingly isolated populations. If these trends continue, further significant

declines in total sheepnose population size and consequent reduction in long-term viability may soon become apparent. Its present distribution and status may be indicative of the detrimental bottleneck effect resulting when the EPS is not attained (USFWS 2008).

Staff evaluated the sheepnose using the Commission's mussel species documentation and listing/delisting criteria. A 50% reduction in the next 10 years is projected for this species, which satisfies threatened status.

The Bivalve Technical Committee of PABS reviewed the Heritage rank of the sheepnose and recommended it be designated as "critically imperiled" (S1) status. However, recent survey information (R. Vilella pers. comm.) from the upper Allegheny suggests that the PABS committee will be changing the status from S1 to S2 status (imperiled)—in this Commonwealth because of rarity or because of some factors making it very vulnerable to extirpation from the State. Typically six to 20 occurrences or few remaining individuals or acres qualify a species for an S2 rank (State Rank Definitions 1996). The PABS committee additionally recommended threatened listing status, that is, species that may become endangered within the foreseeable future throughout their range in this Commonwealth unless the causal factors affecting the organism are abated.

Enough information has been collected from streams and rivers within this Commonwealth to warrant the sheepnose be elevated from rare to threatened status. Therefore, the Commission proposes that the sheepnose mussel be added to the Pennsylvania list of threatened species.

(5) Rayed bean mussel (*Villosa fabalis*). The rayed bean mussel is known from smaller headwater creeks, but records exist in larger rivers. They are usually found in or near riffle areas, and in the shallow, wave-washed areas of glacial lakes, including Lake Erie. In Lake Erie, it is generally associated with islands in the western portion of the lake. Substrates typically include gravel and sand. It is sometimes associated with vegetation (such as, water willow; *Justicia americana*, or water milfoil; *Myriophyllum* sp.) in and adjacent to riffles and shoals. Specimens are typically buried among the roots of the vegetation (Butler 2002).

Historically, the rayed bean occurred in parts of the upper (that is, Lake Michigan drainage) and lower Great Lakes systems, and throughout most of the Ohio and Tennessee River systems. The rayed bean was historically known from 106 streams, lakes, and some manmade canals in 10 states. The rayed bean mussel historically occurred in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. Existing populations are known from 22 streams and one lake in five states. The rayed bean mussel has disappeared from 78% of the total number of streams and other waterbodies from which it was historically known (23 current waterbodies compared to 106 historic waterbodies). The rayed bean has been eliminated from long stretches of former habitat in hundreds of miles of the Maumee, Ohio, Wabash, and Tennessee Rivers and from numerous stream reaches in their tributaries. In addition, the species is no longer known from the states of Illinois, Kentucky, Tennessee, Virginia and West Virginia, representing half the states from which it was formerly known (Butler 2002).

Ortmann (1909) documented low numbers of rayed beans from the Allegheny River system. Presently, the Allegheny River population is one of the largest known,

rangewide. The population extends from Cataaugus County, NY, to Armstrong County, PA. It is currently found live in the Allegheny River (Pools 6, 8 and 9), French Creek and LeBoeuf Creek (Smith and Meyer 2008a; 2008 b). Rayed bean shell material has been found in Allegheny River Pool 7 (Smith and Meyer 2008a; 2008b). Populations of rayed bean also occur in French Creek and Cussewago Creek (Smith and Crabtree 2005).

Rayed bean mussels are currently distributed within the upper Allegheny River Watershed (Cussewago Creek, tributary to Conewango Creek and French Creek; LeBoeuf Creek) and within the middle Allegheny River and from Navigational Pools 6, 8 and 9. The Allegheny River population is one of the largest, rangewide (Butler 2002). However, the rayed bean is declining nationwide and within this Commonwealth. Nationally, of 106 individual streams/waterbodies with historic rayed bean populations, only 23 streams remain (a 78% stream reduction) (Butler 2002). The rayed bean is currently designated as a Federal candidate and is under review to be listed as an endangered species.

The greatest threats to the French Creek population include sedimentation, municipal runoff and effluents. The rapid expansion of oil and gas exploration and development threatens existing populations (such as, brines, organics) and stream sedimentation loading from the increasing number of dirt and gravel roads and well sites. Aquatic invasives, such as zebra mussels have been observed in the upper Allegheny River watershed (such as, Edinboro Lake) and within French Creek.

These mussels face direct and indirect threats to their habitat from a number of industrial activities. There is potential for a single, catastrophic event (such as, sodium hydroxide spill) to impact this population.

The majority of the remaining rayed bean mussel populations appears to be small and geographically isolated. The factor that most noticeably results in population isolation is impounding of rivers but another factor is stream reaches that are heavily impacted by toxic effluents and contaminated sediments. The patchy distributional pattern of populations in short river reaches makes them much more susceptible to extirpation due to the lack of recolonization from other populations. A single catastrophic event, such as toxic chemical spills, could cause the extirpation of small, isolated rayed bean occurrences. High levels of isolation make natural repopulation of any extirpated population impossible without human intervention. Population isolation also prohibits the natural interchange of genetic material between populations (USFWS 2008).

The likelihood is high that some or all of this Commonwealth's rayed bean mussel populations are below the effective population size (EPS) required to maintain long-term genetic and population viability. Recruitment reduction or failure is a potential problem for many small mussel populations rangewide, a potential condition exacerbated by reduced range sizes and increasingly isolated populations. If these trends continue, further significant declines in total rayed bean population size and consequent reduction in long-term viability may soon become apparent. Its present distribution and status may be indicative of the detrimental bottleneck effect resulting when the EPS is not attained (USFWS 2008).

Staff evaluated this species using the Commission's mussel species documentation and listing/delisting criteria. The population is projected to be reduced by greater than 50% in next 10 years, which satisfies a threatened status listing.

The Bivalve Technical Committee of PABS reviewed the Heritage rank of the sheepsnose and recommended it be designated as "critically imperiled/imperiled" (S1S2) status. This combined status, on the border of critically imperiled and imperiled status, is due to the species' extreme rarity or because of some factors making it especially vulnerable to extirpation from this Commonwealth. "Critically imperiled" factors include the existence of five or fewer occurrences or very few remaining individuals or acres. "Imperiled status" can be due to rarity or because of some factors making it very vulnerable to extirpation from this Commonwealth, that is, typically six to 20 occurrences or few remaining individuals or acres (State Rank Definitions 1996). The PABS committee additionally recommended a threatened listing status (Pennsylvania Biological Survey Suggested Status Definitions 2005) based on the aforementioned data and apparent endangerment of the species in this Commonwealth.

Enough information has been collected from streams and rivers within this Commonwealth to warrant the rayed bean to be elevated from rare to threatened status. Therefore, the Commission proposes that the rayed bean mussel be added to the Pennsylvania list of threatened species.

The Commission proposes that §§ 75.1 and 75.2 be amended to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D,
Executive Director

Fiscal Note: 48A-208. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

SUBPART B. FISHING

CHAPTER 75. ENDANGERED SPECIES

§ 75.1. Endangered species.

* * * * *

(b) *Fish*. The following species are endangered:

* * * * *

[(29) Northern riffleshell mussel, *Epioblasma torulosa rangiana*.

(30) Clubshell mussel, *Pleurobema clava*.

(31) Dwarf wedgemussel, *Alasmidonta heterodon*.

(32) Eastern pearlshell mussel, *Margaritifera margaritifera*.]

* * * * *

(d) *Invertebrates*. The following species are endangered:

(1) Northern riffleshell mussel, *Epioblasma torulosa rangiana*.

(2) Clubshell mussel, *Pleurobema clava*.

(3) Dwarf wedgemussel, *Alasmidonta heterodon*.

(4) Eastern pearlshell mussel, *Margaritifera margaritifera*.

(5) Salamander mussel, *Simpsonaias ambigua*.

(6) Rabbitsfoot mussel, *Quadrula cylindrica cylindrical*.

(7) Snuffbox mussel, *Epioblasma triquetra*.

§ 75.2. Threatened species.

* * * * *

(d) *Invertebrates*. The following species are threatened:

(1) Sheepsnose mussel, *Plethobasus cyphus*.

(2) Rayed bean mussel, *Villosa fabalis*.

[Pa.B. Doc. No. 08-2198. Filed for public inspection December 5, 2008, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Office of Administration

The Executive Board approved a reorganization of the Office of Administration effective November 19, 2008.

The organization chart at 38 Pa.B. 6623 (December 6, 2008) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 31.(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. 08-2199. Filed for public inspection December 5, 2008, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Partial Revocation of Plum Pox Virus Quarantine

Recitals

1. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27) empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests in this Commonwealth.

2. The powers granted the Department under section 21 of the act (3 P. S. § 258.21) include the power to establish quarantines to prevent the dissemination of plant pests within this Commonwealth.

3. Plum Pox Virus (PPV) is a serious nonnative plant pest that injures and damages stone fruits such as peaches, nectarines, plums and apricots by drastically reducing the fruit yields from these stone fruit trees and by disfiguring the fruit to the point it is unmarketable and has been detected in certain areas of this Commonwealth.

4. The Department has exercised its authority under the act and issued several Orders of Quarantine affecting portions of Adams, Cumberland, Franklin and York Counties in an effort to contain, identify and eradicate PPV.

5. The Department is satisfied it is appropriate to rescind the Order of Quarantine applicable to Tyrone Township, Adams County, since 3-consecutive years of extensive testing have failed to detect the presence of PPV among stone fruit trees in this area and in a 1-mile buffer zone around this township.

Order

Under authority of section 21 of the act, the Department hereby enters the following order:

The portion of the Order of Quarantine dated November 16, 2006, and published at 36 Pa.B. 7298 (December 2, 2006) that pertains to Tyrone Township, Adams County, is hereby rescinded. This Order had imposed a quarantine on all properties North of Cranberry Road in Tyrone Township in Adams County, to facilitate the containment and eradication of PPV and to make the affected stone fruit tree owners eligible for reimbursement of certain costs related to the destruction of stone fruit trees, herbicide applications, insect control measures and other PPV eradication activities under the Department's Commercial Orchard and Fruit Tree Indemnity Program and the Department's Plum Pox Noncommercial Prunus Tree and Landscape Nursery Prunus Tree Indemnity Program. The PPV-infected stone fruit trees and all stone fruit trees within 500 meters of the infected trees have since been removed from the quarantined locations, and the owners of those trees compensated for the losses attendant to this removal. Three-consecutive years of intensive sampling and testing stone fruit leaves in the regulated portion of Tyrone Township, Adams County, and in the 1-mile buffer zone bordering the quarantined area have not yielded any additional positive detections of PPV. Therefore, the Tyrone Township location covered by the referenced December 2, 2006, Order of Quarantine is no longer considered a potential reservoir of the PPV virus, and as a result can be considered free of PPV. The location hereby released from quarantine is as follows:

The properties and land located North of Cranberry Road in Tyrone Township, Adams County, PA.

The Department will consult with the United States Department of Agriculture, European experts and scientific authorities with respect to the most efficacious measures by which to contain and eliminate this serious plant pest. The Department will issue further restrictions under authority of this Quarantine Order, as is required under section 21(a) of the act. These restrictions may address aphid control, elimination or reduction of aphid habitat, destruction of PPV-infected stone fruit trees and budwood, destruction of endangered or exposed stone fruit trees or budwood and any other measures necessary to the containment and elimination of the PPV in this Commonwealth.

This quarantine is effective as of November 18, 2008, and shall remain in effect until terminated by subsequent order.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 08-2200. Filed for public inspection December 5, 2008, 9:00 a.m.]

Year 2009 Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$550,000 in grants under its Year 2009 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$15,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account, from funds which are hereby declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

A proposed version of these guidelines and conditions was published at 38 Pa.B. 6174 (November 8, 2008). The Department invited public and legislative review of these proposed guidelines and conditions in accordance with 7 Pa. Code § 23.4 (relating to guidelines and conditions). The Department received no comments on the proposed guidelines and conditions; and intends to establish the proposed guidelines and conditions as the final guidelines and conditions for the Program.

The guidelines and conditions for the Program are set as follows.

Guidelines and Conditions for the Year 2009 Dog Control Facility Bill Reimbursement Grant Program

1. *Definitions.*

The following words and terms, when used in these guidelines and conditions, have the following meanings:

Department—The Department of Agriculture.

Dog control—The apprehending, holding and disposing of stray or unwanted dogs, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

Eligible Bill—A document seeking payment for materials, services (other than veterinary services and spaying/neutering services) or utilities from a grant recipient, setting forth the following:

- i. The date the document is issued.
- ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.
- iii. If for materials, a description of the materials and the date of delivery. Invoices and/or receipts for materials must set forth or be accompanied by a written description of the intended use of the material and the date the material is used. Materials may not include computers, computer equipment or software. Examples of eligible materials include the following:
 - Cleaning supplies;
 - Office supplies—typical supplies used to carry on daily office duties;
 - Materials for building and repair projects; and
 - Purchases of medication, needles, and the like . . .
- iv. If for services, the services must be other than veterinary services or spaying/neutering services, and shall include a description of the nature of the services and the dates upon which the services were rendered. Examples of services include the following:
 - Labor charges with respect to which the invoice details the exact service performed and the date of performance;
 - Cremation services with respect to which the invoice either verifies that only dogs were cremated or—in the event that animals other than dogs were cremated—separates the dogs from those other animals and identifies a charge attributable to only the cremation of the dogs.
 - Exterminator services with respect to which the invoice identifies the date of the service and identifies location of the service.
 - Property, casualty and liability insurance services (excluding workers compensation insurance).
- v. If for utilities (such as, electricity, water, sewer, waste disposal and similar purposes), a statement of the period for which the utility, for which payment is sought, was provided.
- vi. The name, address and telephone number of the entity issuing the invoice or receipt.

Humane society or association for the prevention of cruelty to animals (SPCA)—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53, Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

Program—The Year 2009 Dog Control Facility Bill Reimbursement Program.

2. Eligibility.

A humane society or association for the prevention of cruelty to animals is eligible to apply to receive a grant under the Program if that humane society or association for the prevention of cruelty to animals:

- a. Has been in operation for at least 1 year immediately preceding the application date.

- b. Has performed dog control functions for at least 1 year immediately preceding the application date.

- c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.

- d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2009.

- e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2009.

- f. Agrees—as a condition of receiving any grant money under the Program—to accept stray or unwanted dogs as described in the preceding paragraph without regard to whether the stray or unwanted dog originates from a county other than the county in which the humane society or association for the prevention of cruelty to animals is located.

- g. Has a valid Pennsylvania 2009 "Non Profit" kennel license, and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (that is, boarding kennel and/or commercial kennel) at the same location are not eligible to participate in this program.

- h. If the Humane Society/SPCA has a total operating budget of \$350,000 or less for the 2009 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2009, the maximum grant amount will not exceed \$15,000.

- i. If the Humane Society/SPCA has a total operating budget exceeding \$350,000 for the 2009 calendar year or, if its budget is on a basis of other than calendar year, has a total operating budget over \$350,000 for each fiscal year comprising any portion of calendar year 2009, the maximum grant amount will not exceed \$10,000.

3. Use of Grant Funds.

The Department will allocate a specific maximum grant amount to a successful grant applicant through a written grant agreement. This maximum grant amount will be specified in the grant agreement, and will not exceed \$15,000 with respect to any application.

The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from March 1, 2009, through December 31, 2009. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before March 1, 2009, or after December 31, 2009, that bill is not an eligible bill and will not be reimbursed by the Department under the program.

4. *Application Process.*

a. *Application required.* A humane society or association for the prevention of cruelty to animals seeking a grant under the Program must complete a written application form and deliver it to the Department no later than 30 days from the date this notice is published in the *Pennsylvania Bulletin*. Applications received by the Department beyond that date will not be considered.

b. *Obtaining an application form.* The Department will provide grant application forms upon request, or the application may be downloaded from the Department's web site: www.agriculture.state.pa.us.

Requests for application forms should be directed to Susan West, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax (717) 772-4352.

c. *Contents of grant application form.* A grant application form shall require the following information:

- i. The name and address of the applicant.
- ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.
- iii. The maximum grant amount sought by the applicant—not to exceed \$15,000 (or \$10,000, if Paragraph 2(i) is applicable).
- iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2008 for the same type of materials, services (other than veterinary services and spaying/neutering services) or utilities for which reimbursement will be sought under the grant agreement.
- v. Verification that, in the event a grant is awarded, the applicant will continue to perform dog control activities, and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2009.
- vi. Other information as the Department might reasonably require.

5. *Review and approval of grant application.*

a. *Review and notification.* The Department will review each timely grant application and provide the applicant written notification of whether the Department awards the grant, denies the grant or awards a grant in some amount less than the applicant sought. This written notification will be mailed no later than 30 days from the date the Bureau of Dog Law Enforcement receives the grant application, to the address provided by the applicant on the grant application form. If an application is incomplete or the Department requires additional information or documentation to evaluate the grant request, it will so advise the applicant within 30 days from the date it receives the grant application.

b. *Review criteria.* The Department will consider the following, among other factors, in determining whether to award a grant application:

- i. The number of applications received and the availability of funds for the grants sought.
- ii. The relative contribution of the applicant to dog control activities in the area it serves.
- iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.
- iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.
- v. The expense or logistical difficulty the Department would encounter if the applicant's dog control facility was no longer in operation.
- vi. The relative contribution of the applicant in terms of the number of stay or unwanted dogs it accepts from the Department's State Dog Wardens performing dog control functions.

6. *Grant agreement.*

a. *Grant agreement required.* A successful grant applicant must execute a grant agreement with the Department, setting forth the terms and conditions pursuant to which the grant money will be used by the Department to reimburse the grant recipient for payment of eligible bills.

b. *Reimbursement requests.* The grant agreement will set forth the exact procedure by which a grant recipient shall seek reimbursement from the Department for payment of eligible bills. The basic reimbursement request procedure will be as follows:

By August 15, 2009, the grant recipient will: (1) deliver copies of the eligible bills it has paid between March 1, 2009 and July 31, 2009; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 5-month period.

By January 15, 2010, the grant recipient will: (1) deliver copies of the eligible bills it has paid between August 1, 2009 and December 31, 2009; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 5-month period.

c. *Payment by the Department.* The Department will reimburse a grant recipient for eligible bills within 60 days of receiving a complete and timely reimbursement request.

d. *Termination.* The Department may terminate a grant agreement at any time by providing the grant recipient written notice of termination at the address set forth on the grant application.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 08-2201. Filed for public inspection December 5, 2008, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending November 25, 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

Holding Company Acquisitions

| <i>Date</i> | <i>Name of Corporation</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|-----------------|---------------|
| 11-19-2008 | Riverview Financial Corporation (in organization), Halifax, to acquire 100% of First Perry Bancorp, Inc., Marysville, and its subsidiary The First National Bank of Marysville, Marysville, and HNB Bancorp, Inc., Halifax, and its subsidiary Halifax National Bank, Halifax | Halifax | Approved |

Branch Applications

De Novo Branches

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|---|---------------|
| 11-17-2008 | First Commonwealth Bank Indiana Indiana County | 339 Mansfield Avenue Pittsburgh Allegheny County | Opened |
| 11-24-2008 | Fulton Bank Lancaster Lancaster County | Trindle Road and South 34th Street Camp Hill Cumberland County | Approved |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Branch Applications

De Novo Branches

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|---|---------------|
| 10-31-2008 | Lancaster Red Rose Credit Union Lancaster Lancaster County | 150 South Street Lancaster Lancaster County | Opened |

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. 08-2202. Filed for public inspection December 5, 2008, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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> |
|-----------------------------|---|--|--------------------------------------|-----------------------------|
| PA0052426 (Minor Sewage) | Allied Utility Services, Inc. Schnecksville North STP P. O. Box 1488 Skippack, PA 19474-1488 | North Whitehall Township Lehigh County | UNT to Coplay Creek 02C | 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> |
|-----------------------------|---|---|-------------------------------------|-----------------------------|
| PA0030341 | East Lawrence Elementary School 1352 Golf Course Road Volant, PA 16156-9041 | Plain Grove Township Lawrence County | Taylor Run 20-C | Y |

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

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

PA0244449, Industrial Waste, SIC 4931, **FPL Energy Marcus Hook, LP**, 100 Green Street, Marcus Hook, PA 19061. This proposed facility is located in Marcus Hook Borough, **Delaware County**.

Description of Proposed Activity: Issuance of an NPDES permit to discharge cooling tower blowdown from Marcus Hook Generating Station.

The receiving stream, Delaware River Estuary—Zone 4, is in the State Water Plan Watershed 3G and is classified for: WWF, aquatic life, water supply and recreation. There is no downstream public water supply intake below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 4.32 mgd:

| <i>Parameters</i> | <i>Concentration (mg/l)</i> | | |
|------------------------------|--|--------------------------|---|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum (mg/l)</i> |
| pH | 6.0 to 9.0 Standard Units at all times | | |
| CBOD ₅ | Monitor and Report | Monitor and Report | Monitor and Report |
| TSS | 30 | 100 | |
| Oil and Grease | 15 | 20 | |
| TRC | 0.05 | | 0.1 |
| TDS | 5,000 | 10,000 | 12,500 |
| Temperature | | | 95° F |
| Ammonia as N | Monitor and Report | Monitor and Report | Monitor and Report |
| Copper, Total | 0.034 | 0.068 | 0.085 |
| Lead, Total | Monitor and Report | Monitor and Report | Monitor and Report |
| Chloroform | Monitor and Report | Monitor and Report | Monitor and Report |
| Dichlorobromomethane | Monitor and Report | Monitor and Report | Monitor and Report |
| BIS (2-ethylhexyl) phthalate | Monitor and Report | Monitor and Report | Monitor and Report |
| PCB, Total (Wet Weather) | | Monitor and Report | |
| PCB, Total (Dry Weather) | | Monitor and Report | |
| Dissolved Oxygen | | | 4.0 (Instantaneous Minimum) |

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

1. Thermal Impact.
2. Thermal Mixing Zone.
3. Chemical Additives Approval.
4. Information on Chemical Additive.
5. Change in Ownership.
6. Chlorine Minimization.
7. Proper Sludge Disposal.
8. WET Requirement.
9. I-Max Condition.
10. No Discharge Condition.
11. Laboratory Certification.
12. 316(a) Determination.
13. PCB/PMP Requirement.
14. Annual Inspection for Stormwater.
15. CBOD₂₀ Allocation.
16. 85% Removal of TSS.

PA0244244, Industrial Waste, SIC 2893, **Flint Group North America**, 210 Philips Road, Lionville, PA 19341. This proposed facility is located in Uwchlan Township, **Chester County**.

Description of Proposed Activity: Renewal of existing NPDES permit to discharge stormwater from a printing ink manufacturing facility. The receiving stream, Pine Creek, is in the State Water Plan Watershed 3H and is classified for: HQ-TSF.

The proposed effluent limits for Outfall 001 are based on a design flow of an average storm event.

| <i>Parameters</i> | <i>Concentration (mg/l)</i> | |
|-------------------------|-----------------------------|--|
| | <i>Maximum Daily</i> | |
| CBOD ₅ | Monitor and Report | |
| COD | Monitor and Report | |
| Oil and Grease | Monitor and Report | |
| pH | Monitor and Report | |
| Total Suspended Solids | Monitor and Report | |
| Total Kjeldahl Nitrogen | Monitor and Report | |
| Total Phosphorus | Monitor and Report | |
| Iron (Dissolved) | Monitor and Report | |

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

1. Change of Ownership.
2. Remedial Measures if Public Nuisance.
3. Stormwater Requirements.
4. Laboratory Certification.

PA0050016, Industrial Waste, SIC 3082, **Markel Corporation**, 435 School Lane, Plymouth Meeting, PA 19462. This facility is located in Plymouth Township, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 60,000 gpd of contact and noncontact cooling water.

The receiving stream, Diamond Run, is in the State Water Plan Watershed 3F and is classified for: WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for City of Philadelphia is located on Schuylkill River.

The proposed effluent limits for Outfall 001 are based on a design flow of 60,000 gpd.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|-----------------------------|------------------------|---|-----------------------------|----------------------|-----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum mg/l</i> |
| BOD ₅ | | 13 | | Monitor and Report | |
| Suspended Solids | | 10 | | Monitor and Report | |
| Temperature | | | | | 110° F |
| pH | | Within limits of 6.0 to 9.0 Standard Units at all times | | | |
| Oil and Grease | | 7.5 | 15 | | 30 |
| Bis(2-Ethylhexyl) Phthalate | | | Monitor and Report | | |

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

1. Small Stream Discharge.
2. No Chemical Additives.
3. Required Test Methods.
4. Change in Ownership.
5. Additional Submission for TMDL Analysis.
6. Certified Laboratory.

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

Application No. PA 0261122, Sewage, **Train Collectors Association**, P. O. Box 248, Strasburg, PA 17579-0248. This facility is located in Paradise Township, **Lancaster County**.

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

The receiving stream, UNT to Pequea Creek, is in Watershed 7-K, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Holtwood Power Plant is located on the Susquehanna River, approximately 35 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.002 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-------------------------------|-------------------------------------|-------------------------------------|
| CBOD ₅ | 10 | | 20 |
| Total Suspended Solids | 10 | | 20 |
| Total Phosphorus | | Monitor | |
| Total Residual Chlorine | 0.5 | | 1.6 |
| Dissolved Oxygen | | Minimum of 5.0 at all times | |
| pH | | From 6.0 to 9.0 inclusive | |
| Fecal Coliform | | | |
| (5-1 to 9-30) | | 200/100 ml as a Geometric Average | |
| (10-1 to 4-30) | | 2,000/100 ml as a Geometric Average | |

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

The EPA waiver is not in effect.

Application No. PA 0247324, CAFO, **Rohrer Farms, LLC**, 750 Doe Run Road, Lititz, PA 17543.

Rohrer Farms, LLC has submitted an application to renew the existing Individual NPDES permit for an existing CAFO known as the Rohrer Swine Farm, located in Penn and Warwick Townships, **Lancaster County**.

The CAFO is situated near Santo Domingo Creek, which is classified as a WWF. The CAFO includes five animal housing units designed to maintain an animal population of approximately 1,660 animal equivalent units consisting of 2,460 gestating sows, 448 sows with litters, 10 boars, 900 replacement gilts, 2,500 nursery pigs and 200,000 pullets. Manure is stored in high-density polyethylene-lined earthen impoundments with a total combined capacity of approximately 3.75 million gallons. Manure produced at the operation is applied onsite or exported to local farmers in accordance with an approved Nutrient Management Plan. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department.

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

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

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

PA0252476, Sewage, **Alex Shuppe**, P. O. Box 218, Dilliner, PA 15327. This application is for renewal of an NPDES permit to discharge treated sewage from Shuppe Rentals Trailer Park STP in Dunkard Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Dunkard Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Dunkard Valley Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.002 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | <i>Instantaneous Maximum</i> |
|-------------------|-----------------------------|----------------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 3.1 | | | 6.2 |
| (11-1 to 4-30) | 7.4 | | | 14.8 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | | 200/100 ml as a Geometric Mean | | |
| (10-1 to 4-30) | | 2,000/100 ml as a Geometric Mean | | |

| Parameter | Concentration (mg/l) | | | |
|-------------------------|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| Total Residual Chlorine | Monitor and Report | | | |
| Dissolved Oxygen | not less than 4.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0206067, Sewage, **Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. This application is for renewal of an NPDES permit to discharge treated sewage from Mon Valley/Fayette Expressway Northern Toll Plaza STP in California Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as South Branch of Maple Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Charleroi Municipal Authority on the Monongahela River.

Outfall 001: existing discharge, design flow of 0.00024 mgd.

| Parameter | Concentration (mg/l) | | | |
|-------------------------|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a Geometric Mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a Geometric Mean | | | |
| Total Residual Chlorine | Monitor and Report | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

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

PA0101508, Industrial Waste, **Pennsylvania Brine Treatment, Inc.—Franklin Facility**, 5148 US 322, Franklin, PA 16323. This existing facility is located in Cranberry Township, **Venango County**.

Description of Proposed Activity: renewal and modification of an NPDES permit for an existing discharge of treated industrial waste. The modification is to increase the maximum discharge rate from 205,000 gpd to 300,000 gpd.

The receiving water is the Allegheny River. The receiving stream is in State Water Plan 16-G and is classified for the following uses: WWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, the Emlenton Water Company, is located on the Allegheny River approximately 32 miles below the point of discharge.

Interim Limits

The proposed effluent limits for Outfall 001 based on a design flow of 0.205 mgd.

| Parameter | Loadings | | Concentrations | | |
|------------------------|--------------------------|------------------------|--|----------------------|------------------------------|
| | Average Monthly (lb/day) | Maximum Daily (lb/day) | Average Monthly (mg/l) | Maximum Daily (mg/l) | Instantaneous Maximum (mg/l) |
| Flow (mgd) | | 0.205 | | | |
| Oil and Grease | | | 15.0 | | 30.0 |
| Total Suspended Solids | | | 30.0 | | 60.0 |
| Total Iron | | | 3.5 | | 7.0 |
| Copper | | | 0.56 | 1.12 | 1.40 |
| Silver | 0.37 | 0.75 | | | 0.55 |
| Chloride (lbs/min) | 147 | 245 | | | |
| Acidity | | | Less than Alkalinity | | |
| Alkalinity | | | Monitor and Report | | |
| Barium | | | Monitor and Report | | |
| pH | | | 6.0 to 9.0 Standard Units at all times | | |

Final Limits

The proposed effluent limits for Outfall 001 based on a design flow of 0.300 mgd.

| Parameter | Loadings | | Concentrations | | |
|------------------------|-----------------------------|---------------------------|--|-------------------------|---------------------------------|
| | Average Monthly (lb/day) | Maximum Daily (lb/day) | Average Monthly (mg/l) | Maximum Daily (mg/l) | Instantaneous Maximum (mg/l) |
| Flow (mgd) | | 0.30 | | | |
| Oil and Grease | | | 15.0 | | 30.0 |
| Total Suspended Solids | | | 30.0 | | 60.0 |
| Total Iron | | | 3.5 | | 7.0 |
| Copper | | | 0.56 | 1.12 | 1.4 |
| Silver | 0.54 | 1.08 | | | 0.55 |
| Chloride (lbs/min) | 147 | 245 | | | |
| Acidity | | | Less than Alkalinity | | |
| Alkalinity | | | Monitor and Report | | |
| Barium | | | Monitor and Report | | |
| pH | | | 6.0 to 9.0 Standard Units at all times | | |

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

WQM Permit No. 1508415, Sewerage, **Chadds Ford Investment Company**, 514 McCue Road, Avondale, PA 19311. This proposed facility is located in New Garden Township, **Chester County**.

Description of Action/Activity: Installation of a equalization tank.

WQM Permit No. 2308404, Sewerage, **Borough of Brookhaven**, 2 Cambridge Road, Brookhaven, PA 19015-1708. This proposed facility is located in Brookhaven Borough, **Delaware County**.

Description of Action/Activity: Modified primary settling tank, new chlorine contact tank, new aerobic digestion and a new final settling tank.

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

WQM Permit No. 5608406, Sewerage, **Seven Springs Municipal Authority**, 290 Lagoon Lane, Champion, PA 15622. This proposed facility is located in Middlecreek Township, **Somerset County**.

Description of Proposed Action/Activity: Permit application for the construction and operation of a pump station.

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

WQM Permit No. 1005402, Amendment No. 1, Sewerage, **Tracey, Inc.**, P. O. Box 55, Valencia, PA 16059. This proposed facility is located in Clinton Township, **Butler County**.

Description of Proposed Action/Activity: A minor amendment to acknowledge the relocation of the sewage treatment facility. The design of the previously permitted sewerage system will not be changing.

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.

| NPDES Permit No. | Applicant Name & Address | County | Municipality | Receiving Water/Use |
|------------------|---|-------------------------|--|--|
| PAI01 0907021 | Solebury Partners/ Logan Square Condominium Associates 2005 South Easton Road Suite 307 Doylestown, PA 18901 | Bucks | Solebury Township | Aquetong Creek HQ-CWF |
| PAI01 0908011 | Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406-1525 | Bucks and Montgomery | New Britain, Warrington and Montgomery Townships | Mill, Little Neshaminy and Neshaminy Creeks WWF-MF-TSF |

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|------------------------------|-----------------------------|
| PAI01 2308009 | Leslie and Mark Lynch 773 Sugartown Road Malvern, PA 19355 | Delaware | Newtown Township | Crum Creek HQ-CWF |
| PAI01 4607003A-1 | Realen Valley Forge Greens Associates 1000 Chesterbrook Boulevard Berwyn, PA 19312 | Montgomery | Upper Merion Township | UNT Trout Creek WWF |
| PAI01 4608005 | Glenn Springs Holding, Inc. 3375 Armand Hammer Boulevard Pottstown, PA 19464 | Montgomery | Lower Pottsgrove Township | Schuylkill River WWF, MF |

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

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|----------------------------|
| PAI024805021(1) | Route 512 Associates, LLC Attn: Richard Thulin 100 Gateway Drive Suite 310 Bethlehem, PA 18017 | Northampton | East Allen Township | Monocacy Creek HQ-CWF |

Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------------|----------------------------|
| PAI025208013 | Pike County Commissioners 506 Broad Street Milford, PA 18337 | Pike | Booming Grove Township | Billings Creek HQ-CWF |

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

Westmoreland Conservation District, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|---|
| PAI056508003 | West Penn Power 800 Cabin Hill Drive Greensburg, PA 15601 | Westmoreland | Derry Township | Miller Run HQ-CWF Saxman Run WWF |

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

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

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 1508509, Public Water Supply.

Applicant **Borough of Kennett Square**
120 Marshall Street
Kennett Square, PA 19348

Township Kennett

County **Chester**

Responsible Official Joseph Scalise
120 Marshall Street
Kennett Square, PA 19348

Type of Facility PWS

Consulting Engineer Rettew Associates, Inc.
3020 Columbia Avenue
Lancaster, PA 17603

Application Received Date October 15, 2008

Description of Action Installation of a new well (No. 2 "Yeatman") water softening with ion exchange and chlorine.

Application No. 0908515, Public Water Supply.

Applicant **Logan Square Condominium Association**

Township Solebury

County **Bucks**

Responsible Official Dan Peel
P. O. Box 106
New Hope, PA 18938

Type of Facility PWS

Consulting Engineer Bucher and James, Inc.
1456 Ferry Road
Suite 500
Doylestown, PA 18901

Application Received Date November 12, 2008

Description of Action Retrofit existing nontransient, noncommunity water system to reduce arsenic levels to acceptable standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**UNDER ACT 2, 1995****PREAMBLE 1****Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person

proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania 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.

Guadalupe Associates Property, Montgomery Township, **Montgomery County**. Mark J. Irani, P. G., Land Recycling Solutions, LLC, 3101 Mt. Carmel Avenue, Suite 3, Glenside, PA 19038 on behalf of Frieda Ambrose, Guadalupe Associates, LLC, 121 Commerce Drive, Montgomeryville, PA 18936 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of No. 2 fuel oil. The planned future use of the property will continue to be for a commercial use. A summary of the Notice of the Intent to remediate was reported to have been published in the *Bucks County Intelligencer* on October 22, 2008.

Transmontaigne Terminal Property, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Associates, One Drexel Plaza, 3001 Market Street, Suite 200, Philadelphia, PA 19105 on behalf of Bryan Cullen,

Westrum Urban Land Development, LLC, 370 Commerce Drive, Suite 100, Fort Washington, PA 19034 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of unleaded gasoline. The proposed future use of the site will be residential.

(UPDATED) US Postal Service Truck Terminal Annex, City of Philadelphia, Philadelphia County. Christopher Orzechowski, Keating Environmental Management, Inc., 123 John Robert Thomas Drive, Exton, PA 19341 on behalf of Kyle Rosato, University of Pennsylvania, 3101 Walnut Street, Philadelphia, PA 19104 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of chlorinated solvents. The site is intended to be developed for mixed use, including a combination of commercial, office and parking, and may also include a residential component in one of the towers.

Zieger Rose Nursery, Upper Dublin Township, Montgomery County. Mark Fortna, DelVal Soil Environmental Consultants, Inc., 4050 Skyron Drive, Suite A-1, Doylestown, PA 18902 on behalf of Richard McBride, The Culter Group, 5 Apollo Road, Suite 2, Plymouth Meeting, PA 19462 has submitted a Notice of Intent to Remediate. Soil at the site had been impacted with the release of inorganics. The future use of the site will be use as a Residential Housing Development.

Linfield Industrial Park, Limerick Township, Montgomery County. Jim LaRegina, Herbert Rowland & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of Eugene Ostreicher, Linfield Industrial Park, 527 Bedford Avenue, Brooklyn, NY 11211 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of leaded gasoline. The future use of the site is currently unknown but could include nonresidential use consistent with its industrial zoning.

Keystone Discount Tire, City of Philadelphia, Philadelphia County. John Forsyth, Mid-Atlantic Associates, Inc., 271 Bethlehem Pike, Suite 102, Colmar, PA 18915 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of used motor oil. The future use of the site will be remain the same.

Exelon Power Southwark Generation Station, City of Philadelphia, Philadelphia County. David Kistner, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Michael Fluehr, Delaware Avenue Enterprises, 101 South King Street, Gloucester City, NJ 08030 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site is anticipated to remain unchanged.

Pier 98 South Annexation Concrete, City of Philadelphia, Philadelphia County. Michael Panettieri, Professional Services Industries, 1710 South Cameron Service, Site B, Harrisburg, PA 17104 on behalf of Charles J. Lawrence, Philadelphia Regional Port Authority, 3460 North Delaware Avenue, Philadelphia, PA 19134 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by the release of unleaded gasoline. The current land use plans include developing the subject property for future use as a food distribution and warehouse facility. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on September 22, 2008.

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

Sheppie Property (21 R-Own Lake), Hamilton Township, Monroe County. Sherry M. Carlo, P. G., United Environmental Services, Inc., 86 Hillside Drive, Drums, PA 18222 has submitted a Notice of Intent to Remediate (on behalf of her client, Robert Sheppie, 21 R-Own Lake, Stroudsburg, PA 18360), concerning the remediation of soils and surface waters found to have been impacted by kerosene as a result of an accidental release from a leaking aboveground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard. The intended future use of the property is residential. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

Former RUS Facility/Cintas Corp. (164 East Main Street), Emmaus Borough, Lehigh County. Peter Milionis, ARCADIS U.S., Inc., 6 Terry Drive, Suite 300, Newtown, PA 18940 has submitted a Notice of Intent to Remediate (on behalf of his client Cintas Corporation, 27 Whitney Drive, Milford, OH 45150), concerning the remediation of soils and groundwater found to have been impacted by dry cleaning related constituents as a result of historical operations by Rental Uniform Services. The applicant proposes to remediate the site to meet the Site-Specific Standard for both soils and groundwater. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on November 13, 2008.

Southcentral Region: Environmental Cleanup Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.

Former Myers Great Value Market, Dillsburg Borough, York County. EPSYS Corporation, 1414 North Cameron Street, Harrisburg, PA 17103, on behalf of Parula Properties, LLC, 100 South 7th Street, Akron, PA 17501, submitted a revised Notice of Intent to Remediate site soils and groundwater contaminated by leaded gasoline from underground storage tanks. The site is a former food market and it is anticipated that future use will be commercial, although residential use has not been excluded. The site is being remediated to the Site-Specific Standard. This publication corrects a notice that was published February 9, 2008, in the *Pennsylvania Bulletin* which omitted the standard being utilized.

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

Smooth Landings, Ralpho Township, Northumberland County. Brian Snyder, 1387 Airport Road, Paxinos, PA 17860 has submitted a Final Report concerning remediation of site soil contaminated with Chlorinated Solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit Application No. 101494. Waste Management of Pennsylvania, Inc., 1000 New Ford Mill Road, Morrisville, PA 19067. This minor permit modification application is to include a gabion lining option for Vertical Channel No. 1 of the Western Expansion of the Tullytown Resource Recovery Facility Landfill located in the Borough of Tullytown and Falls Township, **Bucks County**. The application was received by the Southeast Regional Office on November 19, 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.

54-302-077: WPS Westwood Generation, LLC (1716 Lawrence Drive, DePere, WI 54115) for modification of their existing CFB boiler at their facility in Frailey and Porter Townships, **Schuylkill County**.

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

61-187D: SMS Millcraft (671 Colbert Avenue, Oil City, PA 16301) to replace the fume scrubber that controls the emissions from the existing hexavalent chrome plating operation in the Oil City Industrial Park in Oil City, **Venango 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.

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

46-0048D: Wyeth Pharmaceuticals (500 Arcola Road, Colleagueville, PA 19426) for installation of one 2,000-kW No. 2 fuel oil/diesel fired electric generator at an existing facility in Upper Providence Township, **Montgomery County**. The engine will be limited to 17,363 gallons of diesel/No. 2 fuel oil and 2.79 tons of NOx both on a 12-month rolling sum basis. The Plan Approval is a modification of the earlier Plan Approval 46-0048C. The generator will be used exclusively for emergency power generation. The facility is a major facility. The owner/operator shall keep records of fuel usage and sulfur content to show compliance with the requirements of the Plan Approval.

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

06-05069P: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536-0147) for construction of two heat sealing operations controlled by fiberglass mist eliminators in Richmond Township, **Berks County**. The plan approval will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the sources operating within all air quality requirements. The facility is currently covered by the Title V operating permit No. 06-05069. The plan approval will be incorporated into the permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

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

49-308-003: Stonerod Iron & Metal, Inc. (699 Holly Road, Paxinos, PA 17860) for construction of an aluminum "sweat" furnace in Shamokin Township, **Northumberland County**.

The proposed furnace will be used to melt or "sweat" the aluminum out of "irony aluminum" automotive, and the like scrap (scrap consisting of both aluminum and iron/steel). The air contaminant emissions from the furnace will be controlled by an integral afterburner chamber.

The air contaminant emissions from the furnace are not expected to exceed .52 ton of NO_x, .14 ton of PM/PM₁₀, .07 ton of CO, .018 ton of VOCs, .005 ton of SO_x and .004 gram of dioxins/furans per year.

The facility in which the proposed furnace will be located will not be a major (Title V) facility for any air contaminant.

The Department of Environmental Protection's (Department) review of the information submitted by Stonerod Iron & Metal, Inc. indicates that the proposed sweat furnace should be capable of complying with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12 and Subpart RRR of the National Emission Standards for HAPs, 40 CFR 63.1500–63.1519, (National Emission Standards for HAPs for Secondary Aluminum Production). Based on this finding the Department intends to issue plan approval for the proposed sweat furnace.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable requirements:

1. The air contaminant emissions from the sweat furnace shall be controlled by an integral afterburner chamber incorporating a burner with a rated capacity of no less than 1.0 mmBtu/hr of heat input.

2. The sweat furnace shall be used to process irony aluminum scrap. At no time shall the furnace be used to process lead, zinc, brass or bronze scrap nor shall it be used to recover aluminum or copper wire from insulated wire or cable nor shall it be used to recover aluminum from beverage cans, aluminum siding or aluminum scrap heavily contaminated with plastic (such as lawn furniture) nor shall it be used as an incinerator to dispose of wastes.

3. At no time shall fluxes be used in the sweat furnace.

4. The burners incorporated in the sweat furnace shall be fired with propane or natural gas only.

5. The sweat furnace shall not be operated more than 2,080 hours in any 12-consecutive month period.

6. The sweat furnace shall not be operated if the burner incorporated in the afterburner chamber is inoperable.

7. The sweat furnace shall be equipped with instrumentation to monitor and record the temperature at the exit of both the primary furnace chamber and the afterburner chamber on a continuous basis.

8. At any time scrap is being processed, a flue gas temperature of at least 1,600° F shall be maintained at the temperature sensor located at the exit of the afterburner. No scrap shall be placed into the furnace if the temperature at this location is less than 1,600° F.

9. The sweat furnace shall be attended by an operator at all times it is in operation.

10. The PM emissions from the sweat furnace shall not exceed .01 gr/dscf of effluent gas volume, the visible air contaminant emissions shall not exceed 10% opacity at

any time and the dioxin/furan emissions (on a TEQ or toxicity equivalents basis, as defined in 40 CFR 63.1503) shall not exceed .0000000035 gr/dscf of effluent gas volume corrected to 11% O₂. The term "dioxins/furans" means tetra-, penta-, hexa- and octachlorinated dibenzo dioxins and furans.

11. The permittee shall implement an operation, maintenance and monitoring plan which shall, at a minimum, address the requirements specified in 40 CFR 63.1510(b)(1)–(8).

12. The permittee shall conduct a performance evaluation of the temperature monitoring instrumentation according to the requirements of 40 CFR 63.8. The performance evaluation shall, at a minimum, include measuring and recording the 15 minute block average temperature of the afterburner as well as determining the 3 hour block average temperature. This evaluation shall be completed within 120 days from the commencement of furnace operation.

13. The permittee shall maintain comprehensive accurate records of the number of hours the sweat furnace is operated each month, shall retain all such records for at least 5 years and shall make the records available to the Department upon request.

14. The sweat furnace shall comply with all applicable requirements specified in Subpart RRR of the National Emission Standards for HAPs, 40 CFR 63.1500–63.1519, (National Emission Standards for HAPs for Secondary Aluminum Production).

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

61-185F: Heath Oil Company (SR 8, Barkeyville, PA 16038), for the combustion of No. 5 fuel oil, in the heaters for Source 105 in Barkeyville Borough, **Venango County**. This is a State-only facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

- All conditions from the State-only Operating Permit 61-00185 revised on April 9, 2008, remain in effect unless otherwise indicated in this plan approval.

- This condition replaces condition No. 003(c) from State-only Operating Permit 61-00185 revised April 9, 2008. The heaters may use the following fuels:

- Natural gas supplied by a public utility or is certified pipeline quality or has been approved by the Department.

- Fuel oils that meet 25 Pa. Code § 123.22(a)(2).

- Transmix with a maximum sulfur content of 0.5% by weight.

- Bio-fuel with a maximum sulfur content of 0.5% by weight.

- Reprocessed or recycled No. 2 fuel oil with a maximum sulfur content of 0.5% by weight.

- Reprocessed or recycled No. 5 fuel oil with a maximum sulfur content of 0.5% by weight.

- Specifications for Reprocessed/Recycled No. 5 Fuel Oil:

- SULFUR < 0.5% by weight (Atomic Absorption).
 - FLASHPOINT < 140° F (EPA Method 1010 or ASTM 93-80).
 - TOTAL HALOGENS (TOX): ORGANIC AND INORGANIC < 1,000 PPM (ASTM D-808-81).
 - LEAD < 100 PPM (Atomic Absorption).
 - ARSENIC < 5 PPM (Atomic Absorption).
 - CADMIUM < 2 PPM (Atomic Absorption).
 - CHROMIUM < 10 PPM (Atomic Absorption).
 - PCB's < 2 PPM (H₂SO₄ Extraction/GC w/electron capture).
- Compliance with the previously listed limits shall be determined using appropriate methods from EPA's SW-846 or other methods approved in writing by the Department.
- The company shall perform an analysis of the reprocessed/recycled No. 5 fuel oil prior to burning to ensure it meets the specifications listed in this plan approval for this source.
- The permittee shall maintain records of the fuel analysis performed for each shipment of the reprocessed/recycled No. 5 fuel oil prior to burning in the heater. In lieu of an analysis for each shipment, the facility may perform an analysis of the storage tank prior to burning in the heater. A new analysis would be required whenever there is an addition to the tank.
- The company shall not accept shipment of reprocessed/recycled No. 5 fuel oil or use reprocessed/recycled No. 5 fuel oil alone or in combination with any other fuel unless one of the following is done:
- Each shipment of reprocessed/recycled No. 5 fuel oil is accompanied by a fuel certification sheet showing compliance with the specifications in the Fuel Restrictions.
 - Each batch of reprocessed/recycled No. 5 fuel oil is analyzed prior to burning in a heater to show compliance with the specifications stated in the Fuel Restrictions.
 - For the purposes of this work practice requirement, the term batch shall mean an accumulated amount of reprocessed/recycled No. 5 fuel oil which is stored alone or in combination with any other fuel in the same storage tank prior to use. Each subsequent batch of reprocessed/recycled No. 5 fuel oil stored in separate storage tanks (or in a previously used storage tank) is subject to separate analysis.
 - For the purposes of this work practice requirement, multiple shipments of reprocessed/recycled No. 5 fuel oil stored in a single storage tank are subject to a single analysis prior to use as an alternative to a fuel certification sheet. In addition, any single shipment of reprocessed/recycled No. 5 fuel oil stored in multiple storage tanks is subject to a single analysis prior to use as an alternative to a fuel certification sheet.

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.

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

20-00123: Lord Corp.—Mechanical Products Division (124 Grant Street, Cambridge Springs, PA 16403) for a Title V Operating Permit Re-issuance to operate a Fabricated Rubber Products manufacturing facility, in the Borough of Cambridge Springs, **Crawford County**.

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

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

09-00180: White Engineering Surfaces Corp. (One Pheasant Run, Newtown, PA 18940) for issuance of a State-only Operating Permit to operate eight Metal and Ceramics Surface Coating Spray Booths with Dust Collectors and one Vapor Degreaser in Newtown Township, **Bucks County**. The facility is synthetic minor for HAP, VOC and PM. Plan Approvals, 09-0180 and 09-0180A, are being incorporated into the facility permit, SMOP-09-00180. This Operating Permit shall include monitoring and recordkeeping designed to ensure this facility complies with all applicable air quality regulations.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

48-00075: CRAYOLA, LLC—Bethlehem (1100 Church Lane, P. O. Box 431, Easton, PA 18044) for operation of paint mixers and kettles in Bethlehem Township, **Northampton County**. This is a State-only Natural Minor operating permit.

39-00071: HAB Industries, Inc.—Anda Sportswear—Allentown Plant (15 South Albert Street, Allentown, PA 18109) for textile manufacturing in Allentown City, **Lehigh County**. This is a State-only Natural Minor operating permit.

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

01-03034: Texas Eastern Transmission, LP—Heidlersburg Compressor Station (P. O. Box 1642, Houston, TX 77251-1642) for auxiliary generator, parts washer and area fugitive emissions in Tyrone Township, **Adams County**. Primary emissions from the site are VOC's with worst case scenario of 35 tpy. This permit will incorporate plan approval No. 01-03034A issued in November 2007.

07-03022: Juniata Fabrics, Inc. (1301 Broadway, Altoona, PA 16601) for their fabric manufacturing plant in the City of Altoona, **Blair County**. This is a renewal of the State-only operating permit issued in 2004.

36-03103: Kunzler & Co., Inc. (652 Manor Street, Lancaster, PA 17604) for operation of a meat processing facility in the City of Lancaster, **Lancaster County**. This is a renewal of the State-only operating permit issued in 2003.

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**. This notice supersedes the notice published in the *Penn-*

sylvania Bulletin for State-only Operating Permit 14-00017 on November 15, 2008.

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: 13,290 gpy
 methylene chloride: 2,070 gpy
 toluene: 1,830 gpy
 acetonitrile: 2,170 gpy
 chloroform: 530 gpy
 carbon tetrachloride: 20 gpy
 hexane: 3,690 gpy
 isopropanol: 1,570 gpy
 ethanol: 1,200 gpy
 ethyl acetate: 900 gpy
 diethyl acetate: 50 gpy
 miscellaneous solvents (other than acetone): 230 gpy

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 1 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.

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

43-00270: CCL Container—Advanced Monobloc Aerosol Division (One Llodio Drive, Hermitage, PA 16148) for a Synthetic Minor State-only Operating Permit issuance to operate a can manufacturing facility, in the City of Hermitage, **Mercer County**. This re-issuance also incorporates Plan Approval No. 43-270F which authorized the installation of two additional can making lines and the replacement of Catalytic Incinerator No. 2 with a Regenerative Thermal Oxidizer.

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:

| <i>Parameter</i> | <i>30-Day Average</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
|--|-----------------------|---------------------------------|------------------------------|
| 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.

03921602 and NPDES Permit No. PA0214388, Glacial Sand and Gravel Company, (P. O. Box 1022, Kittanning, PA 16201), to renew the permit for the Glacial Coal Tipple in East Franklin Township, **Armstrong County** and related NPDES permit. No additional discharges. Application received October 24, 2008.

26081301 and NPDES Permit No. PA0235776, Amerikohl Mining, Inc., (1384 SR 711, Stahlstown, PA 15687), to operate the White Mine in Saltlick Township, **Fayette County** a new underground mine and related NPDES permit. Surface Acres Proposed 58.2, Underground Acres Proposed 693.2, Subsidence Control Plan Acres Proposed 425.5. Receiving Streams: Little Champion Creek and a UNT A to Little Champion Creek, both classified for the following use: CWF. Application received July 7, 2008.

63831302 and NPDES Permit No. PA0213608, Eighty Four Mining Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Mine No. 84 in North Bethlehem Township, **Washington County** to add underground permit and subsidence control plan acres for development and full extraction mining. Underground Acres Proposed 991.0, Subsidence Control Plan Acres Proposed 1,015.0. No additional discharges. Application received November 7, 2008.

63981301 and NPDES Permit No. PA0215171, Consolidation Coal Company, (R. D. 4, Box 425, Moundsville, WV 26041), to renew the permit for the Shoemaker Mine in West Finley Township, **Washington County** and related NPDES permit. No additional discharges. Application received October 15, 2008.

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

SMP No. 32020105. T & D Kraynak Mining Corporation, 3266 Firetower Road, Mahaffey, PA 15757, transfer of an existing bituminous surface auger mine from Kraynak Coal Company, 3124 Firetower Road, Mahaffey, PA 15757 located in Grant and Green Townships, **Indiana County**, affecting 126 acres. Receiving streams: UNTs to and Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 4, 2008.

SMP No. 32960103 and NPDES No. PA021331. T & D Kraynak Mining Corporation, 3266 Firetower Road, Mahaffey, PA 15757, transfer of an existing bituminous surface auger mine from Kraynak Coal Co., 3124 Firetower Road, Mahaffey, PA 15757 located in Grant and Green Townships, **Indiana County**, affecting 329.7 acres. Receiving streams: UNTs to East Run, and Little Mahoning Creek, Mahoning Creek and UNTs to North Branch of Two Lick Creek, classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 4, 2008.

56753048 and NPDES No. PA0119954. Gray Mining Company, Inc., 1134 Stoystown Road, Friedens, PA 15541, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Quemahoning and Stonycreek Townships, **Somerset County**, affecting 296 acres. Receiving stream: Stonycreek classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority Stonycreek SWI. Application received November 13, 2008.

56813050 and NPDES No. PA0605891. Shade Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Shade, Quemahoning and Stonycreek Townships, **Somerset County**, affecting 150.7 acres. Receiving streams: UNTs to Oven Run and UNTs to Lamberts Run classified for the following use: no uses listed. The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority Stonycreek SWI. There are no potable water supply intakes within 10 miles downstream. Application received November 13, 2008.

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

03030105 and NPDES Permit No. 0250562. Thomas J. Smith, Inc. (2340 Smith Road, Shelocta, PA 15774). Renewal application for reclamation only to an existing bituminous surface mine, located in Mahoning Township, **Armstrong County**, affecting 154.4 acres. Receiving streams: Cathcar Run and UNTs to Cathcart Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received November 13, 2008.

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

1192-33070101-E-1. P. and N. Coal Co., Inc. (P. O. Box 332, Punxsutawney, PA 15767). Application for a stream encroachment to conduct surface mining activities (utilization of an existing driveway for a haul road) within 100 feet of the east bank of UNT 1 to Hadden Run in Oliver Township, **Jefferson County**. Receiving streams: UNT to Hadden Run and Little Elk Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received November 17, 2008.

10060101. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Revision to an existing bituminous surface strip operation in Clay Township, **Butler County** affecting 89.9 acres. Receiving streams: UNT to South Branch Findley Creek, classified for the following use: CWF. Revision to include a post mining landuse change from forestland to pastureland/land occa-

sionally cut for hay. There are no potable surface water supply intakes within 10 miles downstream. Application received November 17, 2008.

16940107 and NPDES Permit No. PA0226831. RFI Energy, Inc. (P. O. Box 162, Sligo, PA 16255). Renewal of an existing bituminous surface strip and sandstone removal operation in Perry Township, **Clarion County** affecting 217.0 acres. Receiving streams: Five UNTs to Cherry Run, classified for the following use: CWF. There are no portable surface water supply intakes within 10 miles downstream. Application received November 18, 2008.

33020107 and NPDES Permit No. PA0242233. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Revision to an existing bituminous surface strip and auger operation in Oliver Township, **Jefferson County** affecting 138.7 acres. Receiving stream: Hadden Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to include a post mining land use change from forestland to unmanaged natural habitat on a portion of the Beatty property and on the Delacour property. Application received November 20, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17080115 and NPDES No. PA0256960. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Commencement, operation and restoration of a bituminous surface mine with augering in Beccaria Township, **Clearfield County**, affecting 103.6 acres. Receiving stream: Banian Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 13, 2008.

17080116 and NPDES No. PA0256978. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661). Commencement, operation and restoration of a bituminous surface mine in Bigler Township, **Clearfield County**, affecting 42.0 acres. Receiving streams: Clearfield Creek, UNT to Clearfield Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 10, 2008.

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

54830104R5. Hardway Coal Company, (44 Keystoker Lane, Schuylkill Haven, PA 17972), renewal of an existing anthracite surface mine, coal preparation plant and coal refuse disposal operation in Cass Township, **Schuylkill County** affecting 54.4 acres, receiving stream: none. Application received November 18, 2008.

13980201R2. Rossi Excavating Company, (R. R. 1, Box 189E, Beaver Meadows, PA 18216), renewal of an existing anthracite coal refuse reprocessing operation in Banks Township, **Carbon County** affecting 18.0 acres, receiving stream: none. Application received November 18, 2008.

13990201R2. Rossi Excavating Company, (R. R. 1, Box 189E, Beaver Meadows, PA 18216), renewal of an existing anthracite coal refuse reprocessing operation in Banks Township, **Carbon County** affecting 493.0 acres, receiving stream: none. Application received November 18, 2008.

19980101R2. Kovalchick Coal Company, (P. O. Box 251, Mount Carmel, PA 17851), renewal of an existing anthracite surface mine operation in Conyngham Township, **Columbia County** affecting 215.0 acres, receiving stream: none. Application received November 18, 2008.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

| <i>Parameter</i> | <i>Table 2</i> | | |
|--------------------------------------|-----------------------|---------------------------------|------------------------------|
| | <i>30-day Average</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
| Suspended solids | 10 to 35 mg/l | 20 to 70 mg/l | 25 to 90 mg/l |
| Alkalinity exceeding acidity* pH* | | greater than 6.0; less than 9.0 | |

* The parameter is applicable at all times.

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

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

56980301 and NPDES Permit No. PA0234991. Keystone Lime Company, P. O. Box 278, Springs, PA 15562, renewal of NPDES permit, Addison and Elk Lick Townships, **Somerset County**. Receiving streams: Christener Run, UNT to Zehner Run, UNT to Christener Run classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 7, 2008.

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

40020801. Dallas Nursery, (R. R. 5, Box 120, Dallas, PA 18612), Stages I and II bond release for a quarry operation in Nanticoke City, **Luzerne County** affecting 5.0 acres on property owned by Dallas Nursery. Application received November 18, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under 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.

E35-422. Burton Mott, 405 Cortez Road, Lake Ariel, PA 18436, in Jefferson Township, **Lackawanna County**, United States Army Corps of Engineers, Philadelphia District.

To remove 0.5 acre of soil to a depth of 128 feet below the current water level within an existing pond area upstream of a UNT to the West Branch of the Wal-lenpaupack Creek. Project is located 3.79 miles northwest of the intersection of I-84 and SR 690 (Lake Ariel, PA Quadrangle Latitude: 41° 25' 05"; Longitude: 75° 29' 18").

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

E05-347: Borough of Everett Municipal Authority, Ronald R. Wright, Manager, 100 Mechanic Street, Everett, PA 15537-1177, Everett Borough, **Bedford County**, United States Army Corps of Engineers, Baltimore District.

To remove 3 units of 25-foot by 34-foot plastic media sludge drying beds and a 55-foot by 43-foot gravity sand sludge drying bed and then to construct and maintain 4 units of 60-foot by 50-foot and 3 units of 60-foot by 45-foot reed sludge drying beds and related improvements at the existing sewage treatment plant, to improve the condi-

tions located along the left bank floodplain of the Raystown Branch Juniata River about 2,000 feet south-east of the East Main Street and River Lane intersection (Everett East, PA Quadrangle N: 1.60 inches; W: 15.20 inches, Latitude: 40° 00' 30"; Longitude: 78° 21' 31") in Everett Borough, Bedford County.

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

E02-1596. Borough of Jefferson Hills, 925 Old Clairton Road, Jefferson Hills, PA 15025. To construct a stream enclosure in the Borough of Jefferson Hills, **Allegheny County**, United States Army Corps of Engi-

neers, Pittsburgh District (Glassport, PA Quadrangle N: 12.3 inches; W: 12.7 inches, Latitude: 40° 19' 04"; Longitude: 79° 57' 58"). The applicant proposes to construct and maintain a stream enclosure 276.5 feet in length and consisting of a box culvert having a span of 8.0 feet with an underclearance of 8.0 feet in the channel of a UNT to Lick Run (TSF) for the purpose of constructing an access road known as Frank Street to provide access for emergency vehicles to existing and proposed residential developments. The project is located on the west side of Gill Hall Road, approximately 3,000.0 feet southwest from the intersection of Old Clairton and Gill Hall Roads and will impact approximately 277.0 linear feet of stream channel.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|--------------------------------------|---|---|--------------------------------------|-----------------------------|
| PA-0070254 (Minor Sewage) | Lynn Township Sewer Authority P. O. Box 208 New Tripoli, PA 18066 | Lehigh County Lynn Township | Ontelaunee Creek 3B | N |
| PA-0061085 (Minor Sewage) | Glenburn Service Company 1301 Winola Road Clarks Summit, PA 18411 | Lackawanna County Glenburn Township | Ackerly Creek 5A | Y |
| PA-0026042 (Major Sewage POTW) | City of Bethlehem 10 East Church Street Bethlehem, PA 18018 | Northampton County City of Bethlehem | Lehigh River 02C | N |

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> |
|-----------------------------|--|---|--------------------------------------|-----------------------------|
| PA0111422 (SEW) | Millerstown Municipal Authority P. O. Box 154 Thompsons town, PA 17094-0154 | Juniata County Delaware Township | Delaware Creek 12-B | Y |
| PA0247031 (CAFO) | Keystone Dairy Ventures, LLC 324 Balance Meeting Road Peach Bottom, PA 17563 | Lancaster County Little Britain Township | Little Conowingo Creek 7-A | 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> |
|-----------------------------|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA0113298 SP | Elkland Borough Authority 105 Parkhurst Street Elkland, PA 16920 | Tioga County Elkland Borough | Cowanquesque River 4A | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|---|--------------------------------------|-----------------------------|
| PA0090719 Sewage | Indiana County Municipal Services Authority 602 Kolter Drive Indiana, PA 15701 | Indiana County East Wheatfield Township | UNT of Conemaugh River | Y |
| PA0217841 Sewage | Bureau of State Parks Ryerson State Park 361 Bristonia Road Wind Ridge, PA 15308-1258 | Greene County Richhill Township | North Fork of Dunkard Creek | Y |
| PA0205796 Sewage | Wilpen Fire Company of Ligonier Township 379 Wilpen Road Ligonier, PA 15658 | Westmoreland County Ligonier Township | UNT of Hannas Run | Y |
| PA0093556 Sewage | North Union Township Municipal Services Authority 6 South Evans Station Road Lemont Furnace, PA 15456-1092 | Fayette County North Union Township | UNT of Redstone Creek | Y |
| PA0093726 Sewage | Armstrong School District 410 Main Street Ford City, PA 16226 | Armstrong County Kittanning Township | Rupp Run | 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> |
|-----------------------------|---|--------------------------------------|---|-----------------------------|
| PAS208302 | Keystone Powdered Metal Lewis Run 8 Hanley Drive Lewis Run, PA 16738 | Lewis Run Borough McKean County | UNTs to East Branch Tunungwant Creek 16-C | 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> |
|-----------------------------|---|--------------------------------------|--|-----------------------------|
| PA0222232 | Gage Road Water Treatment North of Gage Road Albion, PA 16401 | Conneaut Township Erie County | East Branch of Conneaut Creek 15CC | Y |
| PA0044016 | Linesville Fish Culture Station 13300 Hartstown Road Linesville, PA 16424 | Pine Township Crawford County | Shenango River 20-A | Y |
| PA0222356 | TDY Industries, Inc. 1000 Six PPG Place Pittsburgh, PA 15222 | Borough of Edinboro Erie County | UNT to Darrows Creek 16A | Y |

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

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

WQM Permit No. 3508403, Sewerage, **Scott Township Sewer and Water Authority**, R. R. 1, Box 457, Olyphant, PA 18447. This proposed facility is located in Scott Township, **Lackawanna County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for sanitary sewage collection and conveyance system to serve the following areas of Scott Township: Chapman Lake, Eastview/Westview, Green Grove, Justus and Montdale. Grinder pumps, low pressure sewers and six pump stations will deliver sewage to a new 12-inch diameter gravity sewer line along SR 1006 (Rush Brook Road) near Chapman Lake. The new sanitary sewer line will convey flow to an existing manhole and sanitary sewer line along the Lackawanna River in the Borough of Jermyn, with ultimate treatment occurring at the Lackawanna River Basin Sewer Authority's wastewater treatment facility in Archbald.

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

NPDES Permit No. PA0261181, Sewerage, **Michael and Cynthia Camellerie**, 150 Corey Place, Huntingdon Station, NY 11746. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to Watershed 7-B.

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

PA#0233561, SIC 4952, **Pine Air Mobile Park**, 9455 Old Erie Pike, Clearfield, PA 16830. This proposed action is for issuance of an NPDES permit for discharge of treated sewage to a UNT to Morgan Run in Boggs Township, **Clearfield County**.

The receiving stream is in Watershed 8C Clearfield and is classified for the following uses: CWF and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply considered during the evaluation is Reliant Energy located at Shawville.

Outfall 001:

The proposed effluent limits, based on a design flow of 0.0019 mgd, are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-----------------------------------|---|
| C-BOD ₅ | 25 | 50 |
| Suspended Solids | 30 | 60 |
| Total Chlorine Residual | 1.0 | 2.3 |
| Fecal Coliform | | |
| (5-1 to 9-30) | | 200/100 ml as a Geometric Average |
| (10-1 to 4-30) | | 2,000/100 ml as a Geometric Average |
| pH | | 6.0 to 9.0 Standard Units at all times. |

The EPA waiver is in effect.

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

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

WQM Permit No. 2108403, Sewerage, **Michael and Cynthia Camellerie**, 150 Corey Place, Huntington Station, NY 11746. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of small flow sewage treatment system to serve their single-family residence at Enola Road, Carlisle, PA.

WQM Permit No. 3608202, Industrial Waste, **PPL Holtwood, LLC**, Two North Ninth Street, Allentown, PA 18101. This proposed facility is located in Martic Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of a 2,300 gpm grit chamber/oil/water separator including a temporary 400 gpm pre-engineered oil/water separator during construction.

WQM Permit No. WQG02360802, Sewage, **Ephrata Borough Authority**, 124 South State Street, Ephrata, PA 17522. This proposed facility is located in Clay Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of the Bethany Gardens Pump Station.

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

WQM Permit No. WQG02080801, Sewage, **Sayre Borough**, 110 West Packer Street, Sayre, PA 18840. This proposed facility is located in Sayre Borough, **Bradford County**.

Description of Proposed Action/Activity: Renovation and upgrade of the North East Street Pump Station, to include new controls, electrical equipment, backup power and flood protection. The hydraulic design of the new facility is 45 gpm.

WQM Permit No. 1708402, Sewerage 4952, **Pine Air Mobile Park**, 9455 Old Erie Pike, Clearfield, PA 16830. This proposed facility is located in Boggs Township, **Clearfield County**.

Description of Proposed Action/Activity: Small flow sewage treatment facilities serving the Pine Air Mobile Park.

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

WQM Permit No. WQG016168, Sewerage, **JoAnn Majetich**, 1634 Old Leechburg Road, New Kensington, PA 15068. This proposed facility is located in Plum Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a single-residence sewage treatment plant.

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

WQM Permit No. 1005402, Amendment No. 1, Sewerage, **Tracey, Inc.**, P. O. Box 55, Valencia, PA 16059. This proposed facility is located in Clinton Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a minor amendment to acknowledge the relocation of the sewage treatment facility. The design of the previously permitted sewerage system will not be changing.

WQM Permit No. WQG018660, Sewerage, **Joseph M. Paulsen**, 1797 SR 157, Oil City, PA 16301. This proposed facility is located in Cranberry Township, **Venango County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant.

WQM Permit No. WQG018657, Sewerage, **Donna R. Hart**, 14952 Harmonsburg Road, Meadville, PA 16335-8770. This proposed facility is located in Vernon Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant.

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

WQM Permit No. 4608412, Sewerage, **Borough of Bryn Athyn**, 2835 Buck Road, Bryn Athyn, PA 19009. This proposed facility is located in Bryn Athyn Borough, **Montgomery County**.

Description of Action/Activity: Hydraulic capacity rerate from 0.065 mgd to 0.08 mgd.

WQM Permit No. 0999403, Sewerage, Renewal, **Council Rock School District**, The Chancellor Center, 30 North Chancellor Street, Newtown, PA 18940. This proposed facility is located in Wrightstown Township, **Bucks County**.

Description of Action/Activity: A submersible grinder pump station an, aerobic/facultative lagoon, disinfection facility, irrigation pump station and sprayfield.

WQM Permit No. WQG01-0025, Sewerage, **Howard A. Kuntz, Jr.**, 1348 Highwood's Drive Tract, Jamison, PA 18929. This proposed facility is located in Warwick Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a small flow treatment plant.

WQM Permit No. WQG02460821, Sewerage, **Upper Merion Municipal Utility Authority**, 175 West Valley Forge Road, King of Prussia, PA 19406. This proposed facility is located in Bridgeport Borough, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station.

WQM Permit No. 0908201, Industrial Waste, **County of Bucks—Department of Public Works**, 55 East Court Street, Doylestown, PA 18901. This proposed facility is located in Nockamixon Township, **Bucks County**.

Description of Action/Activity: Reactivation/replacement of existing treatment equipment, two new drip zones and associated appurtenances for the disposal of leachate.

WQM Permit No. WQG02150804, Sewerage, **Spring City Borough**, 6 South Church Street, Spring City, PA 19475. This proposed facility is located in Spring City Borough, **Chester County**.

Description of Action/Activity: Construction and operation of pump station and force main for 15 residential connections.

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> |
|-------------------------|--|---------------|---------------------|----------------------------|
| PAI010907015 | Central PA Equities 9, LLC 146 Pine Grove Circle Suite 200 York, PA 17403 | Bucks | Milford Township | Unami Creek HQ-TSF |

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> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI026407003 | Kernwood Homes, Inc. 1100 Church Street Honesdale, PA 18431 | Wayne | Berlin Township | Holbert Creek HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|-------------------------------|
| PAI033607009 | Vernon Fisher 5691 Umbletown Road Gap, PA 17527 | Lancaster | Salisbury Township | UNT to Pequea Creek HQ-CWF |
| PAI036708003 | Gerald Mitchell TwoTon, Inc. 1743 Roherstown Road Lancaster, PA 17601 | York | Hopewell Township | Deer Creek CWF-EV |

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> |
|----------------------------------|-------------------|---|---|---|
| Chalfont Borough Bucks County | PAG200 0908099 | Chalfont Volunteer Fire Company 101 North Main Street Chalfont, PA 18914 | North Branch Neshaminy Creek TSF-MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |

| <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> |
|--|-------------------|---|---|--|
| Upper Darby Township Delaware County | PAG200 2308020 | Upper Darby School District 4611 Bond Avenue Drexel Hill, PA 19026 | Cobbs Creek WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| City of Philadelphia Philadelphia County | PAG201 5107028 | Waterford Development Associates 1000 Chesterbrook Boulevard Suite 100 Berwyn, PA 19132 | Schuylkill River CWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| City of Philadelphia Philadelphia County | PAG201 5108023 | City of Philadelphia Capital Program Office 1515 Arch Street 11th Floor Philadelphia, PA 19102 | Tookany-Tacony- Frankford Watershed WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Pittston Township Luzerne County | PAG2004008017 | Mericle 112 Armstrong, LLC Attn: Robert Mericle East Mountain Corporate Center 100 Baltimore Drive Wilkes-Barre, PA 18702 | Tributary to Mill Creek CWF | Luzerne County Conservation District (570) 674-7991 |
| Glendon Borough Northampton County | PAR10U106-R | Glendon Properties, Inc. Attn: Joseph Reibman 2957 Fairfield Drive Allentown, PA 18103 | Lehigh River WWF | Northampton County Conservation District (610) 746-1971 |
| Upper Paxton Township Dauphin County | PAG2002203031-R | Gerald Regan Ned Smith Center for Nature and Art 176 Water Company Road Millersburg, PA 17061 | Wiconisco Creek WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| Swatara Township Dauphin County | PAG2002208003 | Greg Kile H-T Partners P. O. Box 277 Landisville, PA 17538 | Swatara Creek WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| Spring Township Berks County East Cocalico Township Lancaster County | PAG2000608061 | David DeCampli PPL Electric Utilities Corp. 651 Delp Road Lancaster, PA 17601 | Tulpehocken and Cocalico Creeks CWF-TSF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |
| Centre County Patton Township | PAG2001408011 | Ben Heim Tri Core Development 444 East College Avenue Suite 540 State College, PA 16801 | UNT to Big Hollow CWF | Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817 |
| Clearfield County Beccaria and Bigler Townships Glen Hope Borough | PAG2001708017 | BCI Municipal Authority 625 Crestview Street Ext. P. O. Box 388 Irvona, PA 16656 | Cofinan Run CWF | Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629 |

| <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> |
|---|-------------------|---|---|--|
| Union County Kelly Township | PAG2006008011 | Weis Markets, Inc. David Gill 1000 South Second Street Sunbury, PA 17801 | Buffalo Creek TSF | Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860 |
| Cambria County Cambria Township | PAG2001108011 | Unifirst Corp. P. O. Box 761 357 Industrial Park Road Ebensburg, PA 15931 | UNT to South Branch Blacklick Creek CWF | Cambria County Conservation District (814) 472-2120 |
| Cambria County Cambria Township | PAG2001108012 | Dino S. Persio S & P Estates 129 South Center Street P. O. Box 239 Ebensburg, PA 15931 | UNT to South Branch Blacklick Creek CWF | Cambria County Conservation District (814) 472-2120 |
| Indiana County Blacklick Township | PAG2003208007 | Department of Transportation 25509 Oakland Avenue P. O. Box 429 Indiana, PA 15701 | UNT to Muddy Run | Indiana County Conservation District (724) 463-8547 |
| Indiana County Armstrong Township | PAG2003208008 | Sharp Four 108 Woods Run Shelocta, PA 15774 | Crook Creek WWF Anthony Run CWF | Indiana County Conservation District (724) 463-8547 |
| Somerset County Somerset Township Somerset Borough | PAG2005608007 | Frosty Sons of Thunder, LLC P. O. Box 2581 Vail, CO 81658 | Parson Run TSF | Somerset County Conservation District (814) 445-4652 |
| Washington County Hopewell Township | PAG2006308009 | Range Resources Range Resources—Appalachia, LLC 380 Southpointe Boulevard Suite 300 Canonsburg, PA 15317 | Cross Creek HQ-WWF | Washington County Conservation District (724) 228-6774 |
| Westmoreland County South Huntingdon Township | PAG2006508012 | David Macioce 2100 Route 51 South Large, PA 15025-3275 | Youghiogheny River WWF | Westmoreland County Conservation District (724) 837-5271 |
| Westmoreland County Hempfield Township | PAG2006508035 | C. Angelicchio Enterprises, LP Waltz Mill Road P. O. Box 431 New Stanton, PA 15672 | UNT to Sewickley Creek WWF | Westmoreland County Conservation District (724) 837-5271 |
| Westmoreland County North Huntingdon Township | PAG2006508004-R | Mike Weems DeBartolo Dev., LLC 4401 West Kennedy Boulevard Tampa, FL 33609 | Tinkers Run Tributary TSF | Westmoreland County Conservation District (724) 837-5271 |
| Westmoreland County South Greensburg Township | PAG2006504010-R | Ron Wolf Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275 | Jacks Run WWF | Westmoreland County Conservation District (724) 837-5271 |

*General Permit Type—PAG-3**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> |
|---|-------------------|---|--|--|
| Cumberland County Lower Allen Township | PAR203519 | Amstead Rail Company, Inc. 3420 Simpson Ferry Road Camp Hill, PA 17011 | UNT to Cedar Run CWF 7E | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Bedford County Snake Spring Township | PAR213549 | New Enterprise Stone and Lime Co., Inc. P. O. Box 77 New Enterprise, PA 16664 | Raystown Branch Juniata River TSF 11C | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Harmar Township Alleghany County | PAR216172 | PPG Industries, Inc. 400 Guys Run Road Cheswick, PA 15024-9464 | Outfall 001 UNT to Rawlins Run Outfalls 002, 003, 005 and 007 Drainage ditches to Rawlins Run Outfalls 004 and 006 Drainage ditches to Guys Run | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| Shippingport Borough Beaver County | PAR216142 | FirstEnergy Generation Corporation P. O. Box 128 Shippingport, PA 15077 | Haden Run | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

*General Permit Type—PAG-4**Facility Location:*

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|--------------------------------------|-------------------|--|--------------------------------|--|
| Plum Borough Alleghany County | PAG46391 | JoAnn Majetich 1634 Old Leechburg Road New Kensington, PA 15068 | Tributary to Little Plum Creek | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| Cranberry Township Venango County | PAG049475 | Joseph M. Paulsen 1797 SR 157 Oil City, PA 16301 | Wolf Branch 16-E | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Vernon Township Crawford County | PAG049472 | Donna R. Hart 14952 Harmonsburg Road Meadville, PA 16335-8770 | UNT to Van Horne Creek 16-D | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

*General Permit Type—PAG-8**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> |
|--|-------------------|--|---|---|
| Winburne Cooper Township Clearfield County | PAG084835 | Cooper Township Municipal Authority P. O. Box 446 Winburne, PA 16879 | Winburne WWTP 239 Terrace Street Winburne, PA 16789 | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664 |

*Facility Location:
Municipality &
County*

Grassflat
Cooper Township
Clearfield County

Permit No.
PAG084834

*Applicant Name &
Address*
Cooper Township
Municipal Authority
P. O. Box 446
Winburne, PA 16879

*Receiving
Water/Use*
Grassflat WWTP
99 Peale Road
Grassflat, PA 16839

*Contact Office &
Phone No.*
Northcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3664

General Permit Type—PAG-9

*Facility Location:
Municipality &
County*

Concord Township
Butler County

Permit No.
PAG098302

*Applicant Name &
Address*
Lewis E. Stoughton
155 Bish Road
Chicora, PA 16025

*Receiving
Water/Use*
Lewis E. Stoughton
Septage
155 Bish Road
Chicora, PA 16025

*Contact Office &
Phone No.*
DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942

**PUBLIC WATER SUPPLY (PWS)
PERMITS**

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 4608511, Public Water Supply.

Applicant **Superior Water Company**
1885 Swamp Pike
Suite 109
P. O. Box 525
Gilbertsville, PA 19525

Township Douglass

County **Montgomery**

Type of Facility PWS

Consulting Engineer Entech Engineering
4 South Fourth Street
P. O. Box 32
Reading, PA 19603-0032

**Permit to Construct
Issued** November 6, 2008

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

Permit No. 5401503MA2, Minor Amendment, Public Water Supply.

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

County **Schuylkill**

Type of Facility PWS

Consulting Engineer Joel A. Mitchell, P. E.
Pennsylvania American Water
852 Wesley Drive
Mechanicsburg, PA 17055

**Permit to Construct
Issued** October 23, 2008

Permit No. 2580024, Operations Permit, Public Water Supply.

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

County Harmony Township

County **Susquehanna**
 Type of Facility PWS
 Consulting Engineer James P. Connor, P. E.
 Pennsylvania American Water
 100 North Pennsylvania Avenue
 Wilkes-Barre, PA 18701

Permit to Operate October 31, 2008
 Issued

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

Permit No. 2808506 MA, Minor Amendment, Public Water Supply.

Applicant **Mt. Rock Manor, LLC**
 Municipality Southampton Township
 County **Franklin**
 Type of Facility Removal of the pressure sand filter system.
 Consulting Engineer 1—Not Available
 Permit to Construct November 18, 2008
 Issued

Operations Permit issued to **The York Water Company**, 7670110, West Manheim Township, **York County** on November 20, 2008, for the operation of facilities approved under Construction Permit No. 6707509 MA.

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

Permit No. M.A. 1894501—Operation, Public Water Supply.

Applicant **South Renovo Borough**
 Township or Borough South Renovo Borough
 County **Clinton**
 Responsible Official Ernie Peterson
 South Renovo Borough
 569 Pennsylvania Avenue
 South Renovo, PA 17764
 Type of Facility Public Water Supply—Operation
 Consulting Engineer K. Alan Uhler, Jr., P. E., PLS
 Kerry A. Uhler & Associates
 140 West High Street
 Bellefonte, PA 16823
 Permit Issued Date November 24, 2008
 Description of Action Operation of the transmission line and metering station to convey finished water from Renovo Borough water system to South Renovo Borough water system.

Permit No. M.A. 1889503—Operation, Public Water Supply.

Applicant **Renovo Borough**
 Township or Borough Renovo Borough
 County **Clinton**
 Responsible Official Randy Bibey, Chairperson
 Renovo Borough
 128 Fifth Avenue
 Renovo, PA 17764

Type of Facility Public Water Supply—Operation
 Consulting Engineer K. Alan Uhler, Jr., P. E., PLS
 Kerry A. Uhler & Associates
 140 West High Street
 Bellefonte, PA 16823

Permit Issued Date November 24, 2008

Description of Action Operation of the transmission line and metering station to convey finished water from Renovo Borough water system to South Renovo Borough water system.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Middlesex Township | 350 North Middlesex Road Carlisle, PA 17013 | Cumberland |

Plan Description: Approval of a revision to the Official Sewage Plan of Middlesex Township, Cumberland County. The proposed Sheetz subdivision consists of a new Sheetz convenience store with eight gas pumps. Total sewage flows will be 2,000 gpd and will be served by a new sewer extension of the Middlesex Township Municipal Authority's collection system. Treatment will occur at the Carlisle Borough Wastewater Treatment Plant. The proposed development is located at the intersection of Trindle Road and Army Heritage Drive, 1 mile east of Interstate 81. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Southampton Township | 200 Airport Road Shippensburg, PA 17257 | Cumberland |

Plan Description: Approval of a revision to the Official Sewage Plan of Southampton Township, Cumberland County. The proposed Southwood Crossing subdivision consists of 277 new residential building lots having 201 detached single-family dwellings, 76 villas and 132 townhouse units on approximately 132 acres. Build out will occur in 14 Phases with the last Phase to be built in 2021-2022. Total sewage flows will be 92,025 gpd and will be served by a sewer extension of the Cumberland-Franklin Joint Municipal Authority's collection system which in turn will connect to the Airport Road gravity sewer main. Treatment will occur at the Shippensburg Borough Wastewater Treatment Plant. The proposed development is located on the north side of Baltimore Road and the east side of Interstate 81. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| South Creek Township | P. O. Box 60 Gillett, PA 16925-0060 | Bradford |

Plan Description: The approved plan provides for sewer service to 99 houses in the Village of Fassett using approximately 14,000 feet of low pressure sewer, 77 grinder pump stations and a new 25,000 gpd sewage treatment plant. A sewage management program will be implemented to address the 142 dwellings in the Village of Gillett and the Doty Hill area. Three small flow treatment facilities will be constructed in the Village of Gillette to address existing malfunctions. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. All required NPDES permits and WQM permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Bell Acres Borough | 1151 Camp Meeting Road Sewickley, PA 15143 | Allegheny |

Plan Description: The approved plan provides for the elimination of four sewage treatment plants. Each treatment plant will be replaced with a pump station and the flow transferred by means of a network of force mains and existing gravity lines to this Summerlawn Development currently served by Leet Township. The existing gravity sewer system ultimately flows to the Ambridge Sewage Treatment Plant. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. A WQM Permit must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

**UNDER ACT 2, 1995
PREAMBLE 2**

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results

which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania 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.

2781 East Lincoln Highway, Middletown Township, **Bucks County**. Steven Coe, Brown Environmental Services Corporation, 301 South State Street, Suite S201, Newtown, PA 18940, Roman Iwaskiw, Brown Environmental Services Corporation, 301 South State Street, Suite S201, Newtown, PA 18940 has submitted a Remedial Investigation Report concerning remediation of site groundwater contaminated with inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Siegfried Residence, Hilltown Township, **Bucks County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, PA 19401 on behalf of Tina and John Siegfried, 1106 Souderton Road, Perkasio, PA 18944 has submitted a Final Report 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.

Passanante Residence, Bedminster Township, **Bucks County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Paul Passanante, 277 Swamp Road, Fountainville, PA 18923 has submitted a Final Report concerning remediation of site soil contaminated with heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Ashland Inc. Property, Conshohocken Borough, **Montgomery County**. David Kistner, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of H. Morgan Smith, Colwell Properties, LLC, 210 East Elm Street, Conshohocken, PA 19428 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel and other organics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

The Hake Building, Borough of Eddystone, **Delaware County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Nor-

ristown, PA 19401 on behalf of Frank Hake, Hake Headquarters, LP, 1380 Wisteria Drive, Malvern, PA 19355 has submitted a Remedial Investigation, Cleanup Plan and Risk Assessment Report concerning remediation of site groundwater and soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Bey Residence, City of Philadelphia, **Philadelphia County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Roads, Pennsburg, PA 18073 on behalf of Doris Bey, 4927 Pulaski Avenue, Philadelphia, PA 19144 has submitted a Final Report 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.

3662 Market Street, City of Philadelphia, **Philadelphia County**. Raymond Duchaine, ENVision Environmental, Inc., 912 North Orianna Street, Philadelphia, PA 19123 on behalf of Gregory Harvey, Wawa, Inc., 260 West Baltimore Pike, Wawa, PA 19063 has submitted a Final Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Linfield Industries Park, Limerick Township, **Montgomery County**. Jim LaRegina, Herbert Rowland & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of Eugene Ostreicher, Linfield Industries Park, 527 Bedford Avenue, Brooklyn, NY 11211 has submitted a Final Report concerning remediation of site soil contaminated with petroleum and unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

410 Monastery Avenue, City of Philadelphia, **Philadelphia County**. Brenda MacPhail, REPSG, 6901 Kingsessing Avenue, Philadelphia, PA 19142 on behalf of Laura Boylna, 410 Monastery Avenue, Philadelphia, PA 19128 has submitted a Final Report 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.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Interstate Container Facility, City of Reading, **Berks County**. Alternative Environmental Solutions, 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of Interstate Container, LLC, 100 Grace Street, P. O. Box 317, Reading, PA 19603, submitted a Final Report concerning remediation of groundwater contaminated with No. 4 and No. 6 fuel oils from underground storage tanks. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard. Soils will be addressed in a separate report.

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 Pennsylvania 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.

2424 Howard Street, City of Philadelphia, **Philadelphia County**. Robert Totaro, Brandywine Financial Group, 2 Ponds Edge Drive, Chadds Ford, PA 19317, John Luxford, Malcolm Pirnie, Inc., 111 South Independence Mall, East Suite 1010, Philadelphia, PA 19106 on behalf of Patricia DeCarlo, Norris Square Civic Association, 149 West Susquehanna Avenue, Philadelphia, PA 19122 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 November 4, 2008.

Goldman Paper/Wilde Dyehouse, City of Philadelphia, **Philadelphia County**. Robert Byer, Penn Environmental and Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Domeic Vallone, Jewish Federation of Greater of Philadelphia, 2100 Arch Street,

Philadelphia, PA 19103 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Site-Specific Standard and was disapproved by the Department of Environmental Protection on October 31, 2008.

Canada Residence, Bristol Township, **Bucks County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Ty Gawlik, State Farm, P. O. Box 13, Concordville, PA 19331 on behalf of Joseph and Cheketa Canada, 1 Gooseneck Road, Levittown, PA 19057 has submitted a Final Report concerning the remediation of site groundwater and 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 November 13, 2008.

Boulevard Plaza, City of Philadelphia, **Philadelphia County**. James Mullan, Hodge Consulting Incorporated, 987 Haddon Avenue, Collingswood, NJ 08108 has submitted a Risk Assessment and Remedial Investigation Report concerning the remediation of site groundwater contaminated with chlorinated solvents. Remedial Investigation and Risk Assessment Report was approved by the Department of Environmental Protection on November 13, 2008

Germantown Friends School Post Office Lot, City of Philadelphia, **Philadelphia County**. Toby Kessler P. G., Gilmore Associates, Inc., 350 East Butler Avenue, New Britain, PA 18901 on behalf of Nick Dobrowolski, Germantown Friends School, 31 West Coulter Street, Philadelphia, PA 19144 has submitted a Risk Assessment Report and Cleanup Plan concerning the remediation of site soil contaminated with PAH and pesticide. Risk Assessment Report and Cleanup Plan were approved by the Department of Environmental Protection on October 30, 2008.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Huntingdon Former MGP Site, Huntingdon Borough, **Huntingdon County**. Haley and Aldrich, 340 Granite Street, 3rd Floor, Manchester, NH 03102 on behalf of UGI Utilities, Inc., P. O. Box 12677, Reading, PA 19612-2677, submitted a Cleanup Plan concerning remediation of site soils and groundwater contaminated with coal tar, PAHs and VOCs. The plan was approved by the Department of Environmental Protection on November 19, 2008. The site is being remediated to the Site-Specific Standard.

Miller's Greenhouses, Inc., East Hempfield Township, **Lancaster County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of Miller's Greenhouses, Inc., 485 Church Street, Landisville, PA 17538, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on November 20, 2008.

Former Cole Steel Facility, Spring Garden Township, **York County**. CDM, Inc., Raritan Plaza I, Raritan Center, Edison, NJ 08818, on behalf of Cresticon, Inc., 1840 Century City Park East, Los Angeles, CA 90067-2199, submitted a combined Remedial Investigation and Risk Assessment Report concerning remediation of soils and groundwater contaminated with VOCs, semi-VOCs and metals. The applicant is seeking to remediate the site to the Site-Specific Standard. The

Remedial Investigation Report and Risk Assessment Report were approved by the Department of Environmental Protection on November 20, 2008.

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

North Michael Street—St. Marys, 354 North Michael Street, City of St. Marys, **Elk County**. Insite Group, Inc., 611 South Irvine Avenue, Sharon, PA 16146-1165 on behalf of Alan Weis, 147 East Oilwell Street, St. Marys, PA 15857 has submitted a Final Report concerning remediation of site soil contaminated with Cadmium. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on November 19, 2008.

RESIDUAL WASTE GENERAL PERMITS

Permit 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Number WMGR066. Enviro Waste Oil Recovery, LLC, 279 Route 6, P. O. Box 747, Mahopac, NY, 10541. Facility is located at Routes 6 and 209, Milford PA 18337-2429. General Permit Number WMGR066 is for the for the operation of a transfer facility for waste oil, oil/water mixtures, fuel oil and fuel oil tank bottoms prior to beneficial use as waste oil fuel. The Permit was originally issued to S & M Waste Oil of Pennsylvania, Inc. The permit was reissued by Central Office on November 21, 2008.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472. (717) 787-7381. TDD users should contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

58-310-015GP3: Haines & Kibblehouse (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on November 13, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site at Summers Quarry in New Milford Township, **Susquehanna County**.

58-329-004GP9: Haines & Kibblehouse (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on November 13, 2008, to installation and operate a Diesel I/C engine

at their site at Summers Quarry in New Milford Township, **Susquehanna County**.

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

GP2-36-05011A: Pittsburgh Terminals Corp. (P. O. Box 2621, Harrisburg, PA 17105-2621) on November 13, 2008, for Storage Tanks for Volatile Organic Liquids under GP2 in Manheim Township, **Lancaster County**.

GP4-67-03051: Swam Electric Co., Inc. (490 High Street, Hanover, PA 17331-2124) on November 17, 2008, for a Burn Off Oven under GP4 in Hanover Borough, **York County**.

GP6-28-03015: Tip-Top Cleaners (337 Wayne Avenue, Chambersburg, PA 17201-3716) on November 18, 2008, for Petroleum Dry Cleaning under GP6 in Chambersburg Borough, **Franklin County**. This is a renewal of the GP6 permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-03-00230A: The Peoples Natural Gas Co. (1201 Pitt Street, Wilkesburg, PA 15221-2098) on November 13, 2008, to install and operate a Tri-ethylene glycol Dehydration unit with a natural gas fired Thermal Oxidizer for VOC/HAP control at Belknap Compressor Station at Wayne Township, **Armstrong County**.

GP5-63-00940: Mark West Liberty Gas Gathering, LLC (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on November 14, 2008, to install and operate two Caterpillar Model 3516 LE 1340-bhp compressor engines and a Natco Dehydrator rated at 0.275 mmBtu/hr equipped with a flare at their Black Compressor Station located at Greene Township, **Greene County**.

GP5-65-01005: Rex Energy I, LLC (476 Rolling Ridge Drive, Suite 300, State College, PA 16801-7639) on November 18, 2008, under GP5, to construct and operate a natural gas production facility at their Bergman Road Compressor Site, in Derry Township, **Westmoreland 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.

66-399-006: Procter & Gamble Paper Products (P. O. Box 32, Mehoopnay, PA 18629) on November 13, 2008, to modify their diaper operations at their facility in Washington Township, **Wyoming County**.

40-399-062: Valmont Penn Summit (225 Kiwanis Boulevard, West Hazleton, PA 18202) on November 19, 2008, to construct and operate two fabric collectors to control emissions from the plasma cutting and blast machine operations at their site in Hazle Township, **Luzerne County**.

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

06-05066G: Exide Technologies (P. O. Box 13995, Reading, PA 19612-3995) on November 18, 2008, to modify the secondary lead smelter furnaces at their facility in Laureldale Borough/Muhlenberg Township, **Berks County**.

36-03160B: G/S/M Industrial, Inc. (3249 Hempland Road, Lancaster, PA 17601-6913) on November 17, 2008, to re-activate a spray paint booth at their facility in East Hempfield Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

63-00650B: Reaxis, Inc. (941 Robinson Highway, P. O. Box 279, McDonald, PA 15057-0279) on November 20, 2008, to construct a 3,200 gallon reactor, a 2,000 cfm packed bed scrubber and associated equipment at the Reaxis McDonald facility, in Robinson Township, **Washington County**.

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

25-025M: GE Transportation (2901 East Lake Road, Erie, PA 16351) on November 14, 2008, to modify three existing engine test cells and the construction of three new engine test cells in Lawrence Park Township, **Erie County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

09-0010: TEVA Pharmaceuticals USA, Inc. (650 Cathill Road, Sellersville, PA 18960) on November 19, 2008, to operate a 60" Accela-Cota Tablet Coater in West Rockhill Township, **Bucks County**.

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

14-328-002: Dominion Transmission, Inc. (445 West Main Street, Clarksburg, WV 26301) on November 19, 2008, to authorize the construction of a 656 horsepower natural gas-fired auxiliary generator instead of the 814 horsepower natural gas-fired auxiliary generator originally approved by the Department of Environmental Protection at the Centre Compressor Station in Spring Township, **Centre County**.

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

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

38-05035: PPL Renewable Energy, LLC (2 North 9th Street (GENPL8), Allentown, PA 18101-1105) on November 18, 2008, for a landfill gas to energy facility with Greater Lebanon Refuse Authority to operate two engine generators (Caterpillar model G3520C, 1,600 kilowatts each) in North Annville Township, **Lebanon County**.

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

TV-11-00370: Laurel Highlands Landfill, Inc. (625 Cherrington Parkway, Moon Township, PA 15108-4321) on November 18, 2008, to renew the permit for operation of their municipal solid waste landfill in Jackson Township, **Cambria County**. Company operates landfill, gas control system and soil processing system at this site. The facility wide potential emissions of air contaminants are 28.65 tpy of NOx, 0.45 tpy of SOx, 12.45 tpy of VOCs, 51.70 tpy of PM10 and 56.43 tpy of CO. The Title V Operating Permit contains applicable emission limits, as well as testing, monitoring, recordkeeping and reporting requirements.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

23-00102: Brandywine Veterinary Hospital (1270 Baltimore Pike, Chadds Ford, PA 19317) on November 20, 2008, to renew a Non-Title V (State-only) facility for their veterinary hospital in Chadds Ford Township, **Delaware County**. The permit is for a Non-Title V (State-only) facility. The source of air emissions is an animal crematory with an integral afterburner. No changes have taken place since the permit was last issued on November 13, 2003. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

44-03010: Trinity Packaging Corp. (13 Industrial Park Road, Lewistown, PA 17044-9342) on November 17, 2008, for manufacturing, laminating and coating of plastic bags in Granville Township, **Mifflin County**. This is a renewal of the State-only operating permit.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

15-00052: Allan A. Myers, LP—d/b/a Independence Construction Materials—Coatesville Asphalt Plant (Route 82 South, Coatesville, PA 19320) on November 20, 2008, for its batch asphalt plant in East Fallowfield Township, **Chester County**. The State-only Synthetic Minor Operating Permit was modified to remove the monitoring and recordkeeping requirements for the pressure drop across the cyclone and to change the operating pressure drop range for the baghouse to 2 to 7 inches (w.g.). The modified SOOP includes monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

09-00001: Avery Dennison—Fasson Roll Division (35 Penn AM Drive, Quakertown, PA 18951-2434) an

administrative amendment of the Title V Operating Permit to address a typographical error and clarify some permit conditions in the previous operating permit in Richland Township, **Bucks County**. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. Title V Administrative Amendment—Final Issuance

09-00022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) The facility's major emission points include paint booths and lithographic printing presses, which emit major levels of VOCs in Quakertown Borough, **Bucks County**. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amendment revises monitoring, recordkeeping and work practice standard conditions surrounding pressure drop readings for source ID 103A. In addition, Source ID 103B and 103C have been removed from the facility and no longer appear in the Title V Permit. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

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

28-03041: Mountain Brook Industrial Coatings, LLC (9226 Mountain Brook Road, Saint Thomas, PA 17252-9778) on November 17, 2008, to install two spray booths and ancillary equipment to finish metal parts in Saint Thomas Township, **Franklin County**. The State-only operating permit was administratively amended due to a change of ownership. This is Revision No. 1.

28-05041: Jerr-Dan Corp. (1080 Hykes Road, Greencastle, PA 17225-9647) on November 19, 2008, to construct two coating booths and three natural gas fired curing ovens of combined 7.5 mmBtu/hr rated heat input, in Antrim Township, **Franklin County**. The State-only operating permit was administratively amended to incorporate plan approval 28-05041A. This is Revision No. 1.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

17921604 and NPDES Permit No. PA0214167, Waroquier Coal Company, (P. O. Box 128, 3056 Wash-

ington Avenue, Clearfield, PA 16830), to renew the permit for the Truck Tipple in Lawrence Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received May 27, 2008. Permit issued November 17, 2008.

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

56980109 and NPDES No. PA0234931. Mountaineer Mining Corporation, 1010 Garrett Shortcut Road, Berlin, PA 15530, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 35.5 acres. Receiving streams: UNTs to/and Hays Run and UNTs to/and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 17, 2008. Permit issued November 17, 2008.

11070201 and NPDES No. PA0262391. Fuel Recovery, Inc., 2593 Wexford-Bayne Road, Suite 100, Sewickley, PA 15143, commencement, operation and restoration of a bituminous surface refuse reprocessing mine including the beneficial use of coal ash, in Washington Township, **Cambria County**, affecting 87.8 acres. Receiving streams: UNT to Bear Rock, Bear Rock and Burgoon Runs classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 16, 2007. Permit issued November 17, 2008.

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

03080102 and NPDES Permit No. PA0251399. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Permit issued for commencement, operation and reclamation of a bituminous surface mine, located in East Franklin Township, **Armstrong County**, affecting 112.3 acres. Receiving streams: UNTs to Alleghany County. Application received May 19, 2008. Permit issued November 18, 2008.

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

10080102 and NPDES Permit No. PA0258610. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Commencement, operation and restoration of a bituminous strip operation in Mercer Township, **Butler County** affecting 4.0 acres. Receiving streams: UNTs to Swamp Run. Application received July 21, 2008. Permit issued November 20, 2008.

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

54870206R4 and NPDES Permit No. PA0593982. White Pine Coal Co., Inc. (P. O. Box 119, Ashland, PA 17921), renewal of an existing anthracite coal refuse reprocessing operation in Gordon Borough, Butler, Barry, Eldred, East Cameron and West Cameron Townships, **Schuylkill and Northumberland Counties** affecting 870.0 acres, receiving stream: Mahanoy Creek. Application received June 20, 2008. Renewal issued November 20, 2008.

Noncoal Permits Actions

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

29890301 and NPDES Permit No. PA0212504. K. G. Richards, 810 Lincoln Way East, P. O. Box 128, McConnellsburg, PA 17233-1510, renewal of NPDES Permit,

Todd Township, **Fulton County**. Receiving streams: Licking Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received September 15, 2008. Permit issued November 14, 2008.

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

26082805. Mon River Energy Corp. (P. O. Box 466, Brier Hill, PA 15415). Permit for a small noncoal surface mine, located in Luzerne Township, **Fayette County**, affecting 4.86 acres. Receiving stream: Monongahela River. Application received September 15, 2008. Permit issued November 20, 2008.

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

62970801. Martha J. Young (R. R. 1, Box 1039, Clarendon, PA 16313). Final bond release for a small noncoal mining operation in Mead Township, **Crawford County**. Restoration of 1.0 acre completed. Receiving streams: UNT to West Branch Tionesta Creek. Application received September 25, 2008. Final bond release approved November 12, 2008.

37930305. Three Rivers Aggregates (P. O. Box 6090, Falmouth, VA 22403) Renewal of existing NPDES Permit No. PA0211745 in Plain Grove Township, **Lawrence County**. Receiving streams: UNT to Taylor Run and Taylor Run. Application received September 30, 2008. Permit issued November 20, 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.

28084129. David H. Martin Excavation, Inc., 4961 Cumberland Highway, Chambersburg, PA 17201-9655, blasting activity permit issued for commercial development in Hamilton Township, **Franklin County**. Blasting activity permit end date is November 13, 2009. Permit issued November 14, 2008.

21084162. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for sewer line development in Monroe Township, **Cumberland County**. Blasting activity permit end date is November 30, 2009. Permit issued November 14, 2008.

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

30084008. Shallenberger Construction (2611 Memorial Avenue, Connellsville, PA 15425). Blasting Activity Permit for construction of gas well Willis No. 24, located in Cumberland Township, **Greene County**. The duration of blasting is expected to be 180 days. Permit issued November 17, 2008.

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

38084001. Anrich, Inc., (1271 South Gulph Road, Wayne, PA 19087) and Bernard J. Hasara, (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting for the Jackson Township/Strackdam Interceptor in Jackson Township, **Lebanon County** with an expiration date of December 12, 2009. Permit issued November 17, 2008.

67084006. Explosives Experts, Inc., (500 Dairy Road, Parkton, MD 21120), construction blasting for the South Hanover Mall Renovation in Penn Township, **York County** with an expiration date of February 28, 2009. Permit issued November 17, 2008.

06084131. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Stonecroft Village in Marion Township, **Berks County** with an expiration date of November 15, 2009. Permit issued November 17, 2008.

22084122. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for South Point Meadows in Derry Township, **Dauphin County** with an expiration date of November 15, 2009. Permit issued November 17, 2008.

360841112. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting for Elmcrest Subdivision in Mt. Joy Township, **Lancaster County** with an expiration date of November 10, 2009. Permit issued November 17, 2008.

360841115. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Weatherburn Town Center in Manheim Township, **Lancaster County** with an expiration date of April 30, 2009. Permit issued November 17, 2008.

360841116. TJ Angelozzi, Inc., (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of May 1, 2009. Permit issued November 18, 2008.

67084133. Geological Technologies, Inc., (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Hanover Gateway in Conewago Township, **York County** with an expiration date of November 10, 2009. Permit issued November 18, 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

Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WATER OBSTRUCTIONS AND ENCROACHMENTS

E45-493. Department of Transportation, Engineering District 5-0, 1002 Hamilton Street, Allentown, PA 18103-1013, Chestnuthill Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a single-span, prestressed concrete beam bridge having a normal span of 29 feet and a minimum underclearance of 5.2 feet across Pohopoco Creek (EV). The project will also permanently impact a de minimis area of EV wetlands equal to 0.01 acre and temporarily impact 0.01 acre of EV wetlands. The project is located along SR 3016 (Jonas Road), Segment 0060, Offset 0609, approximately 0.1 mile northeast of its intersection with Merwinsburg Road (Broadheadsville, PA Quadrangle Latitude: 40° 58' 02"; Longitude: 75° 27' 57").

[Pa.B. Doc. No. 08-2203. Filed for public inspection December 5, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Amendments to Charges for Medical Records

Under 42 Pa.C.S. §§ 6152 and 6155 (relating to subpoena of records; and rights of patients), the Secretary of Health (Secretary) is directed to adjust annually the amounts which may be charged by a health care facility or health care provider upon receipt of a request or subpoena for production of medical charts or records. These charges apply to any request for a copy of a medical chart or record except as follows:

(1) Flat fees (as listed in this notice) apply to amounts that may be charged by a health care facility or health care provider when copying medical charges or records either: a) for the purpose of supporting any claim or appeal under the Social Security Act or any Federal or State financial needs based program; or b) for a district attorney.

(2) An insurer shall not be required to pay for copies of medical records required to validate medical services for which reimbursement is sought under an insurance contract, except as provided in: (a) the Worker's Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2506) and the regulations promulgated thereunder; (b) 75 Pa.C.S. Chapter 17 (relating to financial responsibility) and the regulations promulgated thereunder; or (c) a contract between an insurer and any other party.

The charges listed in this notice do not apply to an X-ray film or any other portion of a medical record which is not susceptible to photostatic reproduction.

Under 42 Pa.C.S § 6152.1 (relating to limit on charges), the Secretary is directed to make a similar adjustment to the flat fee which may be charged by a health care facility or health care provider for the expense of reproducing medical charts or records where the request is: (1) for the purpose of supporting a claim or appeal under the Social Security Act or any Federal or State financial needs based benefit program; or (2) made by a district attorney.

The Secretary is directed to base these adjustments on the most recent changes in the consumer price index reported annually by the Bureau of Labor Statistics of the United States Department of Labor. For the annual period of October 31, 2007, through October 31, 2008, the consumer price index was 4.2%.

Accordingly, the Secretary provides notice that, effective January 1, 2009, the following fees may be charged by a health care facility or health care provider for production of records in response to subpoena or request:

| | <i>Not to Exceed</i> |
|---|----------------------|
| Amount charged per page for pages 1—20 | \$ 1.33 |
| Amount charged per page for pages 21—60 | \$.99 |
| Amount charged per page for pages 61—end | \$.33 |
| Amount charged per page for microfilm copies | \$ 1.96 |
| Flat fee for production of records to support any claim under Social Security | \$25.09 |
| Flat fee for supplying records requested by a district attorney | \$19.08 |
| * Search and retrieval of records | \$19.08 |

* *Note:* Federal regulations enacted under the Health Insurance Portability and Accountability Act at 45 CFR Parts 160—164 state that covered entities may charge a reasonable cost based fee that includes only the cost of copying, postage and summarizing the information (if the individual has agreed to receive a summary) when providing individuals access to their medical records. The Department of Health and Human Services has stated that the fees may not include costs associated with searching for and retrieving the requested information. For further clarification on this issue, inquiries should be directed to the Office of Civil Rights, United States Department of Health and Human Services, 200 Independence Avenue, S.W., Room 509F, HHH Building, Washington, D.C. 20201, (866) 627-7748, www.hhs.gov/ocr/hipaa.

In addition to the amounts listed previously, charges may also be assessed for the actual cost of postage, shipping and delivery of the requested records.

The Department of Health is not authorized to enforce these charges.

Questions or inquiries concerning this notice should be sent to James T. Steele, Jr., Deputy Chief Counsel, Room 825, Health and Welfare Building, Harrisburg, PA 17120 or for speech and or hearing impaired persons the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT) or V/TT (717) 783-6514.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2204. Filed for public inspection December 5, 2008, 9:00 a.m.]

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions).

Neshaminy Manor Home
1660 Easton Road
Warrington, PA 18976

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Harrison Senior Living of Christiana
41 Newport Avenue
Christiana, PA 17509
FAC ID 080502

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care Facilities at the address or phone numbers listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2205. Filed for public inspection December 5, 2008, 9:00 a.m.]

Rescheduling of Health Policy Board Meeting

The Health Policy Board meeting scheduled for Wednesday, December 10, 2008, in Room 812, Health and Welfare Building, 625 Forster Street, Harrisburg, PA

17120 has been rescheduled. The next meeting will be held on Wednesday, January 21, 2009, from 10 a.m. until 12 p.m. in Room 812 of the Health and Welfare Building.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact Lew Wolkoff, Bureau of Health Planning at (717) 772-5298 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2206. Filed for public inspection December 5, 2008, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Deluxe Winner Take All '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 Deluxe Winner Take All '08.

2. *Price:* The price of a Pennsylvania Deluxe Winner Take All '08 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Deluxe Winner Take All '08 instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area, a "YOUR NUMBERS" area and a "WINNER TAKE ALL NUMBER" area. The play symbols and their captions located in the "WINNING NUMBERS" area, the "YOUR NUMBERS" area and the "WINNER TAKE ALL NUMBER" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTEEN), 14 (FOURTEEN), 15 (FIFTEEN), 16 (SIXTEEN), 17 (SEVENTEEN), 18 (EIGHTEEN), 19 (NINETEEN), 20 (TWENTY), 21 (TWENTYONE), 22 (TWENTYTWO), 23 (TWENTYTHREE) and 24 (TWENTYFOUR).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$2.00 (TWO DOL), \$5.00 (FIV DOL), \$10.00 (TEN DOL), \$20 (TWENTY), \$24 (TWY FOR), \$40 (FORTY), \$50 (FIFTY), \$60 (SIXTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$5, \$10, \$20, \$24, \$40, \$50, \$60, \$100, \$400, \$500, \$1,000, \$5,000 and \$100,000. A player can win up to 12 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,000,000 tickets will be printed for the Pennsylvania Deluxe Winner Take All '08 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching

"YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5,000 (FIV THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNER TAKE ALL NUMBER" play symbol, and a prize symbol of \$400 (FOR HUN) appears in ten of the "prize" areas, and a prize symbol of \$500 (FIV HUN) appears in two of the "prize" areas, on a single ticket, shall be entitled to a prize of \$5,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNER TAKE ALL NUMBER" play symbol, and a prize symbol of \$50 (FIFTY) appears in four of the "prize" areas, and a prize symbol of \$100 (ONE HUN) appears in eight of the "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNER TAKE ALL NUMBER" play symbol, and a prize symbol of \$20 (TWENTY) appears in five of the "prize" areas, and a prize symbol of \$50 (FIFTY) appears in two of the "prize" areas, and a prize symbol of \$60 (SIXTY) appears in five of the "prize" areas, on a single ticket, shall be entitled to a prize of \$500.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNER TAKE ALL NUMBER" play symbol, and a prize symbol of \$5.00 (FIV DOL) appears in six of the "prize" areas, and a prize symbol of \$10.00 (TEN DOL) appears in five of the "prize" areas, and a prize symbol of \$20 (TWENTY) appears in one of the "prize" areas, on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNER TAKE ALL NUMBER" play symbol, and a prize symbol of \$5.00 (FIV DOL) appears in four of the "prize" areas, and

a prize symbol of \$10⁰⁰ (TEN DOL) appears in eight of the “prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$60\$ (SIXTY) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$60.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNER TAKE ALL NUMBER” play symbol, and a prize symbol of \$2⁰⁰ (TWO DOL) appears in ten of the “prize” areas, and a prize symbol of \$20\$ (TWENTY) appears in two of the “prize” areas, on a single ticket, shall be entitled to a prize of \$60.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNER TAKE ALL NUMBER” play symbol, and a prize symbol of \$5⁰⁰ (FIV DOL) appears in twelve of the “prize” areas, on a single ticket, shall be entitled to a prize of \$60.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$40\$ (FORTY) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNER TAKE ALL NUMBER” play symbol, and a prize symbol of \$2⁰⁰ (TWO DOL) appears in ten of the “prize” areas, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in two of the “prize” areas, on a single ticket, shall be entitled to a prize of \$40.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the

“WINNING NUMBERS” play symbols and a prize symbol of \$24\$ (TWY FOR) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$24.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNER TAKE ALL NUMBER” play symbol, and a prize symbol of \$2⁰⁰ (TWO DOL) appears in twelve of the “prize” areas, on a single ticket, shall be entitled to a prize of \$24.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20\$ (TWENTY) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(t) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(v) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$2.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

| <i>When Any Of Your Numbers Match Any Winning Number, Win With Prize(s) Of:</i> | <i>Win:</i> | <i>Approximate Odds Are 1 In:</i> | <i>Approximate No. Of Winners Per 9,000,000 Tickets</i> |
|---|-------------|-----------------------------------|---|
| \$5 | \$5 | 9.68 | 930,000 |
| \$2 × 5 | \$10 | 60 | 150,000 |
| \$5 × 2 | \$10 | 60 | 150,000 |
| \$10 | \$10 | 60 | 150,000 |
| \$5 × 4 | \$20 | 120 | 75,000 |
| \$10 × 2 | \$20 | 120 | 75,000 |
| \$20 | \$20 | 60 | 150,000 |
| \$2 × 12 w/Winner Take All Match | \$24 | 75 | 120,000 |
| \$24 | \$24 | 300 | 30,000 |
| (\$2 × 10) + (\$10 × 2) w/Winner Take All Match | \$40 | 300 | 30,000 |
| \$10 × 4 | \$40 | 600 | 15,000 |
| \$20 × 2 | \$40 | 600 | 15,000 |
| \$40 | \$40 | 600 | 15,000 |
| \$5 × 12 w/Winner Take All Match | \$60 | 300 | 30,000 |
| (\$2 × 10) + (\$20 × 2) w/Winner Take All Match | \$60 | 300 | 30,000 |
| \$60 | \$60 | 600 | 15,000 |
| \$10 × 10 | \$100 | 2,400 | 3,750 |
| (\$5 × 4) + (\$10 × 8) w/Winner Take All Match | \$100 | 774.19 | 11,625 |
| (\$5 × 6) + (\$10 × 5) + \$20 w/Winner Take All Match | \$100 | 800 | 11,250 |
| \$100 | \$100 | 2,400 | 3,750 |

| <i>When Any Of Your Numbers Match Any Winning Number; Win With Prize(s) Of:</i> | <i>Win:</i> | <i>Approximate Odds Are 1 In:</i> | <i>Approximate No. Of Winners Per 9,000,000 Tickets</i> |
|---|-------------|-----------------------------------|---|
| (\$20 × 5) + (\$50 × 2) + (\$60 × 5) w/Winner Take All Match | \$500 | 12,000 | 750 |
| \$500 | \$500 | 24,000 | 375 |
| (\$50 × 4) + (\$100 × 8) w/Winner Take All Match | \$1,000 | 40,000 | 225 |
| \$1,000 | \$1,000 | 40,000 | 225 |
| (\$400 × 10) + (\$500 × 2) w/Winner Take All Match | \$5,000 | 600,000 | 15 |
| \$5,000 | \$5,000 | 600,000 | 15 |
| \$100,000 | \$100,000 | 600,000 | 15 |

Winner Take All Match = Win all 12 prizes instantly.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Deluxe Winner Take All '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).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Deluxe Winner Take All '08, prize money from winning Pennsylvania Deluxe Winner Take All '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 Deluxe Winner Take All '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.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Deluxe Winner Take All '08 or through normal communications methods.

STEPHEN STETLER,
Acting Secretary

[Pa.B. Doc. No. 08-2207. Filed for public inspection December 5, 2008, 9:00 a.m.]

Pennsylvania Triple Cash 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 provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Triple Cash.

2. *Price:* The price of a Pennsylvania Triple Cash instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Triple Cash instant lottery game ticket will contain one play area. The play area will contain two "WINNING NUMBERS" and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE) and 10 (TEN). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), \$\$ symbol (DBLS) and a \$\$\$ symbol (TRPS).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: FREE (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$3⁰⁰ (THR DOL), \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$30\$ (THIRTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN) and \$1,000 (ONE THO).

5. *Prizes:* The prizes that can be won in this game are: Free \$1 ticket, \$1, \$2, \$3, \$5, \$6, \$10, \$15, \$20, \$30, \$50, \$100, \$400 and \$1,000. A player can win up to 5 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania Triple Cash instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "PRIZE" area to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears in the "PRIZE" area to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "PRIZE" area to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a \$\$ symbol (DBLS), and a prize symbol of \$50\$ (FIFTY) appears in the

(bb) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1.⁰⁰ (ONE DOL) appears in the "PRIZE" area to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(cc) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of FREE (TICKET) appears in the "PRIZE" area to the

right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Triple Cash instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When Any Of Your Numbers
Match Either Winning
Number, Win With Prize(s)
Of:*

| <i>Win:</i> | <i>Approximate Odds Are 1 In:</i> | <i>Approximate No. Of Winners Per 12,000,000 Tickets</i> |
|------------------------------|---------------------------------------|--|
| FREE | FREE \$1 TICKET | 12 |
| \$1 | \$1 | 60 |
| \$1 × 2 | \$2 | 60 |
| \$1 w/\$\$ | \$2 | 50 |
| \$2 | \$2 | 60 |
| \$1 w/\$\$\$ | \$3 | 75 |
| \$1 × 3 | \$3 | 100 |
| (\$1 w/\$\$\$) + (\$1 × 2) | \$5 | 600 |
| (\$2 w/\$\$) + \$1 | \$5 | 600 |
| \$5 | \$5 | 300 |
| \$2 × 3 | \$6 | 600 |
| \$2 w/\$\$\$ | \$6 | 600 |
| \$3 × 2 | \$6 | 600 |
| \$3 w/\$\$ | \$6 | 600 |
| \$6 | \$6 | 600 |
| \$2 × 5 | \$10 | 750 |
| (\$3 w/\$\$\$) + \$1 | \$10 | 750 |
| \$5 × 2 | \$10 | 750 |
| \$5 w/\$\$ | \$10 | 750 |
| \$10 | \$10 | 750 |
| \$3 × 5 | \$15 | 1,500 |
| \$5 w/\$\$\$ | \$15 | 1,500 |
| (\$6 w/\$\$) + \$3 | \$15 | 1,500 |
| \$15 | \$15 | 1,500 |
| \$10 w/\$\$ | \$20 | 1,000 |
| \$20 | \$20 | 1,500 |
| \$6 × 5 | \$30 | 5,333 |
| \$10 w/\$\$\$ | \$30 | 5,333 |
| \$15 w/\$\$ | \$30 | 5,333 |
| \$30 | \$30 | 5,333 |
| \$10 × 5 | \$50 | 6,000 |
| (\$10 w/\$\$\$) + (\$10 × 2) | \$50 | 6,000 |
| (\$20 w/\$\$) + \$10 | \$50 | 6,000 |
| \$50 | \$50 | 6,000 |
| \$20 × 5 | \$100 | 9,600 |
| (\$30 w/\$\$\$) + (\$10) | \$100 | 9,600 |
| \$50 w/\$\$ | \$100 | 9,600 |
| \$100 | \$100 | 9,600 |
| \$100 × 4 | \$400 | 60,000 |
| \$400 | \$400 | 60,000 |
| \$1,000 | \$1,000 | 240,000 |

\$\$ (DBL\$) = Win double the prize shown.

\$\$\$ (TRPS) = Win triple the prize shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Triple Cash instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Triple Cash, prize money from winning Pennsylvania Triple Cash 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 Triple Cash instant lottery game, the right

of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law*: In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game*: The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Triple Cash or through normal communications methods.

STEPHEN STETLER,
Acting Secretary

[Pa.B. Doc. No. 08-2208. Filed for public inspection December 5, 2008, 9:00 a.m.]

Realty Transfer Tax Revised; 2007 Common Level Ratio Real Estate Valuation Factors

The following real estate valuation factors are based on sales data compiled by the State Tax Equalization Board in 2007. These factors are the mathematical reciprocals of the actual common level ratios. For Pennsylvania Realty Transfer Tax purposes, these factors are applicable for documents accepted from January 1, 2009, to June 30, 2009. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument. See 61 Pa. Code § 91.102 (relating to acceptance of documents).

| <i>County</i> | <i>Revised Common Level Ratio Factor</i> |
|---------------|--|
| * Clinton | 1.00 |
| ** Butler | 8.06 |
| ** Clarion | 3.87 |

* Adjusted by the Department of Revenue (Department) to reflect assessment base change effective January 1, 2009.

** Adjusted by the Department to reflect an assessment ratio change effective January 1, 2009.

STEPHEN STETLER,
Acting Secretary

[Pa.B. Doc. No. 08-2209. Filed for public inspection December 5, 2008, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Draft Public Participation Plan for Statewide Planning

The Department of Transportation (Department) is seeking public comment on its Draft Public Participation Plan for Statewide Planning (Plan). The Plan helps to guide public involvement in the development of the State Transportation Improvement Program and future State-

wide Long-Range Transportation Plans. It is used to engage a broad array of organizations, interests and constituencies in the development of these documents. Public involvement helps to ensure that the concerns of residents and stakeholders of this Commonwealth are identified and addressed in decision making, resulting in better transportation outcomes.

The 45-day public comment period on the Plan begins on December 8, 2008, and ends on January 22, 2009. A copy of the Plan is available online at www.dot.state.pa.us or by contacting Brian Wall at the Department's Center for Program Development and Management at (717) 772-0827 or bwall@state.pa.us. Copies are also available at the Department's District Offices and at the respective offices of the Metropolitan Planning Organizations and Rural Planning Organizations across this Commonwealth.

Provide your comments no later than 5 p.m. on January 22, 2009, to Brian Wall at bwall@state.pa.us, fax (717) 787-5247 or Department of Transportation, Center for Program Development and Management, P. O. Box 3365, Harrisburg, PA 17105-3365.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-2210. Filed for public inspection December 5, 2008, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Clarks Summit-South Abington Joint Sewer Authority v. DEP; EHB Doc. No. 2008-324-MG; 10-17-08 NPDES Permit; No. PA-0028576

Clarks Summit-South Abington Joint Sewer Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in South Abington Township, Lackawanna County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81. Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,
Acting Chairperson

[Pa.B. Doc. No. 08-2211. Filed for public inspection December 5, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, November 20, 2008, and announced the following:

Regulations Approved:

Pennsylvania Gaming Control Board #125-87: Trustee-ship (adds 58 Pa. Code Chapter 443a)

Environmental Quality Board #7-409: Hazardous Waste Regulations (amends 25 Pa. Code Chapters 260a—266a, 266b, 267a, 269a and 270a)

Regulation Disapproved: Order Not Yet Issued

* Environmental Quality Board #7-421: Triennial Review of Water Quality Standards

* Will advise when order is issued.

Approval Order

Public Meeting held
November 20, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson, by Phone; Nancy Sabol Frantz, Esq.; Karen A. Miller; John F. Mizner, Esq., by Phone

*Pennsylvania Gaming Control Board—
Trusteeship;
Regulation No. 125-87 (#2706)*

On June 25, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking adds 58 Pa. Code Chapter 443a. The proposed regulation was published in the July 12, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 15, 2008.

This regulation adds a new chapter establishing circumstances under which the Board may appoint a trustee along with the general powers and duties of a trustee.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. § 1202(b)(30)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 20, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson, by Phone; Nancy Sabol Frantz, Esq.; Karen A. Miller; John F. Mizner, Esq., by Phone

*Environmental Quality Board—
Hazardous Waste Regulations;
Regulation No. 7-409 (#2619)*

On June 21, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (Board). This rulemaking amends 25 Pa. Code Chapters 260a—266a, 266b, 267a, 269a and 270a. The proposed regulation was published in the July 14, 2007 *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on October 7, 2008.

This rulemaking brings existing regulations into greater consistency with Federal rules and standards, eliminates obsolete and outdated provisions, and clarifies financial assurance and requirements for bonding and insurance.

We have determined this regulation is consistent with the statutory authority of the Board (35 P. S. §§ 6018.105, 6018.402, 6020.303 and 6020.305(e)(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2212. Filed for public inspection December 5, 2008, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Close of the Public Comment Period</i> | <i>IRRC Comments Issued</i> |
|-----------------|--|---|-------------------------------------|
| 7-404 | Environmental Quality Board Bluff Recession and Setback 38 Pa.B. 4617 (August 23, 2008) | 10/22/08 | 11/21/08 |

**Environmental Quality Board
Regulation #7-404 (IRRC #2717)**

Bluff Recession and Setback

November 21, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the August 23, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

Section 85.26. Designated municipalities and minimum bluff setback distances for identified categories of structures.—Statutory Authority; Reasonableness.

The Bluff Recession and Setback Act (Act) defines a “bluff recession hazard area” as “[a]n area or zone where the rate of progressive bluff recession creates a substantial threat to the safety or stability of nearby or future structures or utility facilities.” (32 P. S. § 5203). The Act requires the EQB to “identify and designate those areas and municipalities subject to bluff recession hazards” (32 P. S. § 5204(c)) and to establish by regulation “minimum bluff setback requirements for bluff recession hazard areas.” (32 P. S. § 3206). We note that although municipalities may contain within their borders “one or more areas subject to bluff recession hazards” (32 P. S. § 5203), EQB’s statutory mandate to promulgate regulations is limited to governing bluff recession hazard areas, not municipalities.

Commentators assert that while some portions of the City of Erie shoreline meet the definition of “bluff recession hazard area,” others do not. They further argue that by designating the entire City of Erie as a bluff recession hazard area, rather than distinguishing specific bluff recession hazard areas within its boundaries, the EQB has exceeded the scope of its statutory authority. The final-form regulation should either identify the specific bluff recession hazard areas within the City of Erie’s boundaries or further explain the EQB’s statutory authority for designating the entire municipality as a bluff recession hazard area.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2213. Filed for public inspection December 5, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval of the Recapitalization of a Domestic Stock Property Insurance Company

Daily Underwriters of America, a Commonwealth domiciled stock property insurance company, has submitted a Plan of Recapitalization. The initial filing was made under 15 Pa.C.S. §§ 1101—4162 (relating to the Business Corporation Law of 1988) and the GAA Amendments Act of 1990 (15 P. S. §§ 21205—21207). Persons wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department’s (Department) order approving this recapitalization are invited to submit a written statement to the Department within 7 days from the date of this issue of the *Pennsylvania Bulletin*. A written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2214. Filed for public inspection December 5, 2008, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Birchwood SNF, LLC

Birchwood SNF, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Birchwood Nursing and Rehabilitation Center in Nanticoke, PA. The initial filing was received on November 5, 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. 08-2215. Filed for public inspection December 5, 2008, 9:00 a.m.]

Pennsylvania National Mutual Casualty Insurance Company; Homeowners Program; Rate Filing

On November 19, 2008, the Insurance Department (Department) received from Pennsylvania National Mutual Casualty Insurance Company a filing for a rate and rule revision for homeowners insurance.

The company requests an overall 0.0% change annually, to be effective March 15, 2009, for new business and renewal business.

Unless formal administrative action is taken prior to January 18, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2216. Filed for public inspection December 5, 2008, 9:00 a.m.]

Qualified Unlicensed Reinsurers List

Under section 319.1 of The Insurance Company Law of 1921 (40 P. S. § 442.1), the Insurance Commissioner (Commissioner) hereby lists reinsurers not licensed by the Insurance Department (Department) which shall be considered qualified to accept reinsurance from insurers licensed by the Department.

This listing of qualified unlicensed reinsurers shall be published in the *Pennsylvania Bulletin* when additions to or deletions from such listing are made by the Commissioner. This present listing shall replace in their entirety previously published listings of qualified unlicensed reinsurers which appeared at 6 Pa.B. 2423 (September 25, 1976); 6 Pa.B. 3140 (December 18, 1976); 7 Pa.B. 501 (February 19, 1977); 7 Pa.B. 1766 (June 25, 1977); 8 Pa.B. 276 (January 28, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 3461 (December 2, 1978); 9 Pa.B. 4235 (December 22, 1979); 11 Pa.B. 38 (January 3, 1981); 12 Pa.B. 37 (January 2, 1982); 12 Pa.B. 2368 (July 23, 1982); 13 Pa.B. 657 (February 5, 1983); 13 Pa.B. 2826 (September 10, 1983); 14 Pa.B. 1053 (March 24, 1984); 14 Pa.B. 3065 (August 18, 1984); 15 Pa.B. 402 (February 2, 1985); 15 Pa.B. 3214 (September 7, 1985); 16 Pa.B. 290 (January 25, 1986); 17 Pa.B. 461 (January 24, 1987); 17 Pa.B. 5368 (December 26, 1987); 18 Pa.B. 5540 (December 10, 1988); 19 Pa.B. 713 (February 18, 1989); 19 Pa.B. 3129 (July 22, 1989); 19 Pa.B. 5476 (December 23, 1989); 20 Pa.B. 6227 (December 15, 1990); 21 Pa.B. 3286 (July 20, 1991); 21 Pa.B. 5445 (November 23, 1991); 22 Pa.B. 4591 (September 5, 1992); 23 Pa.B. 60 (January 2, 1993); 23 Pa.B. 5678 (November 27, 1993); 24 Pa.B. 4151 (August 13, 1994); 24 Pa.B. 6033 (December 3, 1994); 25 Pa.B. 5799 (December 16, 1995); 46 Pa.B. 5665 (November 16, 1996); 21 Pa.B. 2593 (May 24, 1997); 46 Pa.B. 6019 (November 15, 1997);

46 Pa.B. 5733 (November 14, 1998); 28 Pa.B. 5922 (December 5, 1998); 29 Pa.B. 5965 (November 20, 1999); 30 Pa.B. 6033 (November 18, 2000); 31 Pa.B. 205 (January 13, 2001); 31 Pa.B. 6251 (November 10, 2001); 31 Pa.B. 7083 (December 29, 2001); 33 Pa.B. 92 (January 4, 2003); 33 Pa.B. 6474 (December 27, 2003); 34 Pa.B. 6617 (December 11, 2004); 35 Pa.B. 7073 (December 31, 2005); 36 Pa.B. 7359 (December 2, 2006); and 38 Pa.B. 327 (January 12, 2008).

Qualified Reinsurers List

1. 10651 AIG Global Trade & Political Risk Insurance Company, Parsippany, New Jersey
2. 10932 AIG Excess Liability Insurance Company Limited, Wilmington, Delaware
3. 30511 Allstate Floridian Insurance Company, Northbrook, Illinois
4. 10852 Allstate New Jersey Insurance Company, Northbrook, Illinois
5. 37990 American Empire Insurance Company, Cincinnati, Ohio
6. 26883 American International Specialty Lines Insurance Company, Anchorage, Alaska
7. 10316 Appalachian Insurance Company, Johnston, Rhode Island
8. 11680 Aspen Insurance UK Limited, London, England
9. 27189 Associated International Insurance Company, Woodland Hills, California
10. 50687 Attorneys' Title Insurance Fund, Inc., Orlando, Florida
11. 19925 Audubon Indemnity Company, Ridgeland, Mississippi
12. 98167 Blue Cross Blue Shield of Florida, Jacksonville, Florida
13. 36951 Century Surety Company, Columbus, Ohio
14. 36552 Coliseum Reinsurance Company, Wilmington, Delaware
15. 39993 Colony Insurance Company, Richmond, Virginia
16. 40371 Columbia Mutual Insurance Company, Columbia, Missouri
17. 27955 Commercial Risk Re-Insurance Company, South Burlington, Vermont
18. 40509 EMC Reinsurance Company, Des Moines, Iowa
19. 39020 Essex Insurance Company, Wilmington, Delaware
20. 35378 Evanston Insurance Company, Evanston, Illinois
21. 97071 Generali USA Life Reassurance Company, Lansing, Michigan
22. 37532 Great American E & S Insurance Company, Wilmington, Delaware
23. 41858 Great American Fidelity Insurance Company, Wilmington, Delaware
24. 14117 Grinnell Mutual Reinsurance Company, Grinnell, Iowa
25. 88340 Hannover Life Reassurance Company of America, Orlando, Florida

26. 10241 Hannover Ruckversicherungs, Ag
Hannover, Germany
27. 93505 Hartford International Life Reassurance
Corporation, Hartford, Connecticut
28. 78972 Healthy Alliance Life Insurance Company, St.
Louis, Missouri
29. 42374 Houston Casualty Company, Houston, Texas
30. 27960 Illinois Union Insurance Company, Chicago,
Illinois
31. 22829 Interstate Fire & Casualty Company,
Chicago, Illinois
32. 35637 Landmark Insurance Company, Los Angeles,
California
33. 19437 Lexington Insurance Company, Wilmington,
Delaware
34. 41939 Liberty Northwest Insurance Corporation,
Portland, Oregon
35. Lloyd's Underwriters, London, England
36. 12324 Mapfre Re, Compania de Reaseguros, S.A.,
Madrid, Spain
37. 10744 Markel International Insurance Company
Limited, London, England
38. 33189 Max Specialty Insurance Company,
Wilmington, Delaware
39. 32089 Medmarc Mutual Insurance Company,
Montpelier, Vermont
40. 20079 National Fire & Marine Insurance Company,
Omaha, Nebraska
41. 41629 New England Reinsurance Corporation,
Hartford, Connecticut
42. 17400 Noetic Specialty Insurance Company,
Chicago, Illinois
43. 31143 Old Republic Union Insurance Company,
Chicago, Illinois
44. 88099 Optimum Re Insurance Company, Dallas,
Texas
45. 38636 Partner Reinsurance Company of the U. S.,
New York, New York
46. 88536 Protective Life and Annuity Insurance
Company, Birmingham, Alabama
47. 29807 PXRE Reinsurance Company, Hartford,
Connecticut
48. 87017 SCOR Global Life Re Insurance Company of
Texas, Los Angeles, California
49. RiverStone Insurance (UK) Limited, London,
England
50. 28053 Rockhill Insurance Company, Phoenix,
Arizona
51. 21911 San Francisco Reinsurance Company, Novato,
California
52. 90670 Scottish Re Life Corporation, Wilmington,
Delaware
53. 41297 Scottsdale Insurance Company, Columbus,
Ohio
54. 23388 Shelter Mutual Insurance Company,
Columbia, Missouri
55. 26557 Shelter Reinsurance Company, Columbia,
Missouri
56. 39187 Suecia Insurance Company, Nanuet, New
York
57. 19887 Trinity Universal Insurance Company, Dallas,
Texas
58. 37982 Tudor Insurance Company, Keene, New
Hampshire
59. 10292 Unionamerica Insurance Company Limited,
London, England
60. 36048 Unione Italiana Reinsurance Company of
America, Inc., New York, New York
61. 10172 Westchester Surplus Lines Insurance
Company, Atlanta, Georgia
62. 13196 Western World Insurance Company, Keene,
New Hampshire
63. 10242 Zurich Specialties London Limited, London,
England

2008 Changes to the Qualified Unlicensed Reinsurers List

The following company has been added since the list was published at 38 Pa.B. 327:

- Grinnell Mutual Reinsurance Company

The following company has been removed since the list was published at 38 Pa.B. 327:

- Milwaukee Insurance Company

The following companies have changed their name since the list was published at 38 Pa.B. 327:

- Monticello Insurance Company has changed its name to Max Specialty Insurance Company
- AXA Corporate Solutions Reinsurance Company has changed its name to Coliseum Reinsurance Company

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2217. Filed for public inspection December 5, 2008, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule; Milk Marketing Area No. 6

Under the Milk Marketing Law (31 P. S. § 700j-101—700j-1302), that the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 6 on January 7, 2009, commencing at 10 a.m. in Room 202 of the Department of Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive evidence regarding Milk Marketing Area No. 6 retail milk in-store handling costs and the rate of return to Milk Marketing Area 6 retailers on milk sales.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on December 11, 2008, a notice of appearance substantially in the form prescribed by 1

Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on December 11, 2008, notification of their desire to be included as a party. Parties may indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable. Notices of appearance filed electronically should be directed to deberly@state.pa.us.

The parties shall observe the following requirements for advance filing of witness information and exhibits:

1. By 4 p.m. on December 23, 2008, the Pennsylvania Food Merchants Association shall file with the Board, in person or by mail, one original and eight copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on December 29, 2008, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 2 p.m. on January 2, 2009, each party shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 12 p.m. on December 24, 2008.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format call (717) 787-4194 or (800) 654-5984 (Pennsylvania AT&T Relay Service for TDD users).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 08-2218. Filed for public inspection December 5, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 22, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-2008-2074872. Susan P. Gratalo, t/a Castle Transportation (23 Griffith Street, Hughestown, Luzerne County, PA 18640—persons, in paratransit service, between points in the County of Luzerne, subject to the following conditions: 1) That the service is limited to the transportation of passengers who are ambulatory; 2) That the service is limited to the use of vehicles that have not been modified to handle wheelchairs; and 3) That service is limited to transportation to or from day programs, workshop programs and social events within the Cities of Pittston and Wilkes-Barre, the Townships of Pittston, Dallas and Plains, and the Boroughs of Avoca, Dupont, Duryea, Hughestown, Forty-Fort, Kingston, West Pittston, Wyoming, West Wyoming and Exeter, all in Luzerne County. *Attorney:* Michael T. Vough, Vough & Associates, 126 South Main Street, Pittston, PA 18640.

A-2008-2075658. RDC Bus Lines, LLC (500 Greentree Commons, 381 Mansfield Avenue, Pittsburgh, Allegheny County, PA 15220), a limited liability company, of the Commonwealth—persons on schedule, and their baggage together with mail, newspapers and such property as can be transported in buses without the removal of seats, between the Township of Ross, Allegheny County, and the City of Harrisburg, Dauphin County, over the following routes: beginning at the North Hills Village in the Township of Ross, Allegheny County, thence by means of US Truck Route 19 to Interstate Highway 279, thence by means of Interstate Highway 279 to the City of Pittsburgh, Allegheny County, thence by means of various city streets to Interstate Highway 376, thence by means of Interstate Highway 376 to PA Highway 48, thence by means of PA Highway 48 to the City of Monroeville, thence by means of US Highway 22 to Interstate Highway 76, thence by means of Interstate Highway 76 to US Highway 15, thence by means of US Highway 15 to PA Highway 581, thence by means of PA Highway 581 to Interstate Highway 83, thence by means of Interstate Highway 83 to the City of Harrisburg, and return over the same routes. *Attorney:* William A. Gray, Esquire, 310 Grant Street, Suite 2310, Grant Building, Pittsburgh, PA 15219.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Cheema Cab Co.;*
Doc. No. C-2008-2062302

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Cheema Cab Co., maintains its principal place of business at 35 Marian Court, Upper Darby, PA 19082-1806.

2. That respondent was issued a certificate of public convenience by this Commission on March 2, 2005, at Application Docket No. A-00121442.

3. That respondent abandoned or discontinued service without having first filed an application to this Commission for abandonment or discontinuance of service. Respondent has not reported intrastate revenue for calendar year 2007.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00121442.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal

arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2219. Filed for public inspection December 5, 2008, 9:00 a.m.]

Tentative Order

Public Meeting held
 September 11, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Guidelines for Temporary Waiver of the Call Recording Prohibition Set Forth at 52 Pa. Code § 63.137(2);
Doc. No. M-2008-2074891

Tentative Order

By the Commission:

By order entered on September 23, 2008, at Docket No. P-2008-2051138, we granted, in part, the petition of four D&E Local Exchange Carriers (LECs) for partial waiver of 52 Pa. Code § 63.137(2), which, *inter alia*, prohibits recording telephone calls between customers and telephone company service representatives.¹ We had previously granted similar waivers to two Verizon LECs and two Full Service LECs.² Specifically, the eight petitioning LECs received waivers allowing them to record, for training and quality of service purposes, customer calls to their call centers. Rather than continue to address such waivers on a piecemeal basis, we will address waiver of section 63.137(2) on an industry-wide basis in this tentative order by proposing guidelines for terms and conditions that will qualify for a temporary partial waiver of

¹ Buffalo Valley Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, and D&E Systems, Inc., were granted partial waivers of 52 Pa. Code § 63.137(2) at Docket No. P-2008-2051138 (September 23, 2008).

² Verizon Pennsylvania Inc. and Verizon North Inc. (Verizon LECs) were granted partial waivers at Docket No. P-00072333 (December 20, 2007). Full Service Computing Co. and Full Service Network LP (Full Service LECs) were granted partial waivers at Docket No. P-2008-2020446 (May 5, 2008).

section 63.137(2). Comments are due in hand 30 days after publication of this tentative order in the *Pennsylvania Bulletin*.

Background

Currently, all “telephone companies,”³ except the eight LECs that have been granted partial waivers, are expressly prohibited from recording telephone conversations between customers and call center personnel. 52 Pa. Code § 63.137(2). As we noted in the Verizon order, section 63.137(2) was promulgated in an effort to balance customer privacy interests with business interests of the telecommunications utilities.⁴ To establish this balance, telecommunications call center supervisors are allowed to monitor communications between customers and service representatives through “live” or “real-time” listening in, but calls may not be recorded.

Substantively, 52 Pa. Code § 63.137(2) provides, in relevant part, as follows:

(2) *Service evaluation and monitoring.* The telephone company may evaluate and monitor those aspects of its operations, including customer communications, necessary for the provision of service to its customers.

The recording of conversations is prohibited.

(Emphasis added.) The remainder of section 63.137(2) explains, in several subparts, the types of service evaluation and monitoring of customer telephone calls a telecommunications company may perform in the provision of service to its customers.

No jurisdictional utility industry outside the telecommunications industry is subject to similar customer or call-center call-recording prohibitions under our regulations.

Discussion

The strikingly similar arguments presented by the eight petitioning LECs in support of their individual waiver requests, coupled with the differences in the specific features and permissions requested by the petitioning LECs, lead us to conclude that establishing guidelines for terms and conditions for waivers for call recording practices may be necessary until such time as this Commission can institute a generic rulemaking regarding the applicable regulations. Among other arguments related to improving customer service, the eight LECs noted, in support of their waiver requests, that they are the only class of jurisdictional utilities that is prohibited from recording calls for any purpose including training and measuring and improving service quality. Other utilities, as well as other businesses including this Commission, routinely record calls for service quality purposes within the bounds of applicable laws concerning wiretaps and trap and trace devices.

Rather than continue to address the concerns of LECs in a piecemeal fashion, we shall propose herein establishing guidelines regarding the terms and conditions that will qualify for temporary waiver of the call recording provision in section 63.137(2). Procedurally, section 63.53(e)⁵ of our regulations permits us to waive our

regulations under certain circumstances and after notice to the affected parties.

Under section 63.53(e), notice of a request for exemption must be provided to the persons who would be affected by the exemption. This tentative order provides notice to the public, in general, of the proposal to adopt guidelines for terms and conditions for temporary waivers of the call recording prohibition in our regulations. Further, under the proposed guidelines, customers will be ensured the option of refusing to be recorded by requesting a call back from a service representative in which case any waiver of the section 63.137(2) call recording prohibition will not affect them because the call back will not be recorded.

Under the proposed guidelines, petitions for waiver would have to include the following elements:

- Recorded calls would be erased after a 90-day retention period.
- Customers calling a call center equipped to record customer calls would hear a prerecorded message to the effect that “this call may be monitored or recorded for training or quality control purposes.”
- The system will afford customers the option to discontinue the call and request a callback from an unmonitored line.
- Recorded telephone calls will be used solely for the purpose of training or measuring and improving service quality.
- The waiver will be for 1 year, commencing with the utility’s go-live date.
- The utility may petition for up to two 1-year extensions of an initial waiver.
- Petitions for the extensions need to be filed at least 2 months prior to the end of any existing waiver.
- Petitions for extension will contain a status report detailing any customer complaints about the operation of the call recording program as well as details on the resolution of the complaint.⁶

Parties filing comments to this tentative order should address whether they believe further or alternate limitations would be appropriate. Other matters to be commented upon include but are not limited to:

- When the initial 1-year period would commence.
- Whether the utility’s intention to utilize a call recording system should be addressed in the utility’s tariff.
- Alternative terms and conditions.

The D&E LECs petitioned to be able to use the recorded calls for “evidentiary” purposes. We rejected that use, asserting that we believe that permitting calls taped under the mantle of training and quality service improvement purposes to be used for any evidentiary purpose may violate Pennsylvania’s wiretapping law. Thus, none of the eight petitioning LECs that have been granted partial waivers of section 63.137(2) have been granted permission to use the recorded calls for evidentiary purposes. We see no reason to change our position on this

³ Section 63.137(2) applies to “telephone companies,” which would include all jurisdictional telecommunications entities.

⁴ The provisions of section 63.137(2) were issued pursuant to 66 Pa.C.S. §§ 501 and 1501, and were adopted July 24, 1992, effective September 23, 1992, 22 Pa.B. 3892.

⁵ 52 Pa. Code § 63.53 (e) provides that:

If unreasonable hardship to a person or to a utility results from compliance within this subchapter, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this subchapter by the Commission will not preclude the altering or amending of the provisions in a manner consistent with applicable statutory procedures, nor will the adoption of this subchapter preclude the Commission from granting temporary exemptions in exceptional cases. A

person or utility that files an application under this section shall provide notice to a person who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

⁶ In other proceedings where we have granted waivers of our regulations, we have required status reports from the utility and imposed time or duration limits on waivers. See, for example, *The Peoples Natural Gas Company, d/b/a Dominion Peoples*, Docket No. P-00052159 (June 23, 2006); and *Petition of Columbia Natural Gas of Pennsylvania*, Docket No. P-00062230 (March 27, 2007).

matter in the context of establishing guidelines for terms and conditions for waivers. The Wiretap Act provides, in pertinent part, that:

It shall not be unlawful and no prior court approval shall be required under this chapter for:

* * * * *

(6) Personnel of any public utility to record telephone conversations with utility customers or the general public relating to receiving and dispatching of emergency and service calls provided there is, during such recording, a periodic warning which indicates to the parties to the conversation that the call is being recorded.

* * * * *

(15) The personnel of a business engaged in telephone marketing or telephone customer service by means of wire, oral or electronic communication to intercept such marketing or customer service communications where such interception is made for the sole purpose of training, quality control or monitoring by the business, provided that one party involved in the communications has consented to such intercept. Any communications recorded pursuant to this paragraph may only be used by the business for the purpose of training or quality control. Unless otherwise required by Federal or State law, communications recorded pursuant to this paragraph shall be destroyed within one year from the date of recording. 18 Pa.C.S. § 5704(6) and (15). Accordingly, use of recorded customer calls is and will remain limited to training and quality control purposes, and the retention of recordings for "evidentiary" or other purposes is and will remain prohibited.⁷

By establishing guidelines for terms and conditions of waivers, prospectively, we may create a disparity between the waivers previously granted (to the eight LECs) and any waivers that would be granted subsequently to the establishment of such guidelines in certain minor aspects. Specifically, under the guidelines for terms and conditions of waivers that we propose for prospective application, we would require that such waivers be granted for a 1-year period with the possibility of two 1-year extensions. Also, we would also require that status reports be filed with requests for extensions. Further, we would also require that the duration for which a call could be retained be set at 90 days, and, finally, that the utilities could not use the recorded calls in either formal or informal complaint cases. In all other respects, however, the limitations proposed herein mirror the conditions imposed in the partial waivers previously granted to the eight petitioning LECs. Parties filing comments to this tentative order should address whether they believe that further or alternate limitations would be appropriate for the eight LECs.

In granting the petition filed by the Verizon, Full Service, and D&E LECs, we noted that a rulemaking proceeding may ultimately be appropriate in order to determine whether a revision to section 63.137(2) is necessary to address this issue on an industry-wide basis. Parties filing comments to this tentative order should address whether establishing guidelines terms and conditions for waivers is sufficient or whether

there are further related matters that should be addressed in a rulemaking.

Conclusion

Under the totality of the circumstances, the Commission finds, under its authority under 66 Pa.C.S. § 501(a) and 66 Pa.C.S. § 3019(b)(2), that establishing guidelines for terms and conditions for waivers under which telecommunications utilities may request a temporary waiver of the call recording prohibition at 52 Pa. Code § 63.137(2) may be warranted. Comments on this proposal are due in hand within 30 days of publication of this tentative order in the *Pennsylvania Bulletin*. Interested parties are requested to specifically address the points raised here in and are free to raise additional points in their comments. It is expressly noted neither the establishment of guidelines for terms and conditions for waivers nor the granting of a partial waiver would enlarge or limit, in any way, a jurisdictional utility's obligations or a customer's protections pursuant either to Pennsylvania's Wiretapping and Electronic Surveillance Control Act (18 Pa.C.S. §§ 5701—5704), or to any applicable Federal statutes or regulations; *Therefore*,

It Is Ordered:

1. That interested parties are requested to comment on the proposal to establish guidelines for terms and conditions under which telecommunications utilities may petition for temporary waivers of the call recording prohibition contained in 52 Pa. Code § 63.137(2), consistent with this Order.

2. That all other provisions of 52 Pa. Code § 63.137(2) remain in full force and effect.

3. That interested parties may file comments to this tentative order within 30 days after the date of publication of this tentative order in the *Pennsylvania Bulletin*. The mailbox rule does not apply.

4. The contact persons for this tentative order are Louise Fink Smith, Esq., Law Bureau, (717) 787-8866, finksmith@state.pa.us, Melissa Derr, Bureau of Fixed Utility Services, (717) 783-6171, mderr@state.pa.us, and Holly Frymoyer, Bureau of Consumer Services, (717) 783-1628, mfrymoyer@state.pa.us. An electronic version of any comments filed must be provided (by e-mail) to Louise Fink Smith, Melissa Derr and Holly Frymoyer at the time of filing.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2220. Filed for public inspection December 5, 2008, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 08-147.3, Plumbing Invest and Repairs, PRPA Piers until 2 p.m., January 6, 2009, mandatory prebid job-site meeting, December 18, 2008, 10 a.m., PRPA office. Also, Project No. 08-148.7, Rail Track Maintenance and Quarterly Inspection, PRPA Piers until 3 p.m., January 6, 2009, mandatory prebid job-site meeting, December 18, 2008, 11 a.m., PRPA office. Bid documents (for each project) are available December

⁷ This prohibition also prevents the use of recordings in informal complaint proceedings before the Commission.

9, 2008, in the office of the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. Bidders must provide the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax (215) 426-6800, Attn: Procurement Department. PRPA is an equal opportunity employer. Contractor must comply with all applicable EEO laws. Additional information and project listings may be found at www.philaport.com.

JAMES T. MCDERMOTT, Jr.
Executive Director

[Pa.B. Doc. No. 08-2221. Filed for public inspection December 5, 2008, 9:00 a.m.]
