

PENNSYLVANIA BULLETIN

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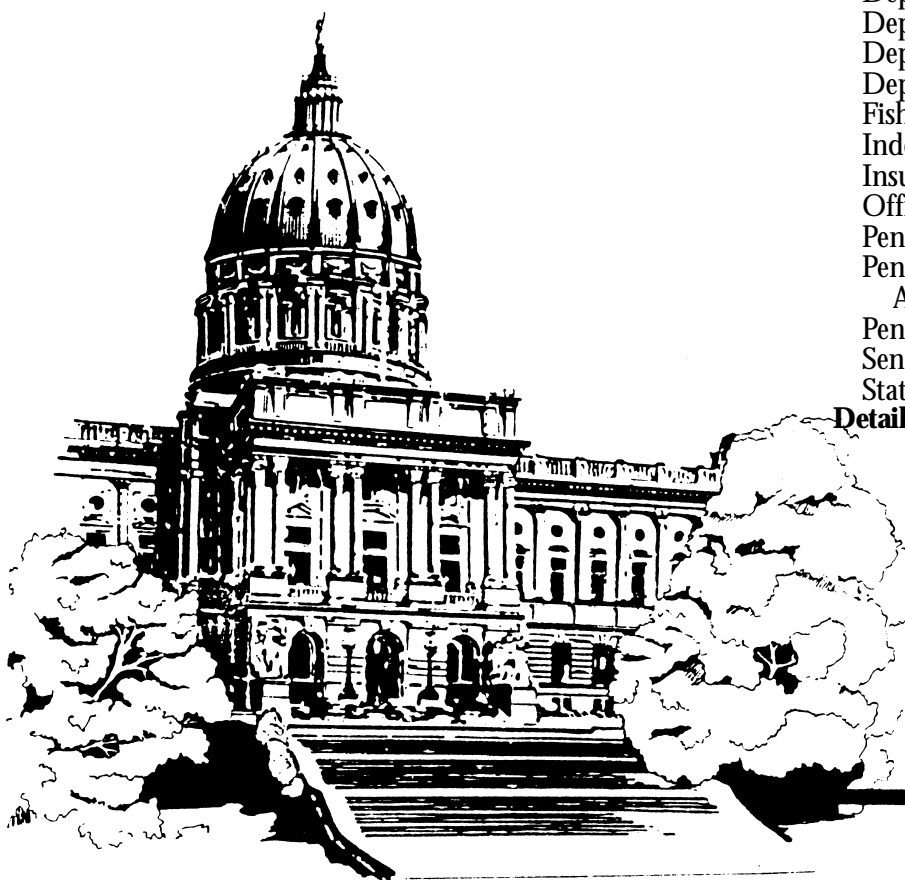
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**Latest Pennsylvania Code Reporter
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No. 409, December 2008

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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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.

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THE GOVERNOR

GOVERNOR'S OFFICE

[EXECUTIVE ORDER NO. 2008-05]

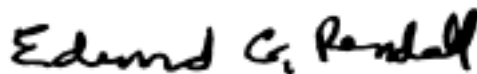
Transition Period for the Pennsylvania Health Care Cost Containment Council; Revision No. 1

November 19, 2008

By virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, do hereby revise Executive Order 2008-05, paragraph 7, as follows:

7. This Executive Order shall take effect immediately and shall expire on June 30, 2009, or the date upon which PHC4 is reauthorized by the General Assembly.

(Editor's Note: For the full text of this Executive Order, see 38 Pa.B. 5155 (September 20, 2008).)



Governor

Fiscal Note: GOV 2008-05 (Revised November 19, 2008). (1) General Fund; (2) Implementing Year 2008-09 is \$2,810,000; (3) 1st Succeeding Year 2009-10 is \$0; 2nd Succeeding Year 2010-11 is \$0; 3rd Succeeding Year 2011-12 is \$0; 4th Succeeding Year 2012-13 is \$0; 5th Succeeding Year 2013-14 is \$0; (4) 2007-08 Program—NA; 2006-07 Program—NA; 2005-06 Program—NA; (7) Pennsylvania Health Care Cost Containment Council; (8) recommends adoption. This cost estimate represents funding for the remaining 7 months of Fiscal Year 2008-09.

[Pa.B. Doc. No. 08-2222. Filed for public inspection December 12, 2008, 9:00 a.m.]

THE GENERAL ASSEMBLY

COMMISSION ON SENTENCING

Thursday Quarterly Commission 9 a.m.
December 18, 2008 Meeting

MARK H. BERGSTROM,
Executive Director

Meetings Scheduled

The Commission on Sentencing announces the following public meetings to be held at The Union League of Philadelphia, 140 South Broad Street, Philadelphia, PA 19102:

[Pa.B. Doc. No. 08-2223. Filed for public inspection December 12, 2008, 9:00 a.m.]

Wednesday December 17, 2008	Policy Committee Information Meeting Dinner/Policy Committee Meeting	1 p.m. 6:30—9 p.m.
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Recent Actions during the 2008 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2008 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2008 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 133 through 136					
133	Nov 26	HB0347	PN4509	60 days	Vehicle Code (75 Pa.C.S.)—omnibus amendments
134	Nov 26	HB1543	PN4489	60 days	Crimes Code (18 Pa.C.S.)—expungement of criminal history record
135	Nov 26	HB2188	PN4521	90 days	Abandoned and Blighted Property Conservatorship Act—enactment
136	Nov 26	SB1114	PN2489	60 days	Blue Star Point Lookout, John W. Groters Memorial Highway, Police Sergeant Stephen Liczbinski Memorial Highway, Glenn McMaster Memorial Bridge—designations

* denotes an effective date with exceptions

Effective Dates of Statutes

The effective dates specified previously for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services (Department) shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

ROBERT W. ZECH, Jr.,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 08-2224. Filed for public inspection December 12, 2008, 9:00 a.m.]

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1910, 1915 AND 1920]

Amendments to Rules 1910, 1915 and 1920; Relating to Domestic Relations Matters; Proposed Recommendation No. 97

The Domestic Relations Procedural Rules Committee (Committee) is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the Committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The Committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Submit written comments no later than Friday, February 13, 2009 directed to:

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Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.

* * * * *

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support or alimony pendente lite (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support the children, the guideline amount of spousal support or alimony pendente lite shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support or alimony pendente lite, and awarding the net difference either to the non-custodial parent as spousal support/alimony pendente lite or to the custodial parent as child support as the circumstances warrant.

[The following example uses the formula to show the steps followed to determine the amount of the non-custodial parent's support obligation to the children and the effect of that obligation upon the custodial parent's spousal support obligation. The example assumes that the parties have two children and the non-custodial parent's net monthly income

is \$1,000 and the custodial parent's net monthly income is \$2,600.] The calculation is a five-step process. First, determine the spousal support obligation of the custodial parent to the non-custodial parent based upon their net incomes from the formula for spousal support without dependent children [, i.e., \$640]. Second, recompute the net income of the parties assuming the payment of the spousal support [so that \$640 is deducted from the custodial parent's net income, now \$1,960, and added to the non-custodial parent's net income, now \$1,640]. Third, determine the child support obligation of the non-custodial parent for two children [, i.e., \$501]. Fourth, determine the recomputed support obligation of the custodial parent to the non-custodial parent by subtracting the non-custodial parent's child support obligation from Step 3 [(\$501)] from the original support obligation determined in Step 1 [(\$640). The recomputed spousal support is \$139]. Fifth, because the first step creates additional tax liability for the recipient non-custodial parent and additional tax deductions for the payor custodial parent and the third step involves an offset of the child support owed by the custodial parent against the spousal support or alimony pendente lite owed by the custodial parent, only that reduced amount will be taxable. Therefore, the trier of fact may consider as a deviation factor the ultimate tax effect of the calculation and modify the amount accordingly in favor of the non-custodial recipient parent.

* * * * *

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

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

* * * * *

(b) *Health Insurance Premiums.*

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party and/or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it, as long as a statutory duty of support is owed to the party who is paying the premium. **If there is no statutory duty of support owed to the party who is paying the premium, the portion attributable to that person must be deducted from the premium as set forth in subdivision (2) below.** If health insurance coverage for a child who is the subject of the support proceeding is being provided and paid for by a third party resident of [the] either party's household, the cost shall be allocated between the parties in proportion to their net incomes. If the obligor is paying the premium, then the obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then the obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

(2) When the health insurance covers a party to whom no statutory duty of support is owed, even if that person is paying the premium as set forth in subdivision (1) above, or other persons who are not parties to the support action or children who are not the subjects of the support action, the portion of the premium attributable to them must be excluded from allocation. In the event **that evidence as to this portion is not submitted by either party [known or cannot be verified]**, it shall be calculated as follows. First, determine the cost per person by dividing the total cost of the premium by the number of persons covered under the policy. Second, multiply the cost per person by the number of persons who are not owed a statutory duty of support, or are not parties to, or the subject of the support action. The resulting amount is excluded from allocation.

(2.1) The actual incremental amount of the premium which provides coverage for the subjects of the support order, if submitted by either party, shall be used in determining the amount of the premium to be allocated between the parties. If not submitted by either party, then the amount of the premium shall be divided by the number of persons covered to calculate the portion of the premium that provides coverage to each person.

Example 1. If the parties are separated, but not divorced, and Husband pays \$200 per month toward the cost of a health insurance policy provided through his employer which covers himself, Wife, the parties' child, and two additional children from a previous marriage, the portion of the premium attributable to the additional two children, if not otherwise verifiable or known with reasonable ease and certainty, is calculated by dividing \$200 by five persons and then multiplying the resulting amount of \$40 per person by the two additional children, for a total of \$80 to be excluded from allocation. Deduct this amount from the total cost of the premium to arrive at the portion of the premium to be allocated between the parties—\$120. Since Husband is paying the premium, and spouses have a statutory duty to support one another pursuant to 23 Pa.C.S.A. § 4321, Wife's percentage share of the \$120 is deducted from Husband's support obligation. If Wife had been providing the coverage, then Husband's percentage share would be added to his basic support obligation.

* * * * *

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

* * * * *

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

* * * * *

(2) When nonpayment of the support order by the obligor causes overdue support to accrue, the court may increase the order for income withholding until the overdue support is paid in full. **Unless otherwise provided in the order, both the obligor and obligee shall be given notice of the court's intent to increase the order for income withholding or to increase the amount of periodic payments on arrears. The notice shall advise the obligor that he or she may object to the proposed increase in writing or by personal appearance before the county domestic relations office within 20 days from the date of the notice. If the obligor objects, a conference or**

hearing shall be scheduled. No order increasing the amount of income withholding or the amount of periodic payments on arrears may be entered unless the obligor fails to object within 20 days of the date of the notice or, if an objection is made, until the trier of fact has ruled on the objection. The court **also** may [**also**] direct the employer to withhold any periodic or lump sum distributions of income which may be payable to the obligor in addition to regular income until further order of court.

* * * * *

Explanatory Comment—2000

1. Rule 1910.21 continues to implement the requirements of mandatory income withholding under 23 Pa.C.S.A. § 4348(b) in all support cases except those in which there is no overdue support and either the parties agree to an alternative arrangement or the court finds good cause for not requiring such withholding. Consistent with Act 1997-58, advance notice to the obligor is no longer required before the court may issue an order for income withholding. Notice is now provided concurrently with issuance of the order to the obligor's employer under subdivision (e).

2. This Rule continues to apply to the withholding of "income," not merely wages. Income is broadly defined in 23 Pa.C.S.A. § 4302 as including "compensation for services, including, but not limited to, wages, salaries, bonuses, fees, compensation in kind, commissions and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; all forms of retirement; pensions; income from discharge of indebtedness; distributive share of partnership gross income; income with respect of a decedent; income from an interest in an estate or trust; military retirement benefits; railroad employment retirement benefits; social security benefits; temporary and permanent disability benefits; worker's compensation; unemployment compensation; other entitlements to money or lump sum awards, without regard to source, including lottery winnings, income tax refunds, insurance compensation or settlements; awards or verdicts; and any form of payment due to and collectible by an individual regardless of source."

The Consumer Credit Protection Act, 15 U.S.C. § 1673, sets forth the limitations on monetary withholding. It is important to note, however, that these federal limitations apply only to an obligor's wages or earnings, as those terms are defined in the Consumer Credit Protection Act, and do not apply to any additional forms of income set forth in 23 Pa.C.S.A. § 4302.

3. The term "employer" is broadly defined in 23 Pa.C.S.A. § 4302 as including an individual, partnership, association, corporation, trust, Federal agency, Commonwealth agency or political subdivision paying or obligated to pay income.

4. Subdivision (c) requires all orders for income withholding to include a provision directing the employer to withhold any income which may be payable to the obligor at the end of the employment relationship. This provision contemplates forms of income payable to the obligor "in lieu of" regular income as a direct result of the end of the employment relationship—*e.g.*, lump-sum commutations of workers' compensation benefits, severance pay, golden parachutes, or any form of income payable in lieu of the regular stream of income which had been used during the course of employment to secure the monthly support obligation.

5. Subdivision (f) differs in scope and purpose from subdivision (c). Subdivision (f) applies only in cases involving overdue support, and permits the court to increase the rate of income withholding until the overdue support is paid in full. It also allows the court to order the employer to withhold all forms of income which may be owing and payable to the obligor "in addition to" regular income—e.g., bonuses, proceeds from the exercise of stock options or any other kinds of income which are periodically payable during the course of employment.

6. Subdivision (g) incorporates former Rule 1910.22(e) relating to income withholding for multiple support obligations. The provision is amended only to establish the priority of collecting child support before spousal support in cases where the maximum amount of income which can be withheld under the Consumer Credit Protection Act is not sufficient to cover all of the obligor's support obligations in full. In those cases, the income must be allocated first to meet all of the obligor's child support obligations before it may be used to satisfy any of the obligor's spousal support obligations. The portion of the obligation which cannot be satisfied through income withholding will have to be collected through other available means of enforcement.

Explanatory Comment—2009

In some jurisdictions, orders are being increased in an effort to increase the amount collected on arrears with no prior notice to the obligor, no opportunity for the obligor to object and no assessment of the obligor's ability to pay an increased amount. The amendments to subdivision (f)(2) require notice and an opportunity to be heard before an income withholding order or an order for periodic payment on arrears may be increased, unless the order provides otherwise.

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

* * * * *

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

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

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

* * * * *

IT IS FURTHER ORDERED that, upon payor's failure to comply with this order, payor may be arrested and brought before the Court for a Contempt hearing; payor's wages, salary, commissions, and/or income may be attached in accordance with law[;]. **[this] This** Order

[will] may be increased by no more than ten percent a month without further hearing to \$_____ a month until all arrearages are paid in full. Payor is responsible for court costs and fees.

Copies delivered to parties _____
(INDICATE DATE DELIVERED).

Consented:

Plaintiff

Plaintiff's Attorney

Defendant

Defendant's Attorney

BY THE COURT

J.

* * * * *

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

Rule 1915.4. Prompt Disposition of Custody Cases.

* * * * *

(b) *Listing Trials Before the Court.* Depending upon the procedure in the judicial district, within 180 days of the filing of the complaint either the court shall automatically enter an order scheduling a trial before a judge or a party shall file a praecipe, motion or request for trial, except as otherwise provided in this subdivision. If it is not the practice of the court to automatically schedule trials and neither party files a praecipe, motion or request for trial within 180 days of filing of the pleading, the court shall dismiss the matter unless the moving party has been granted an extension for good cause shown, which extension shall not exceed 60 days beyond the 180 day limit. **A further reasonable extension may be granted by the court upon agreement of the parties or when the court finds, on the record, compelling circumstances for a further reasonable extension.**

* * * * *

Explanatory Comment—2000

A new rule requiring prompt custody trials was recommended by a special committee established by the Pennsylvania Superior Court. That committee concluded that the interests of children who are the subjects of custody litigation would best be served by a requirement that the litigation be concluded within specific time frames.

* * * * *

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing.

(a)(1) The court may hear the testimony or, upon its own motion or the motion of either party, may appoint a master with respect to all or any of the matters specified in subdivision (a)(2)(i) to consider same and issue a report and recommendation. The order of appointment shall specify the matters which are referred to the master.

(2)(i) The court may appoint a master in an action of divorce under Section 3301(a), (b) and (d)(1)(ii) of the Divorce Code, an action for annulment, and the claims for alimony, alimony pendente lite, equitable distribution of

marital property, child support, partial custody or visitation, or counsel fees, costs and expenses, or any aspect thereof.

(ii) **If there are no claims other than divorce, [No] no master may be appointed [as to the claim] to determine grounds for divorce [in an action under section] if either party has asserted grounds for divorce pursuant to Section § 3301(c) or § 3301(d)(1)(i) of the Divorce Code. A master may be appointed to hear ancillary economic claims in a divorce action pursuant to § 3301(c) or § 3301(d) of the Divorce Code. The master may be appointed to hear ancillary economic claims prior to the entry of a divorce decree if grounds for divorce have been established.**

(iii) No master may be appointed in a claim for legal, physical or shared custody or paternity.

Official Note: Section 3321 of the Divorce Code, 23 Pa.C.S.A. § 3321, prohibits the appointment of a master as to the claims of custody and paternity.

(3) The motion for the appointment of a master and the order shall be substantially in the form prescribed by Rule 1920.74.

(4) A permanent or standing master employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district.

Official Note: Hearing conference officers preside at office conferences under [Support] Rule 1910.11. Hearing officers preside at hearings under [Support] Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by [Divorce] Rule 1920.51.

(b) Written notice of the hearing shall be given to each attorney of record by the master. If a master has not been appointed, the prothonotary, clerk or other officer designated by the court shall give the notice.

(c) If no attorney has appeared of record for a party, notice of the hearing shall be given to the party by the master, or if a master has not been appointed, by the prothonotary, clerk or other officer designated by the court, as follows:

* * * * *

Official Note: Under [Definition] Rule 76, registered mail includes certified mail.

(d) Advertising of notice of the hearing shall not be required.

(e) Proof of notice shall be filed of record.

Official Note: Consistent with Section 3301(e) of the Divorce Code as amended, these rules contemplate that if a divorce decree may be entered under the no fault provisions of [Section] §§ 3301(c) or (d), a divorce decree will be entered on these grounds and no hearing shall be required on any other grounds.

Explanatory Comment—1994

While subdivision (a)(2)(ii) clearly prohibits appointment of a master to determine a divorce claim brought under §§ 3301(c) or 3301(d), the provision does permit a master to hear claims which are joined with the divorce action.

The rule is amended to conform with proposed new Rules 1915.4-1 and 1915.4-2, and to remove the implied prohibition against the use of hearing officers in partial custody or visitation cases.

Explanatory Comment—2009

The rule is amended to clarify the role of the master in a divorce case when either party has asserted grounds for divorce pursuant to § 3301(c) or § 3301(d) of the Divorce Code. The rule had been interpreted in some jurisdictions as requiring the entry of a bifurcated decree before a master could be appointed to hear economic claims.

Rule 1920.52. Hearing by the Court. Decision. No Post-trial Relief. Decree.

* * * * *

(b) In claims involving

* * * * *

Official Note: The procedure relating to Motions **mo-** **tions** for [**Reconsideration**] **reconsideration** is set forth in Rule 1930.2.

(c) The court need not determine all claims at one time but may enter a decree adjudicating a specific claim or claims. **However, unless by agreement of the parties, no bifurcated decree of divorce shall be entered except as set forth in 23 Pa.C.S.A. § 3323(c.1). In any bifurcated decree entered by the court without the agreement of the parties, the court shall state with specificity the compelling circumstances that exist for the entry of the decree and the economic provisions sufficient to protect the non-moving party.**

(d) In all cases the court shall enter a decree separately adjudicating each claim raised.

Explanatory Comment—2009

The Divorce Code was amended in 2004 to make it more difficult for the court to enter a bifurcated divorce decree absent the agreement of the parties. Section 3323(c.1) became effective on January 28, 2005 and limits the circumstances in which the court may enter a bifurcated decree, requiring the establishment of grounds for divorce, compelling circumstances for the entry of the decree and sufficient economic protections for the non-moving party.

Rule 1920.73. Notice of Intention to Request Entry of Divorce Decree. Praecepto to Transmit Record Forms.

* * * * *

(b) The praecipe to transmit the record prescribed by Rule 1920.42 shall be in substantially the following form:

(Caption)

PRAECIPE TO TRANSMIT RECORD

To the Prothonotary:

Transmit the record, together with the following information, to the court for entry of a divorce decree:

1. Ground for divorce: irretrievable breakdown under § (3301(c)) § (3301(d)(1)) of the Divorce Code. (Strike out inapplicable section.)
2. Date and manner of service of the complaint:

3. Complete either paragraph (a) or (b).

(a) Date of execution of the affidavit of consent required by § 3301(c) of the Divorce Code: by plaintiff _____; by defendant _____.

(b)(1) Date of execution of the affidavit required by § 3301(d) of the Divorce Code: _____;

(2) Date of filing and service of the [**plaintiff's**] § **3301(d)** affidavit upon the [**respondent**] **opposing party**: _____.

4. Related claims pending: _____

5. Complete either (a) or (b).

(a) Date and manner of service of the notice of intention to file praecipe to transmit record, a copy of which is attached: _____

(b) Date plaintiff's Waiver of Notice was filed with the prothonotary: _____

Date defendant's Waiver of Notice was filed with the prothonotary: _____

(Attorney for) (PLAINTIFF) (DEFENDANT)

[Pa.B. Doc. No. 08-2225. Filed for public inspection December 12, 2008, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1910]

Amendments to Rules 1910.11, 1910.16-1, 1910.16-2, 1910.16-3, 1910.16-3.1, 1910.16-4, 1910.16-5, 1910.16-6, 1910.16-7, 1910.17 and 1910.27; Relating to Domestic Relations Matters; Recommendation No. 91; Support Guidelines Review

The Domestic Relations Procedural Rules Committee (Committee) is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the Committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

Recommendation 91 was first published for public comment in the summer of 2008. The Committee carefully reviewed all of the comments submitted and has amended parts of the earlier proposal in light of the comments.

The Committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Submit written comments no later than Friday, February 13, 2009 directed to:

Patricia A. Miles, Esquire
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Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

* * * * *

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their Income and Expense Statements in the forms required by Rule 1910.27(c), completed as set forth below.

* * * * *

(2) For cases which are decided according to [**Melzer v. Witsberger, 505 Pa. 462, 480 A.2d 991 (1984)**] **Rule 1910.16-3.1**, the Income Statement and the Expense Statement at Rule 1910.27(c)(2)(B) must be completed.

* * * * *

Rule 1910.16-1. Amount of Support. Support Guidelines.

(a) *Applicability of the Support Guidelines.*

* * * * *

(2) In actions in which the plaintiff is a public body or private agency pursuant to Rule 1910.3, the amount of the order shall be calculated under the guidelines based upon each obligor's net monthly income as defined in Rule 1910.16-2, with the public or private entity's income as zero. In such cases, each parent shall be treated as a separate obligor and a parent's obligation will be based upon his or her own monthly net income without regard to the income of the other parent.

(i) The amount of basic child support owed to other children not in placement shall be deducted from each parent's net income before calculating support for the child or children in placement, including the amount of direct support the guidelines assume will be provided by the custodial parent.

Example 1. Mother and Father have three children and do not live in the same household. Mother has primary custody of two children and net income of [**\$1,500**] **\$2,000** per month. Father's net monthly income is \$3,000. The parties' third child is in foster care placement. Pursuant to the schedule at Rule 1910.16-3, the basic child support amount for the two children with Mother is [**\$1,216**] **\$1,350**. As Father's income is [**67%**] **60%** of the parties' combined monthly net income, his basic support obligation to Mother is [**\$815**] **\$810** per month. The guidelines assume that Mother will provide [**\$401**] **\$540** per month in direct expenditures to the two children in her home. The agency/obligee brings an action against each parent for the support of the child in

placement. Father/obligor's income will be [\$2,185] \$2,190 for purposes of this calculation (\$3,000 net less [\$815] \$810 in support for the children with Mother). Because the agency/obligee's income is zero, Father's support for the child in placement will be 100% of the schedule amount of basic support for one child at the [\$2,185] \$2,190 income level, or [\$545] \$528 per month. Mother/obligor's income will be [\$1,099] \$1,460 for purposes of this calculation ([\$1,500] \$2,000 net less [\$401] \$540 in direct support to the children in her custody). Her support obligation will be 100% of the schedule amount for one child at that income level, or [\$284] \$354 per month.

Example 2. Mother and Father have two children in placement. Father owes child support of \$500 per month for two children of a former marriage. At the same income levels as above, Father's income for determining his obligation to the children in placement would be \$2,500 (\$3,000 less \$500 support for two children of prior marriage). His obligation to the agency would be [\$853] \$866 per month (100% of the schedule amount for two children at the \$2,500 per month income level). Mother's income would not be diminished as she owes no other child support. She would owe [\$544] \$698 for the children in placement (100% of the schedule amount for two children at the [\$1,500] \$2,000 income level).

(ii) If the parents reside in the same household, their respective obligations to the children who remain in the household and are not in placement shall be calculated according to the guidelines, with the parent having the higher income as the obligor, and that amount shall be deducted from the parents' net monthly incomes for purposes of calculating support for the child(ren) in placement.

Example 3. Mother and Father have four children, two of whom are in placement. Mother's net monthly income is \$4,000 and Father's is \$2,000. The basic support amount for the two children in the home is [\$1,359] \$1,483, according to the schedule at Rule 1910.16-3. As Mother's income is 67% of the parties' combined net monthly incomes, her share would be [\$911] \$994, and Father's 33% share would be [\$448] \$489. Mother's income for purposes of calculating support for the two children in placement would be [\$3,089] \$3,006 (\$4,000 less [\$911] \$994). She would pay 100% of the basic child support at that income level, or [\$1,029] \$1,033, for the children in placement. Father's income would be [\$1,552] \$1,511 (\$2,000 less [\$448] \$489) and his obligation to the children in placement would be [\$560] \$531.

* * * * *

(c) *Spousal Support and Alimony Pendente Lite.*

(1) Orders for spousal support and alimony pendente lite shall not be in effect simultaneously.

(2) **In determining the duration of an award for spousal support or alimony pendente lite, the trier of fact shall consider the period of time during which the parties lived together from the date of marriage to the date of final separation.**

* * * * *

Explanatory Comment—[2005] 2008

Introduction. Pennsylvania law requires that child and spousal support be awarded pursuant to a statewide guideline. 23 Pa.C.S. § 4322(a). That statute further provides that the guideline shall be “established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly.” Id.

Pursuant to federal law, The Family Support Act of 1988 (P. L. 100-485, 102 Stat. 2343 (1988)), 42 U.S.C. § 667(a), statewide support guidelines must “be reviewed at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.” Federal regulations, 45 CFR 302.56, further require that such reviews include an assessment of the most recent economic data on child-rearing costs and a review of data from case files to assure that deviations from the guidelines are limited. The Pennsylvania statute also requires a review of the support guidelines every four years. 23 Pa.C.S.A. § 4322(a).

The Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania began the mandated review process in [early 2003] 2007. The committee was assisted in its work by Jane Venohr, Ph.D., an economist with [Policy Studies, Inc.] the Center for Policy Research, under contract with the Pennsylvania Department of Public Welfare. As a result of the review, the committee recommended to the Supreme Court several amendments to the statewide guidelines.

A. *Income Shares Model.* Pennsylvania's child support guidelines are based upon the Income Shares Model. That model was developed under the Child Support Guidelines Project funded by the U.S. Office of Child Support Enforcement and administered by the National Center for State Courts. The Guidelines Project Advisory Group recommended the Income Shares Model for state guidelines. At present, [33] 37 states use the Income Shares Model as a basis for their child support guidelines.

The Income Shares Model is based upon the concept that the child of separated, divorced or never-married parents should receive the same proportion of parental income that she or he would have received if the parents lived together. A number of authoritative economic studies provide estimates of the average amount of household expenditures for children in intact households. These studies show that the proportion of household spending devoted to children is directly related to the level of household income and to the number of the children. The basic support amounts reflected in the schedule in Rule 1910.16-3 represent average marginal expenditures on children for food, housing, transportation, clothing and other miscellaneous items that are needed by children and provided by their parents, including the first \$250 of unreimbursed medical expenses incurred annually per child.

1. *Economic Measures.* The support schedule in Rule 1910.16-3 is based upon child-rearing expenditures measured by David M. Betson, Ph.D., Professor of Economics, University of Notre Dame. Dr. Betson's measurements were developed for the U.S. Department of Health and Human Services for the explicit purpose of assisting states with the development and revision of child support guidelines. Dr. Betson's research [was] also used in developing the prior schedule, effective in [April 1999] January 2006. [In 2001,] Dr. Betson [updated] updates his estimates using data from the [1996-98]

Consumer Expenditure Survey conducted by the U.S. Bureau of Labor Statistics. In the current schedule, those figures were converted to [2003] 2008 price levels using the Consumer Price Index.

2. *Source of Data.* The estimates used to develop the schedule are based upon national data. The specific sources of the data are the periodic Consumer Expenditure Surveys. Those national surveys are used because they are the most detailed available source of data on household expenditures. The depth and quality of this information is simply not available at the state level and would be prohibitively costly to gather. **[However, according to the 2000 Census conducted by the U.S. Census Bureau, the median Pennsylvania family income in 1999 was \$49,184, while the national median family income was \$50,046. Thus, using national data continues to be appropriate.]**

The U. S. Department of Agriculture's Center for Nutrition Policy and Promotion ("CNPP") also develops economic estimates for the major categories of child-rearing expenditures. Although the committee reviewed these estimates, it is [not] aware of [any] only one state that relies upon the CNPP estimates as a basis for its child support schedule, **and even that state makes certain adjustments.**

B. *Statutory Considerations.* The Pennsylvania statute, 23 Pa.C.S.A. § 4322(a), provides:

Child and spousal support shall be awarded pursuant to a Statewide guideline as established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly. The guideline shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guideline shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention. The guideline so developed shall be reviewed at least once every four years.

1. *Reasonable Needs and Reasonable Ability to Provide Support.* The guidelines make financial support of a child a primary obligation and assume that parties with similar net incomes will have similar reasonable and necessary expenses. After the basic needs of the parents have been met, the child's needs shall receive priority. The guidelines assume that if the obligor's net income is at the poverty level, he or she is barely able to provide for his or her own basic needs. In those cases, therefore, the entry of a minimal order may be appropriate after considering the party's living expenses. In some cases, it may not be appropriate to enter a support order at all. In most cases, however, a party's living expenses are not relevant in determining his or her support obligation. Rather, as the statute requires, the obligation is based upon the reasonable needs of a dependent spouse or child and the reasonable ability of the obligor to pay.

2. *Net Income.* The guidelines use the net incomes of the parties **[and are based on the assumption that a child's reasonable needs increase as the combined net income of the child's parents increases]**. Each parent is required to contribute a share of the child's reasonable needs in proportion to that parent's share of

the combined net income. The custodial parent makes these contributions through direct expenditures for food, shelter, clothing, transportation and other reasonable needs. The non-custodial parent makes contributions through periodic support payments to the custodial parent. Rule 1910.16-2(d) has been amended to clarify the provisions relating to **[fluctuating]** income and earning capacity.

3. *Allowable Deviations.* The guidelines are designed to treat similarly situated parents, spouses and children in the same manner. However, when there are unavoidable differences, deviations must be made from the guidelines. Failure to deviate from these guidelines by considering a party's actual expenditures where there are special needs and special circumstances constitutes a misapplication of the guidelines.

C. *Child Support Schedule.* The child support schedule in Rule 1910.16-3 has been amended to reflect updated economic data, as required by federal and state law, to ensure that children continue to receive adequate levels of support. **[At some income levels the presumptive amount of support has increased from the previous schedule, and at some income levels it has decreased. The economic data support the revised schedule.]** The support amounts in the schedule have been expanded to apply to a combined net monthly income of **[\$20,000] \$30,000** and remain statistically valid. **The economic data support the revised schedule.**

D. *Self-Support Reserve ("SSR").* The amended schedule also incorporates an increase in the "Self-Support Reserve" or "SSR" from **[\$550] \$748** per month to **[\$748] \$867** per month, the **[2003] 2008** federal poverty level for one person. Formerly designated as the "Computed Allowance Minimum" or "CAM," the Self-Support Reserve, as it is termed in most other states' guidelines, is intended to assure that low-income obligors retain sufficient income to meet their own basic needs, as well as to maintain the incentive to continue employment. The SSR is built into the schedule in Rule 1910.16-3 and adjusts the basic support obligation to prevent the obligor's net income from falling below **[\$748] \$867** per month. Because the schedule in Rule 1910.16-3 applies to child support only, Rule 1910.16-2(e)(1)(B) provides for a similar adjustment in spousal support and alimony pendente lite cases to assure that the obligor retains a minimum of **[\$748] \$867** per month.

E. *Shared Custody.* **[Prior to the amendments effective in April of 1999, there was no formula or procedure for deviating from the basic support guidelines when custody was shared equally or the non-custodial parent has substantial partial custody. Prior to 1999, the guidelines provided that the obligor's support obligation should be reduced only if he or she spent "an unusual amount of time with the children."**

As part of the review process that resulted in the 1999 amendments, the committee considered the practices of several other jurisdictions and ultimately selected a method which gave some recognition to the shift in child-related expenditures that occurs when the obligor spends a substantial amount of time with the children. While recognizing that it was not a perfect solution to the problem of establishing support obligations in the context of substantial or shared custody, it was preferable to

the diverse offset methods which had been developed by local courts. Its chief advantage was that it provided statewide uniformity and avoided a sharp reduction in the obligation at certain thresholds. These amendments do not change that rule.]

In creating the new schedule, the amounts of basic child support were first increased to reflect updated economic data, including 2008 price levels. Next, the amounts of basic child support were adjusted to incorporate into the schedule the assumption that the children spend 30% of the time with the obligor and that the obligor makes direct expenditures on their behalf during that time. That does not mean that the entire schedule was reduced by 30%. Only those variable expenditures, such as food and entertainment, that fluctuate based upon parenting time were adjusted.

The calculation in Rule 1910.16-4(c) reduces an obligor's support obligation further if the obligor spends significantly more time with the children. The revised schedule assumes that the obligor has 30% parenting time. The obligor will receive an additional 10% reduction in the amount of support owed at 40% parenting time, increasing incrementally to a 20% reduction at 50% parenting time. This method may still result in a support obligation even if custody of the children is equally shared. In those cases, the rule provides for a maximum obligation which may reduce the obligation so that the obligee does not receive a larger portion of the parties' combined income than the obligor.

F. *Child Care Expenses.* Rule 1910.16-6(a) [has been] was amended in 2006 to provide that child care expenses incurred by both parties shall be apportioned between the parties in recognition of the fact that a non-custodial parent also may [also] incur such expenses during his or her custodial periods with the children.

G. *Spousal Support and Alimony Pendente Lite.* Subdivision (c) has been amended to require the court to consider the length of the marriage in determining the duration of a spousal support or alimony pendente lite award. The language was moved from Rule 1910.16-5 which deals with deviation. The primary purpose of this provision is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

H. *Other Amendments.* All of the examples in the guidelines have been updated to reflect the changes to the basic child support schedule. Prior explanatory comments have been deleted or revised and incorporated into new comments.

Rule 1910.16-2. Support Guidelines. Calculation of Net Income.

Generally, the amount of support to be awarded is based upon the parties' monthly net income.

* * * * *

(b) *Treatment of Public Assistance, SSI Benefits and Social Security Payments to a Child Due to a Parent's Death, Disability or Retirement and Foster Care Payments.*

* * * * *

(3) If either party to a support action is a foster parent and/or is receiving payments from a public or private agency for the care of a child who is not their biological or adoptive child, those payments shall not be included in the income of the foster parent or other caretaker for purposes of calculating child support for the foster parent's or other caretaker's biological or adoptive child.

Example 1. If the obligor has net income of \$1,200 per month; the obligee has net monthly income of \$800; and the child receives Social Security derivative benefits of \$300 per month as a result of either the obligor's or obligee's retirement or disability, then the total combined monthly net income is \$2,300. Using the schedule at Rule 1910.16-3 for one child, the amount of support is [\$568] \$551 per month. From that amount, subtract the amount the child is receiving in Social Security derivative benefits ([\$568] \$551 minus \$300 equals [\$268] \$251). Then, apply the formula at Rule 1910.16-4 to apportion the remaining child support amount of [\$268] \$251 between the obligor and the obligee in proportion to their respective incomes. The obligor's \$1,200 net income per month is 60% of the total of the obligor's and the obligee's combined net monthly income. Thus, the obligor's support obligation would be 60% of [\$268] \$251, or [\$161] \$151, per month.

Example 2. Two children live with Grandmother who receives \$400 per month in Social Security death benefits for the children as a result of their father's death. Grandmother also receives \$500 per month from a trust established by Father for the benefit of the children. Grandmother is employed and earns \$2,000 net per month. Grandmother seeks support from the children's mother, who earns \$1,500 net per month. For purposes of calculating Mother's support obligation, Grandmother's income will be \$500, the amount she receives on behalf of the children from the trust. Therefore, the obligee's and the obligor's combined net monthly incomes total \$2,000. Add to that the \$400 in Social Security benefits Grandmother receives for the children to find the basic child support amount in Rule 1910.16-3. The basic support amount at the \$2,400 income level for two children is [\$820] \$831. Subtracting from that amount the \$400 in Social Security derivative benefits Grandmother receives for the children, results in a basic support amount of [\$420] \$431 [to be apportioned between the parties]. As Mother's income is 75% of the parties' combined income of \$2,000, her support obligation to Grandmother is [\$315] \$323 per month.

* * * * *

(d) *Reduced or Fluctuating Income.*

(1) *Voluntary Reduction of Income.* When either party voluntarily assumes a lower paying job, quits a job, leaves employment, changes occupations or changes employment status to pursue an education, or is fired for cause, there generally will be no effect on the support obligation.

(2) *Involuntary Reduction of, and Fluctuations in, Income.* No adjustments in support payments will be made for normal fluctuations in earnings. However, appropriate adjustments will be made for substantial continuing involuntary decreases in income, including but not limited to the result of illness, lay-off, termination, job elimination or some other employment situation over

which the party has no control **unless the court finds that such a reduction in income was willfully undertaken in an attempt to avoid or reduce the support obligation.**

(3) *Seasonal Employees.* Support orders for seasonal employees, such as construction workers, shall ordinarily be based upon a yearly average.

(4) *Earning Capacity.* [Ordinarily, either] If the court finds, on the record, that a party to a support action [who] has willfully [fails] failed to obtain or maintain appropriate employment, [will be considered to have] the court may impute to that party an income equal to the party's earning capacity. Age, education, training, health, work experience, earnings history and child care responsibilities are factors which shall be considered in determining earning capacity. **Generally, the court should not impute an earning capacity that is greater than the amount the party would earn from one full-time position. Determination of what constitutes a reasonable work regimen depends upon all relevant circumstances including the choice of jobs available within a particular occupation, working hours, working conditions and whether a party has exerted substantial good faith efforts to find employment.**

(e) *Net Income Affecting Application of the Child Support Guidelines.*

(1) *Low Income Cases.*

(A) When the obligor's monthly net income and corresponding number of children fall into the shaded area of the schedule set forth in Rule 1910.16-3, the basic child support obligation shall be calculated using the obligor's income only. For example, where the obligor has monthly net income of [\$850] \$950, the presumptive amount of support for three children is [\$94] \$77 per month. This amount is determined directly from the schedule in Rule 1910.16-3.

(B) In computing a basic spousal support or alimony pendente lite obligation, the presumptive amount of support shall not reduce the obligor's net income below [\$748] **the Self-Support Reserve of \$867** per month. For example, if the obligor earns [\$800] \$1,000 per month and the obligee earns \$300 per month, the formula in Part IV of Rule 1910.16-4 would result in a support obligation of [\$200] \$280 per month. Since this amount leaves the obligor with only [\$600] \$720 per month, it must be adjusted so that the obligor retains at least [\$748] \$867 per month. The presumptive minimum amount of spousal support, therefore, is [\$52] \$133 per month in this case.

(C) When the obligor's monthly net income is [\$748] \$867 or less, the court may award support only after consideration of the obligor's actual living expenses.

(2) *High Income Child Support Cases.* [When the parties' combined net income exceeds \$20,000 per month, child support shall be calculated pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). The presumptive minimum amount of child support shall be the obligor's percentage share of the highest amount of support which can be derived from the schedule for the appropriate number of children and using the parties' actual combined income to determine the obligor's percentage share of this amount. The court may award an

additional amount of child support based on the parties' combined income and the factors set forth in *Melzer*. The *Melzer* analysis in high income child support cases shall be applied to all of the parties' income, not just to the amount of income exceeding \$20,000 per month. In a *Melzer* analysis case, the presumptive minimum remains applicable.

For example, where the obligor and the obligee have monthly net incomes of \$17,000 and \$4,000 respectively, the presumptive minimum amount of child support for three children is calculated as follows: using the formula in Rule 1910.16-4, determine the parties' percentage shares of income based on their actual combined income—81% and 19% respectively of \$21,000. Using the schedule in Rule 1910.16-3, find the highest possible combined child support obligation for three children—\$3,018. The obligor's percentage share of the combined obligation is 81% of \$3,018, or \$2,445. This is the presumptive minimum amount of child support that he or she must pay for three children. Since this amount is derived from the schedule in Rule 1910.16-3, which is limited to combined household income of \$20,000, the court may award an additional amount of support based on the factors set forth in *Melzer*.]

When the parties' combined net income exceeds \$30,000 per month, calculation of child support shall be pursuant to Rule 1910.16-3.1(a).

* * * * *

Explanatory Comment—[2005] 2008

Subdivision (a) addresses gross income for purposes of calculating the support obligation by reference to the statutory definition at 23 Pa.C.S.A. § 4322. Subdivision (b) provides for the treatment of public assistance, SSI benefits, [and] Social Security derivative benefits and foster care payments.

Subdivision (c) sets forth the exclusive list of the deductions that may be taken from gross income in arriving at a party's net income. When the cost of health insurance premiums is treated as an additional expense subject to allocation between the parties under Rule 1910.16-6, it is not deductible from gross income. However, part or all of the cost of health insurance premiums may be deducted from the obligor's gross income pursuant to Rule 1910.16-6(b) in cases in which the obligor is paying the premiums and the obligee has no income or minimal income. Subdivision (c) relates to awards of spousal support or alimony pendente lite when there are multiple families. In these cases, a party's net income must be reduced to account for his or her child support obligations, as well as any pre-existing spousal support, alimony pendente lite or alimony obligations being paid to former spouses who are not the subject of the support action.

Subdivision (d) has been amended to clarify the distinction between voluntary and involuntary changes in income and the imputing of earning capacity. [Since the payment of support is a priority, subsection (1) reflects current case law which, for example, holds that a party's decision to forego current employment in order to further his or her education should be treated no differently than a decision to change jobs or occupations which results in a lower income. *Kersey v. Jefferson*, 791 A.2d 419 (Pa. Super.

Ct. 2002); *Grimes v. Grimes*, 596 A.2d 240 (Pa. Super. Ct. 1991).] Statutory provisions at 23 Pa.C.S.A. § 4322, as well as case law, are clear that a support obligation is based upon the ability of a party to pay, and that the concept of an earning capacity is intended to reflect a realistic, rather than a theoretical, ability to pay support. Amendments to subdivision (d) are intended to clarify when imposition of an earning capacity is appropriate.

Subdivision (e) has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in the Self-Support Reserve ("SSR"), formerly referred to as the Computed Allowance Minimum ("CAM"). The schedule now applies to all cases in which the parties' combined net monthly income is [\$20,000] \$30,000 or less. The upper income limit of the prior schedule was only [\$15,000] \$20,000. The amount of support at each income level of the schedule also has changed, so the examples in Rule 1910.16-2 were revised to be consistent with the new support amounts.

The SSR is intended to assure that obligors with low incomes retain sufficient income to meet their basic needs and to maintain the incentive to continue employment. When the obligor's net monthly income or earning capacity falls into the shaded area of the schedule, the basic child support obligation can be derived directly from the schedule in Rule 1910.16-3. There is no need to use the formula in Rule 1910.16-4 to calculate the obligor's support obligation because the SSR keeps the amount of the obligation the same regardless of the obligee's income. The obligee's income may be a relevant factor, however, in determining whether to deviate from the basic guideline obligation pursuant to Rule 1910.16-5 and in considering whether to require the obligor to contribute to any additional expenses under Rule 1910.16-6.

Since the schedule in Rule 1910.16-3 sets forth basic child support only, subdivision (e)(1)(B) is necessary to reflect the operation of the SSR in spousal support and alimony pendente lite cases. It adjusts the basic guideline obligation, which would otherwise be calculated under the formula in Rule 1910.16-4, so that the obligor's income does not fall below the SSR amount in these cases.

Previously, the [CAM] SSR required that the obligor retain at least [\$550] \$748 per month. The SSR now requires that the obligor retain income of at least [\$748] \$867 per month, an amount equal to the [2003] 2008 federal poverty level for one person. When the obligor's monthly net income is less than [\$748] \$867, subsection (e)(1)(C) provides that the court must consider the parties' actual living expenses before awarding support. The guidelines assume that at this income level the obligor is barely able to meet basic personal needs. In these cases, therefore, entry of a minimal order may be appropriate. In some cases, it may not be appropriate to order support at all.

The schedule at Rule 1910.16-3 sets forth the presumptive amount of basic child support to be awarded. If the circumstances warrant, the court may deviate from that

amount under Rule 1910.16-5 and may also consider a party's contribution to additional expenses, which are typically added to the basic amount of support under Rule 1910.16-6. If, for example, the obligor earns only [\$800] \$900 per month but is living with his or her parents, or has remarried and is living with a fully-employed spouse, the court may consider an upward deviation under Rule 1910.16-5(b)(3) and/or may order the party to contribute to the additional expenses under Rule 1910.16-6. Consistent with the goals of the SSR, however, the court should ensure that the overall support obligation leaves the obligor with sufficient income to meet basic personal needs and to maintain the incentive to continue working so that support can be paid.

Subdivision (e) also [reflects the limited] has been amended to eliminate the application of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), [to cases in which the guidelines cannot be used to establish the child support obligation because the parties' combined income exceeds \$20,000 per month] in high-income cases. [The court must establish a presumptive minimum amount of child support using the guidelines to arrive at that amount. The formula for calculating the presumptive minimum amount provides that the parties' percentage shares should be calculated using their actual combined income rather than the theoretical combined income of only \$20,000. In considering whether to award an additional amount of child support, the court must apply the factors set forth in *Melzer* to all of the parties' combined income, not just the amount over \$20,000 per month. It would be improper to apply the formula in Rule 1910.16-4 to the amount of the parties' combined income which exceeds \$20,000 per month and award the obligor's percentage share as additional support. Additional support, if any, may be more or less than the percentage share and must be determined, therefore, in accordance with the factors set forth in *Melzer*. The presumptive minimum shall apply even if the *Melzer* analysis results in a lower amount.] In cases in which the parties' combined net monthly income exceeds \$30,000, child support will be calculated in accordance with the formula in new Rule 1910.16-3.1(a). As the presumptively correct amount of basic support in all cases now will be determined by guidelines schedule or formula, there is no longer any need for the calculation of a presumptive minimum amount of support.

Rule 1910.16-3. Support Guidelines. Basic Child Support Schedule.

The following schedule sets forth the amounts spent on children in intact families by combined income and number of children. Combined income is on the vertical axis of the schedule and number of children is on the horizontal axis of the schedule. This schedule is used to find the basic child support obligation. Unless otherwise provided in these rules, the obligor's share of the basic support obligation shall be computed using the formula set forth in Part I of Rule 1910.16-4.

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
[0-800	50	50	50	50	50	50
850	92	93	94	95	96	97
900	137	138	140	141	143	144
950	182	184	186	188	190	192
1000	227	229	232	234	237	239
1050	271	275	278	281	284	287
1100	284	320	324	327	331	334
1150	296	366	370	374	378	382
1200	309	411	416	420	425	429
1250	322	455	462	467	472	477
1300	335	472	508	513	519	524
1350	348	490	554	560	566	572
1400	360	508	589	606	613	619
1450	373	526	610	653	660	667
1500	386	544	630	699	707	714
1550	397	560	648	723	754	762
1600	409	575	666	743	801	809
1650	421	591	684	763	839	857
1700	432	607	702	783	861	904
1750	444	623	720	803	883	952
1800	455	638	738	822	905	984
1850	467	654	756	842	927	1008
1900	479	670	773	862	949	1032
1950	490	685	790	881	969	1055
2000	501	700	807	900	990	1077
2050	512	715	824	918	1010	1099
2100	523	729	840	937	1031	1121
2150	534	744	857	955	1051	1143
2200	545	759	873	974	1071	1166
2250	557	774	890	992	1092	1188
2300	568	789	907	1011	1112	1210
2350	579	804	924	1030	1133	1233
2400	591	820	942	1051	1156	1257
2450	603	837	961	1071	1179	1282
2500	615	853	979	1092	1201	1307
2550	626	869	998	1113	1224	1332
2600	638	886	1017	1134	1247	1357
2650	650	902	1035	1154	1270	1381
2700	662	918	1054	1175	1292	1406
2750	674	935	1072	1196	1315	1431
2800	684	949	1088	1213	1335	1452
2850	694	962	1103	1230	1353	1472
2900	704	976	1118	1246	1371	1492
2950	714	989	1133	1263	1389	1511
3000	724	1003	1147	1279	1407	1531

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
3050	734	1016	1162	1296	1425	1551
3100	744	1029	1177	1312	1443	1570
3150	754	1043	1192	1329	1461	1590
3200	763	1054	1204	1342	1477	1607
3250	767	1059	1207	1346	1481	1611
3300	772	1063	1211	1350	1485	1616
3350	776	1068	1214	1354	1489	1620
3400	781	1072	1218	1358	1494	1625
3450	785	1077	1221	1362	1498	1630
3500	790	1081	1225	1365	1502	1634
3550	794	1086	1228	1369	1506	1639
3600	798	1090	1231	1373	1510	1643
3650	804	1096	1237	1380	1518	1651
3700	809	1103	1245	1388	1526	1661
3750	815	1110	1252	1396	1535	1670
3800	820	1117	1259	1403	1544	1680
3850	826	1123	1266	1411	1552	1689
3900	831	1130	1273	1419	1561	1699
3950	837	1137	1280	1427	1570	1708
4000	843	1144	1287	1435	1579	1717
4050	848	1151	1294	1443	1587	1727
4100	854	1158	1302	1452	1597	1738
4150	860	1165	1310	1461	1607	1748
4200	866	1173	1318	1469	1616	1759
4250	872	1180	1326	1478	1626	1769
4300	878	1187	1334	1487	1636	1780
4350	884	1194	1341	1496	1645	1790
4400	890	1202	1349	1504	1655	1800
4450	896	1209	1357	1513	1665	1811
4500	902	1216	1365	1522	1674	1821
4550	908	1224	1373	1531	1684	1832
4600	914	1231	1381	1539	1693	1842
4650	920	1238	1389	1548	1703	1853
4700	924	1243	1394	1554	1709	1860
4750	925	1245	1395	1555	1711	1861
4800	927	1246	1396	1557	1713	1863
4850	928	1248	1398	1558	1714	1865
4900	930	1249	1399	1560	1716	1867
4950	931	1251	1400	1561	1717	1869
5000	933	1253	1402	1563	1719	1870
5050	934	1254	1403	1564	1721	1872
5100	936	1256	1404	1566	1722	1874
5150	937	1257	1406	1567	1724	1876
5200	939	1259	1407	1569	1726	1877
5250	940	1261	1408	1570	1727	1879

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
5300	942	1262	1410	1572	1729	1881
5350	943	1264	1411	1573	1731	1883
5400	945	1265	1412	1575	1732	1885
5450	946	1267	1414	1576	1734	1886
5500	948	1268	1415	1578	1735	1888
5550	952	1273	1420	1583	1742	1895
5600	959	1283	1431	1595	1755	1909
5650	966	1292	1441	1607	1768	1923
5700	973	1302	1452	1619	1780	1937
5750	980	1312	1462	1630	1793	1951
5800	988	1321	1473	1642	1806	1965
5850	995	1331	1483	1654	1819	1979
5900	1002	1340	1494	1666	1832	1993
5950	1009	1350	1504	1677	1845	2007
6000	1016	1359	1515	1689	1858	2021
6050	1023	1369	1525	1701	1871	2035
6100	1030	1379	1536	1712	1884	2049
6150	1038	1388	1546	1724	1897	2063
6200	1045	1398	1557	1736	1909	2077
6250	1052	1407	1567	1748	1922	2092
6300	1059	1417	1578	1759	1935	2106
6350	1066	1426	1588	1771	1948	2120
6400	1072	1435	1597	1781	1959	2132
6450	1077	1441	1604	1788	1967	2140
6500	1082	1447	1610	1796	1975	2149
6550	1087	1454	1617	1803	1983	2158
6600	1092	1460	1624	1810	1991	2167
6650	1097	1466	1630	1818	1999	2175
6700	1102	1473	1637	1825	2008	2184
6750	1107	1479	1643	1832	2016	2193
6800	1112	1485	1650	1840	2024	2202
6850	1117	1491	1657	1847	2032	2211
6900	1122	1498	1663	1854	2040	2219
6950	1127	1504	1670	1862	2048	2228
7000	1132	1510	1676	1869	2056	2237
7050	1137	1517	1683	1876	2064	2246
7100	1142	1523	1690	1884	2072	2255
7150	1147	1529	1696	1891	2080	2263
7200	1152	1536	1703	1898	2088	2272
7250	1157	1542	1709	1906	2096	2281
7300	1162	1548	1716	1913	2104	2290
7350	1167	1555	1722	1921	2113	2298
7400	1172	1561	1729	1928	2121	2307
7450	1177	1567	1736	1935	2129	2316
7500	1182	1573	1742	1943	2137	2325

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
7550	1187	1580	1749	1950	2145	2334
7600	1192	1586	1755	1957	2153	2342
7650	1197	1592	1762	1965	2161	2351
7700	1202	1598	1768	1971	2169	2359
7750	1206	1604	1774	1978	2176	2367
7800	1210	1609	1780	1985	2183	2375
7850	1214	1615	1786	1992	2191	2384
7900	1219	1620	1792	1998	2198	2392
7950	1223	1626	1798	2005	2206	2400
8000	1227	1631	1804	2012	2213	2408
8050	1231	1637	1810	2019	2220	2416
8100	1235	1642	1816	2025	2228	2424
8150	1240	1648	1822	2032	2235	2432
8200	1244	1653	1828	2039	2243	2440
8250	1248	1659	1835	2045	2250	2448
8300	1252	1664	1841	2052	2257	2456
8350	1257	1670	1847	2059	2265	2464
8400	1261	1675	1853	2066	2272	2472
8450	1265	1681	1859	2072	2280	2480
8500	1269	1686	1865	2079	2287	2488
8550	1273	1692	1871	2086	2295	2496
8600	1278	1697	1877	2093	2302	2504
8650	1282	1703	1883	2099	2309	2513
8700	1286	1708	1889	2106	2317	2521
8750	1290	1714	1895	2113	2324	2529
8800	1295	1719	1901	2120	2332	2537
8850	1299	1725	1907	2126	2339	2545
8900	1303	1730	1913	2133	2346	2553
8950	1307	1736	1919	2140	2354	2561
9000	1311	1741	1925	2147	2361	2569
9050	1316	1747	1931	2153	2369	2577
9100	1320	1752	1937	2160	2376	2585
9150	1324	1758	1943	2167	2383	2593
9200	1328	1763	1949	2173	2391	2601
9250	1333	1769	1955	2180	2398	2609
9300	1337	1775	1961	2187	2406	2617
9350	1341	1780	1967	2194	2413	2625
9400	1345	1786	1973	2200	2420	2633
9450	1349	1791	1980	2207	2428	2642
9500	1354	1797	1986	2214	2435	2650
9550	1358	1802	1992	2221	2443	2658
9600	1362	1807	1996	2226	2449	2664
9650	1365	1811	2001	2231	2454	2670
9700	1369	1815	2005	2235	2459	2675
9750	1372	1819	2009	2240	2464	2681

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
9800	1376	1823	2013	2244	2469	2686
9850	1379	1827	2017	2249	2474	2692
9900	1383	1832	2021	2253	2479	2697
9950	1386	1836	2025	2258	2484	2702
10000	1390	1840	2029	2263	2489	2708
10050	1393	1844	2033	2267	2494	2713
10100	1397	1848	2037	2272	2499	2719
10150	1400	1852	2042	2276	2504	2724
10200	1404	1856	2046	2281	2509	2730
10250	1407	1860	2050	2285	2514	2735
10300	1411	1865	2054	2290	2519	2741
10350	1414	1869	2058	2295	2524	2746
10400	1418	1873	2062	2299	2529	2752
10450	1421	1877	2066	2304	2534	2757
10500	1425	1881	2070	2308	2539	2763
10550	1428	1885	2074	2313	2544	2768
10600	1432	1889	2078	2317	2549	2774
10650	1435	1894	2083	2322	2554	2779
10700	1439	1898	2087	2327	2559	2784
10750	1442	1902	2091	2331	2564	2790
10800	1446	1906	2095	2336	2569	2795
10850	1449	1910	2099	2340	2574	2801
10900	1453	1914	2103	2345	2579	2806
10950	1456	1918	2107	2349	2584	2812
11000	1460	1922	2111	2354	2589	2817
11050	1464	1927	2115	2359	2594	2823
11100	1467	1931	2119	2363	2599	2828
11150	1471	1935	2124	2368	2604	2834
11200	1474	1939	2128	2372	2610	2839
11250	1478	1943	2132	2377	2615	2845
11300	1481	1947	2136	2381	2620	2850
11350	1485	1951	2140	2386	2625	2856
11400	1488	1956	2144	2391	2630	2861
11450	1492	1960	2148	2395	2635	2866
11500	1495	1964	2152	2400	2640	2872
11550	1499	1968	2156	2404	2645	2877
11600	1502	1972	2160	2409	2650	2883
11650	1506	1976	2164	2413	2655	2888
11700	1509	1980	2169	2418	2660	2894
11750	1513	1984	2173	2423	2665	2899
11800	1516	1989	2177	2427	2670	2905
11850	1520	1993	2181	2432	2675	2910
11900	1523	1997	2185	2436	2680	2916
11950	1527	2001	2189	2441	2685	2921
12000	1530	2005	2193	2445	2690	2927

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
12050	1534	2009	2197	2450	2695	2932
12100	1537	2013	2201	2455	2700	2938
12150	1541	2018	2205	2459	2705	2943
12200	1544	2022	2210	2464	2710	2948
12250	1548	2026	2214	2468	2715	2954
12300	1551	2030	2218	2473	2720	2959
12350	1555	2034	2222	2477	2725	2965
12400	1558	2038	2226	2482	2730	2970
12450	1562	2042	2230	2486	2735	2976
12500	1565	2046	2234	2491	2740	2981
12550	1569	2051	2238	2496	2745	2987
12600	1572	2055	2242	2500	2750	2992
12650	1576	2059	2246	2505	2755	2998
12700	1579	2063	2251	2509	2760	3003
12750	1583	2067	2255	2514	2765	3009
12800	1586	2071	2259	2518	2770	3014
12850	1590	2075	2263	2523	2775	3020
12900	1593	2080	2267	2528	2780	3025
12950	1597	2084	2271	2532	2785	3030
13000	1600	2088	2275	2537	2790	3036
13050	1604	2092	2279	2541	2795	3041
13100	1607	2096	2283	2546	2800	3047
13150	1611	2100	2287	2550	2805	3052
13200	1614	2104	2291	2555	2811	3058
13250	1618	2108	2296	2560	2816	3063
13300	1622	2113	2300	2564	2821	3069
13350	1625	2117	2304	2569	2826	3074
13400	1629	2121	2308	2573	2831	3080
13450	1632	2125	2312	2578	2836	3085
13500	1636	2129	2316	2582	2841	3091
13550	1639	2133	2320	2587	2846	3096
13600	1643	2137	2324	2592	2851	3102
13650	1646	2142	2328	2596	2856	3107
13700	1650	2146	2332	2601	2861	3113
13750	1653	2150	2337	2605	2866	3118
13800	1657	2154	2341	2610	2871	3123
13850	1660	2158	2345	2614	2876	3129
13900	1664	2162	2349	2619	2881	3134
13950	1667	2166	2353	2624	2886	3140
14000	1671	2170	2357	2628	2891	3145
14050	1674	2175	2361	2633	2896	3151
14100	1678	2179	2365	2637	2901	3156
14150	1681	2183	2369	2642	2906	3162
14200	1685	2187	2373	2646	2911	3167
14250	1688	2191	2378	2651	2916	3173

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
14300	1692	2195	2382	2656	2921	3178
14350	1695	2199	2386	2660	2926	3184
14400	1699	2203	2390	2665	2931	3189
14450	1702	2208	2394	2669	2936	3195
14500	1706	2212	2398	2674	2941	3200
14550	1709	2216	2402	2678	2946	3205
14600	1713	2220	2406	2683	2951	3211
14650	1716	2224	2410	2687	2956	3216
14700	1720	2228	2414	2692	2961	3222
14750	1723	2232	2418	2697	2966	3227
14800	1727	2237	2423	2701	2971	3233
14850	1730	2241	2427	2706	2976	3238
14900	1734	2245	2431	2710	2981	3244
14950	1737	2249	2435	2715	2986	3249
15000	1741	2253	2439	2719	2991	3255
15050	1806	2319	2493	2780	3058	3327
15100	1811	2325	2498	2785	3064	3334
15150	1816	2330	2503	2791	3071	3341
15200	1821	2336	2509	2797	3077	3348
15250	1826	2342	2514	2803	3084	3355
15300	1831	2347	2519	2809	3090	3362
15350	1836	2353	2525	2815	3097	3369
15400	1841	2359	2530	2821	3103	3376
15450	1846	2364	2535	2827	3110	3383
15500	1851	2370	2541	2833	3116	3390
15550	1856	2375	2546	2839	3123	3397
15600	1861	2381	2551	2845	3129	3404
15650	1866	2387	2557	2851	3136	3411
15700	1871	2392	2562	2856	3142	3419
15750	1876	2398	2567	2862	3149	3426
15800	1881	2404	2572	2868	3155	3433
15850	1886	2409	2578	2874	3162	3440
15900	1891	2415	2583	2880	3168	3447
15950	1896	2420	2588	2886	3175	3454
16000	1901	2426	2594	2892	3181	3461
16050	1906	2432	2599	2898	3188	3468
16100	1911	2437	2604	2904	3194	3475
16150	1916	2443	2610	2910	3201	3482
16200	1921	2449	2615	2916	3207	3489
16250	1926	2454	2620	2921	3214	3496
16300	1931	2460	2625	2927	3220	3503
16350	1936	2466	2631	2933	3227	3511
16400	1941	2471	2636	2939	3233	3518
16450	1946	2477	2641	2945	3240	3525
16500	1951	2482	2647	2951	3246	3532

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
16550	1956	2488	2652	2957	3253	3539
16600	1961	2494	2657	2963	3259	3546
16650	1966	2499	2663	2969	3266	3553
16700	1971	2505	2668	2975	3272	3560
16750	1976	2511	2673	2981	3279	3567
16800	1981	2516	2678	2986	3285	3574
16850	1986	2522	2684	2992	3292	3581
16900	1991	2527	2689	2998	3298	3588
16950	1996	2533	2694	3004	3305	3595
17000	2001	2539	2700	3010	3311	3603
17050	2006	2544	2705	3016	3318	3610
17100	2011	2550	2710	3022	3324	3617
17150	2016	2556	2716	3028	3331	3624
17200	2021	2561	2721	3034	3337	3631
17250	2026	2567	2726	3040	3344	3638
17300	2031	2572	2731	3046	3350	3645
17350	2036	2578	2737	3052	3357	3652
17400	2041	2584	2742	3057	3363	3659
17450	2046	2589	2747	3063	3370	3666
17500	2051	2595	2753	3069	3376	3673
17550	2056	2601	2758	3075	3383	3680
17600	2061	2606	2763	3081	3389	3687
17650	2066	2612	2769	3087	3396	3694
17700	2071	2618	2774	3093	3402	3702
17750	2076	2623	2779	3099	3409	3709
17800	2081	2629	2784	3105	3415	3716
17850	2086	2634	2790	3111	3422	3723
17900	2091	2640	2795	3117	3428	3730
17950	2096	2646	2800	3122	3435	3737
18000	2101	2651	2806	3128	3441	3744
18050	2106	2657	2811	3134	3448	3751
18100	2111	2663	2816	3140	3454	3758
18150	2116	2668	2822	3146	3461	3765
18200	2121	2674	2827	3152	3467	3772
18250	2126	2679	2832	3158	3474	3779
18300	2131	2685	2838	3164	3480	3786
18350	2136	2691	2843	3170	3487	3794
18400	2141	2696	2848	3176	3493	3801
18450	2146	2702	2853	3182	3500	3808
18500	2151	2708	2859	3187	3506	3815
18550	2156	2713	2864	3193	3513	3822
18600	2161	2719	2869	3199	3519	3829
18650	2166	2725	2875	3205	3526	3836
18700	2171	2730	2880	3211	3532	3843
18750	2176	2736	2885	3217	3539	3850

Monthly Basic Child Support Schedule

COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
18800	2181	2741	2891	3223	3545	3857
18850	2186	2747	2896	3229	3552	3864
18900	2191	2753	2901	3235	3558	3871
18950	2196	2758	2906	3241	3565	3878
19000	2201	2764	2912	3247	3571	3886
19050	2206	2770	2917	3253	3578	3893
19100	2211	2775	2922	3258	3584	3900
19150	2216	2781	2928	3264	3591	3907
19200	2221	2786	2933	3270	3597	3914
19250	2226	2792	2938	3276	3604	3921
19300	2231	2798	2944	3282	3610	3928
19350	2236	2803	2949	3288	3617	3935
19400	2241	2809	2954	3294	3623	3942
19450	2246	2815	2959	3300	3630	3949
19500	2251	2820	2965	3306	3636	3956
19550	2256	2826	2970	3312	3643	3963
19600	2261	2831	2975	3318	3649	3970
19650	2266	2837	2981	3323	3656	3977
19700	2271	2843	2986	3329	3662	3985
19750	2276	2848	2991	3335	3669	3992
19800	2281	2854	2997	3341	3675	3999
19850	2286	2860	3002	3347	3682	4006
19900	2291	2865	3007	3353	3688	4013
19950	2296	2871	3012	3359	3695	4020
20000	2301	2877	3018	3365	3701	4027]

Monthly Basic Child Support Schedule

COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
0-900.00	50	55	60	65	70	75
950.00	75	76	77	78	78	79
1000.00	120	121	123	124	125	127
1050.00	165	167	169	171	172	174
1100.00	210	212	215	217	219	222
1150.00	255	258	261	264	266	269
1200.00	294	303	307	310	313	317
1250.00	306	349	353	357	360	364
1300.00	318	394	399	403	407	412
1350.00	330	440	445	450	454	459
1400.00	342	485	491	496	501	507
1450.00	354	514	537	543	548	554
1500.00	365	531	583	589	595	602
1550.00	377	548	629	636	642	649
1600.00	389	565	665	682	689	697

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
1650.00	401	582	684	729	736	744
1700.00	412	598	704	775	783	792
1750.00	424	615	723	808	830	839
1800.00	436	631	742	829	877	887
1850.00	447	648	762	851	924	934
1900.00	459	664	781	872	960	982
1950.00	470	681	800	894	983	1029
2000.00	482	698	820	915	1007	1077
2050.00	493	714	839	937	1031	1120
2100.00	505	731	858	959	1054	1146
2150.00	517	747	877	980	1078	1172
2200.00	528	764	897	1002	1102	1198
2250.00	540	781	916	1023	1126	1223
2300.00	551	797	936	1045	1150	1250
2350.00	563	814	956	1068	1174	1277
2400.00	575	831	976	1090	1199	1304
2450.00	587	849	996	1113	1224	1330
2500.00	598	866	1016	1135	1249	1357
2550.00	610	883	1036	1158	1273	1384
2600.00	622	900	1057	1180	1298	1411
2650.00	634	917	1077	1203	1323	1438
2700.00	646	934	1097	1225	1348	1465
2750.00	657	951	1117	1248	1373	1492
2800.00	669	968	1137	1270	1397	1519
2850.00	681	985	1157	1293	1422	1546
2900.00	693	1002	1178	1315	1447	1573
2950.00	704	1019	1198	1338	1472	1600
3000.00	714	1033	1213	1354	1490	1619
3050.00	723	1045	1226	1370	1507	1638
3100.00	732	1057	1240	1385	1523	1656
3150.00	741	1070	1253	1400	1540	1674
3200.00	750	1082	1267	1415	1557	1692
3250.00	759	1094	1281	1431	1574	1711
3300.00	768	1107	1294	1446	1590	1729
3350.00	777	1119	1308	1461	1607	1747
3400.00	786	1131	1322	1476	1624	1765
3450.00	793	1141	1333	1489	1637	1780
3500.00	798	1149	1342	1500	1650	1793
3550.00	804	1157	1352	1511	1662	1806
3600.00	809	1165	1362	1522	1674	1819
3650.00	815	1173	1372	1533	1686	1832
3700.00	820	1182	1382	1543	1698	1846
3750.00	826	1190	1392	1554	1710	1859
3800.00	831	1198	1401	1565	1722	1872
3850.00	837	1206	1411	1576	1734	1885

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
3900.00	842	1214	1421	1587	1746	1898
3950.00	848	1222	1430	1597	1757	1910
4000.00	854	1231	1439	1608	1769	1922
4050.00	860	1239	1449	1618	1780	1935
4100.00	866	1247	1458	1629	1791	1947
4150.00	872	1255	1467	1639	1803	1960
4200.00	878	1264	1477	1649	1814	1972
4250.00	884	1272	1486	1660	1826	1984
4300.00	890	1280	1495	1670	1837	1997
4350.00	895	1286	1502	1677	1845	2006
4400.00	898	1291	1506	1682	1850	2011
4450.00	902	1295	1510	1686	1855	2016
4500.00	905	1299	1513	1691	1860	2021
4550.00	909	1303	1517	1695	1864	2027
4600.00	912	1307	1521	1699	1869	2032
4650.00	916	1312	1525	1704	1874	2037
4700.00	919	1316	1529	1708	1879	2042
4750.00	923	1320	1533	1712	1884	2047
4800.00	926	1325	1538	1718	1890	2054
4850.00	931	1331	1545	1726	1898	2064
4900.00	935	1337	1552	1734	1907	2073
4950.00	940	1343	1559	1742	1916	2082
5000.00	944	1350	1566	1749	1924	2092
5050.00	949	1356	1573	1757	1933	2101
5100.00	953	1362	1580	1765	1942	2111
5150.00	957	1368	1587	1773	1950	2120
5200.00	962	1374	1594	1781	1959	2129
5250.00	966	1380	1601	1789	1968	2139
5300.00	971	1387	1608	1797	1976	2148
5350.00	975	1393	1615	1804	1985	2157
5400.00	980	1399	1622	1812	1993	2167
5450.00	984	1405	1629	1820	2002	2176
5500.00	989	1412	1637	1829	2011	2186
5550.00	994	1419	1645	1837	2021	2197
5600.00	1000	1426	1653	1846	2031	2207
5650.00	1005	1433	1660	1855	2040	2218
5700.00	1010	1440	1668	1864	2050	2228
5750.00	1015	1447	1676	1872	2059	2239
5800.00	1020	1454	1684	1881	2069	2249
5850.00	1025	1461	1692	1890	2079	2260
5900.00	1031	1469	1700	1899	2088	2270
5950.00	1036	1476	1707	1907	2098	2281
6000.00	1041	1483	1715	1916	2108	2291
6050.00	1046	1490	1723	1925	2117	2301
6100.00	1051	1497	1731	1933	2127	2312

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
6150.00	1056	1504	1739	1942	2136	2322
6200.00	1061	1511	1747	1951	2147	2333
6250.00	1066	1518	1755	1961	2157	2344
6300.00	1071	1525	1763	1970	2167	2355
6350.00	1076	1532	1772	1979	2177	2366
6400.00	1081	1539	1780	1988	2187	2377
6450.00	1086	1546	1788	1997	2197	2388
6500.00	1091	1553	1796	2006	2207	2399
6550.00	1096	1560	1804	2015	2217	2410
6600.00	1101	1567	1812	2024	2227	2421
6650.00	1106	1574	1821	2034	2237	2432
6700.00	1111	1581	1829	2043	2247	2442
6750.00	1116	1588	1837	2052	2257	2453
6800.00	1121	1595	1845	2061	2267	2464
6850.00	1126	1602	1853	2070	2277	2475
6900.00	1131	1609	1861	2078	2286	2485
6950.00	1135	1616	1868	2087	2295	2495
7000.00	1140	1622	1876	2095	2304	2505
7050.00	1145	1629	1883	2103	2314	2515
7100.00	1150	1636	1891	2112	2323	2525
7150.00	1155	1643	1898	2120	2332	2535
7200.00	1160	1649	1906	2128	2341	2545
7250.00	1165	1656	1913	2137	2351	2555
7300.00	1170	1663	1921	2145	2360	2565
7350.00	1174	1670	1928	2154	2369	2575
7400.00	1179	1676	1936	2162	2378	2585
7450.00	1184	1683	1943	2170	2387	2595
7500.00	1189	1690	1951	2179	2397	2605
7550.00	1194	1696	1958	2187	2406	2615
7600.00	1199	1703	1966	2196	2415	2625
7650.00	1204	1710	1973	2204	2424	2635
7700.00	1209	1717	1981	2212	2434	2645
7750.00	1214	1723	1988	2221	2443	2656
7800.00	1218	1731	1997	2230	2453	2667
7850.00	1223	1738	2005	2240	2464	2678
7900.00	1228	1745	2014	2249	2474	2689
7950.00	1233	1752	2022	2259	2485	2701
8000.00	1238	1759	2031	2268	2495	2712
8050.00	1243	1766	2039	2278	2505	2723
8100.00	1248	1774	2048	2287	2516	2735
8150.00	1253	1781	2056	2297	2526	2746
8200.00	1258	1788	2064	2306	2537	2757
8250.00	1263	1795	2073	2316	2547	2769
8300.00	1268	1802	2081	2325	2557	2780
8350.00	1273	1809	2090	2334	2568	2791

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
8400.00	1278	1816	2098	2344	2578	2803
8450.00	1283	1824	2107	2353	2589	2814
8500.00	1288	1831	2115	2363	2599	2825
8550.00	1293	1838	2124	2372	2609	2837
8600.00	1297	1845	2132	2382	2620	2848
8650.00	1302	1852	2141	2391	2630	2859
8700.00	1305	1856	2145	2396	2635	2864
8750.00	1307	1859	2149	2400	2640	2870
8800.00	1310	1863	2153	2404	2645	2875
8850.00	1313	1866	2156	2409	2650	2880
8900.00	1315	1870	2160	2413	2654	2885
8950.00	1318	1873	2164	2417	2659	2890
9000.00	1320	1877	2168	2422	2664	2896
9050.00	1323	1880	2172	2426	2669	2901
9100.00	1325	1884	2176	2430	2673	2906
9150.00	1328	1887	2180	2435	2678	2911
9200.00	1330	1891	2184	2439	2683	2916
9250.00	1333	1894	2188	2443	2688	2922
9300.00	1335	1898	2191	2448	2693	2927
9350.00	1338	1901	2195	2452	2697	2932
9400.00	1340	1905	2199	2457	2702	2937
9450.00	1343	1908	2203	2461	2707	2942
9500.00	1345	1912	2207	2465	2712	2948
9550.00	1348	1915	2211	2470	2716	2953
9600.00	1351	1920	2217	2476	2723	2960
9650.00	1356	1926	2223	2483	2731	2969
9700.00	1360	1932	2229	2490	2739	2977
9750.00	1364	1937	2235	2497	2746	2985
9800.00	1368	1943	2241	2504	2754	2994
9850.00	1372	1948	2248	2511	2762	3002
9900.00	1376	1954	2254	2518	2769	3010
9950.00	1381	1960	2260	2525	2777	3019
10000.00	1385	1965	2266	2532	2785	3027
10050.00	1389	1971	2273	2538	2792	3035
10100.00	1393	1977	2279	2545	2800	3044
10150.00	1397	1982	2285	2552	2808	3052
10200.00	1402	1988	2291	2559	2815	3060
10250.00	1406	1994	2297	2566	2823	3069
10300.00	1410	1999	2304	2573	2831	3077
10350.00	1414	2005	2310	2580	2838	3085
10400.00	1418	2010	2316	2587	2846	3093
10450.00	1422	2016	2322	2594	2854	3102
10500.00	1427	2022	2329	2601	2861	3110
10550.00	1431	2027	2335	2608	2869	3118
10600.00	1435	2033	2341	2615	2876	3127

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
10650.00	1439	2039	2347	2622	2884	3135
10700.00	1443	2044	2354	2629	2892	3143
10750.00	1448	2051	2361	2637	2901	3153
10800.00	1452	2057	2369	2646	2910	3164
10850.00	1457	2064	2376	2654	2920	3174
10900.00	1462	2070	2384	2663	2929	3184
10950.00	1466	2077	2391	2671	2938	3194
11000.00	1471	2083	2399	2679	2947	3204
11050.00	1475	2090	2406	2688	2957	3214
11100.00	1480	2097	2414	2696	2966	3224
11150.00	1485	2103	2421	2705	2975	3234
11200.00	1489	2110	2429	2713	2985	3244
11250.00	1494	2116	2437	2722	2994	3254
11300.00	1499	2123	2444	2730	3003	3264
11350.00	1503	2129	2452	2739	3012	3274
11400.00	1508	2136	2459	2747	3022	3285
11450.00	1512	2142	2467	2755	3031	3295
11500.00	1517	2149	2474	2764	3040	3305
11550.00	1522	2156	2482	2772	3049	3315
11600.00	1526	2162	2489	2781	3059	3325
11650.00	1531	2169	2497	2789	3068	3335
11700.00	1535	2175	2504	2798	3077	3345
11750.00	1540	2182	2512	2806	3087	3355
11800.00	1545	2188	2520	2814	3096	3365
11850.00	1549	2195	2527	2823	3105	3375
11900.00	1554	2201	2535	2831	3114	3385
11950.00	1558	2208	2542	2840	3124	3395
12000.00	1563	2214	2550	2848	3133	3405
12050.00	1568	2221	2557	2857	3142	3416
12100.00	1572	2228	2565	2865	3151	3426
12150.00	1577	2234	2572	2873	3161	3436
12200.00	1581	2241	2580	2882	3170	3446
12250.00	1586	2247	2588	2890	3179	3456
12300.00	1591	2254	2595	2899	3189	3466
12350.00	1595	2260	2603	2907	3198	3476
12400.00	1600	2267	2610	2916	3207	3486
12450.00	1605	2273	2618	2924	3216	3496
12500.00	1609	2280	2625	2932	3226	3506
12550.00	1613	2285	2632	2939	3233	3515
12600.00	1617	2290	2637	2945	3240	3522
12650.00	1620	2295	2642	2951	3246	3529
12700.00	1623	2300	2648	2957	3253	3536
12750.00	1627	2305	2653	2963	3260	3543
12800.00	1630	2309	2658	2969	3266	3550
12850.00	1634	2314	2664	2975	3273	3557

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
12900.00	1637	2319	2669	2981	3279	3565
12950.00	1641	2324	2674	2987	3286	3572
13000.00	1644	2328	2680	2993	3292	3579
13050.00	1648	2333	2685	2999	3299	3586
13100.00	1651	2338	2690	3005	3305	3593
13150.00	1654	2343	2695	3011	3312	3600
13200.00	1658	2347	2701	3017	3319	3607
13250.00	1661	2352	2706	3023	3325	3614
13300.00	1665	2357	2711	3029	3332	3621
13350.00	1668	2362	2717	3035	3338	3629
13400.00	1672	2366	2722	3041	3345	3636
13450.00	1675	2371	2727	3047	3351	3643
13500.00	1679	2376	2733	3053	3358	3650
13550.00	1682	2381	2738	3059	3364	3657
13600.00	1686	2385	2743	3064	3371	3664
13650.00	1689	2390	2749	3070	3377	3671
13700.00	1692	2395	2754	3076	3384	3678
13750.00	1696	2400	2759	3082	3391	3686
13800.00	1699	2404	2765	3088	3397	3693
13850.00	1703	2409	2770	3094	3404	3700
13900.00	1706	2414	2775	3100	3410	3707
13950.00	1710	2419	2781	3106	3417	3714
14000.00	1713	2423	2786	3112	3423	3721
14050.00	1717	2428	2791	3118	3430	3728
14100.00	1720	2433	2797	3124	3436	3735
14150.00	1723	2438	2802	3130	3443	3742
14200.00	1727	2442	2807	3136	3449	3750
14250.00	1730	2447	2813	3142	3456	3757
14300.00	1734	2452	2818	3148	3463	3764
14350.00	1737	2457	2823	3154	3469	3771
14400.00	1741	2461	2829	3160	3476	3778
14450.00	1744	2466	2834	3166	3482	3785
14500.00	1748	2471	2839	3172	3489	3792
14550.00	1751	2476	2845	3178	3495	3799
14600.00	1754	2481	2850	3184	3502	3807
14650.00	1758	2485	2855	3189	3508	3814
14700.00	1761	2490	2861	3195	3515	3821
14750.00	1765	2495	2866	3201	3522	3828
14800.00	1768	2500	2871	3207	3528	3835
14850.00	1772	2504	2877	3213	3535	3842
14900.00	1775	2509	2882	3219	3541	3849
14950.00	1779	2514	2887	3225	3548	3856
15000.00	1782	2519	2893	3231	3554	3863
15050.00	1786	2523	2898	3237	3561	3871
15100.00	1789	2528	2903	3243	3567	3878

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
15150.00	1792	2533	2909	3249	3574	3885
15200.00	1796	2538	2914	3255	3580	3892
15250.00	1799	2542	2919	3261	3587	3899
15300.00	1803	2547	2925	3267	3594	3906
15350.00	1806	2552	2930	3273	3600	3913
15400.00	1810	2557	2935	3279	3607	3920
15450.00	1813	2561	2941	3285	3613	3928
15500.00	1817	2566	2946	3291	3620	3935
15550.00	1820	2571	2951	3297	3626	3942
15600.00	1823	2576	2957	3303	3633	3949
15650.00	1827	2580	2962	3309	3639	3956
15700.00	1830	2585	2967	3315	3646	3963
15750.00	1834	2590	2973	3320	3653	3970
15800.00	1837	2595	2978	3326	3659	3977
15850.00	1841	2599	2983	3332	3666	3985
15900.00	1844	2604	2989	3338	3672	3992
15950.00	1848	2609	2994	3344	3679	3999
16000.00	1851	2614	2999	3350	3685	4006
16050.00	1854	2618	3005	3356	3692	4013
16100.00	1858	2623	3010	3362	3698	4020
16150.00	1861	2628	3015	3368	3705	4027
16200.00	1865	2633	3021	3374	3711	4034
16250.00	1868	2638	3026	3380	3718	4041
16300.00	1872	2642	3031	3386	3725	4049
16350.00	1875	2647	3037	3392	3731	4056
16400.00	1879	2652	3042	3398	3738	4063
16450.00	1882	2657	3047	3404	3744	4070
16500.00	1886	2661	3053	3410	3751	4077
16550.00	1889	2666	3058	3416	3757	4084
16600.00	1892	2671	3063	3422	3764	4091
16650.00	1896	2676	3069	3428	3770	4098
16700.00	1899	2680	3074	3434	3777	4106
16750.00	1903	2685	3079	3440	3783	4113
16800.00	1906	2690	3085	3445	3790	4120
16850.00	1910	2695	3090	3451	3797	4127
16900.00	1913	2699	3095	3457	3803	4134
16950.00	1917	2704	3101	3463	3810	4141
17000.00	1920	2709	3106	3469	3816	4148
17050.00	1923	2714	3111	3475	3823	4155
17100.00	1927	2718	3117	3481	3829	4162
17150.00	1930	2723	3122	3487	3836	4170
17200.00	1934	2728	3127	3493	3842	4177
17250.00	1937	2733	3133	3499	3849	4184
17300.00	1941	2737	3138	3505	3856	4191
17350.00	1944	2742	3143	3511	3862	4198

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
17400.00	1948	2747	3149	3517	3869	4205
17450.00	1951	2752	3154	3523	3875	4212
17500.00	1954	2756	3159	3529	3882	4219
17550.00	1958	2761	3165	3535	3888	4227
17600.00	1961	2766	3170	3541	3895	4234
17650.00	1965	2771	3175	3547	3901	4241
17700.00	1968	2775	3181	3553	3908	4248
17750.00	1972	2780	3186	3559	3914	4255
17800.00	1975	2785	3191	3565	3921	4262
17850.00	1979	2790	3197	3571	3928	4269
17900.00	1982	2794	3202	3576	3934	4276
17950.00	1986	2799	3207	3582	3941	4284
18000.00	1989	2804	3213	3588	3947	4291
18050.00	1992	2809	3218	3594	3954	4298
18100.00	1996	2814	3223	3600	3960	4305
18150.00	1999	2818	3229	3606	3967	4312
18200.00	2003	2823	3234	3612	3973	4319
18250.00	2006	2828	3239	3618	3980	4326
18300.00	2010	2833	3245	3624	3987	4333
18350.00	2013	2837	3250	3630	3993	4340
18400.00	2017	2842	3255	3636	4000	4348
18450.00	2020	2847	3260	3642	4006	4355
18500.00	2023	2852	3266	3648	4013	4362
18550.00	2027	2856	3271	3654	4019	4369
18600.00	2030	2861	3276	3660	4026	4376
18650.00	2034	2866	3282	3666	4032	4383
18700.00	2037	2871	3287	3672	4039	4390
18750.00	2041	2875	3292	3678	4045	4397
18800.00	2044	2880	3298	3684	4052	4405
18850.00	2048	2885	3303	3690	4059	4412
18900.00	2051	2890	3308	3696	4065	4419
18950.00	2055	2894	3314	3702	4072	4426
19000.00	2058	2899	3319	3707	4078	4433
19050.00	2061	2904	3324	3713	4085	4440
19100.00	2065	2909	3330	3719	4091	4447
19150.00	2068	2913	3335	3725	4098	4454
19200.00	2072	2918	3340	3731	4104	4461
19250.00	2075	2923	3346	3737	4111	4469
19300.00	2079	2928	3351	3743	4118	4476
19350.00	2082	2932	3356	3749	4124	4483
19400.00	2086	2937	3362	3755	4131	4490
19450.00	2089	2942	3367	3761	4137	4497
19500.00	2092	2947	3372	3767	4144	4504
19550.00	2096	2951	3378	3773	4150	4511
19600.00	2099	2956	3383	3779	4157	4518

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
19650.00	2103	2961	3388	3785	4163	4526
19700.00	2106	2966	3394	3791	4170	4533
19750.00	2110	2970	3399	3797	4176	4540
19800.00	2113	2975	3404	3803	4183	4547
19850.00	2117	2980	3410	3809	4190	4554
19900.00	2120	2985	3415	3815	4196	4561
19950.00	2123	2990	3420	3821	4203	4568
20000.00	2127	2994	3426	3827	4209	4575
20050.00	2130	2999	3431	3832	4216	4583
20100.00	2134	3004	3436	3838	4222	4590
20150.00	2137	3009	3442	3844	4229	4597
20200.00	2141	3013	3447	3850	4235	4604
20250.00	2144	3018	3452	3856	4242	4611
20300.00	2148	3023	3458	3862	4248	4618
20350.00	2151	3028	3463	3868	4255	4625
20400.00	2154	3031	3467	3873	4260	4630
20450.00	2157	3035	3471	3877	4265	4636
20500.00	2160	3039	3475	3881	4269	4641
20550.00	2164	3043	3479	3886	4274	4646
20600.00	2167	3047	3482	3890	4279	4651
20650.00	2170	3051	3486	3894	4284	4656
20700.00	2173	3055	3490	3899	4288	4661
20750.00	2176	3059	3494	3903	4293	4667
20800.00	2179	3063	3498	3907	4298	4672
20850.00	2182	3066	3502	3912	4303	4677
20900.00	2186	3070	3506	3916	4307	4682
20950.00	2189	3074	3510	3920	4312	4687
21000.00	2192	3078	3513	3924	4317	4692
21050.00	2195	3082	3517	3929	4322	4698
21100.00	2198	3086	3521	3933	4326	4703
21150.00	2201	3090	3525	3937	4331	4708
21200.00	2204	3094	3529	3942	4336	4713
21250.00	2207	3097	3533	3946	4341	4718
21300.00	2211	3101	3537	3950	4345	4724
21350.00	2214	3105	3541	3955	4350	4729
21400.00	2217	3109	3544	3959	4355	4734
21450.00	2220	3113	3548	3963	4360	4739
21500.00	2223	3117	3552	3968	4364	4744
21550.00	2226	3121	3556	3972	4369	4749
21600.00	2229	3125	3560	3976	4374	4755
21650.00	2233	3129	3564	3981	4379	4760
21700.00	2236	3132	3568	3985	4384	4765
21750.00	2239	3136	3571	3989	4388	4770
21800.00	2242	3140	3575	3994	4393	4775
21850.00	2245	3144	3579	3998	4398	4780

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
21900.00	2248	3148	3583	4002	4403	4786
21950.00	2251	3152	3587	4007	4407	4791
22000.00	2255	3156	3591	4011	4412	4796
22050.00	2258	3160	3595	4015	4417	4801
22100.00	2261	3163	3599	4020	4422	4806
22150.00	2264	3167	3602	4024	4426	4811
22200.00	2267	3171	3606	4028	4431	4817
22250.00	2270	3175	3610	4033	4436	4822
22300.00	2273	3179	3614	4037	4441	4827
22350.00	2276	3183	3618	4041	4445	4832
22400.00	2280	3187	3622	4046	4450	4837
22450.00	2283	3191	3626	4050	4455	4842
22500.00	2286	3195	3630	4054	4460	4848
22550.00	2289	3198	3633	4059	4464	4853
22600.00	2292	3202	3637	4063	4469	4858
22650.00	2295	3206	3641	4067	4474	4863
22700.00	2298	3210	3645	4071	4479	4868
22750.00	2302	3214	3649	4076	4483	4873
22800.00	2305	3218	3653	4080	4488	4879
22850.00	2308	3222	3657	4084	4493	4884
22900.00	2311	3226	3661	4089	4498	4889
22950.00	2314	3230	3664	4093	4502	4894
23000.00	2317	3233	3668	4097	4507	4899
23050.00	2320	3237	3672	4102	4512	4904
23100.00	2323	3241	3676	4106	4517	4910
23150.00	2327	3245	3680	4110	4521	4915
23200.00	2330	3249	3684	4115	4526	4920
23250.00	2333	3253	3688	4119	4531	4925
23300.00	2336	3257	3691	4123	4536	4930
23350.00	2339	3261	3695	4128	4540	4935
23400.00	2342	3264	3699	4132	4545	4941
23450.00	2345	3268	3703	4136	4550	4946
23500.00	2349	3272	3707	4141	4555	4951
23550.00	2352	3276	3711	4145	4559	4956
23600.00	2355	3280	3715	4149	4564	4961
23650.00	2358	3284	3719	4154	4569	4967
23700.00	2361	3288	3722	4158	4574	4972
23750.00	2364	3292	3726	4162	4579	4977
23800.00	2367	3296	3730	4167	4583	4982
23850.00	2370	3299	3734	4171	4588	4987
23900.00	2374	3303	3738	4175	4593	4992
23950.00	2377	3307	3742	4180	4598	4998
24000.00	2380	3311	3746	4184	4602	5003
24050.00	2383	3315	3750	4188	4607	5008
24100.00	2386	3319	3753	4193	4612	5013

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
24150.00	2389	3323	3757	4197	4617	5018
24200.00	2392	3327	3761	4201	4621	5023
24250.00	2396	3330	3765	4206	4626	5029
24300.00	2399	3334	3769	4210	4631	5034
24350.00	2402	3338	3773	4214	4636	5039
24400.00	2405	3342	3777	4219	4640	5044
24450.00	2408	3346	3781	4223	4645	5049
24500.00	2411	3350	3784	4227	4650	5054
24550.00	2414	3354	3788	4231	4655	5060
24600.00	2417	3358	3792	4236	4659	5065
24650.00	2421	3362	3796	4240	4664	5070
24700.00	2424	3365	3800	4244	4669	5075
24750.00	2427	3369	3804	4249	4674	5080
24800.00	2430	3373	3808	4253	4678	5085
24850.00	2433	3377	3811	4257	4683	5091
24900.00	2436	3381	3815	4262	4688	5096
24950.00	2439	3385	3819	4266	4693	5101
25000.00	2443	3389	3823	4270	4697	5106
25050.00	2446	3393	3827	4275	4702	5111
25100.00	2449	3396	3831	4279	4707	5116
25150.00	2452	3400	3835	4283	4712	5122
25200.00	2455	3404	3839	4288	4716	5127
25250.00	2458	3408	3842	4292	4721	5132
25300.00	2461	3412	3846	4296	4726	5137
25350.00	2465	3416	3850	4301	4731	5142
25400.00	2468	3420	3854	4305	4735	5147
25450.00	2471	3424	3858	4309	4740	5153
25500.00	2474	3428	3862	4314	4745	5158
25550.00	2477	3431	3866	4318	4750	5163
25600.00	2480	3435	3870	4322	4755	5168
25650.00	2483	3439	3873	4327	4759	5173
25700.00	2486	3443	3877	4331	4764	5178
25750.00	2490	3447	3881	4335	4769	5184
25800.00	2493	3451	3885	4340	4774	5189
25850.00	2496	3455	3889	4344	4778	5194
25900.00	2499	3459	3893	4348	4783	5199
25950.00	2502	3462	3897	4353	4788	5204
26000.00	2505	3466	3901	4357	4793	5210
26050.00	2508	3470	3904	4361	4797	5215
26100.00	2512	3474	3908	4366	4802	5220
26150.00	2515	3478	3912	4370	4807	5225
26200.00	2518	3482	3916	4374	4812	5230
26250.00	2521	3486	3920	4378	4816	5235
26300.00	2524	3490	3924	4383	4821	5241
26350.00	2527	3494	3928	4387	4826	5246

<i>Monthly Basic Child Support Schedule</i>						
COMBINED ADJUSTED NET INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
26400.00	2530	3497	3931	4391	4831	5251
26450.00	2533	3501	3935	4396	4835	5256
26500.00	2537	3505	3939	4400	4840	5261
26550.00	2540	3509	3943	4404	4845	5266
26600.00	2543	3513	3947	4409	4850	5272
26650.00	2546	3517	3951	4413	4854	5277
26700.00	2549	3521	3955	4417	4859	5282
26750.00	2552	3525	3959	4422	4864	5287
26800.00	2555	3529	3962	4426	4869	5292
26850.00	2559	3532	3966	4430	4873	5297
26900.00	2562	3536	3970	4435	4878	5303
26950.00	2565	3540	3974	4439	4883	5308
27000.00	2568	3544	3978	4443	4888	5313
27050.00	2571	3548	3982	4448	4892	5318
27100.00	2574	3552	3986	4452	4897	5323
27150.00	2577	3556	3990	4456	4902	5328
27200.00	2580	3560	3993	4461	4907	5334
27250.00	2584	3563	3997	4465	4911	5339
27300.00	2587	3567	4001	4469	4916	5344
27350.00	2590	3571	4005	4474	4921	5349
27400.00	2593	3575	4009	4478	4926	5354
27450.00	2596	3579	4013	4482	4930	5359
27500.00	2599	3583	4017	4487	4935	5365
27550.00	2602	3587	4021	4491	4940	5370
27600.00	2606	3591	4024	4495	4945	5375
27650.00	2609	3595	4028	4500	4950	5380
27700.00	2612	3598	4032	4504	4954	5385
27750.00	2615	3602	4036	4508	4959	5390
27800.00	2618	3606	4040	4513	4964	5396
27850.00	2621	3610	4044	4517	4969	5401
27900.00	2624	3614	4048	4521	4973	5406
27950.00	2627	3618	4051	4526	4978	5411
28000.00	2631	3622	4055	4530	4983	5416
28050.00	2634	3626	4059	4534	4988	5421
28100.00	2637	3629	4063	4538	4992	5427
28150.00	2640	3633	4067	4543	4997	5432
28200.00	2643	3637	4071	4547	5002	5437
28250.00	2646	3641	4075	4551	5007	5442
28300.00	2649	3645	4079	4556	5011	5447
28350.00	2653	3649	4082	4560	5016	5453
28400.00	2656	3653	4086	4564	5021	5458
28450.00	2659	3657	4090	4569	5026	5463
28500.00	2662	3661	4094	4573	5030	5468
28550.00	2665	3664	4098	4577	5035	5473
28600.00	2668	3668	4102	4582	5040	5478

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
28650.00	2671	3672	4106	4586	5045	5484
28700.00	2675	3676	4110	4590	5049	5489
28750.00	2678	3680	4113	4595	5054	5494
28800.00	2681	3684	4117	4599	5059	5499
28850.00	2684	3688	4121	4603	5064	5504
28900.00	2687	3692	4125	4608	5068	5509
28950.00	2690	3695	4129	4612	5073	5515
29000.00	2693	3699	4133	4616	5078	5520
29050.00	2696	3703	4137	4621	5083	5525
29100.00	2700	3707	4141	4625	5087	5530
29150.00	2703	3711	4144	4629	5092	5535
29200.00	2706	3715	4148	4634	5097	5540
29250.00	2709	3719	4152	4638	5102	5546
29300.00	2712	3723	4156	4642	5106	5551
29350.00	2715	3727	4160	4647	5111	5556
29400.00	2718	3730	4164	4651	5116	5561
29450.00	2722	3734	4168	4655	5121	5566
29500.00	2725	3738	4171	4660	5126	5571
29550.00	2728	3742	4175	4664	5130	5577
29600.00	2731	3746	4179	4668	5135	5582
29650.00	2734	3750	4183	4673	5140	5587
29700.00	2737	3754	4187	4677	5145	5592
29750.00	2740	3758	4191	4681	5149	5597
29800.00	2743	3762	4195	4685	5154	5602
29850.00	2747	3765	4199	4690	5159	5608
29900.00	2750	3769	4202	4694	5164	5613
29950.00	2753	3773	4206	4698	5168	5618
30000.00	2756	3777	4210	4703	5173	5623

[Explanatory Comment—2005

The schedule has been amended to reflect updated economic data. See Explanatory Comment—2005 following Rule 1910.16-1.]

Explanatory Comment—2008

The basic child support schedule has been amended to reflect updated economic data. The schedule has been expanded to include all cases in which the parties' combined net monthly income is \$30,000 or less. It also reflects an increase in the Self-Support Reserve to \$867, the 2008 poverty income for one person. The schedule was further adjusted to incorporate an assumption that the children spend 30% of the time with the obligor.

Rule 1910.16-3.1. Support Guidelines. High Income Cases.

(a) *Child Support Formula.* When the parties' combined monthly net income is above \$30,000, the

following three-step process shall be applied to calculate the parties' respective child support obligations.

(1) The following formula shall be applied to calculate the amount of basic child support to be apportioned between the parties according to their respective incomes:

One child: \$2,756 + 6.5 % of combined net income above \$30,000 per month.

Two children: \$3,777 + 8.0% of combined net income above \$30,000 per month.

Three children: \$4,210 + 9.2% of combined net income above \$30,000 per month.

Four children: \$4,703 + 10.3% of combined net income above \$30,000 per month.

Five children: \$5,173 + 11.3% of combined net income above \$30,000 per month.

Six children: \$5,623 + 12.3% of combined net income above \$30,000 per month.

(2) The trier of fact next shall make any appropriate adjustments to the basic support obligation

and/or allocation of additional expenses pursuant to Rule 1910.16-6.

(3) The trier of fact shall consider the factors in Rule 1910.16-5 in making a final child support award and shall make findings of fact on the record or in writing.

(b) *Spousal Support and Alimony Pendente Lite.* In cases in which the parties' combined monthly net income exceeds \$30,000, as a preliminary analysis in calculating spousal support or alimony pendente lite, the trier of fact shall compute 30% of the difference in the parties' respective net monthly incomes if there are dependent children of the parties or 40% of the difference in the parties' respective net monthly incomes if there are no dependent children of the parties. In determining the amount and duration of the final spousal support or alimony pendente lite award, the trier of fact shall consider the factors in Rule 1910.16-5 and shall make findings of fact on the record or in writing.

Explanatory Comment—2008

New Rule 1910.16-3.1 is intended to bring all child support cases under the guidelines and treat similarly situated parties similarly. Thus, high-income child support cases will no longer be decided pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). Economic data support the amounts in the basic child support schedule up to combined net incomes of \$30,000 per month. Above that amount, economic data are not readily available. Thus, for cases in which the parties' combined net monthly income is above \$30,000, the formula applies a fixed percentage to calculate the amount of support. The formula is an extrapolation of the available economic data to higher income cases. Spousal support and alimony pendente lite awards in high-income cases are preliminarily calculated pursuant to the guidelines formula of 30% or 40% of the difference in the net monthly incomes of the parties. However, in both high-income child support and spousal support/alimony pendente lite cases, the trier of fact is required to consider the factors in Rule 1910.16-5 before entering a final order and to make findings of fact on the record or in writing.

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.

(a) The following formula shall be used to calculate the obligor's share of [the] basic [guideline] child support, either from the schedule in Rule 1910.16-3 or the formula in Rule 1910.16-3.1(a). It also shall be used to preliminarily calculate spousal support [and/]or alimony pendente lite [obligation] obligations:

* * * * *

(c) *Substantial or Shared Physical Custody.*

(1) When the children spend 40% or more of their time during the year with the obligor, a rebuttable presumption arises that the obligor is entitled to a reduction in the basic support obligation to reflect this time. Except as provided in subsections (2) and (3) below, the reduction shall be calculated pursuant to the formula set forth in Part II of subdivision (a) of this rule. For purposes of this provision, the time spent with the children shall be

determined by the number of overnights they spend during the year with the obligor.

Example. Where the obligor and the obligee have monthly net incomes of \$5,000 and \$2,300 respectively, their combined child support obligation is [\$1,548] \$1,663 for two children. Using the income shares formula in Part I, the obligor's share of this obligation is 68%, or [\$1,053] \$1,131. If the children spend 40% of their time with the obligor, the formula in Part II applies to reduce his or her percentage share of the combined support obligation to 58%, or [\$898] \$965. If the children spend 45% of their time with the obligor, his or her percentage share of the combined obligation is reduced to 53%, or [\$820] \$881. If the children spend equal time with both parents, the obligor's percentage share is reduced to 48%, or [\$743] \$798.

(2) Without regard to which parent initiated the support action, when the children spend equal time with both parents, the Part II formula cannot be applied unless the obligor is the parent with the higher income. In no event shall an order be entered requiring the parent with the lower income to pay basic child support to the parent with the higher income. However, nothing in this subdivision shall prevent the entry of an order requiring the parent with less income to contribute to additional expenses pursuant to Rule 1910.16-6. Pursuant to either party's initiating a support action, the trier of fact may enter an order against either party based upon the evidence presented without regard to which party initiated the action. If application of the formula in Part II results in the obligee receiving a larger share of the parties' combined income in cases in which the parties share custody equally, then the court shall adjust the support obligation so that the combined income is allocated equally between the two households. In those cases, no spousal support or alimony pendente lite shall be awarded.

Example 1. Mother and Father have monthly net incomes of \$3,000 and \$2,700 respectively. Mother has filed for support for the parties' two children with whom they share time equally. Pursuant to the Basic Child Support Schedule at Rule 1910.16-3, the support amount for two children at their parents' combined net income level is [\$1,302] \$1,440 per month. Mother's share is 53% of that amount, or [\$690] \$763. Father's share is 47%, or [\$612] \$677. Application of subdivisions a. and b. of the Part II formula results in a 20% reduction in support when each parent spends 50% of the time with the children. Because the parties share custody equally, Mother cannot be the obligee for purposes of the Part II calculation because she has the higher income of the two parents. In these circumstances, although Mother initiated the support action, she would become the obligor even if Father has not filed for support. Father cannot be an obligor in the Part II calculations nor can the amount of support Mother is obligated to pay to Father be offset by calculating Father's adjusted amount of support under Part II because a support order cannot be entered against the parent with the lesser income. Using Mother as the obligor, her adjusted percentage share of the basic support amount is 33% (53% - 20% = 33%). Her adjusted share of the basic support amount is [\$430] \$475 (33% of [\$1,302] \$1,440). However, instead of [\$430] \$475 per month, Mother's support

obligation would be adjusted to \$150 per month to allocate the parties' combined income equally between the two households. This is the presumptive amount of basic support payable to Father under these circumstances.

Example 2. Where the obligor and the obligee have monthly net incomes of \$3,000 and \$2,500 respectively, their combined child support obligation for two children is [\$1,268] \$1412. The obligor's share of this obligation is 55%, or [\$697] \$777. If the children spend equal time with both parents, the formula in Part II results in a support obligation of [\$444] \$494 payable to the obligee. Since this amount gives the obligee [\$2,944] \$2,994 of the combined income, and leaves the obligor with only [\$2,556] \$2,506 of the combined income, the obligor's support obligation must be adjusted to \$250 to equalize the combined income between the parties' households. This is the presumptive amount of basic support payable to the obligee under these circumstances.

(3) This subdivision shall not apply when the obligor's income falls within the shaded area of the schedule in Rule 1910.16-3 or when the obligee's income is 10% or less of the parties' combined income.

(d) *Divided or Split Physical Custody.*

(1) When calculating a child support obligation, and one or more of the children reside with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. For example, if the parties have three children, one of whom resides with Father and two of whom reside with Mother, and their net monthly incomes are [\$1,500] \$2,500 and [\$800] \$1,250 respectively, Father's child support obligation is calculated as follows. Using the [formula with the] schedule in Rule 1910.16-3 for two children at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$1,190. As Father's income is 67% of the parties' combined net monthly income, Father's support obligation for the two children living with Mother is [\$513] \$797. Using [the formula with] the schedule in Rule 1910.16-3 for one child, Mother's support obligation for the child living with Father is [\$199] \$273. Subtracting [\$199] \$273 from [\$513] \$797 produces a net basic support amount of [\$314] \$524 payable to Mother as child support.

* * * * *

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support or alimony pendente lite (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support the children, the guideline amount of spousal support or alimony pendente lite shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support or alimony pendente lite, and awarding the net difference either to the non-custodial parent as spousal support/alimony pendente lite or to the custodial parent as child support as the circumstances warrant.

The following example uses the formula to show the steps followed to determine the amount of the non-custodial parent's support obligation to the children and

the effect of that obligation upon the custodial parent's spousal support obligation. The example assumes that the parties have two children and the non-custodial parent's net monthly income is \$1,000 and the custodial parent's net monthly income is \$2,600. First, determine the spousal support obligation of the custodial parent to the non-custodial parent based upon their net incomes from the formula for spousal support without dependent children, i.e., \$640. Second, recompute the net income of the parties assuming the payment of the spousal support so that \$640 is deducted from the custodial parent's net income, now \$1,960, and added to the non-custodial parent's net income, now \$1,640. Third, determine the child support obligation of the non-custodial parent for two children, i.e., [\$501] \$536. Fourth, determine the recomputed support obligation of the custodial parent to the non-custodial parent by subtracting the non-custodial parent's child support obligation from Step 3 ([\$501] \$536) from the original support obligation determined in Step 1 (\$640). The recomputed spousal support is [\$139] \$104.

* * * * *

Explanatory Comment—2008

The basic support schedule incorporates an assumption that the children spend 30% of the time with the obligor and that the obligor makes direct expenditures on their behalf during that time. Variable expenditures, such as food and entertainment that fluctuate based upon parenting time, were adjusted in the schedule to build in the assumption of 30% parenting time. Upward deviation should be considered in cases in which the obligor has little or no contact with the children. However, upward deviation may not be appropriate where an obligor has infrequent overnight contact with the child, but provides meals and entertainment during daytime contact. Fluctuating expenditures should be considered rather than the extent of overnight time. Downward deviation may be appropriate when the obligor incurs substantial fluctuating expenditures during parenting time, but has infrequent overnights with the children.

The calculation in Rule 1910.16-4(c) reduces an obligor's support obligation further if the obligor spends significantly more time with the children. The obligor will receive an additional 10% reduction in the amount of support owed at 40% parenting time, increasing incrementally to a 20% reduction at 50% parenting time. This method still may result in a support obligation even if custody of the children is equally shared. In those cases, the rule provides for a maximum obligation which may reduce the obligation so that the obligee does not receive a larger portion of the parties' combined income than the obligor.

Rule 1910.16-5. Support Guidelines. Deviation.

(a) *Deviation.* If the amount of support deviates from the amount of support determined by the guidelines, the trier of fact shall specify, in writing or on the record, the guideline amount of support, and the reasons for, and findings of fact justifying, the amount of the deviation.

Official Note: The deviation applies to the amount of the support obligation and not to the amount of income.

(b) *Factors.* In deciding whether to deviate from the amount of support determined by the guidelines, the trier of fact shall consider:

- (1) unusual needs and unusual fixed obligations;
- (2) other support obligations of the parties;
- (3) other income in the household;
- (4) ages of the children;
- (5) **the relative assets and liabilities** of the parties;
- (6) medical expenses not covered by insurance;
- (7) standard of living of the parties and their children;
- (8) in a spousal support or alimony pendente lite case, the **[period of time during which the parties lived together] duration of the marriage** from the date of marriage to the date of final separation; and
- (9) other relevant and appropriate factors, including the best interests of the child or children.

[(c) Duration. In determining the duration of an award for spousal support or alimony pendente lite, the trier of fact shall consider the period of time during which the parties lived together from the date of marriage to the date of final separation.]

Explanatory Comment—2005

Rule 1910.16-5 sets forth the factors for deviation from the presumptive amount of support. Subdivision (c) and subsection (b)(8) permit the court to consider the length of the marriage in determining the amount and duration of a spousal support or alimony pendente lite award. The primary purpose of these provisions is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

Explanatory Comment—2008

The provisions of subdivision (c), which provided that the court must consider the duration of the parties' marriage in determining the duration of an award of spousal support or alimony pendente lite, were moved to new Rule 1910.16-1(c)(2). The duration of the marriage, from the date of marriage to the date of final separation, remains a factor to consider in determining whether or not deviation from the amount of the award is warranted.

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

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

(a) *Child care expenses.* Reasonable child care expenses paid by either parent, if necessary to maintain employment or appropriate education in pursuit of income, shall be allocated between the parties in proportion to their net incomes and added to his and her basic support obligation. When a parent is receiving a child care subsidy through the Department of Public Welfare, the expenses to be allocated between the parties shall be the full unsubsidized cost of the child care, not just the amount actually paid by the parent receiving the subsidy. However, if allocation of the unsubsidized amount would result in a support order that is overly burdensome to the obligor, deviation pursuant to Rule 1910.16-5 **[may be]** is warranted.

Example. Mother has primary custody of the parties' two children and Father has partial custody. Mother's monthly net income is \$2,000 and Father's is \$3,500. At their combined income level of \$5,500, the basic monthly child support from the schedule in Rule 1910.16-3 is **[\$1,268] \$1,412** for two children. As Father's income is 64% of the parties' combined income, his share is **[\$812] \$904**. Mother incurs child care expenses of \$400 per month and Father incurs \$100 of such expenses each month. The total amount of child care expenses, \$500, will be apportioned between the parties, with Father paying 64%, or \$320. As he is already paying \$100 for child care while the children are in his partial custody, he would pay the remaining \$220 to Mother for a total child support obligation of **[\$1,032] \$1,124 ([\$812] \$904 + \$220 = [\$1,032] \$1,124)**.

* * * * *

(2) The federal child care tax credit shall not be used to reduce the child care expenses subject to allocation between the parties if the eligible parent is not qualified to receive the credit.

Official Note: A child care subsidy provided by the Department of Public Welfare should not be used to reduce the child care expenses subject to allocation between the parties to the extent that the obligor has the financial resources to contribute to the actual costs of child care. Nor is it appropriate to order the obligee to seek a child care subsidy in order to reduce the obligor's share of child care expenses if the obligor has the financial ability to contribute to those expenses. While public policy requires that parents, rather than taxpayers, pay for their children's child care when they are able to do so, allocation of the full unsubsidized cost of child care may result in a support order that is overly burdensome to the obligor. In those circumstances, in addition to considering deviation to relieve the burden on the obligor, the trier of fact also has the discretion to determine whether or not to include in the order other adjustments under Rule 1910.16-6, such as a mortgage contribution, which are not mandatory. No adjustment to the basic support amount shall be permitted if such would cause the obligor's remaining net monthly income to fall below the Self-Support Reserve of **[\$748] \$867**. Implicit in the rule requiring apportionment of the unsubsidized cost of child care is recognition of the duty of the subsidy recipient to report any additional income pursuant to Department of Public Welfare regulations so that adjustments can be made to entitlements accordingly.

* * * * *

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, alimony pendente lite and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award. If the obligor is occupying the marital residence and the mortgage payment exceeds 25% of the obligor's monthly net income (less any amount of spousal support, alimony pendente lite or child support the obligor is paying), the court may make an appropriate

downward adjustment in the obligor's support obligation. **This rule shall not be applied after a final resolution of all outstanding economic claims.** For purposes of this subdivision, the term "mortgage" shall include first mortgages, real estate taxes and homeowners' insurance and may include any subsequent mortgages, home equity loans and any other obligations incurred during the marriage which are secured by the marital residence.

* * * * *

Explanatory Comment—2008

Subdivision (e), relating to mortgages on the marital residence, has been amended to clarify that the rule cannot be applied after a final order of equitable distribution has been entered. To the extent that *Isralsky v. Isralsky*, 824 A.2d 1178 (Pa. Super. 2003), holds otherwise, it is superseded. At the time of resolution of the parties' economic claims, the former marital residence will either have been awarded to one of the parties or otherwise addressed.

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

(a) When the total of the obligor's basic child support obligations equals fifty percent or less of his or her monthly net income, there will generally be no deviation from the guideline amount of support on the ground of the existence of a new family. For example, where the obligor requests a reduction of support for one child of the first marriage on the basis that there is a new child of the second intact marriage, and the relevant monthly net incomes are \$2,500 for the obligor, \$500 for the former spouse and \$1,300 for the current spouse, the request for a reduction will be denied because the total support obligation of [\$1,142] \$1,141 ([\$601] \$593 for the first child and [\$541] \$548 for the second child) is less than half of the obligor's monthly net income.

(b) When the total of the obligor's basic support obligations exceeds fifty percent of his or her monthly net income, the court may consider a proportional reduction of these obligations. Since, however, the goal of the guidelines is to treat each child equitably, in no event should either a first or later family receive preference. Nor shall the court divide the guideline amount for all of the obligor's children among the households in which those children live.

Example 1. The obligor is sued for support of an out of wedlock child. The obligor is already paying support for two children of the first marriage, and has an intact second marriage with one child. The relevant monthly net incomes are [\$1,500] \$3,800 for the obligor, \$1,100 for the former spouse, \$0 for the current spouse and \$1,500 for the parent of the new child. The guideline amounts for each family are [\$514] \$1,043 for the two children of the first marriage, [\$386] \$831 for the one child of the second marriage, and [\$362] \$699 for the one child out of wedlock for a total support obligation of [\$1,262] \$2,573. Since the total of these obligations exceeds fifty percent of the obligor's net monthly income of [\$1,500] \$3,800 per month, the court may consider a proportional reduction of all of the orders.

Example 2. The obligor is sued for support of three children of a second marriage. There is already an order in effect for two children of the first marriage. The relevant monthly net incomes are [\$1,000]

\$1,500 for the obligor, \$0 for the first spouse and \$500 for the second spouse. The guideline amounts for each family are [\$229] \$531 for the two children of the first marriage and [\$422] \$615 for the three children of the second marriage for a total support obligation of [\$651] \$1,146. Since this total obligation leaves the obligor with only [\$349] \$354 on which to live, the order for the three children of the second family is too high. However, reducing the order for three children while leaving the existing order intact would give preference to the first family, contrary to the rule. Therefore, both orders must be reduced proportionally.

Example 3. The obligor is sued to establish orders for three children born out of wedlock. The net monthly incomes for the obligor and for each obligee is \$1,500. The court would determine that the guideline figure for each child is [\$362] \$357 for a total obligation of [\$1,086] \$1,071 for three children. It would be incorrect to determine the guideline amount for three children, in this case [\$724] \$1,213, and then divide that amount among the three children.

(c) For purposes of this rule, the presumptive amount of the obligor's basic support obligation is calculated using only the basic guideline amounts of support, as determined from the formula in Rule 1910.16-4, and does not include any additional expenses that may be added to these amounts pursuant to Rule 1910.16-6. In calculating the presumptive amount of the obligor's basic support obligation, the court should ensure that obligor retains at least [\$748] \$867 per month consistent with Rule 1910.16-2(e).

Example 1. Assume that the obligor is paying [\$591] \$575 per month support for one child of the first marriage, plus an additional \$200 per month for child care expenses. The obligor requests a reduction in this support obligation on the basis that there is one new child of the second intact marriage. The relevant incomes are \$2,400 for the obligor and \$0 for both the former and current spouses. The obligor's request for a reduction should be denied because the total of the basic guideline obligations for both children is only [\$1,182] \$1,150 ([\$591] \$575 for each child) and this amount does not exceed 50% of the obligor's net monthly income. No reduction should be given on the basis that the obligor's contribution to child care expenses for the first child results in an overall support obligation of [\$1,382] \$1,350 which exceeds 50% of the obligor's net monthly income. Thus, the presumptive amount of basic support for the two children is still [\$1,182] \$1,150 ([\$591] \$575 for each child). The court must then consider the deviation factors under Rule 1910.16-5 and the parties' respective contributions to additional expenses under Rule 1910.16-6 in arriving at an appropriate amount of total support for each child.

Example 2. Assume that the obligor is paying [\$227] \$365 per month support for one child of the first marriage. The obligor has one new child of the second intact marriage. The relevant incomes are [\$1,000] \$1,500 for the obligor and \$0 for both the former and current spouses. No reduction should be given on the basis of the obligor's new child because the total of the basic guideline obligations for both

children is only [\$454] \$730 ([\$227] \$365 for each child) and this amount does not exceed 50% of the obligor's net monthly income. Since, however, this amount leaves the obligor with only [\$546] \$770 per month, the court should proportionally reduce the support obligations so that the obligor retains [\$748] \$867 per month. Thus, the presumptive amount of basic support for the two children is [\$252] \$633 ([\$126] \$316.50 for each child). The court must then consider the deviation factors under Rule 1910.16-5 and the parties' respective contributions to additional expenses under Rule 1910.16-6 in arriving at an appropriate amount of total support for each child.

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

- (1) current child support.**
- (2) medical, child care or other court-ordered child support-related expenses.**
- (3) child support arrears.**
- (4) current spousal support or alimony pendente lite.**
- (5) spousal support or alimony pendente lite arrears.**
- (6) court costs and fees.]**

* * * * *

Explanatory Comment—2008

Rule 1910.16-7 has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in the Self-Support Reserve to \$867 per month, the 2008 federal poverty level for one person. The distribution priorities formerly in subdivision (d) have been moved to Rule 1910.17(d) to clarify that these priorities apply to all support orders, not just those involving multiple families.

* * * * *

Rule 1910.17. Support Order. Effective Date. Change of Circumstances. Copies of Order. **Priority of Distribution of Payments.**

* * * * *

(d) The priority for distribution of payments and/or collections from the obligor, without regard to the source of the funds or method of collection, are as follows:

- (1) current child support.**
- (2) medical, child care or other court-ordered child support-related expenses.**
- (3) child support arrears.**
- (4) current spousal support or alimony pendente lite.**
- (5) spousal support or alimony pendente lite arrears.**
- (6) court costs and fees.**

[Explanatory Comment—1981

Section 6706(a) of the Judicial Code provides that an order of support may be made effective as of the date of the filing of the complaint. Subdivision (a) of the Rule prescribes that the order shall be effective from the date of filing the complaint "unless the order specifies otherwise."

A note has been added to the subdivision referring to Section 6706(b) of the Code, which provides an administrative procedure for making payment pursuant to an order of support.

Subdivision (b) requires the court in its order to impose upon the defendant the continuing duty to inform the domestic relations section of any change of address. This obligation of the defendant forms the basis upon which papers in the action may subsequently be served upon him. The requirement of informing the domestic relations section of the current address also facilitates other communication between the section and the defendant with respect to payment, arrearages, and other matters.

Explanatory Comment—1988

The introduction to the explanatory comment appears under Rule 1910.49.

Subdivision (a) governing the effective date of a support order remains unchanged but the note is enlarged and made current. The manner of making support payments is now set forth in section 4325 of Title 23 of the Consolidated Statutes, 23 Pa.C.S. § 4325, to which the note, as revised, refers. Also, the note contains a reference to the requirements of Act 66 and Rule 1910.22 that every support order must contain an immediate or conditional order of income attachment, discussed *infra* under Rule 1910.22.

Subdivision (b) is revised to use the terms "obligor" and "obligee" rather than "plaintiff" or "defendant". This is the terminology of Act 66 and consistent terminology lessens the opportunity for confusion.

Former subdivision (b) imposed a continuing duty on the defendant to inform the domestic relations section of any change in address. In conformity with Act 66, 23 Pa.C.S. § 4353, the rule is revised by expanding the duty of the obligor to update information concerning employment, personal address or the address of a child receiving support. The statute and the rule both provide for punishment by contempt of court for the willful failure to inform the domestic relations section of the required information.

New subdivision (c) requires that the parties and their attorneys be served with a copy of the support order. This provision comports with the regulations of the Federal Office of Child Support Enforcement, 45 CFR 303.101(c)(3).

Explanatory Comment—1994

The proposed amendment conforms Rule 1910.17 to the requirements of 23 Pa.C.S. § 4353 by augmenting the list of changed circumstances which parties are required to report, in writing, within seven days.]

Explanatory Comment—2008

Subdivision (d) has been moved from Rule 1910.16-7 and addresses the priority of the distribu-

tion of payments and collections in all cases, not just those involving multiple families.

* * * * *

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

* * * * *

(c) The Income and Expense Statements to be attached to the order shall be in substantially the following form:

* * * * *

(2) Expense Statements. An Expense Statement is not required in cases which can be determined pursuant to the guidelines unless a party avers unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. (See Rule 1910.11(c)(1)). Child support is calculated under the guidelines based upon the net incomes of the parties, with additional amounts ordered as necessary to provide for child care expenses, health insurance premiums, unreimbursed medical expenses, mortgage payments and other needs, contingent upon the obligor's ability to pay. The Expense Statement in subparagraph (A) below shall be utilized if a party is claiming that he or she has unusual needs and unusual fixed expenses that may warrant deviation or adjustment in a case determined under the guidelines. [In cases which must be determined pursuant to Melzer v. Witsberger, 505 Pa. 462, 480 A.2d 991 (1984), because the parties' combined net monthly income exceeds \$20,000 per month] In child support, spousal support and alimony pendente lite cases calculated pursuant to

Rule 1910.16-3.1 and in divorce cases involving claims for alimony or counsel fees, costs and expenses pursuant to Rule 1920.31(a), the parties must complete the Expense Statement in subparagraph (B) below.

(A) Guidelines Expense Statement. If the combined monthly net income of the parties is [\$20,000] \$30,000 or less, it is not necessary to complete this form unless a party is claiming unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. At the conference, each party must provide receipts or other verification of expenses claimed on this statement. The Guidelines Expense Statement shall be substantially in the following form.

* * * * *

(B) [Melzer] Expense Statement for Cases Pursuant to Rule 1910.16-3.1 and Rule 1920.31. No later than five business days prior to the conference, the parties shall exchange this form, along with receipts or other verification of the expenses set forth on this form. Failure to comply with this provision may result in an appropriate order for sanctions and/or the entry of an interim order based upon the information provided.

* * * * *

By the Domestic Relations Procedural Rules Committee

NANCY P. WALLITSCH, ESQUIRE, Chair

[Pa.B. Doc. No. 08-2226. Filed for public inspection December 12, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

POTTER COUNTY

Revision of the Fee Schedule for the Office of Prothonotary and Clerk of Courts; Administrative Doc. No. CP-53-AD-10-2008

And Now, this 25th day of November, 2008 the petition of the Prothonotary and Clerk of Courts of Potter County is granted and the proposed fee schedule for the Office of Prothonotary and Clerk of Courts is approved and adopted and will become effective as of January 1, 2009.

JOHN B. LEETE, President Judge

Potter County Fee Schedule—Revised January 2009

PROTHONOTARY

Table with 2 columns: Description of service and Fee amount. Includes Acknowledgements (\$5.00), Appeals (\$28.25 to \$60.00), Arbitration (\$45.00 to \$475.00), Assignment (\$5.00), Attachment of Wages (\$40.00), and Certified copy of any document (\$5.00).

Commencement of action (other than Custody or Divorce):	
By Petition (incl. JCP & Proth. Automation Fund Fees)	\$65.00
By Complaint (incl. JCP & Proth. Automation Fund Fees)	\$65.50
By Writ of Summons (incl. JCP & Proth. Automation Fund Fees)	\$65.50
Custody (incl. JCP, Proth. Automation Fund Fee & Act 119)	\$72.50
Continuance, Motion for (whether granted or not)	\$28.00
Divorce Complaint (incl. JCP, Proth. Automation & Divorce Surcharge)	\$55.50
(<i>If custody is a count add an additional \$7.00 for Act 119</i>)	
Two Count Divorce	\$70.50
Three Count Divorce	\$85.50
Four Count Divorce	\$100.50
Five Count Divorce	\$115.50
Six Count Divorce	\$130.50
[for each additional count, add \$15.00]	
Counter-claim in Divorce, filing of a one count	\$45.00
Plus add \$15.00 for each additional count in the Counter-claim & if custody is a count in the counter-claim add an additional \$7.00 for Act 119	
Change of Venue request (in a Divorce case) . . . whether granted or not	\$45.00
Praecipe to Transmit the Record . . . (incl. 1 cert. copy of Decree for Plaintiff)	\$9.00
Certificate of No Claims Filed	\$5.00
Election to Resume <i>Prior</i> Surname filed at <i>divorce case</i>	
If done prior to or within one year of the divorce decree	\$5.00
(Done by Notice)	
If done more than one year after the date of divorce decree	\$20.00
(Done by Petition)	
Election to Resume Prior Surname as a <i>Surviving Spouse</i> (must be a Potter County, PA resident)	\$20.00
Additional certified copies	\$5.00 each
Exemplified copy (Triple-sealed) of Divorce case	\$24.00
Execution:	
Praecipe for Writ of Execution or Praecipe for Writ of Possession	\$45.00
UCC-1 search . . . per debtor name	\$59.00 plus \$.25 per page if copy is requested
UCC-1 additional fee for each financing statement found and for each statement of assignment reported therein	\$5.00
Judgments (includes satisfaction fee and any state writ tax):	
Federal Tax Liens (incl. Proth. Auto. Fee)	\$23.00
Commonwealth Certified Liens (incl. Proth. Auto. Fee)	\$23.50
Default Judgments (incl. Proth. Auto. Fee)	\$23.00
Entry by Order Note or Confession (incl. Proth. Auto. Fee)	\$23.50
Entry by District Justice Judgment (incl. Proth. Auto. Fee)	\$23.25
Entry by Municipal Lien (incl. Proth. Auto. Fee)	\$23.50
Exemplified Record filing here or preparing for another county or another state	\$24.00
Mechanic's Lien	
Waiver or Stipulation Against (incl. Proth. Auto. Fee)	\$16.50
Claim (incl. Proth. Auto. Fee)	\$16.50
Notary Public	
Registering signature or Certification of	\$3.00
Power of Attorney	
New filing per name	\$4.00
Addition of or Revocation of a name	\$2.00
Reinstatement of Complaint	\$5.00
Revival of Judgment:	
By Agreement (incl. Proth. Auto. Fee)	\$23.00
By Writ (incl. Proth. Auto. Fee)	\$29.00
Release of <i>Specific Real or Personal Property</i> from a Judgment or Lien	\$7.00
Satisfaction of judgments or liens filed prior to 2004 :	
Of Judgment	\$7.00
Of Commonwealth or Municipal Lien	\$7.50
Of Federal Tax Lien	\$7.00

(Note: Beginning January 1, 2004 the satisfaction fee and any state writ tax due will be included in the judgment filing fee)

THE COURTS

Subordination of Lien or Judgment	\$7.00
Search of Records done as time permits.....	\$7.00
(add \$1.50 per each finding & \$.25 per each page copied)	
Subpoena (civil) (each)	\$5.00
NOTE: a NSF (non sufficient fund) fee will be assessed for any check or money order returned by the bank for insufficient funds, etc. of	\$25.00.

CLERK OF COURTS

Poundage statutory handling fee for bail: 3% of first \$1,000.00 and 1% of balance	
Appeals: From Dist. Justice Summary Conviction	\$45.00
From Court of Common Pleas to Appellate Ct:	
To Proth./Clerk Of lower Court	\$50.00
To Proth. Of Appell. Court (incl. JCP fee)	\$60.00
Expungment of a Criminal Case	\$15.00
Miscellaneous Case filing (incl. JCP and Auto. Fee).....	\$65.00
Road Docket Resolution (incl. JCP and Auto. Fee)	\$28.00
Subpoena (criminal) (each)	\$5.00

[For other costs assessed to Criminal, Juvenile & Miscellaneous Cases: *please call*]

NOTE: a NSF fee will be assessed for any check of money order returned by the bank for insufficient funds, etc. of **\$25.00**

CLERK OF THE ORPHANS' COURT

Accountings (First and Final) first page (includes JCP)	\$40.00
Additional pages (do not count affidavits, copies, etc.) each	\$2.00
Adoption Petitions (includes JCP)	\$65.00
Appeals: From Orphans Court to Appellate Ct:	
To Proth./Clerk Of lower Court	\$50.00
To Proth. Of Appell. Court (incl. JCP fee)	\$60.00
Citation	\$5.00
Claim Against Accounting	\$10.00
Claim Against Estate	\$15.00
Commencement of Action all Petitions (incl. JCP)	\$65.00
Motion for Continuance (whether granted or not)	\$25.00
Marriage License (includes one certified return)	\$50.00
Custodial Parental Consent	\$10.00
Waiver of Waiting Period	\$10.00
(Military Waiver of waiting period No Charge for waiver of waiting period for ACTIVE DUTY with Military ID)	

NOTE: Additional certified returns of marriage are \$10.00 each

NOTE: a NSF fee will be assessed for any check returned by the bank for insufficient funds, etc. of \$25.00

Office copy and fax policy

Copies: \$.50 per page. If mailed, there is a minimum copy fee of \$1.00.

Fax charges for outgoing faxes as follows:
\$2.00 for first page, \$1.00 for each additional page

For additional information or questions call (814) 274-9740 or write to Amy J. Moshier, Prothonotary and Clerk of Courts of Potter County, One East Second Street, Room 23, Coudersport, PA 16915.

[Pa.B. Doc. No. 08-2227. Filed for public inspection December 12, 2008, 9:00 a.m.]

YORK COUNTY

Increasing the Schedule of Fees for the Prothonotary; Misc. Civil; Doc. No. 2008-MI-000365-5

Administrative Order and Approval

And Now, To Wit, this 20th day of November, 2008, the Court pursuant to Act #98-164 of the Pennsylvania Legislature, hereby approves the increase of fees effective January 2, 2009.

PROTHONOTARY FEE BILL—EFFECTIVE JANUARY 2, 2009

ACKNOWLEDGMENTS	Of Sheriff or Treasurer Deeds	\$10.75
ANSWER ON AN NO CASE (JUDGMENT)		\$8.00
APPEALS	District Justice	\$157.00
	Superior Court Appeal: two separate checks required	
	Prothonotary Fee	\$78.00
	Appellate Court Fee	\$60.00
ARBITRATIONS	Appointment of Arbitrator	\$38.25
	Arbitration Appeal	\$40.00
	Reimbursement to County for Arbitrator's fees	\$240.00
ASSIGNMENTS		\$12.50
BENCH WARRANTS		\$21.00
CERTIFICATES	Notary Public or Magistrate	\$4.75
	Duplicate Divorce Decree	\$11.25
	Copy of Resume Maiden Name after Divorce	\$7.50
CERTIFICATIONS	First page	\$7.00
	Each additional page	\$2.00
CHECKS RETURNED AS NON-NEGOTIABLE		\$35.00
COMMENCEMENT OF CIVIL ACTION		\$157.00
COMPLAINT—CIVIL		\$157.00
COMPLAINT—CUSTODY		\$151.00
COMPLAINT—DIVORCE		\$218.00
Add \$10 for each additional count and \$17 for a custody count		
COMPLAINT IN CONFESSION OF JUDGMENT		\$51.50
CONFESSIONS OF JUDGMENT		\$43.50
CONCILIATOR APPOINTMENT		\$140.00
COPIES	Docket entries made at public printer—per page	\$0.50
	Documents made by Prothonotary staff—per page	\$1.00
CUSTODY COMPLAINT (Except when filed with a divorce action)		\$151.00
CUSTODY (Register out of state custody order)		\$19.75
DEFAULT JUDGMENT		\$23.25
DIRECTIVE (Conciliator fee)		\$140.00
DISTRICT JUSTICE APPEAL		\$157.00
DISTRICT JUSTICE JUDGMENT		\$43.50
DIVORCE DECREE CERTIFIED COPY		\$11.25
DIVORCE COMPLAINT		\$218.00
Commencement of Divorce Action		\$218.00
(Plus \$10 for each count other than divorce and \$17 for a custody count)		
Discontinuance or withdrawal		\$12.50
Appointment of Master:		
For Fault Divorce, Equitable Distribution or Alimony (first 12 hours)		\$300.00
Modification of Alimony (first 8 hours)		\$200.00
Interim Relief (first 4 hours)		\$100.00
Additional Proceedings (each block up to 6 hours)		\$150.00

Separate Claim for Alimony Pendente Lite (new claim or modification)		\$50.00
EXECUTIONS	Praecipe for Writ	\$37.75
	Attachment Proceeding Each Garnishee	\$0.50
	Reissuance or Amendments	\$11.25
	Interrogatories and Answers	\$8.00
	Attachment Dissolution	\$12.50
	Sheriff's Determination of Ownership	\$10.75
EXEMPLIFIED RECORDS	Incoming Exemplified Records	\$43.50
	Outgoing Exemplified Records (specify as in-state or out-of-state)	\$25.75
EXHIBITS (oversized) any document larger than 11" by 17"—Per page		\$3.25
FAMILY COURT ACTIONS	Commencement of Action	\$218.00
	Add for each count other than divorce	\$10.00
	Add when a custody count is included	\$17.00
	Discontinuance or withdrawal	\$12.50
	Custody (except when filed with a divorce action)	\$151.00
	Conciliator Appointment	\$140.00
	Reactivation of case made inactive per Local Rule 6036	\$21.00
	Appointment of Master:	
	For Fault divorce, Equitable Distribution or Alimony (first 12 hours)	\$300.00
	Modification of Alimony (first 8 hours)	\$200.00
	Interim Relief (first 4 hours)	\$100.00
	Additional Proceedings (each block up to 6 hours)	\$150.00
	Separate Claim for Alimony Pendente Lite (new claim or modification)	\$50.00
FAXING	Faxing of a record long distance	\$10.00
INTERROGATORIES		\$8.00
JUDGMENTS	By Confession	\$43.50
	With Complaint	\$51.50
	By Praecipe (Default), Stipulation, or Order	\$23.25
	By Transcript (District Justice)	\$43.50
	Incoming Exemplified Records	\$43.50
	Outgoing Exemplified Records (specify as in-state or out-of-state)	\$25.75
	Broker's Lien	\$43.50
	Judgment Non Pros	\$23.25
JUDICIAL SALE OBJECTIONS/EXCEPTIONS		\$19.75
LICENSE SUSPENSION APPEAL		\$157.00
LIENS	Municipal or Federal	\$43.50
	Commonwealth	\$43.50
MECHANICS LIENS	Claim (same as Commencement of New Action)	\$157.00
	Stipulation or Waiver	\$33.75
MISCELLANEOUS FILINGS		\$19.75
MORTGAGE FORECLOSURE		\$157.00
MOTION TO STAY EXECUTION ON AN NO CASE		\$8.00
MOTION TO STAY EXECUTION ON AN SU CASE		NO FEE
NAME CHANGE—resume maiden name after filing for divorce		\$15.00
NAME CHANGE—not divorce related (must file Petition for Change of Name)		\$52.75
NOTARY PUBLIC	Registration of Signature	\$4.75

	Acknowledgment of Signature	\$4.75
PETITION FOR CHANGE OF NAME (not divorce related)		\$52.75
PETITIONS TO OPEN OR STRIKE JUDGMENTS	Shall be considered as commencing a new action:	
	If filed to NO#	\$157.00
	If filed to SU#	NO FEE
PLEADINGS FILED TO AN NO OR MT CASE		\$8.00
POWERS OF ATTORNEY	Registration of first name	\$5.25
	Registration of additional name	\$1.00
	Revocation of first name	\$3.50
	Revocation of additional name	\$1.00
PRAECIPE TO ENTER FINAL JUDGMENT		\$23.25
PRAECIPE TO SATISFY/ DISCONTINUE/ WITHDRAW CASE		
If case filed prior to 1/2/97		\$12.50
If case filed on or after 1/2/97		NO FEE
PROTECTION FROM ABUSE		\$144.50
	State Surcharge	\$25.00
	Issuance of a Bench Warrant	\$21.00
REACTIVATION OF CASE MADE INACTIVE PER RULE 6036		\$21.00
RELEASE, POSTPONEMENT, SUBORDINATION		\$12.50
REMOVAL OR TRANSFER TO ANOTHER COURT		\$32.50
REPORTS	Per page	\$0.50
	E-mailed report	\$10.00
REVIVALS	Adverse Proceedings	\$58.75
	Amicable Proceedings	\$43.50
	Writ of Scire Facias	\$58.75
SATISFACTIONS	Cases filed prior to 1/2/97	\$12.50
	Cases filed after 1/2/97	NO FEE
	Commonwealth Satisfactions (filed prior to 1997)	\$13.00
SUBPOENAS	Must be completed before submitted for signature and seal	\$4.75
SUIT—Civil Complaint		\$157.00
SUGGESTION OF NONPAYMENT (Revival of Commonwealth Tax Lien)		\$44.00
TAX UPSET OBJECTIONS/EXCEPTIONS		\$19.75
WRIT OF ATTACHMENT		\$42.00
Notice of Intent to Attach Wages		\$8.00
WRIT OF EXECUTION		\$37.75
WRIT OF SCIRE FACIAS		\$58.75
WRIT OF SUMMONS		\$157.00

NOTES

York County Local Rules require a backer on all filings.
All filings should be one-sided.

Judgments must be accompanied by 236 Notices.

Divorce finalizations require submission of a Divorce Information Sheet and the Social Security Information Sheet.

Failure to provide all required paperwork may result in returned filings.

The Prothonotary shall not be required to enter on the docket any suit or action nor order of court or enter any

judgment thereon or perform any services whatsoever for any person or political subdivision of the Commonwealth until the requisite fee is paid.

Stamped, self-addressed envelopes must be included with any documents to be returned.

It Is Further Ordered that in accordance with Pa.R.C.P. the District Court Administrator shall:

(a) File 7 certified copies hereof with the Administrative office of Pennsylvania Courts.

(b) Distribute 2 certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(c) File 1 certified copy hereof with the Civil Procedural Rules Committee, and 1 certified copy hereof with the Criminal Procedural Rules Committee.

(d) Cause a copy hereof to be published in the *York Legal Record* once a week for 2 successive weeks at the expense of the County of York.

(e) Cause to be printed an adequate supply of the Rules hereby amended and promulgated for distribution to the Judges and the members of the Bar of this Court, and for sale at cost to any other interested parties, such printing to be done at the expense of the County of York in accordance with the provisions of the Act of July 9, 1976, P. L. 586, Sec. 2, 42 Pa.C.S.A. Section 3722.

(f) Supervise the distribution thereof to all Judges and all members of the Bar of this Court.

By the Court

RICHARD RENN,
President Judge

[Pa.B. Doc. No. 08-2228. Filed for public inspection December 12, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 37—LAW

DEPARTMENT OF CORRECTIONS

[37 PA. CODE CH. 97]

State Intermediate Punishment

The Department of Corrections (Department) has rescinded a statement of policy in Chapter 97 (relating to state intermediate punishment) and replaced the statement of policy with regulations to read as set forth in Annex A.

Purpose and Authority

This final-form rulemaking adopts regulations governing State intermediate punishment. The new regulations will appear in Chapter 97, adjoining other regulations pertaining to the Department. The Department is acting under the authority granted by 42 Pa.C.S. § 9906 (relating to written guidelines and regulations). The provisions of 42 Pa.C.S. Chapter 99 (relating to State intermediate punishment) (act) establish the Commonwealth's first State intermediate punishment program. The State intermediate punishment program is intended to reduce recidivism by providing intense drug and alcohol treatment to certain defendants who have been convicted of drug-related offenses. A drug-related offense is a crime that was motivated by the defendant's consumption of or addiction to alcohol or other drugs.

The act permits certain defendants who have been convicted of drug-related offenses to be committed to the Department for an assessment of their addiction and other treatment needs. Defendants who are subject to a sentence that includes an enhancement for the use of a deadly weapon or who have been convicted of a personal injury crime and certain other sexual crimes cannot be sentenced to State intermediate punishment. If, after assessment, the Department determines that the defendant is likely to benefit from a drug offender treatment program and is appropriate for placement in such a program, the Department will develop an individualized drug offender treatment program for the defendant. The judge may sentence the defendant to participate in a drug offender treatment program with the agreement of the defendant and the attorney for the Commonwealth.

A drug offender treatment program will be 24 months in duration and consist of at least four components. The defendant must serve a minimum of 7 months incarceration in a State correctional institution, during which the defendant must receive a minimum of 4 months treatment in an institutional therapeutic community. The defendant then must receive a minimum of 2 months treatment in a community-based therapeutic community and a minimum of 6 months treatment through an outpatient addiction treatment facility. The balance of the 24 month program consists of supervised reintegration into the community. The act permits the Department to transfer the defendant from less restrictive to more restrictive settings for medical, disciplinary or administrative reasons and to suspend or expel the defendant from the program. The Department intends to expel defendants who are not meaningfully participating in their individualized drug offender treatment program. A defendant who is expelled from the program will be resentenced by the court.

Comments and Response

Notice of proposed rulemaking was published at 37 Pa.B. 786 (February 17, 2007) with a 30 day comment period. The Department did not receive any public comments during the 30 day comment period. Comments were received from the Independent Regulatory Review Commission (IRRC) during the comment period.

Following is a summary of the comments and the Department's response to those comments:

Comment: IRRC recommended that the definitions of "DOTP-Drug Offender Treatment Program" and "eligible offender" fully reflect the statute.

Response: The Department adopted both of IRRC's recommendations.

Comment: IRRC recommend that the Department remove the following language from § 97.103 (relating to commitment for assessment): "The court is encouraged to order a presentence investigation at or prior to the time the Inmate is committed for evaluation." IRRC noted that the language does not establish a binding norm of general applicability and future effect.

Response: The Department removed the language from the regulation.

Comment: IRRC commented that § 97.103(b)(6) requires "A notice of current or previously administered medications." IRRC recommended that the word "or" be replaced with the word "and" to ensure a full history of medications. IRRC also asked that the Department clarify the period for which notice is required. IRRC also recommended that the Department clarify whether the term "medications" included over-the-counter medications.

Response: The Department replaced the word "or" with "and." The regulation also has been redrafted to clarify that the Department is seeking a full history of medications, including over-the-counter medications, administered during the preceding calendar year.

Comment: IRRC commented that there were several vague phrases in § 97.104 (relating to assessment of addiction and other treatment needs). Specifically, IRRC asked, "What 'nationally recognized assessment instrument' does the Department find acceptable?" IRRC also asked, "What procedures will the Department find acceptable to meet the requirement for an instrument to be 'normed and validated on the Department's inmate population?"; "What qualifications does the Department require for a person to be a 'recognized expert in those matters?"; and "What qualifications does the Department accept for 'persons skilled in the treatment of drug and alcohol addiction and trained to conduct assessments?'"

Response: The Department redrafted the regulation to address the concerns raised in this comment. The regulation reflects that the Department currently uses the Texas Christian University Drug Screen II (TCUDSII) as its assessment instrument. The TCUDSII was developed under a Federal grant and was designed specifically for criminal offenders. The regulations also explain the requirements that any new assessment instrument would have to satisfy to be used and the qualifications for administering the instrument. The regulations also require that an individual have attained a Ph.D. or similar terminal degree and have published peer reviewed studies to be considered a "recognized expert."

The regulation establishes the requirements for a person to be skilled in the treatment of drug and alcohol addiction. Specifically, the regulation requires that an individual have 1 year of experience as a Commonwealth Drug and Alcohol Treatment Specialist 1, or 2 years of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and have earned a bachelor's degree that includes 18 credits in the behavioral sciences, or 1 year of paraprofessional and 1 year of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and be certified by the Pennsylvania Chemical Abuse Certification Board as a "Certified Addictions Counselor" or have 1 year of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and a master's degree with major coursework in addictions, science, psychology or social work or an equivalent combination of experience and training which includes 18 college credits in the behavioral sciences.

The regulation further provides that a person must have completed the Department's internal training program regarding conducting assessments or have equivalent experience and knowledge to be considered trained to conduct assessments.

Comment: IRRC suggested that § 97.104(d) include a cross-reference to 42 Pa.C.S. § 9904(f).

Response: The Department agrees with this comment and added a cross-reference to the section.

Comment: IRRC commented that § 97.113 (relating to treatment sanctions) should clarify the meaning of "other drugs" that will trigger treatment sanctions.

Response: The Department added clarifying language to the regulation. The term "other drugs" is intended to encompass both illegal drugs and prescription drugs which have not been prescribed for the offender.

The Department also received informal comments from two judges inquiring whether any administrative remedies were available to a participant who was expelled from an SIP program. The Department has clarified § 97.116 (relating to expulsion from a DOTP) permit an internal review of an expulsion decision.

Final Proposed Rulemaking

Affected Parties

These final-form regulations affect courts, prosecutors, criminal defendants and defense counsel.

Fiscal Impact and Paperwork Estimates

These final-form regulations replace guidelines that implemented a program that is already in effect, for which funding has been appropriated. Therefore, there is no new significant fiscal impact. The final-form regulations will be fiscally neutral with respect to the counties. The Department anticipates a savings of \$3,873,000 through the first 5 years of the program.

The final-form regulations does not affect existing reporting, recordkeeping or other paperwork requirements.

Effective Date

The final-form regulations will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

No sunset date has been assigned.

Contact Person

The official responsible for information on the final form regulations is Randall N. Sears, Deputy Chief Counsel, Department of Corrections, 55 Utley Drive, Camp Hill, PA 17011.

Regulatory Review

On February 1, 2007, copies of the proposed rulemaking were delivered to IRRC and the Majority and Minority Chairpersons of the House and Senate Judiciary Committees (Committees). Notice of the proposed rulemaking was published at 37 Pa.B. 786 with a 30 day public comment period. No public comments were received. Comments were received from IRRC on April 18, 2007. In preparing the final-form rulemaking, the Department considered all comments received from IRRC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)(a)), this final-form rulemaking was deemed approved by the House and Senate Judiciary Committees on September 17, 2008. Under section 5a(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)), IRRC approved the final-form rulemaking on September 18, 2008.

Findings

The Department finds that:

(1) Public notice of the intention to adopt these regulations 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 1204) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered and forwarded to IRRC and the House and Senate Judiciary Committees.

(3) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for administration and enforcement of the authorizing statute.

Order

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

(a) Title 37 of the *Pennsylvania Code* Chapter 97, is amended by deleting the statement of policy in §§ 97.1—97.17 and by adding regulations in §§ 97.101—97.118 to read as set forth in Annex A.

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

(c) The Department shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, and the House and Senate Judiciary Committees for their review and action as required by law.

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

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

JEFFREY A. BEARD, Ph.D.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 5509 (October 4, 2008).)

Fiscal Note: 19-9. (1) General Fund; (2) Implementing Year 2007-08 is \$0; (3) 1st Succeeding Year 2008-09 is \$1,308,000; 2nd Succeeding Year 2009-10 is \$0; 3rd Succeeding Year 2010-11 is \$0; 4th Succeeding Year 2011-12 is \$0; 5th Succeeding Year 2012-13 is \$0; (4) 2006-07 Program—\$1,154,473,000; 2005-06 Program—\$1,101,381,000; 2004-05 Program—\$1,086,505,000; (7) State Correctional Institutions; (8) recommends adoption. Implementing year shows no costs because they are included in the current budget. Savings to the Department will begin the second succeeding year.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

CHAPTER 97. STATE INTERMEDIATE PUNISHMENT DRUG OFFENDER TREATMENT PROGRAM

- Sec.
- 97.1—97.17. [Reserved].
- 97.101. Authority and purpose.
- 97.102. Definitions.
- 97.103. Commitment for assessment.
- 97.104. Assessment of addiction and other treatment needs.
- 97.105. DOTP Selection Committee.
- 97.106. Participant selection criteria.
- 97.107. Drug offender treatment program.
- 97.108. Confinement in a State correctional institution.
- 97.109. Program advancement and regression.
- 97.110. Community-based therapeutic community.
- 97.111. Outpatient addiction treatment facility.
- 97.112. Supervised reintegration into the community.
- 97.113. Treatment sanctions.
- 97.114. Disciplinary sanctions.
- 97.115. Suspension from a DOTP.
- 97.116. Expulsion from a DOTP.
- 97.117. Consent to disclosure of information.
- 97.118. Applicability.

§§ 97.1—97.17. (Rescinded).

§ 97.101. Authority and purpose.

(a) This chapter is published under the act and establishes the DOTP administered by the Department. This chapter is intended to inform judges, prosecutors, defense counsel, defendants and the general public about the DOTP.

(b) The DOTP is a form of State intermediate punishment that provides a sentencing alternative for a person who commits a drug-related offense as defined in the act. The DOTP offers a sentencing alternative that punishes a person who commits a drug-related offense, but also provides treatment that offers the opportunity for the person to address the drug or alcohol addiction or abuse issues related to their criminal behavior.

§ 97.102. Definitions.

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

Act—42 Pa.C.S. Chapter 99 (relating to State intermediate punishment) establishing the DOTP.

Commission—The Pennsylvania Commission on Sentencing.

Community-based therapeutic community—A long-term residential addiction treatment program licensed by the Department of Health to provide addiction treatment services using a therapeutic community model, determined by the Department to be qualified to provide addiction treatment to eligible offenders and accredited as a therapeutic community for the treatment of drug and alcohol abuse and addiction by the Commission on Ac-

creditation of Rehabilitation Facilities or another Nationally-recognized accreditation organization for community-based therapeutic communities for drug and alcohol treatment.

Community corrections center—A residential program that is supervised and operated by the Department for inmates with prerelease status or who are on parole.

Court—The trial judge exercising sentencing jurisdiction over an eligible offender under this chapter or the president judge if the original trial judge is no longer serving as a judge of the sentencing court.

Defendant—An individual charged with a drug-related offense.

Department—The Department of Corrections of the Commonwealth.

DOTP—Drug Offender Treatment Program—An individualized treatment program established by the Department consisting primarily of drug and alcohol addiction treatment that satisfies the terms and conditions in section 9905 of the act (relating to drug offender treatment program).

Drug-related offense—A criminal offense for which the defendant is convicted and that the court determines was motivated by the defendant's consumption of or addiction to alcohol or a controlled substance, counterfeit, designer drug, drug, immediate precursor or marihuana, as those terms are defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143).

Eligible offender—

(i) Under 42 Pa.C.S. § 9721(a.1) (relating to sentencing generally), a defendant designated by the sentencing court as a person convicted of a drug-related offense who:

(A) Has undergone an assessment performed by the Department which assessment has concluded that the defendant is in need of drug and alcohol addiction treatment and would benefit from commitment to a drug offender treatment program and that placement in a drug offender treatment program would be appropriate.

(B) Does not demonstrate a history of present or past violent behavior.

(C) Would be placed in the custody of the Department if not sentenced to State intermediate punishment.

(D) Provides written consent permitting the release of information pertaining to the defendant's participation in a drug offender treatment program.

(ii) The term does not include a defendant who is subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon, as defined under law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, or a defendant who has been convicted of a personal injury crime as defined in section 103 of the Crime Victims Act (18 P. S. § 11.103), or an attempt or conspiracy to commit such a crime or who has been convicted of violating 18 Pa.C.S. §§ 4302, 5901, 6312, 6318 and 6320 or Chapter 76, Subchapter C (relating to Internet child pornography).

Expulsion—The permanent removal of a participant from a drug offender treatment program.

Group home—A residential program that is contracted out by the Department to a private service provider for inmates with prerelease status or who are on parole.

Individualized drug offender treatment plan—An individualized addiction treatment plan within the framework of the drug offender treatment program.

Institutional therapeutic community—A residential drug treatment program in a State correctional institution, accredited as a therapeutic community for treatment of drug and alcohol abuse and addiction by the American Correctional Association or other Nationally-recognized accreditation organization for therapeutic community drug and alcohol addiction treatment.

Outpatient addiction treatment facility—An addiction treatment facility licensed by the Department of Health and designated by the Department as qualified to provide addiction treatment to criminal justice offenders.

Participant—An eligible offender actually sentenced to State intermediate punishment under 42 Pa.C.S. § 9721(a)(7).

Transitional residence—A residence investigated and approved by the Department as appropriate for housing a participant in a DOTP.

§ 97.103. Commitment for assessment.

(a) Prior to imposing sentence, the court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the Department for the purpose of evaluating whether the defendant would benefit from a DOTP and whether placement in a DOTP is appropriate.

(b) The committing county shall deliver a defendant committed to the custody of the Department for purposes of an evaluation to the institution the Department has designated for reception of inmates from that county. The defendant shall be housed in a State correctional institution while undergoing the evaluation. The following documents shall be delivered to the Department simultaneously with the defendant's arrival. The Department may refuse to accept for evaluation a defendant who is delivered to the Department by the county without all the documents listed as follows:

(1) A certified copy of the order committing the defendant to the Department's custody for purposes of an evaluation.

(2) A summary of the offense for which the inmate has been convicted, including the criminal complaint and police report summarizing the facts of the crime, if available, or a copy of the affidavit of probable cause accompanying the arrest warrant.

(3) A record of the defendant's adjustment in the county correctional facility, including, misconducts and escape history.

(4) Any current medical or psychological condition requiring treatment, including, suicide attempts.

(5) Any medical admission testing performed by the county and the results of those tests, including, hepatitis, HIV/AIDS, tuberculosis or other infectious disease testing.

(6) A notice of current and previously administered medications. The notice must include the name and dosage of the medications provided to the inmate while incarcerated in the county as well as over-the-counter medications used by the inmate and known to the county. The notice must list medications provided or used during the preceding calendar year.

(7) A 48 hour supply of current medications.

(c) Within 7 days of delivery of the defendant to the Department for an evaluation, the committing county shall provide the Department with the following:

(1) A summary of the disposition of all arrests noted on the defendant's record of arrest and prosecution (RAP Sheet).

(2) Any available information regarding the defendant's history of drug or alcohol abuse, addiction or treatment, including any evaluation performed using Court Reporting Network instruments or other evaluation techniques deemed appropriate by the court under 75 Pa.C.S. § 3816 (relating to requirements for driving under the influence offenders) or any other provision of law.

(3) A presentence investigation when available or if a presentence investigation cannot be completed, the official version of the crime for which the offender was convicted or a copy of the guilty plea transcript or a copy of the preliminary hearing transcript.

(4) A copy of the guideline sentence form issued by the Commission.

(5) Other information the court deems relevant to assist the Department with its assessment of the defendant.

§ 97.104. Assessment of addiction and other treatment needs.

(a) The Department will conduct a risk assessment and assess the addiction and other treatment needs of a defendant committed to its custody for purposes of an evaluation.

(1) The assessment of addiction shall be conducted using a Nationally-recognized assessment instrument or an instrument that has been normed and validated on the Department's inmate population by a recognized expert in these matters.

(2) For purposes of this section the term "recognized expert" means an individual who has earned the Doctor of Philosophy or the similar terminal degree in his field of study and who has published a number of peer reviewed validation studies.

(3) The Department currently uses the Texas Christian University Drug Screen II, an instrument that was developed under a Federal grant specifically for criminal offenders, is consistent with the DSM-IV criteria for substance abuse/dependence and is used by a number of criminal justice agencies. The Department's criteria for selecting an assessment instrument are that:

(i) The instrument must be supported by strong academic research.

(ii) The instrument correspond with the then current DSM criteria for substance abuse or addiction, or both.

(iii) When possible, the instrument produces results that are statistically as reliable as results produced by the Texas Christian University Drug Screen II.

(4) The instrument will be administered by persons skilled in the treatment of drug and alcohol addiction and trained to conduct assessments. The assessment will be reviewed and approved by a supervisor with at least 3 years of experience providing drug and alcohol counseling services. An individual will be considered skilled in the treatment of drug and alcohol addiction if they have 1 year of experience as a Commonwealth Drug and Alcohol Treatment Specialist 1, or 2 years of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and have earned a bachelor's degree that includes 18 credits in the behavioral sciences or 1 year of paraprofessional and 1 year of professional experience providing drug and alcohol counseling services directly to clients in a social work setting

and are certified by the Pennsylvania Chemical Abuse Certification Board as a "Certified Addictions Counselor" or 1 year of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and a master's degree with major coursework in addictions science, psychology or social work or an equivalent combination of experience and training which includes 18 college credits in the behavioral sciences. An individual will be considered trained to conduct assessments if the individual has completed the Department's internal training program in performing assessments or has equivalent experience and knowledge.

(b) The Department will provide a report of its assessment to the court, the defendant, the attorney for the Commonwealth and the Sentencing Commission within 60 days of the commitment of the defendant to the Department for purposes of evaluation. If the Department determines that the defendant will benefit from a DOTP and placement in a DOTP is appropriate, the report will include a proposed DOTP detailing the type of treatment proposed for the defendant. If the Department determines that the defendant will not benefit from a DOTP or that placement in a DOTP is inappropriate, the report will set forth the reasons for the Department's determination.

(c) The Department encourages resolution of as many unresolved charges against the defendant as possible prior to commitment for an evaluation. Resolution of unresolved charges, including arrests that appear on a defendant's RAP sheet for which a disposition is not noted, assists the Department in completing an evaluation in a timely fashion. The Department will reconsider its report if the defendant has been deemed inappropriate for a DOTP because of unresolved charges or because the disposition of all arrests on the defendant's RAP sheet is not known and the committing county provides the Department with the resolution of the charges or disposition of the arrests.

(d) The act provides that the court may not modify or alter the terms of the Department's proposed DOTP without the agreement of the Department and attorney for the Commonwealth. See section 9904(f) of the act (relating to referral to State Intermediate Punishment Program). A request for modification of the terms of a proposed DOTP shall be sent to the Deputy Superintendent for the Diagnostic and Classification Center at the State Correctional Institution at Camp Hill for male inmates and the Deputy Superintendent for Centralized Services at the State Correctional Institution at Muncy for female inmates.

(e) The sheriff or an agent shall return to the committing county a defendant whom the Department determines will not benefit from a DOTP or is inappropriate for placement in a DOTP within 60 days of the Department's determination.

§ 97.105. DOTP Selection Committee.

(a) The Participant Selection Committee shall consist of the Diagnostic and Classification Center Director or a designee, the Deputy Superintendent responsible for the Diagnostic and Classification Center or a designee, and the Chief of the Department's Central Office Treatment Division or a designee.

(b) The Participant Selection Committee shall apply the participant selection criteria to determine whether a defendant will benefit from a DOTP and whether the participant's placement in a DOTP is appropriate.

§ 97.106. Participant selection criteria.

(a) An eligible offender, as that term is defined in the act, may be selected to be a participant in a DOTP. The Participant Selection Committee will consider all information relevant to determining which defendants are most likely to benefit from a DOTP by becoming productive, law-abiding members of society by addressing their abuse of or addiction to alcohol or other drugs. Selection criteria will include, but not necessarily be limited to, the following:

(1) Information furnished to the Department by the sentencing court.

(2) The results of the assessment of addiction and other treatment needs conducted by the Department.

(3) The length of the sentence that would be typically imposed under the standard range of the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing.

(4) The eligible offender's motivation to participate meaningfully in a DOTP.

(5) Whether the eligible offender has provided to the Department written consent permitting the release of information pertaining to the eligible offender's participation in a DOTP.

(6) The eligible offender's criminal history.

(7) The eligible offender's escape or parole absconder history.

(8) The eligible offender's institutional adjustment during current and prior incarcerations.

(9) The availability of the Department's programming resources.

(b) An eligible offender does not have a right to placement in a DOTP. A DOTP is intended to assist defendants to become productive, law-abiding members of society and is not intended to be a means for a defendant simply to serve a shorter sentence. The goal of the Participant Selection Committee will be to select those defendants it believes will most likely benefit from a DOTP by becoming productive, law-abiding members of society while allowing the Department to use its available programming resources efficiently and effectively. The number of participants selected for a DOTP will be the number that the Participant Selection Committee believes will neither under use nor overtax the available programming resources.

§ 97.107. Drug offender treatment program.

(a) A DOTP developed for a defendant shall be designed to address the defendant's individually assessed drug and alcohol abuse and addiction needs and other issues essential to the defendant's successful reintegration into the community, including, education and employment issues.

(b) A DOTP developed for a defendant shall be 24 months in duration and include the following:

(1) A period of confinement in a State correctional institution of at least 7 months, including the assessment period prior to the imposition of sentence and a period of at least 4 months during which the defendant shall be placed in an institutional therapeutic community.

(2) A period of treatment in a community-based therapeutic community of at least 2 months.

(3) A period of at least 6 months treatment through an outpatient addiction treatment facility.

(4) A period of supervised reintegration into the community for the balance of the DOTP.

§ 97.108. Confinement in a State correctional institution.

(a) The Department will accommodate requests to conduct sentencing proceedings for persons committed to its custody by means of videoconferencing or teleconferencing subject to equipment and staff availability. A defendant who is not sentenced by means of videoconferencing or teleconferencing, but is sentenced to a DOTP following an evaluation and recommendation by the Department, shall be delivered to the institution the Department has designated for reception of inmates from the committing county. The defendant will be considered to be a participant upon receipt by the Department.

(b) The participant will be required to begin his individual DOTP while housed in a State correctional institution and may be required to begin additional programming intended to address other treatment needs identified during the participant's incarceration.

§ 97.109. Program advancement and regression.

(a) An individual DOTP contemplates that a participant will advance through treatment provided in progressively less restrictive treatment settings. The Department anticipates that some participants who have progressed to a less restrictive treatment setting will benefit from an additional period of treatment or confinement in a more restrictive setting or location. Consistent with the minimum time requirements set forth in the act, the Department may transfer a participant to a State correctional institution, an institutional therapeutic community, a community-based therapeutic community, an outpatient addiction treatment program or an approved transitional residence. The Department may transfer a participant between less restrictive and more restrictive settings based upon the participant's progress or regression in treatment or for medical, disciplinary or other administrative reasons.

(b) The Chief of the Department's Central Office Treatment Division or a designee will determine whether a participant will be transferred to a different setting or location. The Department's goal will be to take the action that it believes will maximize the use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society while allowing the Department to use its available programming resources efficiently and effectively.

§ 97.110. Community-based therapeutic community.

(a) A participant who successfully completes the institutional therapeutic community portion of his DOTP and any required additional programming will be placed in a community-based therapeutic community. Placement in a community-based therapeutic community will not necessarily be made immediately upon successful completion of the institutional therapeutic community and any additional required programming, but will be made in sufficient time to permit the participant to complete the remaining portions of his DOTP.

(b) The participant will be required to continue engaging in his individual DOTP while housed in a community-based therapeutic community and may be required to participate in additional programming intended to address other treatment needs identified during his incarceration.

(c) The treatment staff of the community-based therapeutic community shall provide the Department with an informational report concerning the participant's progress toward completion of the community-based treatment portion of the participant's DOTP at the conclusion of the participant's first 2 months in the community-based therapeutic community. The report must include a recommendation whether the participant has progressed sufficiently to begin the outpatient addiction treatment portion of his DOTP, if the participant should continue in the community-based treatment community, be returned to the institutional therapeutic community or to a State correctional institution or be expelled from the DOTP. The report must include specific reasons supporting the recommendation and a suggested plan for addressing any treatment deficiencies noted. The report shall be transmitted to the Chief of the Department's Central Office Treatment Division or a designee.

(d) The Department will not be limited to approving or disapproving the recommendation of the community-based therapeutic community treatment staff and may select alternatives not recommended by the treatment staff.

(e) The Department may require the treatment staff of the community-based therapeutic community to submit reports in addition to the report required by subsection (c).

§ 97.111. Outpatient addiction treatment facility.

(a) A participant who successfully completes the community-based therapeutic community and any additional required programming will be assigned to an outpatient addiction treatment facility. Assignment to an outpatient addiction treatment facility will not necessarily be made immediately upon successful completion of the community-based therapeutic community and any additional required programming, but will be made in sufficient time to permit the participant to complete the remaining portions of the participant's DOTP. A participant may reside in a community corrections center, group home or an approved transitional residence while assigned to an outpatient addiction treatment facility program, but will not be permitted to begin residing in a group home or an approved transitional residence until the Department has completed its investigation, review and approval of the residence.

(b) A participant will be required to continue his individual DOTP while assigned to an outpatient addiction treatment facility program and may be required to participate in additional programming intended to address other treatment needs identified during his incarceration.

(c) The treatment staff of the outpatient addiction treatment facility shall provide the Department with an informational report concerning the participant's progress toward completion of the outpatient addiction treatment portion of his DOTP at the conclusion of the participant's first 6 months of treatment with the outpatient addiction treatment facility. The report must include a recommendation whether the participant has progressed sufficiently to begin his supervised reintegration into the community, if the participant should continue treatment with the outpatient addiction treatment facility, be returned to a community-based treatment community, institutional therapeutic community or to a State correctional institution or be expelled from the DOTP. The report must include specific reasons supporting the recommendation and a suggested plan for addressing any treatment

deficiencies noted. The report shall be transmitted to the Chief of the Department's Central Office Treatment Division or a designee.

(d) The Department will not be limited to approving or disapproving the recommendation of the outpatient addiction treatment facility treatment staff and may select alternatives not recommended by the treatment staff.

(e) The Department may require the treatment staff of the outpatient addiction treatment program to submit reports in addition to the report required by subsection (c).

§ 97.112. Supervised reintegration into the community.

(a) A participant who successfully completes treatment through an outpatient addiction treatment facility and any additional required programming will begin supervised reintegration into the community for the remaining portion of his DOTP. The participant may continue or be permitted to begin to reside in a community corrections center, group home or an approved transitional residence during the period of supervised reintegration into the community, but will not be permitted to begin residing in an approved transitional residence until the Department has completed its investigation, review and approval of the residence.

(b) A participant residing in an approved transitional residence will be supervised by the Department during the remainder of his DOTP. The participant will be required to comply with any conditions imposed by the Department while residing in an approved transitional residence including abstaining from the use of alcohol or other drugs, submitting urine, hair or other samples the Department requests to monitor the participant's use of alcohol or other drugs and engaging in additional treatment or programming required by the Department.

(c) A participant will continue to be subject to the treatment and disciplinary sanctions in §§ 97.113 and 97.114 (relating to treatment sanctions; and disciplinary sanctions) while residing in an approved transitional residence.

(d) The Department will notify the sentencing court, the attorney for the Commonwealth and the Commission when the participant successfully completes the DOTP.

§ 97.113. Treatment sanctions.

(a) A participant who tests positive for the use of alcohol or other drugs shall receive a hearing according to the procedures in the Department's inmate disciplinary policy. If the hearing examiner or community corrections hearing committee, as applicable, determines that the participant used alcohol or other drugs, the participant shall be subject to the following sanctions:

(1) A participant housed in a State correctional institution or institutional therapeutic community shall be expelled from the DOTP and housed as the Department deems appropriate pending further action by the sentencing court.

(2) A participant receiving treatment through a community-based therapeutic community, outpatient addiction treatment facility or during supervised reintegration to society shall be evaluated by the Department. The participant shall be housed as the Department deems

appropriate pending completion of the evaluation. Following the evaluation, the participant may be placed in the treatment setting deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee or suspended or expelled from the DOTP.

(b) Subject to the time limitations set forth in the act, a participant who requests assistance because he believes he is in danger of relapsing will be given the opportunity to receive treatment in a more restrictive treatment setting as deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee.

(c) For purposes of this section, the term "other drugs" means a controlled substance, counterfeit, designer drug, drug, immediate precursor or marijuana as those terms are defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143) or any prescription drug that has not been prescribed for the individual using the prescription drug.

§ 97.114. Disciplinary sanctions.

(a) A participant who is alleged to have violated the Department's disciplinary rules, shall receive a hearing according to the procedures in the Department's inmate disciplinary policy.

(b) If the hearing examiner or community corrections hearing committee, as applicable, determines that the participant committed a Class 1 or Class 2 misconduct, the Chief of the Department's Central Office Treatment Division or a designee will determine whether the participant will be suspended or expelled from the DOTP, sanctioned according to the Department's inmate disciplinary policy or be subject to other sanctions deemed appropriate.

§ 97.115. Suspension from a DOTP.

(a) A participant who violates the conditions of his DOTP, other than by testing positive for the use of alcohol or other drugs or by committing a violation of the Department's disciplinary rules, may be suspended from participation in a DOTP.

(b) The Department's goal in determining whether to suspend a participant from a DOTP will be to take the action it believes will maximize the efficient and effective use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society if permitted to participate in continued treatment after a period of suspension.

(c) The Chief of the Department's Central Office Treatment Division or a designee will be responsible for determining whether to suspend a participant from a DOTP. The determination whether to suspend a participant from a DOTP may be based upon any information deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee.

(d) A participant who is suspended from participation in a DOTP will be housed in the setting deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee and shall comply with the Department's rules and any conditions imposed during the period of suspension. The Chief of the Department's Central Office Treatment Division or a designee will determine the participant's program status upon completion of the suspension.

§ 97.116. Expulsion from a DOTP.

(a) In addition to the provisions of §§ 97.113 and 97.114 (relating to treatment sanctions; and disciplinary sanctions), a participant who violates the conditions of his DOTP or who is not constructively participating in his DOTP or who will be unable to complete his DOTP within the period remaining on his 24 months sentence may be expelled from participation in a DOTP.

(b) The Department's goal in determining whether to expel a participant from a DOTP will be to take the action it believes will maximize the efficient and effective use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society if permitted to participate in continued treatment after being subject to sanctions or a period of suspension, or both.

(c) The Chief of the Department's Central Office Treatment Division or a designee will be responsible for determining whether to expel a participant from a DOTP. The determination whether to expel a participant from a DOTP may be based upon any information deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee.

(d) A participant who has been expelled from a DOTP may file a grievance with the Deputy Secretary for Reentry and Specialized Programs within 10 calendar days of the date of the expulsion.

(1) The grievance must be legible and the statement of facts may not exceed two pages.

(2) A participant is responsible for including all required documentation with the grievance. Failure to provide relevant documentation may result in the grievance being dismissed.

(3) A participant who is indigent as defined in Department policy DC-ADM 803, "Inmate Mail and Incoming Publications," will be afforded copy service and legal postage up to a maximum of \$10 per month and all moneys received in the inmate's account shall be used to pay for the cost of the copies and legal postage. A nonindigent inmate will incur copying charges in accordance with Department policy 3.1.1, "Fiscal Administration."

(4) Documents submitted in support of a grievance will not be returned. The participant should make copies of supporting documents for submission to final review.

(5) The Deputy Secretary for Reentry and Specialized Programs may decide the grievance based upon the documentation presented as well as other information contained within the Department's files and may interview the inmate and any involved staff member or contractor employee by means of videoconferencing if the Deputy Secretary for Reentry and Specialized Programs, in his sole discretion, believes an interview will assist him in understanding and evaluating the grievance.

(6) In reviewing a grievance, the Deputy Secretary for Reentry and Specialized Programs shall determine whether the participant violated the conditions of his DOTP or was meaningfully participating in the DOTP. The Deputy Secretary for Reentry and Specialized Programs may uphold or reverse the expulsion or take any other action that could have been taken by the Chief of the Department's Central Office Treatment Division with respect to the alleged conduct at issue.

(e) The Department will promptly notify the sentencing court, the participant, the attorney for the Commonwealth and the Commission of the expulsion of a participant from a DOTP and of the reason for the expulsion. The inmate will be housed in a State correctional institution or county prison pending action by the court.

§ 97.117. Consent to disclosure of information.

The consent to disclosure of information must be in the following form:

CONSENT

I, the undersigned, hereby give my consent for the Commonwealth of Pennsylvania Department of Corrections, its officers, employees, volunteers, contractors and agents to release and disclose to any court, attorney for the Commonwealth, the Pennsylvania Commission on Sentencing and to my attorney information pertaining to my evaluation for and participation in a drug offender treatment program. This consent to release and disclosure includes medical and dental information, mental health treatment information, drug and alcohol treatment information, criminal history records information and any other information contained in records maintained by the Department of Corrections, its officers, employees, volunteers, contractors and agents. This consent to release and disclosure extends to records pertaining to any period during which I am or was committed to the custody of the Department of Corrections and shall not expire.

Disclosure of medical/dental information may pertain to all aspects of my treatment and hospitalization, including psychological and psychiatric information and drug and/or alcohol information.

Disclosure of mental health records pertains to treatment, hospitalization, and/or outpatient care provided to me for the period listed above. I understand that my record may contain information regarding all aspects of my mental health treatment and hospitalization, including psychological and psychiatric information, drug and/or alcohol information.

In authorizing this disclosure, I expressly waive any and all rights I may have to the confidential maintenance of these records, including any such rights that exist under local, state, and federal statutory and/or constitutional law, rule or order, including those contained in the Pennsylvania Mental Health Procedures Act of 1976 and the Pennsylvania Drug and Alcohol Abuse Control Act of 1972.

I understand that I have no obligation to authorize disclosure of any information from my record and that I may revoke this consent, except to the extent that action has already been taken, at any time by notifying in writing the Medical Records Technician, Health Care Administrator, or Facility Manager. I also understand that revocation of this consent will result in my being expelled from the drug offender treatment program and that I will be resentenced by the court.

I understand that these records are the property of the Department of Corrections and that my authorization for their release does not require the Department of Corrections to release these records.

Furthermore, I will indemnify and hold harmless the Pennsylvania Department of Corrections, and its officers, employees, volunteers, contractors and agents, for any losses, costs, damages, or expenses incurred because of releasing information in accordance with this authorization.

Signature	Date
Witness Signature	Date

§ 97.118. Applicability.

This chapter applies to any defendant sentenced to State intermediate punishment on or after December 13, 2008.

[Pa.B. Doc. No. 08-2229. Filed for public inspection December 12, 2008, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION [58 PA. CODE CH. 63]

Fishing

The Fish and Boat Commission (Commission) amends Chapter 63 (relating to general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

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

B. Contact Person

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

C. Statutory Authority

The addition of §§ 63.53 and 63.54 (relating to egg collection; and possession or use of eggs as bait) is published under the statutory authority of section 2102(a) of the code (relating to rules and regulations).

D. Purpose and Background

The Commission's waterways conservation officers during the past year encountered anglers catching large female brown trout and removing the eggs contained within the fish. The fish were released back into the waters from which they were taken. The anglers indicated that they used these eggs as bait to fish for trout in other water areas. The continued removal of eggs from large female trout may have a detrimental effect on the numbers of young of the year fish in a wild trout population and likely cause undue harm to a fish that is released. In addition, using eggs taken from fish in one watershed as bait in another watershed may spread diseases.

Currently, the regulations require that fish must be released immediately unharmed from most specially regulated trout waters. The Commission's officers successfully charged two individuals for a violation of this regulation and, in doing so, had to prove that the fish were harmed by the removal of the eggs. To clearly prohibit this activity, the Commission proposed a new regulation making it unlawful to take eggs from a fish taken from waters of this Commonwealth outside the Lake Erie watershed or to possess these eggs or use them as bait. The proposed regulation permitted eggs taken from lawfully harvested fish from the Lake Erie watershed to be possessed and used as bait in the Lake Erie watershed only.

By notice published at 38 Pa.B. 3875 (July 12, 2008), the Executive Director, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), took immediate action to make it unlawful to take eggs from a fish taken from waters of this Commonwealth outside the Lake Erie watershed or to possess these eggs or use them as bait. The temporary modification, like the proposed rule, allowed eggs taken from lawfully harvested fish from the Lake Erie watershed to be possessed and used as bait in the Lake Erie watershed only. This temporary modification went into effect immediately and will remain in effect until January 1, 2009, at which time the new regulations adopted by this order will go into effect.

E. Summary of Changes

On final-form rulemaking, the Commission adopted more restrictive regulations regarding egg collection and the possession and use of eggs as bait than the proposed regulation contained in the notice of proposed rulemaking. Specifically, the Commission adopted a regulation that makes it unlawful to remove or strip eggs from any fish taken from waters of this Commonwealth, whether dead or alive, except for trout and salmon that are taken from waters in the Lake Erie watershed. The Commission also adopted a regulation that prohibits the possession and use of unpreserved, refrigerated or frozen eggs regardless of their origin in or along the waters of this Commonwealth except in the Lake Erie watershed. In the Lake Erie watershed, unpreserved, refrigerated or frozen eggs from trout and salmon only may be possessed and used as bait. The Commission adopted the new regulations to read as set forth in Annex A.

Because of the more general and restrictive regulation dealing with the possession and use of eggs as bait, a regulation specifically addressing eggs from species of fish that are susceptible to Viral Hemorrhagic Septicemia (VHS), an infectious disease found in a variety of fish species, is not needed. The Commission therefore chose not to adopt proposed § 63.52 regarding to eggs from VHS-susceptible species of fish in another rulemaking package (48A-204) (See 38 Pa.B. December 13, 2008).

F. Paperwork

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

G. Fiscal Impact

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

H. Public Involvement

A notice of proposed rulemaking was published at 38 Pa.B. 4776 (August 30, 2008). The Commission received two public comments regarding the proposed regulation. One supported the proposal and favored an even more restrictive approach that would prohibit the taking of eggs from fish from any water and would prohibit them from being used anywhere in this Commonwealth as bait. The other expressed concern because the proposed regulation did not address the use of eggs from other jurisdictions. Copies of all public comments were provided to the Commissioners.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

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

Order of the Commission

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 63, are amended by adding §§ 63.53 and 63.54 to read as set forth in Annex A.

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

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

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

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

Fiscal Note: Fiscal Note 48A-205 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.53. Egg collection.

It is unlawful to remove or strip eggs from fish taken from waters of this Commonwealth except for trout and salmon taken from waters in the Lake Erie watershed.

§ 63.54. Possession or use of eggs as bait.

Except as otherwise provided in this section, it is unlawful to possess or use as bait unpreserved, refrigerated or frozen fish eggs regardless of their origin while in the act of fishing in or along waters of this Commonwealth. Unpreserved, refrigerated or frozen eggs from trout or salmon may be used and possessed as bait while fishing in or along the waters of the Lake Erie watershed.

[Pa.B. Doc. No. 08-2230. Filed for public inspection December 12, 2008, 9:00 a.m.]

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

Fishing

The Fish and Boat Commission (Commission) amends Chapters 63, 69, 71 and 73. 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 rulemaking, contact Laurie E. Shepler, 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 addition of §§ 63.51 and 73.3 (relating to sale of VHS-susceptible species of fish; and transportation and importation of VHS-susceptible species of fish) is published under the statutory authority of section 2102(c) of the code (relating to rules and regulations). The addition of § 71.8 (relating to introduction of VHS-susceptible species of fish) is published under the statutory authority of section 2102(a) of the code. The amendments to § 69.3 (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed) are published under the statutory authority of section 2102(a) and (c) of the code.

D. Purpose and Background

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

On October 24, 2006, APHIS issued an emergency order prohibiting the importation of certain live fish species from the Canadian provinces of Ontario and Quebec into the United States. In addition, export of live fish of 37 VHS-susceptible species was prohibited from the eight Great Lake boundary states: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin. On November 14, 2006, APHIS issued an amended order that allowed restricted movement under requirements for testing and certification that fish are VHS-free. On May 4, 2007, APHIS further amended the order to allow for catch and release fishing activities. APHIS again

amended its order on April 2, 2008 to allow VHS-susceptible species of live nonsalmonid fish from affected Canadian provinces to be imported into the United States for direct slaughter under an APHIS-issued permit. The APHIS order applies to live fish only. It does not address eggs.

Most recently, APHIS issued an interim rule that it published in the *Federal Register* on September 9, 2008. The interim rule, which will go into effect on January 9, 2009, establishes interstate movement and import requirements for VHS-susceptible fish species that originate from the eight Great Lake boundary states and the Canadian provinces of Ontario and Quebec.

Last year, the Commission adopted a new regulation in § 69.3. This new regulation, which went into effect on January 1, 2008, applies to live or dead fish (and their parts but not eggs) and makes it unlawful to transport or cause the transportation of VHS-susceptible fish out of this Commonwealth's portion of the Lake Erie watershed into other watersheds in this Commonwealth except when certain conditions are met. Those conditions are: (1) the fish are being transported to a disease testing facility and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing; (2) the fish are from a group of fish certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission; (3) the fish are from an artificial propagation facility certified as having tested negative for VHS in accordance with testing protocols; (4) the fish are being transported to a slaughter facility, processing plant or restaurant and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption; or (5) the fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption.

The regulation further provides that for purposes of the section, species of fish that are susceptible to VHS are those species that the Commission has defined as such by notice published in the *Pennsylvania Bulletin*. On two occasions, the Commission has published notices defining VHS-susceptible species of fish. See 37 Pa.B. 6478 (December 8, 2007) and 38 Pa.B. 2425 (May 24, 2008). Although the Commission's regulation addressed the intrastate movement of VHS-susceptible species of fish, it did not address interstate movement.

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

definition of VHS-susceptible species. Therefore, the Department quarantine order currently applies to live fish only.

Commission staff have met on numerous occasions with the Department staff in an effort to develop a coordinated approach for dealing with VHS, and there has been good cooperation between the agencies. Although the Department order addresses interstate movement of VHS-susceptible species of fish, the Commission's officers cannot enforce it. Therefore, the Commission proposed new regulations, which will be fully enforceable by Commission officers, that will address the sale, introduction and transportation of VHS-susceptible species of fish from VHS-affected or at risk states or regions. The proposed regulations are consistent with the approach taken by the Department and APHIS in their orders. In addition, the regulations are consistent with the recent APHIS interim rule in most material respects.

The Commission also proposed a new regulation to address the possession and use as bait of eggs taken from VHS-susceptible species of fish from VHS-affected or at risk states or regions and the Lake Erie watershed. In addition, the Commission proposed amendments to § 69.3 to further define VHS-susceptible species of fish for purposes of the section, to include provisions regarding their introduction and sale outside the Lake Erie watershed and to address the possession and use as bait of eggs from VHS-susceptible species of fish from the Lake Erie watershed outside the watershed.

By notice published at 38 Pa.B. 3338 (June 14, 2008), the Executive Director, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), took immediate action to make it unlawful to sell, introduce, transport or import VHS-susceptible species of fish, dead or alive, and the parts thereof into this Commonwealth from VHS-affected or at risk states, including Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin, and VHS-affected or at risk regions, including the Canadian provinces of Ontario and Quebec, unless certain conditions are met. These temporary modifications went into effect immediately and will remain in effect until January 1, 2009, at which time the new regulations adopted by this order will go into effect.

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

E. Summary of Changes

The Commission adopted new regulations that address the sale, introduction and transportation of VHS-susceptible species of fish from VHS-affected or at risk states or regions in §§ 63.51, 71.8 and 73.3. These regulations permit their sale, introduction and transportation when certain conditions are met. The Commission also adopted amendments to § 69.3 to further define VHS-susceptible species of fish for purposes of the section and to include provisions regarding their introduction and sale outside the Lake Erie watershed. The Commission adopted these new regulations and amendments as set forth in the notice of proposed rulemaking with the following modifications.

On final-form rulemaking, the Commission chose not to adopt proposed § 63.52 (relating to eggs from VHS-susceptible species of fish) in favor of a more restrictive regulation regarding the possession and use of eggs as bait that the Commission adopted as part of another rulemaking package. Because of the more general and restrictive regulation dealing with the possession and use of eggs as bait, a regulation specifically addressing eggs from VHS-susceptible species of fish is not needed. For these same reasons, the Commission also did not adopt the last sentence of § 69.3(c) that addresses the possession and use of eggs from VHS-susceptible species of fish from the Lake Erie watershed as bait in other watersheds of this Commonwealth. Last, on final-form rulemaking, the Commission revised § 73.3 (designated as § 73.4 in the notice of proposed rulemaking) to make its provisions regarding the international movement of fish consistent with the APHIS interim rule that will go into effect on January 9, 2009.

The Commission adopted the new regulations and amendments to read as set forth in Annex A.

F. Paperwork

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

G. Fiscal Impact

These final-form regulations will have no adverse fiscal impact on the Commonwealth or its political subdivisions. These final-form regulations will impose no new costs on the general public. These final-form regulations will impose new costs on the private sector in that prior to selling, introducing or transporting into this Commonwealth VHS-susceptible species of fish from VHS-affected or at risk states and regions, the fish or the artificial propagation facility where the fish are raised will have to be tested and certified as negative for VHS in accordance with approved protocols. Many of these requirements are already in place under APHIS and the Department orders.

H. Public Involvement

A notice of proposed rulemaking was published at 38 Pa.B. 4910 (September 6, 2008). The Commission received one public comment supporting the proposed regulations and amendments. Copies of all public comments have been provided to the commissioners.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the regulations and 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 the public comments that were received were considered.

(3) The adoption of the regulations and 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 63, 69, 71 and 73, are amended by adding §§ 63.51, 71.8 and 73.3 and amending § 69.3 to read as set forth in Annex A.

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

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

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

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

Fiscal Note: Fiscal Note 48A-204 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

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

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

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

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

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

(2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or other state that APHIS later designates

by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

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

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

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

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

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

(d) It is unlawful to sell in this Commonwealth VHS-susceptible species of fish from a VHS-affected or VHS-at risk region, unless the fish meet the requirements of § 73.3(d)(1) (relating to transportation and importation of VHS-susceptible species of fish).

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

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

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

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

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

(b) It is unlawful to transport or cause the transportation of VHS-susceptible species of fish out of the portion of Lake Erie watershed in this Commonwealth except when one of the following conditions is met:

(1) The fish are being transported to a disease testing facility and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish are accompanied in transit by

documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing.

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

(3) The fish are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission. Artificial propagation facilities shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification report for the facility.

(4) The fish are being transported to a slaughter facility, processing plant or restaurant and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption.

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

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

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

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

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

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

**CHAPTER 71. PROPAGATION AND
INTRODUCTION OF FISH INTO
COMMONWEALTH WATERS**

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

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

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

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

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

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

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

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

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

(d) It is unlawful to introduce into the waters of this Commonwealth VHS-susceptible species of fish from an affected or at-risk region unless the fish meet the requirements of § 73.3(d)(1) (relating to transportation and importation of VHS-susceptible species of fish).

**CHAPTER 73. TRANSPORTATION OF FISH INTO
THIS COMMONWEALTH**

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

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

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

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

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

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

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

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

(c) *Interstate transportation.* It is unlawful to transport or cause the transportation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected or VHS-at risk state, except when one of the following conditions is met:

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

(2) The fish are being transported through this Commonwealth and the shipping container (tank, trailer, holding vessel or other container) remains biosecure in transit and the fish are accompanied in transit by documentation stating the point of origin of the fish and the location outside of this Commonwealth to which they are to be delivered.

(3) The fish are being transported to facilities located within this Commonwealth for testing and scientific purposes and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing or scientific purposes.

(4) The fish are being transported to a slaughter facility, processing plant or restaurant within this Commonwealth and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption.

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

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

(1) VHS-susceptible species of live fish may be imported into the United States if the requirements of 9 CFR 93.910—93.916 (relating to general provisions for VHS-regulated fish species) are met.

(Editor's Note: The effective date of amendments to these sections is delayed until January 9, 2009.)

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

[Pa.B. Doc. No. 08-2231. Filed for public inspection December 12, 2008, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 435a, 441a AND 465a]

Employees; Slot Machine Licenses; and Accounting and Internal Controls

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1308, 1318 and 1331 (relating to applications for license or permit; occupation permit application; and duty of licensees, key employees and gaming employees), amends Chapters 435a, 441a and 465a (relating to employees; slot machine licenses; and accounting and internal controls) to read as set forth in Annex A.

Purpose of the Final-form Regulations

This final-form regulations expand the list of offenses holders of a license, permit or registration must report to the Board; establishes time periods for the submission of additional documents required when an application is being submitted under SLOTS Link; shifts the issuance of temporary credentials for nongaming employees from the casino compliance representatives at the licensed facilities to the Bureau of Licensing; and broadens the restriction on hiring off-duty law enforcement officers as security personnel.

Explanation of Amendments to Chapters 435a, 441a and 465a

Currently, § 435a.1(c) (relating to general provisions) only requires reporting of offenses under 18 Pa.C.S. (relating to crimes and offenses) or 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance). To better insure continuing oversight of the character and suitability of individuals who hold a license, permit or registration, offenses involving moral turpitude, offenses under 75 Pa.C.S. which are punishable by 1 year or more and offenses under section 13(a) of the Controlled Substances, Drug, Devices and Cosmetic Act (35 P. S. § 780-113(a)) regarding prohibited acts; and penalties have been added to this subsection.

Under § 435a.3 (relating to occupation permit), an applicant may submit an application electronically using SLOTS Link. However, when an application is made using SLOTS Link, there are additional release forms that must be submitted on paper. In a number of cases, licensees have not been submitting this paperwork in a timely manner, which has resulted in delays in the processing of these applications. To reduce these delays,

slot machine licensees will be required to submit this paperwork within 5 days of the filing of an application using SLOTS Link. For all other licensees, a 10-day filing period has been established.

In § 435a.9(b) (relating to temporary credentials for nongaming employees), issuance of temporary credentials for nongaming employees will now be done by the Bureau of Licensing instead of the casino compliance representatives at the licensed facilities. Improvements in administrative procedures within the Bureau of Licensing make it more efficient for the Board and the licensed facilities to have the Bureau of Licensing issue the temporary credentials as well as the permanent credentials for nongaming employees.

Section 441a.14(b) (relating to master purchasing and disbursement report), has been revised to reflect current practice. Slot machine licensees electronically transmit the data required by subsection (a) in a format that the Board has prescribed. Therefore, the language requiring a signature no longer applies.

In § 465a.14 (relating to security department minimum staffing), the restriction on hiring off-duty law enforcement officers to provide security in restricted areas or on the gaming floor has been extended to apply to the entire licensed facility. Because incidents that may require investigation by law enforcement officers could occur anywhere in the licensed facility, this revision will help to avoid any actual or appearance of a conflict of interest. Additionally, this will insure that any of a slot machine licensee's security personnel will be able to respond to any incident anywhere in the licensed facility.

Comment and Response Summary

Notice of proposed rulemaking was published at 38 Pa.B. 3505 (June 28, 2008).

The Board received comments from Washington Trotting Association, Inc. (WTA) during the public comment period. On August 27, 2008, the Independent Regulatory Review Commission (IRRC) also filed comments on the proposed rulemaking. All of these comments were reviewed by the Board and are discussed in detail as follows.

In its comments, WTA argued that the prohibition on hiring off-duty law enforcement agents should not be expanded. WTA believes that using off-duty law enforcement agents does not create any conflict of interest or operational problems. IRRC also questioned the need for this expansion.

WTA currently uses off-duty law enforcement agents to provide security in the racing areas of the facility and when the new integrated facility is completed, WTA wishes to continue using these individuals. Additionally, because the existing employees are unionized, compliance with this new requirement could create labor problems.

The Board disagrees with WTA's position. The Board believes that security personnel should be able to respond to incidents anywhere in the licensed facility and that the potential does exist for conflict of interest issues to arise if off-duty law enforcement agents are working in the areas designated as part of the licensed facility.

In response to WTA's concern about continued use of existing employees who are law enforcement agents, the Board notes that WTA will still be able to use these existing employees in other areas such as the pari-mutual areas, parking lots and any other areas that are not part of the actual licensed facility.

IRRC also noted that the term "Slots Link" in the proposed text §§ 435a.3 and 435a.5 should be replaced

with "SLOTS Link" to be consistent with the definition and usage of this term in the existing text.

The Board has made this change so that the term is used consistently throughout the regulations.

Affected Parties

This final-form regulations will affect: all employers of gaming and nongaming employees who submit applications by means of SLOTS Link; all individuals who hold a license, permit or registration; and law enforcement officers who desire to seek part-time employment with a slot machine licensee's security department.

Fiscal Impact

Commonwealth

The final-form regulations will have no fiscal impact on the Board or other agencies of the Commonwealth.

Political Subdivisions

This final-form regulations will have no fiscal impact on political subdivisions of this Commonwealth.

Private Sector

Law enforcement officers, who desire to seek part-time employment with a slot machine licensee, will have fewer options because of the prohibition against working in the slot machine licensee's security department in the areas that make up the licensed facility.

General Public

This final-form rulemaking will have no fiscal impact on the general public.

Paperwork requirements

Holders of a license, permit or registration will have to report a broader range of violations. Beyond that, no new reporting or paperwork requirements are created by this rulemaking.

Effective Date

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person for questions about this final-form rulemaking is Richard Sandusky, Director of Regulatory Review at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 12, 2008, the Board submitted a copy of the proposed rulemaking, published at 38 Pa.B. 3505 (June 28, 2008), and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

Under section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the Committees on November 5, 2008. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)), IRRC met on November 6, 2008 and approved the final-form rulemaking.

Findings

The Board finds that:

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

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapters 435a, 441a and 465a, are amended by amending §§ 435a.1, 435a.9, 441a.14 and 465a.14 to read as set forth at 38 Pa.B. 3505, and by amending §§ 435a.3 and 435a.5 to read as set forth in Annex A.

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

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

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: Fiscal Note 125-89 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 435a. EMPLOYEES

§ 435a.3. Occupation permit.

(a) An applicant for an occupation permit shall submit:

(1) An original and three copies of the Gaming Employee Application and Disclosure Information Form or an electronic application using the SLOTS Link system. When an application for an occupational permit is filed using SLOTS Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a vendor certification.

(2) The nonrefundable application fee posted on the Board's web site (www.pgcb.state.pa.us).

(3) Verification of an offer of employment from a licensed entity.

(b) In addition to the materials required under subsection (a), an applicant for an occupation permit shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) An applicant for an occupation permit may be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d) After review of the information submitted under subsections (a) and (b), including a background investigation, the Board may issue a permit if the individual has proven that the individual is a person of good character, honesty and integrity and is eligible and suitable to hold an occupation permit.

(e) An individual who wishes to receive an occupation permit under this chapter may authorize an applicant for or holder of a slot machine, management company, manufacturer, manufacturer designee or supplier license or vendor certification to file an application on the individual's behalf.

(f) A permit issued under this section shall be valid for employment with any licensed entity or certified vendor.

§ 435a.5. Nongaming employee registration.

(a) An applicant for a nongaming employee registration shall submit:

(1) An original and three copies of the Nongaming Employee Registration Form or an electronic application using the SLOTS Link system. When an application for a nongaming employee registration is filed using SLOTS Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the SLOTS Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the SLOTS Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a vendor certification.

(2) The nonrefundable application fee posted on the Board's web site (www.pgcb.state.pa.us).

(b) In addition to the materials required under subsection (a), an applicant for a nongaming employee registration shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) After review of the information required under subsections (a) and (b), the Board may register the individual if the individual has proven that he is eligible and suitable to be registered under this section.

(d) An individual who wishes to receive a nongaming employee registration under this chapter may authorize an applicant for or holder of a slot machine license or a vendor certification to file an application on the individual's behalf.

(e) A registration issued under this section is valid for employment with any licensed entity or certified vendor.

[Pa.B. Doc. No. 08-2232. Filed for public inspection December 12, 2008, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 461a, 463a, 465a AND 467a]

Slot Machine Testing and Control; Possession of Slot Machines; Accounting and Internal Controls; and Commencement of Slot Operations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1207 and 1322 (relating to regulatory authority of the Board; and slot machine accounting controls and audits), amends Chapters 461a, 463a, 465a and 467a to read as set forth at 38 Pa.B. 3507 (June 28, 2008) and in Annex A.

Purpose of the Final-form Rulemaking

The final-form regulation add new requirements to improve the Board's oversight of slot machine licensees to insure compliance with Pennsylvania Race Horse Development and Gaming Act; clarifies various provisions in Chapters 461a and 465a (relating to slot machine testing and control; and accounting and internal controls); and revises existing requirements to provide slot machine licensees with some additional organizational and operating flexibility.

Explanation of Amendments to Chapters 461a, 463a, 465a and 467a

In Chapter 461a, definitions of the terms "RAM" and "RAM clear" have been added to § 461a.1 (relating to definitions). These terms are used in the new § 461a.27 (relating to RAM clear) which codifies the procedures that are currently being used by slot machine licensees when it is necessary to do a RAM clear on a malfunctioning slot machine.

In § 463a.2 (relating to transportation of slot machines into, within and out of this Commonwealth), the Bureau of Investigations and Enforcement (BIE) and the Office of Gaming Operations have been added to the Gaming Lab as recipients of notices concerning the movement of slot machines into, within or out of this Commonwealth. Providing this notice to BIE and the Office of Gaming Operations will assist them in carrying out their responsibilities related to the movement of slot machines.

Two new provisions have been added to § 465a.2 (relating to internal control systems and audit protocols). A new paragraph (7) has been added which requires slot machine licensees to include the procedures that the slot machine licensees will use to conduct promotions in the slot machine licensees' internal controls. This will allow the Board to determine that sufficient patron protections are included in each promotion without requiring slot machine licensees to obtain separate approval for each promotion they desire to run. Additionally, a new paragraph (8) has been added which will require slot machine licensees to include the procedures they will use to maintain compliance with 4 Pa.C.S. § 1513 (relating to political influence) in their internal controls. This will allow the Board to ensure that all slot machine licensees have an effective program to prevent violations of 4 Pa.C.S. § 1513.

In § 465a.4 (relating to standard financial and statistical reports), the Board has added a new reporting requirement. Slot machine licensees will be required to submit quarterly reports reconciling the tax amount invoiced by the Department of Revenue (Department) and the tax accrual determined by the slot machine licensee's

revenue/income audit process. This report will be used by the Board to help evaluate the effectiveness and accuracy of the slot machine licensees' accounting operations.

In § 465a.8 (relating to licensed facility), the Board has made two changes. First, a new paragraph (7) has been added to subsection (d) requiring slot machine licensees to provide an area for the Central Control Computer System which must be equipped with an uninterruptible power supply. This requirement reflects what has been done at existing licensed facilities. Second, a new paragraph (8) has been added to subsection (d) requiring slot machine licensees to provide signs for the Board office, the size, location and design of which must be approved by the Office of Gaming Operations. This will make it easier for patrons at a licensed facility to locate the Board's office.

In § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restrictions), the references to "cashiering location" in subsection (e) have been replaced with "cashiers' cage" to make it clear that this requirement for surveillance only applies to the cashiers' cages and not to cashier locations in the retail or food and beverage areas.

In § 465a.11 (relating to slot machine licensee's organization), language has been added to allow a slot machine licensee to have an assistant chief executive officer who acts as the chief executive officer in the chief executive officer's absence and to whom any of the six required department supervisors may directly report. This will give slot machine licensees some additional organizational flexibility and reflects the organizational structure of one of the existing slot machine licensees.

A new § 465a.33 (relating to access to areas containing Central Control Computer System equipment) has been added which specifies minimum requirements that must be included in a slot machine licensee's internal controls pertaining to access to areas containing central control computer (CCC) equipment. These minimum requirements will insure that access to the CCC equipment is limited to authorized personnel only.

In § 467a.1 (relating to gaming floor plan), the process for approving requests for changes to the gaming floor has been clarified and streamlined. Requests for changes to the square footage of the gaming floor or the number of slot machines on the gaming floor of more than 2% of the existing square footage or number slot machines on the gaming floor will be required to be filed as a petition under § 493a.4 (relating to petitions generally) and approved by the Board. All other change requests can be submitted in writing to the Office of the Clerk and will be approved by the Executive Director. This should result in quicker approval of changes that do not involve significant changes in the square footage of the gaming floor or the number of slot machines on the gaming floor.

Comment and Response Summary

Notice of proposed rulemaking was published at 38 Pa.B. 3507.

The Board received comments from Greenwood Gaming and Entertainment, Inc. (Greenwood) and Mountainview Thoroughbred Racing Association (Mountainview) during the public comment period. By letter dated August 27, 2008, the Independent Regulatory Review Commission (IRRC) also submitted comments. These comments were reviewed by the Board and are discussed in detail in this Preamble.

Concerning § 461a.27, IRRC suggested that the Board replace the term "Central Control Computer System" with the defined term "central control computer" and that the term "financial meters" be defined.

The Board agrees that the term "Central Control Computer System" should be replaced with the defined term "central control computer" and has made that change to this section and elsewhere throughout the final-form regulations. The Board decided not to add a definition of the term "financial meters" for two reasons. First, the term is well understood by the industry to include any meter that records financial information such as coin in, coin out, and the like. Second, a definition that attempted to list the meters included in the term could become obsolete as technology changes.

Greenwood commented that it believed § 465a.2(a)(7) is vague and suggested that the Board do a revised proposal with additional guidance regarding the safeguards and protections that should be included in their internal controls.

The Board agrees that further guidance would be helpful. To this end, the Board adopted an order on March 27, 2008, which sets forth some basic requirements that promotions must meet. Because the Board's experience with promotions is limited at this point in time, the Board believes that adding detailed provisions on promotions to these regulations may be premature. Additionally, adding detailed requirements to this rulemaking at this point in the process would deprive slot machine licensees of an opportunity to comment. Accordingly, the Board will consider doing a separate rulemaking on promotions after it gains more experience.

IRRC questioned the need for § 465a.2(8) since it repeats portions of the statute and if it is needed, IRRC suggested that more detail be added.

The inclusion of this requirement was not intended to repeat all of the provisions contained in 4 Pa.C.S. § 1513 (relating to political influence). Instead it is intended to require slot machine licensees to develop, and submit to the Board for its approval as part of the slot machine licensee's internal controls, the internal procedures the slot machine licensee will use to insure compliance with 4 Pa.C.S. § 1513. Because of the differing organizational structures of the existing slot machine licensees and to give slot machine licensees flexibility as to how they may do this, the Board has not elected to mandate any particular procedures at this time.

On § 465a.4, Greenwood suggested that the Board include a sample format in the regulation or have Board staff visit each slot machine licensee before the regulation takes effect to outline and review exactly what the Board wishes to see in the quarterly reports.

While the Board does not believe the format should be included in the regulation, the Board does agree with the suggestion that a sample format be provided. To this end, a sample Excel template was sent to all slot machine licensees in June. To further simplify the submission process for this report, the Board has also amended this section to require that the reports be submitted electronically.

On § 465a.8, IRRC suggested that the regulation provide more detail on how a slot machine licensee can obtain Office of Gaming Operation's approval of required signs.

These signs are one of a multitude of items that are discussed with the slot machine licensee by the opening team during the weeks prior to the opening of a licensed facility. Therefore, the Board does not believe that establishing a more formal procedure is necessary.

In § 465a.11, Mountainview noted that the proposed change appeared to contain conflicting language and suggested that this language be clarified.

The Board agrees with Mountainview's observation and has modified the proposed language to eliminate the potentially contradictory language.

In § 465a.33, Mountainview suggested that the Board replace subsection (a)(1)(ii) which requires an audible alarm to surveillance when the door to the area housing the CCC equipment is opened with a more general requirement that the slot machine licensee establish procedures that will insure that the surveillance department is notified whenever the CCC area is being accessed. IRRC concurred with this suggestion and suggested that the Board consider less costly options when developing the final-form regulation.

The Board agrees that there are other procedures that could be adopted to provide notice to the surveillance department for authorized entry to the CCC area. However, none of those alternatives would provide any protection against unauthorized entry. Given that the CCC equipment is used for the calculation of gross terminal revenue, protection of this area is essential. For this reason, the Board has retained this provision as proposed.

In § 465a.33(a)(4), Mountainview asked if the intent of this provision was to limit access to just GTECH personnel and if the slot machine licensee could rely on the list provided by GTECH or does the list have to be "approved" by the Department. IRRC questioned the Board's authority to impose an approval requirement on the Department and if authority does exist, suggested that more detail related to the approval process be added to the regulation.

The Board acknowledges that the proposed version of this provision did not reflect its intent. The intent of this provision was not to impose any requirements on the Department or to require slot machine licensees to submit a list to the Department for its approval. This paragraph has been revised to clarify that the slot machine licensee is only authorized to grant access to the CCC area to individuals who are on the list which the slot machine licensee must obtain from the Department.

Concerning § 465a.33(a)(5), Mountainview asked if this requirement only applied to individuals who are not authorized to enter the area containing the CCC equipment and if the notice to the Department, BIE and the casino compliance representatives must be provided before entry is allowed or as soon as practicable. IRRC questioned the need for notification if it is a true emergency and suggested that the provision be revised or deleted.

As noted previously, because the CCC area contains equipment used to calculate the gross terminal revenue, the Department and the Board need to be notified of any entry to the CCC area. So the Board has not deleted this provision. However, to address Mountainview's first question, the Board has inserted "to individuals who are not authorized to have access to the area containing CCC equipment" in this paragraph to clarify who needs a security escort. In response to their second question, the Board agrees that access in an emergency should not be delayed by requiring that notice be given before entry can

be authorized. To clarify this point, this paragraph has been revised to require that the notice be given "as soon as possible." To further simplify the notification requirement, the Board has eliminated the requirement that BIE be notified. This notification is not needed since notice is provided to the casino compliance representatives at the licensed facility.

Concerning the proposed revisions to § 467a.1(c), both Greenwood and IRRC believed that the proposed regulation is more restrictive than an existing delegation to the Executive Director to approve all relocations. If the Board retains this provision, they suggested that the threshold be increased from 2% to 5% to give slot machine licensees adequate flexibility to respond to customer demands and playing patterns and the Commonwealth's new Clean Indoor Air Act (Act 27 of 2008) (35 P. S. §§ 637.1—637.14).

The Board agrees that slot machine licensees should have the ability to relocate slot machines on their gaming floors with minimal delays. Therefore, the Board has revised this subsection to clarify that only changes involving more than 2% in the number of slot machines on the gaming floor or changes of more than 2% in the square footage of the gaming floor need to be submitted as a petition that will require Board approval. All other changes will be approved by the Executive Director. However, while the Board believes that it may be reasonable to increase the percentage threshold above 2% at some point in the future, the Board has elected to retain the 2% threshold until the Board has gained more experience with the new process.

For ease of administration, the Board has revised this section to require that the requests be filed with the Clerk rather than the Office of Gaming Operations. Additionally, provisions have been added to the regulation which specify what must be included in a petition or request and which will allow a slot machine licensee to file a petition for reconsideration with the Board if the slot machine licensee is dissatisfied with the decision made by the Executive Director.

Additional Revisions

In §§ 461a.27 and 465a.33, the term "casino enforcement agent" has been replaced with "casino compliance representative" to reflect the agents' current job title.

In § 465a.2(a)(8), the word "to" has been inserted following "influence)" to improve clarity.

In § 465a.4(a), the Financial Investigation Division has been removed from the list of entities that are to receive the revenue reconciliation report. This was done because routine review of this report is not one of their normal duties and because they will be able to obtain the report from the Office of Gaming Operations on an as needed basis.

In § 465a.11(a)(5), the word "department's" has been replaced by "departments" to reflect the Board's original intent.

In the first sentence of § 467a.1(c), the word "gaming" has been inserted in front of the word "floor" to make the use of the term consistent throughout this subsection.

Affected Parties

Slot machine licensees will be required to develop and file new internal controls and comply with the other provisions of these final-form regulations. Additionally, manufacturers, manufacturer designees and suppliers will have to comply with the new notice requirement in § 463a.2.

*Fiscal Impact
Commonwealth*

Because most of the revisions in this rulemaking reflect current Department and Board practice, there will be no significant costs or savings to the Department, the Board or other State agencies as a result of these revisions.

Political Subdivisions

These final-form regulations will have no fiscal impact on political subdivisions of this Commonwealth.

Private Sector

Slot machine licensees will experience some costs to draft new internal controls, file the new quarterly reports required under § 465a.4(a) and obtain signs for the Board's offices at the licensed facilities. The Board estimates that these costs should not exceed \$2,000 per slot machine licensee.

General Public

These final-form regulations will have no fiscal impact on the general public.

Paperwork Requirements

These final-form regulations will require slot machine licensees to draft and submit amendments to their internal controls, prepare and submit quarterly revenue reconciliation reports and provide notice to BIE and the Office of Gaming Operations, in addition to the Gaming Lab, when slot machines are to be moved.

Effective Date

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

Contact Person

The contact person for questions about these final-form regulations is Richard Sandusky, Director of Regulatory Review, at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 12, 2008, the Board submitted a copy of the proposed rulemaking, published at 38 Pa.B. 3507, and a copy of the Regulatory Analysis Form to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development (Committees).

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form regulations were deemed approved by the Committees on November 5, 2008. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 6, 2008, and approved the final-form regulations.

Findings

The Board finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of

July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) These final-form regulations are necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapters 461a, 463a, 465a and 467a are amended by amending §§ 461a.1, 463a.2 and 465a.9, to read as set forth at 38 Pa.B. 3507; and by amending §§ 465a.2, 465a.4, 465a.8, 465a.11 and 467a.1, and by adding §§ 461a.27 and 465a.33 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall certify this order, 38 Pa.B. 3507 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

MARY DIGIACOMO COLINS,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 6429 (November 29, 2008).)

Fiscal Note: Fiscal Note 125-88 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.27. RAM clear.

(a) When a slot machine licensee becomes aware of a nonresponsive slot machine and communication between the slot machine and the central control computer can not be reestablished, the slot machine licensee shall immediately notify the Department's operator of the central control computer and the casino compliance representatives at the licensed facility. The slot machine licensee may not do a RAM clear on the affected slot machine until a casino compliance representative has recorded the information on the financial meters.

(b) For planned RAM clears, the slot machine licensee shall provide notice to the Department's operator of the central control computer and the casino compliance representatives at the licensed facility at least 48 hours prior to the scheduled RAM clear. A second notice shall be provided to the Department's operator of the central control computer and the casino compliance representatives at the licensed facility immediately prior to actually conducting the RAM clear.

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465.2. Internal control systems and audit protocols.

(a) An applicant for, or holder of, a slot machine license shall submit to the Board and the Department a written description of its initial system of administrative and accounting procedures, including its internal control sys-

tems and audit protocols (collectively referred to as its "internal controls") at least 90 days before gaming operations are to commence. A written system of internal controls must include:

* * * * *

(7) Procedures governing the conduct of all gaming related promotions to be offered by the slot machine licensee.

(8) Procedures to ensure compliance with section 1513 of the act (relating to political influence) to:

- (i) Prevent political contributions.
- (ii) Provide an annual certification that the slot machine licensee has conducted a good faith investigation that has not revealed any violations to the Board and to the Department of State's Bureau of Commissions, Elections and Legislation.

(9) Other items the Board may request in writing to be included in the internal controls.

* * * * *

§ 465a.4. Standard financial and statistical reports.

(a) Within 30 days of the close of each calendar quarter, slot machine licensees shall file a report which includes a detailed reconciliation of the amount invoiced by the Department to the tax accrual determined by the slot machine licensee's revenue/income audit process. The reconciliation shall be determined by the slot machine licensee on at least a weekly basis and the report must provide the date and the amount of any differences found during the reconciliation process. The report shall be filed electronically with the Board's Office of Gaming Operations and the Department's Bureau of Fiscal Management.

(b) The Board may prescribe standard reporting forms and corresponding filing instructions to be used by a slot machine licensee in filing the report referenced in subsection (a).

(c) The Board may request, in writing, financial, statistical or other reports to determine compliance by the slot machine licensee with the act and the Board's regulations.

§ 465a.8. Licensed facility.

(a) A licensed facility must be equipped with a surveillance system configured and approved in accordance with §§ 465a.9 and 465a.10 (relating to the surveillance system; surveillance department control; surveillance department restrictions; and surveillance system recording formats). Except as otherwise provided in subsection (d)(1), the surveillance system shall be under the exclusive control of the surveillance department.

(b) Restricted areas within the licensed facility shall be designated for the repair and storage of slot machines. Areas approved and utilized within the licensed facility for slot machine repair shall be covered by the approved surveillance system.

(c) Emergency exits from the gaming floor must be equipped with an audible alarm system that produces a loud, distinguishable warning sound, discernable in the vicinity of the exit, whenever the emergency door is opened. The alarm system shall be designed to require deactivation and reset by means of a key. The key is to be maintained by the security department.

(d) Slot machine licensees shall, in accordance with section 1207(13) of the act (relating to regulatory authority of board), provide for and maintain onsite facilities for use by the Board, the Department and the Pennsylvania State Police for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must be located in the same building as the gaming floor, in locations approved by the Office of Gaming Operations and include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board, the Department and the Pennsylvania State Police at the facility including the following:

(1) A surveillance system monitoring room, located within the onsite facilities, with full camera control capability for the reception of transmissions generated by each camera approved for use as part of the slot machine licensee's surveillance system. Full camera control capability includes the ability to override the camera control capability of the slot machine licensee's surveillance system.

(2) An area for the detention of individuals detained or taken into custody by the Pennsylvania State Police. The detention area must be located within the onsite facilities and consist of a bench or other apparatus which is permanently affixed to the wall or floor to which the person in custody can be handcuffed with as little discomfort to that person as is possible under the circumstances.

(3) A fingerprinting and photographing facility for use by the Pennsylvania State Police located in conformance with and outfitted in compliance with specifications established by the Pennsylvania State Police.

(4) Adequate computer, telephone and copying capability to meet the Board's, the Department's and the Pennsylvania State Police's continuing data processing and related needs.

(5) Direct telephone connections between the onsite facilities and the slot machine licensee's surveillance monitoring room and its security department.

(6) Computer terminals providing read only access to any computerized slot monitoring system or casino management system, or both, used by the slot machine licensee in its gaming operations.

(7) An area for the operation and storage of the central control computer equipment which must be equipped with an uninterruptible power supply.

(8) Signs indicating the location of the Board's office. The size, location and design of the signs must be approved by the Office of Gaming Operations.

(e) Keys or alternative locking mechanisms securing access to the onsite facilities shall be under the exclusive custody and control of the Board, the Department or the Pennsylvania State Police respectively.

(f) Slot machine licensees shall provide additional accommodations within the licensed facility upon receipt of a written request from the Board, the Department or the Pennsylvania State Police to accommodate periodic audit, compliance or investigative reviews at the licensed facility.

(g) Slot machine licensees shall provide adequate parking spaces adjacent or proximate to the onsite facilities, clearly marked for the Board, the Department or Pennsylvania State Police use only.

(h) Slot machine licensees shall equip licensed facilities with communication systems necessary to insure communication between the licensed facility and the Board, the Department, the Pennsylvania State Police, any applicable local law enforcement agency or emergency first responders.

§ 465a.11. Slot machine licensee's organization.

(a) Slot machine licensees' systems of internal controls must, in accordance with section 1322 of the act (relating to slot machine accounting controls and audits) and § 465a.2 (relating to internal control systems and audit protocols), include organization charts depicting segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Slot machine licensees shall be permitted, except as otherwise provided in this section, to tailor organizational structures to meet the needs or policies of a particular management philosophy. A slot machine licensee's organization charts must provide for:

* * * * *

(5) A chief executive officer. For the purposes of this section, a "chief executive officer" means the person located at the licensed facility who is ultimately responsible for the daily conduct of the slot machine licensee's gaming business regardless of the form of business association of the slot machine licensee or applicant or the particular title which that person or any other person holds. A slot machine licensee's organization chart may also include an assistant chief executive officer who is responsible for the daily conduct of the slot machine licensee's gaming business during the chief executive officer's absence. However, the assistant chief executive officer may not be the department head of one of the departments required by subsection (b). Each supervisor of a department required by subsection (b) shall report directly to the chief executive officer or assistant chief executive officer of the slot machine licensee regarding administrative matters and daily operations. The slot machine licensee's organization charts must designate which positions, in the absence of the chief executive officer and the assistant chief executive officer, shall be designated as having responsibility for the daily conduct of the slot machine licensee's gaming business.

* * * * *

§ 465a.33. Access to areas containing central control computer equipment.

(a) A slot machine licensee shall develop and submit to the Board and the Department, as part of the submission required under § 465a.2 (relating to internal control systems and audit protocols), procedures for safeguarding and limiting access to the central control computer (CCC) equipment housed within the licensed facility. At a minimum, these procedures must include the following requirements:

- (1) The area containing CCC equipment must:
 - (i) Be secured with a manual key lock system.
 - (ii) Have a door, that when opened, audibly signals the surveillance monitoring room.
 - (iii) Have adequate surveillance camera coverage to record all activity in the area.
- (2) All keys which access the area containing CCC equipment shall be maintained by the slot machine licensee's security department. Access to the keys may only be authorized by the director of security or the security shift manager with notification to the surveil-

lance monitoring room and the casino compliance representatives at the licensed facility.

(3) The slot machine licensee shall maintain an access log for the area containing CCC equipment. The log shall be maintained in a book with bound numbered pages that cannot be readily removed and placed in close proximity to the CCC equipment. Casino compliance representatives at the licensed facility may review the log upon request. The log shall be stored and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded in a log:

- (i) The date and time of each entry and exit.
- (ii) The name and Board-issued credential number of each person who initiates, performs or supervises the entry.
- (iii) The purpose of entry.

(4) The slot machine licensee's security department shall maintain a list of employees who are authorized to have access to the area containing CCC equipment. The list shall be obtained from the Department and made available to the casino compliance representatives at the licensed facility.

(5) Emergency access to individuals who are not authorized to have access to the area containing CCC equipment may only be granted with a security escort. When emergency access is granted, the slot machine licensee shall provide notice to the Department and the casino compliance representatives at the licensed facility as soon as possible.

CHAPTER 467a. COMMENCEMENT OF SLOT OPERATIONS

§ 467a.1. Gaming floor plan.

(a) An applicant for, or holder of a slot machine license, shall submit to the Board a floor plan of its gaming floor and the restricted areas servicing the slot operation. A floor plan must be:

- (1) Drawn to 1/8 inch scale, unless another scale is approved by the Board.
- (2) Certified by an architect licensed to practice in this Commonwealth and depict the following:
 - (i) The gaming floor with notations as to:
 - (A) Proposed total square footage.
 - (B) The perimeter of the gaming floor.
 - (C) A clearly delineated route for underage persons to transverse the gaming floor.
 - (ii) Each slot machine area on the gaming floor and each slot machine location within each slot machine area. Slot machine locations shall be identified by number in accordance with § 463a.3 (relating to slot machine location).
 - (iii) The number of slot machines on the gaming floor in compliance with section 1210 of the act (relating to number of slot machines), in total and by slot area.
 - (iv) Each slot seat on the gaming floor in compliance with § 461a.7(t) (relating to slot machine minimum design standards).

(v) Each surveillance camera installed in compliance with § 465a.9(a) (relating to surveillance system; surveillance department control, surveillance department restrictions), noting its type and camera number.

(vi) The cashiers' cage and any satellite cashiers' cage, inclusive of each cashiers' cage window and window number, ancillary offices and areas.

(vii) Each count room and any trolley storage area.

(viii) Each automated bill breaker, gaming voucher redemption, coupon redemption and jackpot payout machine.

(ix) Each automated teller machine.

(x) Each area designated for the storage or repair of slot machines.

(xi) Vault and armored car bay locations.

(xii) Additional documentation requested by the Board relating to the floor plan for the gaming floor.

(b) A slot machine licensee may not commence slot operations until the floor plan depicting its gaming floor and all restricted areas servicing the slot operation has been approved in writing by the Board. The approval by the Board will expressly authorize the maximum square footage of gaming floor and maximum number of slot machines which may be operated by the slot machine licensee.

(c) Requests for changes to the gaming floor plan approved under subsection (b) which involve a change of more than 2% of the square footage of the gaming floor or which involve a change of more than 2% in the number of slot machines on the gaming floor require Board approval and must be submitted to the Board as a petition under § 493a.4 (relating to petitions generally). Requests for all other changes to the gaming floor must be submitted in writing to the Office of the Clerk as a request for changes to the gaming floor and approved by the Board's Executive Director. The approval of the Board or the Executive Director may include conditions that must be met by the slot machine licensee as part of the changes.

(d) A petition or request for changes to the gaming floor must, at a minimum, include:

(1) A narrative description of the proposed changes.

(2) A revised gaming floor plan.

(3) A timetable for completion of the proposed changes.

(4) An updated slot machine master list as required under § 463a.5 (relating to slot machine master list).

(e) If a slot machine licensee objects to the disapproval of a request for changes to the gaming floor or conditions imposed on the approval of a request for changes to the gaming floor, the slot machine licensee may file a request for reconsideration as a petition under § 493a.4.

[Pa.B. Doc. No. 08-2233. Filed for public inspection December 12, 2008, 9:00 a.m.]

STATEMENTS OF POLICY

Title 104—GENERAL ASSEMBLY

SENATE OF PENNSYLVANIA

[104 PA. CODE CH. 7]

Right-to-Know Law

The Senate of Pennsylvania, under section 504(a) of the Right-to-Know Law (65 P. S. § 67.504(a)), adds Chapter 7 (relating to Right-to-Know Law) as set forth in Annex A.

Public Comments

Interested parties are invited to submit written comments, objections or suggestions about the statement of policy to the Secretary of the Senate, 462 Main Capitol Building, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile or e-mail will not be accepted.

MARK R. CORRIGAN,
Secretary of the Senate

(*Editor's Note:* Title 104 of the Pa. Code is amended by adding §§ 7.1, 7.11—7.15 and 7.21—7.23 to read as set forth in Annex A.)

Annex A

TITLE 104. SENATE OF PENNSYLVANIA

CHAPTER 7. RIGHT-TO-KNOW LAW—STATEMENTS OF POLICY

Subchapter A. PRELIMINARY PROVISIONS

Sec.

7.1. Definitions.

§ 7.1. Definitions.

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

Appeals examiner—A person designated by the Secretary of the Senate to act on his behalf for appeals from determinations of the open-records officer.

Appeals officer—The Secretary of the Senate, 462 Main Capitol Building, Harrisburg, Pennsylvania 17120, under section 503(c)(2)(i) of the law (65 P. S. § 67.503(c)(2)(i)), for appeals from determinations of the open-records officer.

Bureau—The Legislative Reference Bureau.

Mass request—A number of requests under the law to which all of the following apply:

- (1) Each request is for the same Senatorial record.
- (2) The number greatly exceeds the average daily volume of requests and burdens the normal operations of the Office of the Chief Clerk.
- (3) The requests are substantially identical in format and language.
- (4) The open-records officer is able to trace the requests to a common source.

Office of Open Records—The office established in the Department of Community and Economic Development under section 1310 of the law (65 P. S. § 1310).

Open-records officer—The Chief Clerk of the Senate, 89 Capitol East Wing, Harrisburg, PA 17120, responsible for access to the information of the Senate of Pennsylvania under section 502(a)(2) of the law (65 P. S. § 67.502).

Law—The Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

Requester—A person that makes a request for information from the Senate of Pennsylvania under the law.

Subchapter B. OPEN RECORDS PROCEDURES OF THE SENATE

Sec.

7.11. Hours of access.
7.12. Contact information.
7.13. Request format.
7.14. Mass requests.
7.15. Fee schedule.

§ 7.11. Hours of access.

The Right-to-Know Office of the Senate will be open from 9 a.m. to 4 p.m. Monday through Friday except for official State and Federal holidays and other days the office is closed by direction of the Chief Clerk of the Senate.

§ 7.12. Contact information.

Right-to-Know requests must be sent to:
Open-Records Officer
Office of the Senate Chief Clerk
89 Capitol East Wing
Harrisburg, PA 17120-3052
Fax: (717) 783-4296
Email: rtkofficer@occ.pasen.gov

§ 7.13. Request format.

Requests must be made in writing, must be clearly marked as a right-to-know request and must be submitted in person or by mail, email or facsimile in one of the following manners:

(1) On a form prescribed by the Chief Clerk.

(2) In a manner so that material requested describes records requested with specificity.

§ 7.14. Mass requests.

If the open-records officer determines that a mass request places an unreasonable burden on the Senate, in an analogous manner to that described in section 506(a)(1) of the law (65 P. S. § 67.506(a)(1)) for multiple requests by the same requester, the following apply:

(1) The open-records officer will respond to the common source identified by the open-records officer; respond to individual requests submitted in writing; and, if the request is granted, will make the legislative record accessible at the open-records office.

(2) If the mass request is in electronic format, each requester will be informed of the action under paragraph (1).

§ 7.15. Fee schedule.

(a) *General Rule.* Except as set forth in subsection (b), the following apply:

- (1) The fee for providing a document is \$.25 per image.
- (2) The fee for postage will not exceed actual mailing costs.
- (3) The fee for certifying a document is \$5 per document, regardless of the number of pages. Each document requires separate certification and fee.
- (4) The fee for redaction of a document is \$1 per page.
- (5) Additional fees may be imposed under section 1307(g) of the law (65 P.S. § 1307(g)) if the Senate necessarily incurs costs in complying with the request.

(b) *Exception.* If the Office of Open Records established under section 1310 of the law (65 P.S. § 1310) promulgates a fee of less than any amount set forth in subsection (a), the Senate will charge the fee charged by the Office of Open Records.

(c) Payment.

(1) Payment arrangements shall be made between the requester and the open-records officer.

(2) Under section 1307(h) of the law, if the total fee is estimated to exceed \$100, payment may be required prior to the initiation of providing the document. If prepayment is required, a check, certified check or money order shall be made payable to the "Senate of Pennsylvania" in the total amount of the fee.

Subchapter C. APPELLATE PROCEDURE

Sec.	
7.21.	Administrative Agency Law.
7.22.	Appeals examiner.
7.23.	Parties.

§ 7.21. Administrative Agency Law.

(a) *Authority.* This section constitutes the adoption of practice and procedure provisions under section 1309 of the law (65 P.S. § 67.1309).

(b) Adoption.

(1) Except as set forth in subsection (c), the provisions of 2 Pa.C.S. Chapter 5 Subchapter A and Chapter 7 Subchapter A (relating to Administrative Agency Law) apply to appeals under this subchapter.

(2) This subsection applies notwithstanding 2 Pa.C.S. § 501(a) (relating to practice and procedure).

(c) Exceptions.

(1) Testimony will be recorded. A transcript will only be produced if there is an appeal under section 1301(a) of the law (65 P.S. § 67.1301). This paragraph applies notwithstanding 2 Pa.C.S. § 504 (relating to hearing and record).

(2) The provisions of 2 Pa.C.S. § 508 (relating to notice to Department of Justice) do not apply.

§ 7.22. Appeals examiner.

(a) *Status.* Under section 503(c)(2)(i) of the law (65 P.S. § 67.503(c)(2)(i)), the following apply:

(1) Except as set forth in paragraph (2), the appeals officer may provide appeals examiners for all appeals to make final recommendations for adoption by the appeals officer.

(2) For an appeal from a denial by the open-records officer of a record in the custody of the appeals officer, the Bureau will provide an appeals officer under 101 Pa. Code Chapter 31 (relating to Right-to-Know Law).

(b) Requirements.

- (1) The appeals examiner must be an attorney at law.
- (2) The appeals examiner may be an employee of or an individual under contract with the Bureau or the Senate.

§ 7.23. Parties.**(a) Original.**

(1) Under section 1101(a)(1) of the law (65 P.S. § 67.1101(a)(1)), an appeal may be made by a requester with respect to any of the following:

- (i) A request denied under section 903 of the law (65 P.S. § 67.903).
- (ii) A request deemed denied under section 901 of the law (65 P.S. § 67.901).

(2) Under section 1101(c) of the law, a party with a direct interest in the information subject to the appeal may intervene in the appeal.

(b) Procedure.

(1) A party under subsection (a) must file two copies of the appeal or petition to intervene with the appeals officer. The copies must be in writing. Electronic filing is not permitted. For an appeal under subsection (a)(1)(i), the appeal or petition must refer to any disputed factual or legal matter in the denial under section 903 of the law.

(2) Upon receipt of the filing under paragraph (1), the appeals officer will send a copy to the open-records officer whose denial or deemed denial is being appealed.

(3) The appeals officer or appeals examiner may schedule an informal conference with the parties to attempt to resolve the matter or any factual disputes.

(c) *Submission on documents.* Except as set forth in subsection (d), the appeal will be resolved under section 1102(b)(1) of the law (65 P.S. § 67.1102(b)(1)), based on the following:

- (1) The appeal under section 1101(a)(1) of the law.
- (2) The denial under section 903 of the law.

(d) Hearing.

(1) A hearing may be held on an appeal only as follows:

- (i) The appeal is of a deemed denial under section 901 of the law.

(ii) The requester alleges willful misconduct under section 1304(a)(1) of the law (65 P.S. § 67.1304(a)(1)).

(iii) In the denial, the open-records officer rules that the request is frivolous under section 1304(b) of the law.

(iv) The appeals officer or appeals examiner determines that there is good cause for a hearing.

(2) Under section 1102(b)(2) of the law, a hearing is subject to 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(e) *Determination.* Under section 1102(a)(4) of the law, the appeals officer will issue a final determination. The final determination will consist of the following:

- (1) *Title.* Identification of the requester.
- (2) *Procedural history.*
 - (i) A brief recital of the facts up to disposition by the open-records officer.
 - (ii) The disposition by the open-records officer. This subparagraph includes a denial under section 903 of the law and a deemed denial under section 901 of the law.
- (3) *Factual findings.* Resolution of disputed facts.
- (4) *Legal conclusions.* This includes cited authority.
- (5) *Order.* An order affirming the denial or granting the request, in whole or in part. An order under this paragraph is subject to judicial review under Chapter 13 of the law (65 P. S. §§ 67.1301—67.1310).

[Pa.B. Doc. No. 08-2234. Filed for public inspection December 12, 2008. 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Direct Farm Sales Grant Program; Extension of Application Period

The Department of Agriculture (Department) gives notice that it is extending the close of the period within which it will receive applications for grants under the Direct Farm Sales Grant Program (Program). The close of the application window had been December 5, 2008. This application deadline is hereby extended to December 29, 2008.

The details of the Program were originally published on October 25, 2008 (38 Pa.B. 5857). This notice is repeated as follows, with the addition of the extended grant application filing deadline date:

The Program is administered by the Department's Bureau of Food Distribution (Bureau). For the 2009 Project Year, the application period is November 3, 2008, to December 29, 2008. Information about the Program and application forms can be accessed at the Department's web site www.agriculture.state.pa.us or by contacting the Bureau at (800) 468-2433, Pam Dailey or Sandy Hopple.

In summary, the Program provides funds to Pennsylvania-based businesses that manage or operate a farm stand or farmers' markets, nonprofit organizations,

farmers and local governments for projects intended to promote new or existing farmers' markets. The maximum Grant amount per farm stand or farmers' market location shall be \$7,500 and applicants shall be expected to provide 25% of the approved Grant amount in matching funds or in-kinds goods or services. The anticipated date for the Award of Grants and Notice thereof is expected to be on or before March 1, 2009. The application, work plan and budget should reflect March 1, 2009, as the project start date and the project completion date will be September 30, 2009.

Applications for the Program will be accepted by the Department beginning Monday, November 3, 2008, and continue through Monday, December 29, 2008. Applications hand-delivered must be delivered to the Bureau's office by 4 p.m. on Monday, December 29, 2008, the application closing date. Applications which are mailed must be postmarked no later than Monday, December 29, 2008, and received at the Bureau's office no later than January 5, 2009.

Completed applications should be addressed to or delivered to Department of Agriculture, Bureau of Food Distribution, Direct Farm Sales Grant Program, 2301 North Cameron Street, Room 401, Harrisburg, PA 17110-9408.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 08-2235. Filed for public inspection December 12, 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 December 2, 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>
11-29-2008	Franklin Financial Services Corporation, Chambersburg, acquired 100% of Community Financial, Inc., Camp Hill, and thereby indirectly acquired Community Trust Company, Camp Hill	Chambersburg	Effective

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-29-2008	Farmers and Merchants Trust Company of Chambersburg, Chambersburg, and Community Trust Company, Camp Hill Surviving Institution: Farmers and Merchants Trust Company of Chambersburg, Chambersburg	Chambersburg	Effective

Branch Applications**De Novo Branches**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-15-2008	QNB Bank Quakertown Bucks County	1042 Millcreek Road Wescosville Lehigh County	Opened
11-26-2008	CNB Bank Clearfield Clearfield County	885 Park Avenue Meadville Crawford County	Filed

The previous branch office will be operated under the fictitious name "ERIEBANK."

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
11-24-2008	Belco Community Credit Union Harrisburg Dauphin County	5304 Carlisle Pike Mechanicsburg Cumberland 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. 08-2236. Filed for public inspection December 12, 2008, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of January 2009

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of January, 2009, is 6 1/2%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which such individual owns and which

the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.90 to which was added 2.50 percentage points for a total of 6.40 that by law is rounded off to the nearest quarter at 6 1/2%.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 08-2237. Filed for public inspection December 12, 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

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>
PA0239160	McCalmont Township WWTP 127 Firehouse Lane Anita, PA 15711	McCalmont Township Jefferson County	Elk Run 17-D	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.

PA0027987, Sewage, **HMSHost Corporation**, P. O. Box 8, Middletown, PA 17057. This existing facility is located in Wallace Township, **Chester County**.

Description of Proposed Activity: This application is for renewal of a NPDES permit to discharge treated sewage from the sewage treatment plant serving the Peter J. Camiel Service Plaza located at Mile Post 304.8 westbound on the Turnpike.

The receiving stream, a UNT to Marsh Creek, is in the State Water Plan Watershed 3H and is classified for: HQ-TSF, MF.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.05 mgd.

<i>Parameter</i>	<i>Mass (lbs/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Monthly Average</i>	<i>Weekly Average</i>	
CBOD ₅					
(5-1 to 10-31)	4.2		10		20
(11-1 to 4-30)	8.3		20		40
Total Suspended Solids	8.3		20		40
Ammonia as N					
(5/01 to 10/30)	1.3		3.0		6.0
(11/01 to 4/30)	3.7		9.0		18.0
Total Phosphorus as P					
years 1 and 2					
(4-1 to 10-31)	0.42		1.0		2.0
(11-1 to 3-31)	Monitor and Report		Monitor and Report		
years 3—5					
(4-1 to 10-31)	0.42		1.0		2.0
(11-1 to 3-31)	0.83		2.0		4.0
Fecal Coliform			200/100 ml (Geometric Mean)		1,000/100 ml
pH (Standard Units)			6.0 (Minimum)		9.0
Total Residual Chlorine			0.5		1.2
Dissolved Oxygen			5.0 (Minimum)		
Total Nitrogen	Monitor and Report		Monitor and Report		

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

1. Notification of Designation of Operator.
2. Phase Out when Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Discharge to Small Stream.
7. Change of Ownership.
8. Total Residual Chlorine Requirement.
9. Sludge Disposal Requirement.
10. 2/Month Sampling.
11. Laboratory Certification.
12. Instantaneous Max Requirements.
13. Fecal Coliform I-Max Reporting.
14. Fecal Coliform 10% Rule.
15. Certified Operator.

PA0244279, Industrial Waste, SIC 4941, **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969-1912. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Activity: The backwash water discharge of the arsenic treatment system of a potable water system. The rate of discharge will be 460 gallons per minute for 10 minutes every 2—4 weeks.

The receiving stream, UNT to Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for: TSF.

The proposed effluent limits for Outfall 001 are based on a design flow of 4,600 gpd.

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Total Suspended Solids	30	60	75
pH (Standard Units)	Within limits of 6 to 9 Standard Units at all times		
Iron, Total	1.5	3.0	3.75
Arsenic, Total	Monitor and Report		

The EPA waiver is in effect.

PA0056553, Industrial Waste, SIC 2951, **Allan A. Myers, LP, d/b/a Independence Construction Materials**, 638 Lancaster Avenue, Malvern, PA 19355. This existing facility is located in Charlestown Township, **Chester County**.

Description of Proposed Activity: Renewal of existing NPDES permit to discharge stormwater from an asphalt manufacturing facility.

The receiving stream, a UNT to Pickering Creek, is in the State Water Plan Watershed 3D and is classified for: HQ-TSF.

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

Parameter	Concentration (mg/l)		
	Average Annual	Maximum Daily	Instantaneous Maximum (mg/l)
CBOD ₅		Monitor and Report	
COD		Monitor and Report	
Oil and Grease		Monitor and Report	
Total Suspended Solids		Monitor and Report	
pH		Monitor and Report	
Total Kjeldahl Nitrogen		Monitor and Report	
Total Phosphorus		Monitor and Report	
Total Iron (Dissolved)		Monitor and Report	

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

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

The EPA waiver is in effect.

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

PA0063711, Sewage, **Central Carbon Municipal Authority**, 1000 Lehigh Drive, Lehigh, PA 18235. This proposed facility is located in Mahoning Township, **Carbon County**.

Description of Proposed Activity: Renewal of an NPDES Permit for an existing discharge.

The receiving stream, Lehigh River, is in the State Water Plan Watershed No. 02B and is classified for: TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Northampton Borough is located on Lehigh River is approximately 20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 1.6 mgd.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean		
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		

Outfall 002—004 are existing stormwater discharge.

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

1. Whole effluent toxicity test requirement.
2. Stormwater discharge requirements.

PAS#602205, Industrial Stormwater, **Shafer's Auto Graveyard**, 233 Kramer Road, Wind Gap, PA 18091. This proposed facility is located in Bushkill Township, **Northampton County**.

Description of Proposed Activity: Issuance of new Industrial Stormwater Permit.

The receiving stream, Bushkill Creek, is in the State Water Plan Watershed No. 01F and is classified for: HQ-CWF.

The proposed effluent limits for Outfall 001 are as follows:

Parameter	Mass (lb/day)		Concentration (mg/l)		Report
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
CBOD ₅					Report
Chemical Oxygen Demand					Report
Oil and Grease					Report
pH					Report
Total Suspended Solids (TSS)					Report
Total Kjeldahl Nitrogen (TKN)					Report
Total Phosphorus					Report
Iron (dissolved)					Report

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

1. Requirements applicable to stormwater outfalls along with identified best management practices.

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

Application No. PA 0029866, Sewage, **Cumberland Valley School District**, 6746 Carlisle Pike, Mechanicsburg, PA 17050-1796. This facility is located in Silver Spring Township, **Cumberland County**.

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

The receiving stream, UNT to Conodoguinet Creek, is in Watershed 7-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the Conodoguinet Creek, approximately 4.1 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0065 mgd are:

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

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

The EPA waiver is in effect.

Application No. PA 0087912, Industrial Waste, SIC Code 5171, **Arnold Fuel Oil Company**, P. O. Box 2621, Harrisburg, PA 17105. This facility is located in Silver Spring Township, **Cumberland County**.

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

The receiving stream, drainage swale to Hogestown Run, is in Watershed 7-B, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Pennsylvania American Water Company located on the Conodoguinet Creek, approximately 6.2 miles downstream. The receiving stream, drainage swale to Trindle Spring Run is in Watershed 7-B, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Steelton Municipal Waterworks located on the Susquehanna River, approximately 23 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfalls 001—003 are:

Parameter	Mass (lbs/day)		Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Total Recoverable Petroleum Hydrocarbons	XXX	XXX	15	30	

The proposed effluent limits for Internal Monitoring Point 101 are:

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Recoverable Petroleum Hydrocarbons	XXX	XXX	Monitor and Report		

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

The EPA waiver is in effect.

Application No. PA 0020826, Sewage, **Dover Township**, 2480 West Canal Road, Dover, PA 17315. This facility is located in Conewago Township, **York County**.

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

The receiving stream, Little Conewago Creek, is in Watershed 7-F, and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Company is located on the Susquehanna River, approximately 27 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the interim milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads, and clarifies the effective date for compliance with the cap loads. The final date for complying with the nutrient cap loads has not been amended. A special condition has been added to clarify the when the discharger is eligible to receive offsets for accepting and treating septage.

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.

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

PA0034797, Sewage, **U.S. Department of Justice, Federal Bureau of Prisons**, Northeast Regional Office, U.S. Customs House, 7th Floor, Second and Chestnut Streets, Philadelphia, PA 19106. This application is for renewal of an NPDES permit to discharge treated sewage from Loretto Federal Correctional Institution STP in Allegheny Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Clearfield Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Shawville Power Station, on the West Branch Susquehanna River.

Outfall 001: existing discharge, design flow of 0.2 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	3.0	4.5		6.0
(11-1 to 4-30)	7.7	11.6		15.4
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

As part of Pennsylvania's Chesapeake Bay Tributary Strategy Implementation Plan for NPDES Permitting, the NPDES permit will include monitoring requirements for the first 2 years of the permit for the parameters of Ammonia-N, Total Nitrogen (calculated as the sum of Kjeldahl-N, Nitrite-N and Nitrate-N) and Total Phosphorus.

The EPA waiver is in effect.

PA0040843, Sewage, **Lutheran Camp Association**, P. O. Box 245, Jennerstown, PA 15547. This application is for renewal of an NPDES permit to discharge treated sewage from Camp Sequanota Sewage Treatment Plant in Jenner Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Pickings Run, which are classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Waterworks located on the Conemaugh River.

Outfall 001: existing discharge, design flow of 0.015 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)	6.5			13.0
(11-1 to 4-30)	19.5			39.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.0			2.5
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0217417, Sewage, **Kiski Area School District**, 200 Poplar Street, Vandergrift, PA 15690. This application is for renewal of an NPDES permit to discharge treated sewage from Mamont Elementary School STP in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Beaver Run, which are classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority on Beaver Run Reservoir.

Outfall 001: existing discharge, design flow of 0.002/0.016 mgd.¹

<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	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	3.5			7.0
Phosphorus	1.0			2.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.06			0.13
Dissolved Oxygen	not less than 7.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: ¹ The STP average design flow is 0.016 mgd. However, the STP was approved to be modified with temporary partitions and piping to treat an average design flow of 0.002 mgd due to lower flows received. The STP must always be operated within the flow constraints of the temporary plant modifications installed.

The EPA waiver is in effect.

PA0252492, Sewage, **Shippingport Borough**, P. O. Box 76, Shippingport, PA 15077. This application is for renewal of an NPDES permit to discharge treated sewage from Shippingport Borough STP in Shippingport Borough, **Beaver County**.

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

Outfall 001: existing discharge, design flow of 0.0985 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 10-31)	200/100 ml as a Geometric Mean			
(11-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.7			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0252531, Sewage, **Independence-Cross Creek Joint Sewer Authority**, 16 Campbell Street, P. O. Box 156, Avella, PA 15312. This application is for renewal of an NPDES permit to discharge treated sewage from Independence-Cross Creek Joint Sewer Authority Wastewater Treatment Plant in Independence Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Cross 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 Wellsburg Filtration Plant.

Outfall 001: existing discharge, design flow of 0.236 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	9.5	14.3		19.0
(11-1 to 4-30)	25.0	37.5		50.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0253812, Sewage, **Glendale Valley Municipal Authority**, 743 Ridge Road, Fallentimber, PA 16639. This application is for issuance of an NPDES permit to discharge treated sewage from Glendale Valley Municipal Authority STP in White Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Clearfield 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 Shawville Power Plant.

Outfall 001: new discharge, design flow of 0.3 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

As part of Pennsylvania's Chesapeake Bay Tributary Strategy Implementation Plan for NPDES Permitting, the NPDES permit will include monitoring requirements for the first 2 years of the permit for the parameters of Ammonia-N, Total Nitrogen (calculated as the sum of Kjeldahl-N, Nitrite-N and Nitrate-N) and Total Phosphorus.

The EPA waiver is not in effect.

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

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

WQM Permit No. 4508406, Sewerage, **PA American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in Stroud Township, **Monroe County**.

Description of Proposed Action/Activity: This project is for the construction of a sewage lift station and force main for 139 proposed residential units in the Mountain Hollow development.

WQM Permit No. 4508407, Sewerage, **CB H20 LP**, P. O. Box 168, Tannersville, PA 18372. This proposed facility is located in Pocono Township, **Monroe County**.

Description of Proposed Action/Activity: This project is for the construction of a pump station and sewage collection system to service the proposed 413 room hotel and 100,000 SF waterpark located at Camelback Ski Area.

WQM Permit No. 4008405, Sewerage, **Greater Hazleton Joint Sewer Authority**, P. O. Box 651, Hazleton, PA 18201-0651. This proposed facility is located in West Hazleton Borough, **Luzerne County**.

Description of Proposed Action/Activity: This project is for an upgrade to the existing wastewater treatment plant to include nutrient removal facilities, CSO treatment facilities and sludge handling facilities.

WQM Permit No. 4808402, Sewerage, **Bethlehem Crossings, IV, LLC**, 2099 Gaither Road, Suite 100, Rockville, MD 20850. This proposed facility is located in Lower Nazareth Township, **Northampton County**.

Description of Proposed Action/Activity: This project is for the construction of onlot sewer and wastewater treatment and disposal systems for two buildings located on a 48.95 acre lot subdivision.

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

WQM Permit No. 3608408, Sewerage, **Manheim Borough Authority**, 15 East High Street, Manheim, PA 17545. This proposed facility is located in Penn Township, **Lancaster County**.

Description of Proposed Action/Activity: Treatment plant upgrade for biological nutrient removal.

WQM Permit No. 0197404, Amendment 08-1, Sewerage, **Chesapeake Estates Mobile Home Park**, 585 Martin Road, Gettysburg, PA 17325. This proposed facility is located in Mt. Pleasant Township, **Adams County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a new package wastewater treatment plant with stream discharge to upgrade and replace the existing lagoon treatment plant with spray irrigation.

WQM Permit No. 4400401, Amendment 08-1, Sewerage, **Granville Township Board of Supervisors**, 100 Helen Street, Lewistown, PA 17044. This proposed facility is located in Granville Township, **Mifflin County**.

Description of Proposed Action/Activity: Seeking approval for sewage plant approvals including aluminum storage feed, SBR modifications and metering.

WQM Permit No. 3108403, Sewerage, **Jason Brenneman**, 1114 Mifflin Street, Huntingdon, PA 16652. This proposed facility is located in Walker Township, **Huntingdon County**.

Description of Proposed Action/Activity: Seeking approval for the construction of a small flow sewage treatment plant to serve a single-family residence on 11973 Hartslog Valley Road.

WQM Permit No. 4495402, Amendment 08-1, Sewerage, **Municipal Authority of the Township of Union**, P. O. Box 5625, Belleville, PA 17004-5625. This proposed facility is located in Union Township, **Mifflin County**.

Description of Proposed Action/Activity: Seeking approval for headworks improvements and chemical addition for phosphorus removal at their existing plant.

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

WQM Permit No. 2508406, Sewerage, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This is the first of two phases to increase sewer conveyance capacity in the critical sections of Millcreek Township Sewer Authority's system in the Glenwood Area. About 1,050 feet of 12" sewer on Old Perry Highway and Perry Highway will be replaced by 15" gravity sewer segments, thereby allowing adequate carrying capacity for the combined peak flows from both Millcreek and Summit Townships. This project will abate a projected hydraulic overload in those areas.

WQM Permit No. 2588403, Sewerage, **Amendment No. 2, Albion Borough**, 26 Smock Avenue, Albion, PA 16401. This proposed facility is located in Albion Borough, **Erie County**.

Description of Proposed Action/Activity: This permit approves construction and operation of sewage wastewater facilities consisting of a dechlorination system for the plant effluent and an organic rerating of the wastewater treatment plant.

WQM Permit No. 1008403, Sewerage, **Western Butler County Authority**, 607 Market Street, P. O. Box 427, Zelenople, PA 16063-0427. This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: The pump station will serve the proposed Creekside Manor residential plan which will include 163 townhome units, 276 apartment units and a clubhouse facility. The pump station will also serve a future commercial development north of Creekside Manor. These flows are ultimately conveyed to the W.B.C.A. Water Pollution Control Plant (WPCP) in Zeilienople.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)****VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1503054-R	Pulte Homes of PA, Limited Partnership 1100 Northbrook Drive Suite 200 Trevose, PA 19053	Chester	Upper Uwchlan Township	UNT Pickering Creek HQ-TSF

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

Lehigh County Conservation District: Lehigh Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903037R	Scott Faust Upper Macungie Township 8330 Schantz Road Breiningsville, PA 18031	Lehigh	Upper Macungie Township	Tributary to Little Lehigh Creek HQ-CWF
PAI023908026	Mary Wright Salisbury Township School District 1140 Salisbury Road Allentown, PA 18103	Lehigh	Salisbury Township	Trout Creek HQ-CWF

Luzerne County Conservation District: Smith Pond Road, Lehman, PA 18627-0250, (570) 674-7991.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024008002	M.A.C. Realty Co., Inc. Attn: Christopher Vincelli 419 Country Club Road Dallas, PA 18612	Luzerne	Dallas Township	Toby Creek CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030708006	Sam McCloskey 419 North Second Street Altoona, PA 16601	Blair	Antis Township	Sandy Run HQ-CWF
PAI032108017	Brad Mentzer Carlisle Evangelical Free Church 290 Petersburg Road Carlisle, PA 17013	Cumberland	South Middleton Township	Letort Spring Run EV
PAI033608008	Harvey R. Zimmerman 1917 Birchwood Street East Earl, PA 17519	Lancaster	Brecknock Township	UNT to Rock Run HQ-TSF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106(3)	Ian Salada Penn State East Campus Penn State University 113 Office of Physical Plant University Park, PA 16802	Centre	College Township State College Borough	Slab Cabin CWF Thompson Run HQ-CWF Spring Creek HQ-CWF

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

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

STATE CONSERVATION COMMISSION**NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

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

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
James Ayoub Farm 3933 Lehigh Drive Northampton, PA 18067	Northampton	35	607.99	Finishing Swine and Beef Cows	N/A	New
Donald Burkholder 518 Parkside Inn Road Bernville, PA 19506	Berks	294 Total/ 233.5 Nutrient Management Acres	800.1	Layers/Dairy/ Cattle	N/A	Renewal
Stoner's Hijos Hill, Inc. 7678 Oellig Road Mercersburg, PA 17236	Franklin	1,470.5	1,222.65	Dairy	N/A	Renewal

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the

30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 0908511, Public Water Supply.

Applicant **Borough of Quakertown**
 Township Richland
 County **Bucks**
 Responsible Official Scott C. McElree
 35 North Third Street
 Quakertown, PA 18951
 Type of Facility PWS
 Consulting Engineer CMX
 200 State Highway
 Manalapan, NJ 07726-0900
 Application Received Date October 2, 2008
 Description of Action Development of Well No. 9.

Application No. 0908514, Public Water Supply.

Applicant **Richland Township Water Authority**
 Township Richland
 County **Bucks**
 Responsible Official Timothy Arnold
 1328 California Road
 Suite D
 Quakertown, PA 18951
 Type of Facility PWS
 Consulting Engineer VanClef Engineering Associates
 551 Main Street
 Bethlehem, PA 18018
 Application Received Date October 24, 2008
 Description of Action Construct a public water supply well.

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

Application No. 4508505, Public Water Supply.

Applicant **Mountain Manor Inn and Golf Course**
 Springfield Township
Monroe County
 Responsible Official John O'Leary
 P. O. Box 95
 Marshalls Creek, PA 18335
 (570) 424-5372
 Type of Facility Community Water System

Consulting Engineer John R. Ackerman, P. E.
 Herbert, Rowland & Grubic, Inc.
 104 Route 611
 Suite 1
 Bartonsville, PA 18321
 (570) 629-7140

Application Received Date November 3, 2008

Description of Action Application for permitting the existing, unpermitted community water system serving the Mountain Manor development.

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

Permit No. 0408503, Public Water Supply.

Applicant **Beaver Falls Municipal Authority**
 1425 8th Avenue
 P. O. Box 400
 Beaver Falls, PA 15010
 Township or Borough Eastvale Borough
 Responsible Official James Riggio
 General Manager
 Beaver Falls Municipal Authority
 1425 8th Avenue
 P. O. Box 400
 Beaver Falls, PA 15010

Type of Facility Water treatment plant

Consulting Engineer KLH Engineers, Inc.
 5173 Campbells Run Road
 Pittsburgh, PA 15205

Application Received Date November 4, 2008

Description of Action Construction of a new raw water intake structure.

Permit No. 6507503A1, Public Water Supply.

Applicant **Latrobe Municipal Authority**
 P. O. Box 88
 Latrobe, PA 15650
 Township or Borough City of Latrobe
 Responsible Official Thomas Gray
 Authority Manager
 Latrobe Municipal Authority
 P. O. Box 88
 Latrobe, PA 15650

Type of Facility Water treatment plant

Consulting Engineer Gibson-Thomas Engineering Co., Inc.
 1004 Ligonier Street
 P. O. Box 853
 Latrobe, PA 15650

Application Received Date November 24, 2008

Description of Action Relocation of a lime feeder and changing from gas chlorination to liquid sodium hypochlorite.

Permit No. 1108503, Public Water Supply.
 Applicant **Highland Sewer and Water Authority**
 120 Tank Drive
 Johnstown, PA 15904
 Township or Borough Summerhill Township
 Responsible Official Edward Englehart
 Manager
 Highland Sewer and Water Authority
 120 Tank Drive
 Johnstown, PA 15904
 Type of Facility Water treatment plant
 Consulting Engineer The EADS Group, Inc.
 450 Aberdeen Drive
 Somerset, PA 15501
 Application Received Date October 30, 2008
 Description of Action Modification of the existing
 mechanical flocculation process.

Permit No. 5608506, Public Water Supply.
 Applicant **Ligonier Laurel Transfer, LLC**
 151 West Main Street
 Somerset, PA 15501
 Township or Borough Jenners Township
 Responsible Official Tyson Cook, Member
 Ligonier Laurel Transfer, LLC
 151 West Main Street
 Somerset, PA 15501
 Type of Facility Laurel Mountain Village
 Consulting Engineer CJL Engineering
 416 Main Street
 Suite 200
 Johnstown, PA 15901
 Application Received Date October 9, 2008
 Description of Action Well, addition of sodium
 hypochlorite system,
 polyphosphate sequestering
 system and 2,000 gallon water
 storage tank.

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

Application No. 2008502, Public Water Supply.
 Applicant **JBT Petro, Inc., d/b/a
 Countryside Mobile Home
 Park**
 Township or Borough East Fairfield Township
Crawford County
 Responsible Official Toby A. Kopta
 President
 Consulting Engineer Steven R. Halmi, P. E.
 Deiss & Halmi Engineering, Inc.
 105 Meadville Street
 Edinboro, PA 16412
 Application Received Date November 26, 2008

Description of Action Permitting existing system
 including Wells No. 1 and 2,
 disinfection and distribution.

MINOR AMENDMENT

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

Application No. 3506502MA, Minor Amendment,
 Public Water Supply.

Applicant **PA American Water**
 Archbald Borough
Lackawanna County
 Responsible Official David R. Kaufman
 VP Engineering
 PA Am Water
 800 Hersheypark Drive
 Hershey, PA 17033
 Type of Facility Community Water System
 Consulting Engineer Richard B. Kresge, Jr., P. E.
 Quad 3 Group, Inc.
 37 North Washington Street
 Wilkes-Barre, PA 18701
 (570) 829-4200
 Application Received Date November 18, 2008
 Description of Action Application for construction of a
 300,000 gallon elevated finished
 water storage tank.

Application No. 5203503MA, Minor Amendment,
 Public Water Supply.

Applicant **PA American Water**
 Lehman Township
Pike County
 Responsible Official David R. Kaufman
 VP Engineering
 PA AM Water
 800 West Hersheypark Drive
 Hershey, PA 17033
 Type of Facility Community Water System
 Consulting Engineer Daniel G. Rickard, P. E.
 PA AM Water
 100 North Pennsylvania Avenue
 Wilkes-Barre, PA 18701
 (570) 830-6531
 Application Received Date November 7, 2008
 Description of Action Application for replacement of a
 chlorine contact tank with an
 oversized section of conveyance
 line.

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

Application No. 0208515MA, Minor Amendment.

Applicant **Pennsylvania American
 Water Company**
 800 West Hersheypark Drive
 P. O. Box 888
 Hershey, PA 17033
 Township or Borough Mt. Pleasant Township

Responsible Official	David Kaufman Vice-President Engineer Pennsylvania American Water Company 800 West Hersheypark Drive P. O. Box 888 Hershey, PA 17033
Type of Facility	Water storage tank
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051
Application Received Date	October 22, 2008
Description of Action	Construction of a water storage tank in Mt. Pleasant Township, Washington County.

WATER ALLOCATIONS

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

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

WA56-1005, Water Allocations, **Municipal Authority of the Borough of Berlin**, 700 North Street, Berlin, PA 15530, **Somerset County**. The applicant is requesting the right to withdraw a combined total of 100,000 gallons of water per day from four springs.

WA2-1013, Water Allocations, **Reserve Township Municipal Waterworks**, 33 Lonsdale Street, Pittsburgh, PA 15212, **Allegheny County**. The applicant is requesting the right to purchase 600,000 gallons of water per day from the Pittsburgh Water and Sewer Authority.

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 demon-

strates 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:

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

The Bethlehem Club (520 North New Street), Bethlehem City, **Northampton County**. Elizabeth Schamberger, Moonstone Properties, LLC, 1150 Glenlivet Drive, Suite C-31, Allentown, PA 18106 has submitted a Notice of Intent to Remediate (on behalf of her client, The Bethlehem Club, c/o TJ McHale Co., 528 North New Street, Bethlehem, PA 18018), concerning the remediation of soils found to have been impacted by No. 2 Fuel Oil as a result of an accidental release from the piping of an out-of-service underground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard. The intended future use of the property is not known at this time. 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.

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

Meska Lewis Residence, Swatara Township, **Dauphin County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Meska Lewis, 6746 Huntingdon Street, Harrisburg, PA 17111, submitted a Notice of Intent to Remediate soil contaminated with No. 2 fuel oil. The site will continue to be used for residential purposes and will be remediated to the Residential Statewide Health Standard.

FES Systems, Inc., Manchester Township, **York County**. Earth Data Northeast, 924 Springdale Drive, Exton, PA 19341, on behalf of FES Systems, Inc., 3475 Board Road, York, PA 17406, submitted a Notice of Intent to Remediate groundwater and soil contaminated with chlorinated solvents. The site will continue to be used as a refrigeration equipment manufacturing and servicing facility, and will be remediated to a combination of the Nonresidential Statewide Health and Site-Specific Standards.

Ames True Temper, Camp Hill, Hampden Township, **Cumberland County**. Bradburne, Briller, and Johnson, LLC, 1641 Saw Mill Run Boulevard, Pittsburgh, PA 15210-3433, on behalf of Ames True Temper, 465 Railroad Avenue, Camp Hill, PA 17011, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The site will be remediated to the Site-Specific Standard and will remain a commercial facility.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Application received under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101–6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

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

Permit Application No. PAD049791098. Sunoco, Inc. (R&M), Philadelphia Refinery, 3144 West Passyunk Avenue, Philadelphia, PA 19145, City of Philadelphia, **Philadelphia County**. This permit application is for the 10 year renewal of Sunoco's RCRA Part B permit for their Philadelphia Refinery, Girard Point Processing Area; in addition to, modifications to the existing permit that include: consolidation of the management and/or storage of hazardous wastes at the facility under one permit, deregulation of four previously permitted bulk above ground storage tanks, and permitting of an existing container storage pad. The application was received by the Southeast Regional Office on November 26, 2008.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

General Permit No. WMGR096NE002. Marjol Battery Site, Gould Electronics, 34929 Curtis Boulevard, Eastlake, OH 44095-4001. A General Permit Determination of Applicability application submitted under General Permit No. WMRG096 for the beneficial use of regulated fill as a construction material at the Marjol Battery Site located in Throop Borough, **Lackawanna County**. The Determination of Applicability application was received in the Regional Office on November 10, 2008, and was deemed administratively complete on November 24, 2008.

Persons interested in reviewing the general permit may contact William Tomayko, Program Manager, Waste Management Program, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service at (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit Application No. 101290. Waste Management of Pennsylvania, Inc., 3605 Grays Ferry Avenue, Philadelphia, PA 19146, City of Philadelphia, **Philadelphia County**. This minor permit modification application is to allow the conversion of the existing compactor building at the Philadelphia Transfer Station and Recycling Center into a transfer point for single stream recyclables. The application was received by the Southeast Regional Office on November 21, 2008.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

York County Solid Waste and Refuse Authority, Manchester Township, **York County**. Permit No. 400561 submitted an application to increase their daily volume from 1,344 tpd to 1,944 tpd at their Resource Recovery Facility on August 30, 2007. A Local Municipal Involvement Process meeting was held on November 19, 2008, at which point the application was considered received. The Department, applicant and Manchester Township negotiated the Department of Environmental Protection review time frame of 365 days. The application was considered administratively complete on November 24, 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.

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

18-00026A: First Quality Products, Inc. (P. O. Box 331, McElhattan, PA 17748) for construction of an adult underpad production line and associated air cleaning devices (drum filter, cartridge filter and HEPA filter) in Wayne Township, **Clinton County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

32-00055F: Homer City OL 1 (1750 Power Plant Road, Homer City, PA 15748) for installation of auxiliary boiler at Homer City Station OL 1 in Center Township, **Indiana County**.

26-00583: Chestnut Ridge Storage, LLC (10000 Memorial Drive, Suite 200, Houston, TX 77024) for construction of natural gas storage and compression facility in Springhill Township, **Fayette County**.

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

25-069M: BASF Catalysts, LLC (1729 East Avenue, Erie, PA 16503) for installation of a replacement dust collector associated with a nickel catalyst reactor and screener at their facility in the City of Erie, **Erie County**.

25-326A: Foamex International (466 South Shady Avenue, Corry, PA 16407) for installation of a foam surface coating operation at their facility in the City of Corry, **Erie County**. This is a Title V facility.

37-290E: Ferrotech Corp. (1 Front Street, Irvine, PA 16329) for installation of a collection hood and baghouse to control emissions from torch cutting operations at their facility in the City of New Castle, **Lawrence County**.

62-032E: Ellwood National Forge (1 Front Street, Irvine, PA 16329) for modification of natural gas usage and production throughput restrictions at their facility in Brokenstraw Township, **Warren County**. This is a Title V facility.

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

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

22-05047B: Dura-Bond, LLC (2716 South Front Street, Steelton, PA 17133) to replace two existing small baghouses with one larger baghouse, in Steelton Borough, **Dauphin County**. This baghouse controls the cleaning operation for the inside diameter of pipes prior to coating. The facility's emissions from this operation will be less than 1 tpy of PM. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

65-00982B: T.W. Phillips Gas and Oil Co. (205 North Main Street, Butler, PA 16001-4998) for construction of additional air contamination sources consisting of a natural gas-fired compressor engine and glycol dehydrator with a natural gas-fired reboiler for the purpose of natural gas compression at the Rubright Compressor Station, in Bell Township, **Westmoreland County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval PA-65-00982B to allow the construction of additional air contamination sources consisting of a natural gas-fired compressor engine and glycol dehydrator with a natural gas-fired reboiler for the purpose of natural gas compression at the Rubright Compressor Station, located in Bell Township, Westmoreland County.

Emissions from the facility are estimated to be 49.06 tons of NO_x, 46.28 tons of CO, 13.54 tons of VOCs and 6.10 tons of Formaldehyde, a single HAP, per year. The proposed facility is subject to the applicable requirements of 25 Pa. Code, Chapter 127, related to construction, modification, reactivation and operation of sources, and also to 40 CFR Part 60, Subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

Special Conditions

1. This Plan Approval is to allow the construction and operation of additional air contamination sources by T.W. Phillips Gas and Oil Co. at their Rubright Compressor Station located in Bell Township, Westmoreland County (25 Pa. Code § 127.12b).

2. Air contamination sources at the Facility are as follows (25 Pa. Code § 127.12b):

- One Caterpillar Natural Gas Compressor Engine, Model No. G3516 LE, 1,265 bhp at 1,400 rpm, S.N. 4EK03129.
- One Caterpillar Natural Gas Compressor Engine, Model No. G3516 LE, 1,265 bhp at 1,400 rpm, S.N. (to be determined).
- Two Hanover Tri-Ethylene Glycol Dehydrators, Model No. 200M, 0.2 mmBtu/hr, (uncontrolled).

3. There shall be no fugitive emissions from the Facility contrary to 25 Pa. Code §§ 123.1 and 123.2.

4. Air contamination sources at the Facility shall be operated and maintained in accordance with the manufacturer's specifications (25 Pa. Code § 127.12b).

5. The Owner/Operator may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodors are detectable outside of the property of the Facility (25 Pa. Code § 123.31).

6. Visible emissions from compressor engine stacks shall not be permitted in excess of the following levels (25 Pa. Code § 127.12b):

- Equal to or greater than 10% for a period or periods aggregating more than 3 minutes in any 1 hour.
- Equal to or greater than 30% at any time.

7. Visible emissions from all air contamination source stacks excluding compressor engine stacks shall not be permitted in excess of the following levels (25 Pa. Code § 123.41):

- Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour.
- Equal to or greater than 60% at any time.

8. Emissions from either compressor engine shall be less than or equal to the following levels (25 Pa. Code § 127.12b):

<i>Pollutant</i>	<i>Emission Limit (g/bhp-hr)</i>
NOx	2.0
CO	2.0

9. Performance testing shall be conducted as follows (25 Pa. Code §§ 127.12b and 139.11):

a. Stack testing for NOx and CO shall be performed on the internal combustion engine manufactured after January 1, 2008, in accordance with 25 Pa. Code § 139 within 180 days after the completion of construction. A Department-approved portable analyzer may be used in lieu of initial stack testing.

b. Within 12-months after the initial stack testing, and annually thereafter, the Owner/Operator shall perform NOx emissions tests upon each compressor engine at the Facility using a Department-approved portable analyzer or other means as approved by the Department.

c. The Owner/Operator shall submit three copies of a pre-test protocol to the Department for review at least 45 days prior to the performance of any EPA reference

method stack test. The Owner/Operator shall submit three copies of a one-time protocol to the Department for review for the use of a portable analyzer and may repeat portable analyzer testing without additional protocol approvals provided that the same method and equipment are used. All proposed performance test methods shall be identified in the pre-test protocol and approved by the Department prior to testing.

d. The Owner/Operator shall notify the Regional Air Quality Manager at least 15 days prior to any performance test so that an observer may be present at the time of the test. Notification shall also be sent to the Division of Source Testing and Monitoring. Notification shall not be made without prior receipt of a protocol acceptance letter from the Department.

e. Under 40 CFR Part 60.8(a), 40 CFR Part 61.13(f) and 40 CFR Part 63.7(g) a complete test report shall be submitted to the Department no later than 60 calendar days after completion of the onsite testing portion of an emission test program. For those tests being conducted pursuant to 40 CFR Part 61, a complete test report shall be submitted within 31 days after completion of the test.

f. Under 25 Pa. Code § 139.53(b) a complete test report shall include a summary of the emission results on the first page of the report indicating if each pollutant measured is within permitted limits and a statement of compliance or noncompliance with all applicable permit conditions. The summary results will include, at a minimum, the following information:

1. A statement that the owner or operator has reviewed the report from the emissions testing body and agrees with the findings.
2. Permit numbers and conditions which are the basis for the evaluation.
3. Summary of results with respect to each applicable permit condition.
4. Statement of compliance or noncompliance with each applicable permit condition.

g. Under 25 Pa. Code § 139.3 to all submittals shall meet all applicable requirements specified in the most current version of the Department's Source Testing Manual.

h. All testing shall be performed in accordance with the provisions of Chapter 139 of the Rules and Regulations of the Department.

i. Under 25 Pa. Code § 139.53(a)(1) and (3) all submittals, besides notifications, shall be accomplished through PSIMS*Online available through www.depgreenport.state.pa.us/ecommm/Login.jsp when it becomes available. If internet submittal can not be accomplished, three copies of the submittal shall be sent to the Department of Environmental Protection, Bureau of Air Quality, Division of Source Testing and Monitoring, 400 Market Street, 12th Floor, Rachael Carson State Office Building, Harrisburg, PA 17105-8468 with deadlines verified through document postmarks.

j. The permittee shall insure all Federal reporting requirements contained in the applicable subpart of 40 CFR are followed, including timelines more stringent than those contained herein. In the event of an inconsistency or any conflicting requirements between State and the Federal, the most stringent provision, term, condition, method or rule shall be used by default.

10. The Owner/Operator shall maintain the following comprehensive and accurate records (25 Pa. Code § 127.12b):

- The number of hours of operation per calendar year that each air contamination source operated.
- The amount of fuel used per calendar year by each air contamination source.
- Records including a description of testing methods, results, all engine operating data collected during tests, and a copy of the calculations performed to determine compliance with emission standards for each internal combustion engine.
- Copies of the report that demonstrates that the engines were operating at rated bhp and speed conditions during performance testing.
- Records of a maintenance plan and any conducted maintenance on the compressor engines.
- The dehydrator VOC emissions using GRI-GLYCalc or an alternative method approved by the Department.
- Records of actual throughput per day and the glycol circulation rate for each dehydrator.

11. All logs and required records shall be maintained on site for a minimum of 5 years and shall be made available to the Department upon request (25 Pa. Code § 127.12b).

12. The compressor engine manufactured after January 1, 2008, with serial number to be determined, is subject to New Source Performance Standards for Stationary Spark Ignition Internal Combustion Engines (40 CFR Part 60, Subpart JJJJ). In accordance with 40 CFR 60.4, copies of all requests, reports, applications, submittals and other communications regarding the second engine shall be forwarded to both Environmental Protection Agency (EPA) and the Department at the addresses listed unless otherwise noted.

Director
Air Toxics and Radiation
US EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Department of Environmental Protection
Air Quality Program
400 Waterfront Drive
Pittsburgh, PA 15222-4745

13. Upon determination by the Owner/Operator that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection (25 Pa. Code § 127.12b).

14. Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall submit a State-only Operating Permit application at least 60 days prior to the expiration date of the Plan Approval (25 Pa. Code § 127.12b).

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

limitations established by the Department at such time as it notifies the company that testing is required (25 Pa. Code § 127.12b).

General Conditions

1. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA).

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

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

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

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

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

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

e. The notice submitted by the permittee under subpart a previously, prior to the expiration date of the plan approval, shall modify the plan approval expiration date on page 1 of this plan approval. The new plan approval expiration date shall be 180 days from the date of commencement of operation.

4. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department.

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

a. Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act.

6. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval. Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

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

1. A justification for the extension,
2. A schedule for the completion of the construction.

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

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

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

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

b. This plan approval is valid only for the specific source and the specific location of the source as described in the application.

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

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

b. Nothing in this plan approval condition shall limit the ability of the EPA to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA.

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

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

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

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

d. The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder.

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

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

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

Regional Air Program Manager
Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222

13. If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act.

14. A person may not cause or permit the operation of a source subject to § 127.11 (relating to plan approval requirements), unless the source and air cleaning devices identified in the application for the plan approval and the plan approval issued to the source, are operated and maintained in accordance with specifications in the appli-

cation and conditions in the plan approval issued by the Department. A person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Alan Binder, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

The comments must be received prior to the close of business 30 days after the date of this publication.

For additional information you may contact Alan Binder at (412) 442-4168.

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

25-996B: Advanced Finishing, USA (7401 Klier Drive East, Fairview Business Park, Fairview, PA 16506) for construction of an additional coating booth in Fairview Township, **Erie 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 (relating to plan approval terms and conditions) and will demonstrate BAT for the source:

- Emissions shall with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions respectively.

- Subject to 25 Pa. Code § 123.13.

- No person may permit the emission into the outdoor atmosphere of VOC in a manner that the emission rate exceeds 12.0 tpy based on a consecutive 12-month period for both coating booths.

- Subject to 25 Pa. Code § 129.52.

- The permittee shall maintain a record of all preventive maintenance inspections of the control devices. The records of the maintenance inspections shall include, at a minimum, the dates of the inspections, the name of the person performing the inspection, any problems or defects identified, any actions taken to correct the problems or defects and any routine maintenance performed.

- The permittee shall record the following operational data from the control devices (these records may be done with strip charts recorders, data acquisition systems or manual log entries):

- Pressure drop across the control.

- The permittee shall perform a daily operational inspection of the control device.

- A magnehelic gauge or equivalent shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across the control device.

- The gauges employed by the permittee to monitor the required control device operating parameters shall have a scale such that the expected normal reading shall be no less than 20% of full scale and be accurate within +/- 2% of full scale reading.

- Control device operating parameters, pressure drop, shall be operated in a range defined by the manufacturer or in a range developed during compliant stack testing. The operating range shall be determined within 90 days after startup of the control device and shall be indicated to the Department in writing prior to administratively amending into the facility operating permit. The operating range shall be made part of the facility operating permit.

- The permittee shall operate the control device at all times that the source is in operation.

- The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

43-036B: Hodge Foundry, Inc. (42 Leech Road, Greenville, PA 16125) for construction of the New High Bay building and installation of related new equipment; the relocation of existing equipment; the construction of casting pits in the Main Bay; the installation of new product finishing equipment and some related projects to support operations after the completion of initial construction. This project will allow the facility to increase the melt production to 37,000 tpy of charged metal in Hempfield Township, **Mercer 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 (relating to plan approval terms and conditions) and will demonstrate BAT for the source:

- Source 101 Existing Shotblast Room, Source 217 Mechanical Sand Reclamation System, Source 218 Core making Station, Source 220 Blast Booth (new) and Source 221 Wire Inoculation Station:

- Emissions shall with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions respectively.

- No person may permit the emission into the outdoor atmosphere of filterable PM (FPM) in a manner that the concentration of FPM in the effluent gas exceeds 0.02 gr/dscf.

- Stack test for FPM initially and at facility operating permit renewal.

- The permittee shall maintain a record of all preventive maintenance inspections of the control devices. The records of the maintenance inspections shall include, at a minimum, the dates of the inspections, the name of the person performing the inspection, any problems or defects identified, any actions taken to correct the problems or defects, and any routine maintenance performed.

- The permittee shall record the following operational data from the control devices (these records may be done with strip charts recorders, data acquisition systems or manual log entries):

- Pressure differential—daily defined as at least once every calendar day.

- The permittee shall perform a daily operational inspection of the control device.

- A magnehelic gauge or equivalent shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across the control device.

- The gauges employed by the permittee to monitor the required control device operating parameters shall have a scale such that the expected normal reading shall be no less than 20% of full scale and be accurate within +/- 2% of full scale reading.

- Control device operating parameters, pressure drop, shall be operated in a range defined by the manufacturer or in a range developed during compliant stack testing. The operating range shall be determined within 90 days after startup of the control device and shall be indicated to the Department in writing prior to administratively amending into the facility operating permit. The operating range shall be made part of the facility operating permit.

- The permittee shall operate the control device at all times that the source is in operation.

- The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

- Source 219 Heat Treat Oven:

- Subject to 25 Pa. Code §§ 123.11 and 123.22 for particulate and sulfur emissions respectively.

- Emissions shall with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions respectively.

- The permittee shall maintain and operate the source in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

62-032D: Ellwood National Steel (1 Front Street, Irvine, PA 16329) for installation of two annealing furnaces at their facility in Brokenstraw Township, **Warren County**. This is a Title V facility.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 62-032D to Ellwood National Steel for the installation and operation of two annealing furnaces at the company's facility located at 1 Front Street, Brokenstraw Township, **Warren County**. The facility currently has a Title V Permit No. 62-00032. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 62-032D is for installation of one 18.0 mmBtu/hr and one 13.3 mmBtu/hr capacity annealing furnace. Based on the information provided by the applicant and the Department's own analysis, the proposed sources will emit 11.52 tons of CO per year, 10.30 tons of NOx per year, 1.04 tons of PM per year, all of which will be PM2.5, 0.75 ton of VOCs per year and 0.08 ton of SOx per year. This installation will not increase the facility's current emissions limits, as the proposed units

will share a throughput restriction of 140,000 MCF of natural gas per year with the facility's four existing annealing furnaces.

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

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

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.

2. Identification of the proposed Plan Approval; No. 62-032D.

3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

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

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.

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

05-05021: Hill & Smith Holdings, Inc., d/b/a Creative Pultrusions, Inc. (214 Industrial Lane, Alum Bank, PA 15521-8304) for pultrusion, surface coating and chrome plating operations at their facility in West St. Clair Township, **Bedford County**. The facility is subject to 40 CFR Part 63, Subpart WWWW, National Emission Standards for HAPs; Reinforced Plastic Composites Production; Subpart N, National Emission Standards for Chromium Emissions from Hard and Decorative Electroplating and Chromium Anodizing Tanks; and Subpart PPPP, National Emission Standards for HAPs for Surface Coating of Plastic Parts and Products. The primary pollutants are VOCs and HAPs. The operating permit will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements. This is a renewal of a Title V Operating Permit issued in October 2003.

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

42-00028: Saint Gobain Containers, LLC (One Glass Place, Port Allegany, PA 16743) for the re-issuance of a Title V Permit to operate a glass containers manufacturing facility in Port Allegany Borough, **McKean County**. The facility's major emission sources include two natural gas fired glass melting furnaces No. 1 and No. 3, hot end treatment, mold swab, power house and office building boilers, miscellaneous natural gas usage, cold cleaning parts washer, conditioning/forming/finishing lines and emergency generator. The facility is a major facility due to its potential to emit of NOx and SOx. The facility is not subject to CAM plan because the furnaces have no control devices and the other precontrolled emission of criteria pollutants are less than Title V threshold limits. The facility is also subject to 40 CFR Part 63, Subpart SSSSSS—National Emission Standards for HAPs for Glass Manufacturing Area Sources. The applicable requirements have been included in the permit during this renewal.

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.

15-00061: Phoenixville Hospital (140 Nutt Road, Phoenixville, PA 19460) for operation of boilers and emergency generators at their hospital in Phoenixville Borough, **Chester County**. The renewal permit is for a non-Title V (State-only) facility. The facility has elected to cap their NOx and SOx emissions to Minor Source threshold levels to remain a Synthetic Minor. The renewal permit includes one new source, Source ID 105, two Ethylene Oxide Sterilizers. The source is of minor significance, according to 25 Pa. Code § 127.14(a)(8) and (b) because potential VOC emissions are less than 1 tpy. The source is subject to the work practice standard and reporting requirement of 40 CFR Part 63 Subpart WW—National Emission Standards for Hospital Ethylene Oxide Sterilizers (the facility is an area source for HAPs). The permit will include monitoring, recordkeeping and reporting requirements designed to keep the hospital operating within all applicable air quality requirements.

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

40-00076: Wilkes-Barre Materials, LLC (500 Chase Road, Shavertown, PA 18708) for operation of a batch asphalt plant and crushing operation and associated air cleaning devices at their facility in Plains Township, **Luzerne County**. This facility is currently operating under Operating Permits 40-303-012A, 40-310-037C and 40-303-026. All permit requirements shall be included in the new State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

39-00041: Greenwood Cemetery Assoc. (2010 Chew Street, Allentown, PA 18104) for operation of a funeral service and crematory facility 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.

36-05032: Versatek Enterprises, LLC (508 Front Street, Lititz, PA 17543) for operation of their display furniture and fixture manufacturing facility in Lititz Borough, **Lancaster County**. The State-only operating permit will include emission restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit issued in 2001.

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

12-00012: Quality Compacted Metals, Inc. (214 South Broad Street, Emporium, PA 15834) for operation of a sintered metal parts manufacturing facility in Emporium Borough, **Cameron County**.

The facility incorporates two electric powdered metal parts sintering furnaces, a rust inhibitor dip coating operation, two .12 mmBtu/hr natural gas-fired space heaters and an aqueous parts washer.

The facility has the potential to emit up to 15.0 tons of VOCs, 1.03 tons of PM/PM10, .14 ton of NOx and .12 ton of CO per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to issue a State-only Operating Permit to Quality Compacted Metals, Inc. authorizing the operation of this facility. The Department proposes to incorporate into this operating permit conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions contained in Plan Approval 12-399-018, issued on January 2, 2008, and conditions established as requirements of a plan approval exemption determination made by the Department on August 1, 2005, for one of the facility's sintering furnaces.

The conditions previously contained in Plan Approval 12-399-018 include:

1. A condition limiting the VOC and VHAP emissions from the facility's rust inhibitor dip coating operation to no more than 15 tons and zero tons, respectively, in any 12-consecutive month period.
2. A condition prohibiting the solution used in the dip tanks incorporated in the facility's rust inhibitor dip coating operation from containing any VHAPs and limiting its vapor pressure to a maximum of .53 millimeter of mercury at 68° F.
3. A condition prohibiting the onsite addition of any additives to the solution used in the dip tanks incorporated in the facility's rust inhibitor dip coating operation.
4. Conditions prohibiting the heating of the dip tanks incorporated in the facility's rust inhibitor dip coating operation, requiring the tanks to be covered at all times except when parts are being dipped or drained or when solution is being added to, or removed from, the tanks, prohibiting anything but sintered metal parts from being processed in the tanks, prohibiting the processing of hot or warm parts in the tanks, requiring all parts to be drained for at least 15 seconds after being dipped in the tanks or for as long as it takes for the dripping of liquid

from the parts to cease and prohibiting any fans from being located such that they blow across the top of the tanks.

5. Conditions requiring the maintenance, and annual submission, of records of the identity, quantity, vapor pressure, VOC content and VHAP of each rust inhibitor or other VOC-containing material added to the dip tanks incorporated in the facility's rust inhibitor dip coating operation each month.

The conditions previously established as requirements of a plan approval exemption determination made by the Department for one of the facility's two sintering furnaces include:

6. Conditions requiring the furnace to be equipped with a flame curtain located between the parts entry and preheat zone, requiring the furnace atmosphere to contain at least 3% hydrogen, prohibiting the furnace from processing parts containing more than .75%, by weight, organic lubricant and prohibiting the furnace from processing parts which have been treated with oil.

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

7. A condition limiting the fuel used in the facility's two space heaters to natural gas.

8. Conditions requiring the facility's second sintering furnace to be equipped with a flame curtain located between the parts entry and preheat zone, requiring the furnace atmosphere to contain at least 3% hydrogen, prohibiting the furnace from processing parts containing more than .75%, by weight, organic lubricant and prohibiting the furnace from processing parts which have been treated with oil.

9. Conditions limiting the PM emissions from the facility's two sintering furnaces to no more than .15 pph when processing parts containing metal-bearing lubricants.

10. Conditions prohibiting the processing of parts through the facility's two sintering furnaces which contain any metal-bearing lubricant other than zinc stearate or lithium stearate as well as the processing of parts which contain both zinc stearate and lithium stearate.

11. Conditions limiting the fuel used in the flame curtains incorporated in the facility's two sintering furnaces to natural gas.

12. Conditions requiring the maintenance of records of the organic lubricant content, zinc stearate content and lithium stearate content of all parts processed through the facility's two sintering furnaces, the identity and content of any other lubricant used in the parts processed through the furnaces and such data as is necessary to demonstrate that the PM emissions from the furnaces did not exceed .15 pph when parts containing metal-bearing lubricants were processed through the furnaces.

13. A condition prohibiting the use, in the facility's parts washer, of any solvent or solution with a VOC content greater than 5%.

14. A condition requiring the maintenance of records of the identity of the solvent or solution used in the facility's parts washer.

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

04-00502: Shasta, Inc. (300 Steel Street, Aliquippa, PA 15001-5416) for operation of a fabricated structural metal grinding operation at their plant in Aliquippa City, **Beaver County**. This is a renewal of the State-only operating permit issued in 2004 and amended in 2006.

32-00102: Homer Center School District (65 Wildcat Lane, Homer City, PA 15748) for operation of boilers used to provide heat and hot water at the junior/senior high school in Homer City Borough, **Indiana County**. This is a renewal of the State-only operating permit issued in 2003.

56-00154: George E. Mason Funeral Home (P. O. Box 409, Davidsville, PA 15928-0409) for operation of a crematory furnace at their facility in Conemaugh Township, **Somerset County**. This is a renewal of the State-only operating permit issued in 2004.

65-00711: Airtek, Inc. (76 Clair Street, North Huntingdon, PA 15642-9311) to operate a natural gas fired heat cleaning oven equipped with an afterburner at their facility in North Huntingdon Township, **Westmoreland County**. This is a renewal of the State-only operating permit issued in 2004.

03-00148: Altmeyer Farm & Stable (119 Altmeyer Drive, Kittanning, PA 16201) for operation of animal crematory in Plumcreek Township, **Armstrong County**. This is a renewal of the State-only operating permit issued in 2004.

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

27-00008: Industrial Timber & Lumber Co. (ITL)—Endeavor Lumber Plant (Route 666, Endeavor, PA 16322) a Natural Minor Operating Permit for operation of the facility's air contamination sources consisting of: 23.4 mmBtu/hr woodfired boiler, two 750 mmBtu/hr wood boilers, two trim saws, 15 wood drying kilns and a sawdust collection system in Hickory Township, **Forest County**.

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

S01-001: The Purolite Co. (3620 G Street, Philadelphia, PA 19134) for operation of an ion exchange manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include one 4.2 mmBtu/hr boiler, two 8.4 mmBtu/hr boilers, a polymerization process (includes a Carrier Dryer, a Witte Dryer with a baghouse, a Fitzpatrick Dryer, an Aeromatic Dryer, a monomer tank that vents to a carbon adsorption unit and two reactors with a Perry Products Condenser), a sulfonation process, two 40,000-gallon wastewater equalization tanks, a 11,000-gallon styrene storage tank, copolymer fugitives and copolymer wastewater.

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

Persons wishing to file protest or comments on the previous operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are

based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31-34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in

conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation-Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	

Alkalinity greater than acidity¹

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.

03961301 and NPDES Permit No. PA03961301, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Tracy Lynne Mine in Kiskiminetas and Parks Townships, **Armstrong County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 3013.6, Subsidence Control Plan Acres Proposed 3013.6. No additional discharges. Application received October 17, 2008.

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

32030102 and NPDES No. PA0249386. Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, permit renewal for reclamation only of a bituminous surface mine in West Wheatfield Township, **Indiana County**, affecting 12.2 acres. Receiving streams: UNTs to West Branch of Richards Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 20, 2008.

11830102 and NPDES No. PA0607550. M. B. Energy, Inc., 175 McKnight Road, Blairsville, PA 15717, permit renewal for reclamation only of a bituminous surface mine and treatment of a post-mining discharge in Lower Yoder Township, **Cambria County**, affecting 166.3 acres. Receiving stream: UNT to St. Clair Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 20, 2008.

17724026 and NPDES No. PA0608904. E. P. Bender Coal Company, Inc., P. O. Box 594, Carrolltown, PA 15722, permit renewal for reclamation only of a bituminous surface and auger mine in White and Beccaria Townships, **Cambria County**, affecting 145.5 acres. Receiving streams: UNT to Witmer Run and UNT to Beaverdam Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 17, 2008.

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

26080103 and NPDES Permit No. PA0251402. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application received for commencement, operation and reclamation of a bituminous surface mining site located in Wharton Township, **Fayette County**, affecting 94.1 acres. Receiving streams: UNTs to Mill Run and UNTs to McIntyre Run, classified for the following uses: HQ, CWF. The first downstream potable water supply intake is greater than 10 miles from the point of discharge. Application received November 1, 2008.

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

10030101 and NPDES Permit No. PA0242331. Quality Aggregates, Inc. (4955 Steubenville Pike, Suite 245, Pittsburgh, PA 15205) Renewal of an existing bituminous surface strip, auger and coal ash placement operation in Venango Township, **Butler County** affecting 108.0 acres. Receiving streams: UNT 2 to Seaton Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received November 21, 2008.

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

14080103 and NPDES No. PA0256994. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Commencement, operation and restoration of a bituminous surface and auger mine in Rush Township, **Centre County**, affecting 101.0 acres. Receiving streams: Moshannon Creek and Mountain Branch, classified for the following uses: TSF and CWF. There are no potable water supply intakes within 10 miles downstream. The new coal permit application includes a stream encroachment to utilize an existing private road and existing well-developed stream crossing within 100 feet of Moshannon Creek. Application received November 12, 2008.

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

54980102R2. Triple T Mining Co., LP, (332 North Center Street, Frackville, PA 17931), renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 140.0 acres, receiving stream: none. Application received November 20, 2008.

54840202T2. Penn Equipment Corp., (15 Main Street, Port Carbon, PA 17965), transfer of an existing anthracite coal refuse reprocessing operation from Blaschak Coal Corp. in Branch Township, **Schuylkill County** affecting 50.0 acres, receiving stream: none. Application received November 24, 2008.

54910205T2. Penn Equipment Corp., (15 Main Street, Port Carbon, PA 17965), transfer of an existing anthracite coal refuse reprocessing operation from Blaschak Coal Corp. in West Mahanoy Township, **Schuylkill County** affecting 12.5 acres, receiving stream: none. Application received November 24, 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			
Alkalinity exceeding acidity* pH*	10 to 35 mg/l	20 to 70 mg/l greater than 6.0; less than 9.0	25 to 90 mg/l

* 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.

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

13930301C4 and NPDES Permit No. PA0595829. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Penn Forest Township, **Carbon County**, receiving stream: Stony Creek, classified as EV. Application received November 25, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1–693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E45-532. Pavel Belenkiy and Lina Yamnizki, 44 Tall Oaks Court, Old Bridge, NJ 08857, in Tobyhanna Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in 0.39 acre of wetlands for the purpose of constructing a single-family dwelling, garage and driveway within the Arrowhead Lake Subdivision, Lot 9, Block A-109, Section 5. The project is located on the north side of Lakeshore Drive, approximately 0.76 mile south of the intersection of SR 4003 and Arrowhead Drive (Thornhurst, PA Quadrangle Latitude: 41° 09' 47"; Longitude: 75° 34' 59").

E48-400. Monocacy Creek Watershed Association, 1555 Bustard Road, Suite 100, Kulpsville, PA 19443, in City of Bethlehem, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain various water obstructions and encroachments within the Monocacy Creek and its floodway/floodplain associated within the Monocacy Creek Restoration Project. The project is located from Illick's Mill Road crossing to a point approximately 1,100 feet upstream (Catasauqua, PA Quadrangle Latitude: 40° 38' 16"; Longitude: 75° 22' 25").

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E18-436. Department of Conservation and Natural Resources, Bureau of Facility, Design and Construction, Rachel Carson State Office Building, P. O. Box 8451, Harrisburg, PA 17105-8451. Beaverdam Run Road over the Right Fork Beaverdam Run, in Leidy and East

Keating Townships, **Clinton County**, United States Army Corps of Engineers, Susquehanna River Basin District (Hammersley Fork, PA Quadrangle N: 41° 26' 16.0"; W: 77° 58' 15.5").

To construct and maintain three cast-in-place, reinforced concrete, rigid frame culverts to eliminate vehicles fording the Right Fork of Beaverdam Run. The south concrete culvert will have a span of 16.0-feet, underclearance of 2.2-feet, on a skew of 30°. The middle concrete culvert will have a span of 16.0-feet, underclearance of 2.2-feet, on a skew of 55°. The north concrete culvert will have a span of 16.0-feet, underclearance of 2.2-feet, on a skew of 77°. The projects will impact a total of 640 linear feet of waterway. The projects are located 3.5 miles north on Beaverdam Road in the Right Fork of Beaverdam Run, East Keating and Leidy Townships, Clinton County. This project proposes to impact 640 linear feet of the Right Fork of Beaverdam Run, which is designated an EV-CWF and does not propose to impact any jurisdictional wetlands.

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

E3074(717) A1. Cumberland Coal Resources, P. O. Box 1020, Waynesburg, PA 15370. To construct riverbank stabilization in Monongahela Township, **Greene County**, United States Army Corps of Engineers, Pittsburgh District (Masontown, PA Quadrangle N: 14.25 inches; W: 6.75 inches, Latitude: 39° 49' 42"; Longitude: 79° 55' 23"). The applicant proposes to construct and maintain a 480 foot long river bank stabilization project along the west bank of the Monongahela River (WWF). The stabilization includes coarse aggregate and R 6 rip-rap. The project is located at the Cumberland Harbor Facilities downstream of Grays Landing locks and dam.

E11-335. Robert Woloschuk, 317 Park Hill Drive, Park Hill, PA 15945. To remove 38' from upstream portion of a diameter in East Taylor Township, **Cambria County**, United States Army Corps of Engineers, Pittsburgh District (Geistown, PA Quadrangle N: 20.1";

W: 17.3", Latitude: 40° 21' 46"; Longitude: 78° 52' 26"). The applicant proposes to remove 38' from the upstream portion of a 36" diameter stream enclosure, and to operate and maintain the remaining 99' of the 36" stream enclosure on a UNT to the Little Conemaugh River (CWF). The project is located approximately 225' west of SR 271, approximately 1 mile southeast of Hinckston Dam.

E63-612. Cocca Development, LTD, 100 DeBartolo Place, Suite 400, Boardman, OH 44512-6099. To construct stream bank protection and maintain fill in floodway in Donegal Township and Claysville Borough, **Washington County**, United States Army Corps of Engineers, Pittsburgh District (Claysville, PA Quadrangle N: 21.5 inches; W: 4.5 inches, Latitude: 40° 07' 06"; Longitude: 80° 24' 26").

The applicant proposes to construct and maintain stream bank protection (right bank) and to place and maintain fill for a length of 300 feet in the floodway of Dutch Fork (HQ-WWF) for the purpose of building a retail store. Also, to construct and maintain an outfall structure in said stream. The project is located at the corner of SR 40 and Mill Street.

Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

EA1009-011. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Cherry and Washington Townships, **Butler County**, United States Army Corps of Engineers, Pittsburgh District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 7,300 linear feet of dangerous highwall. The project will include the backfilling of 0.64 acre of PEM wetland and 1.30 acres of open water that have developed within the open surface mine pits. Proposed mitigation includes 2.25 acres of wetland and 2.6 acres of open water (West Sunbury, PA Quadrangle N: 12.0 inches; W: 2.0 inches).

ACTIONS

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

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

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each

general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

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

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0070254 (Minor Sewage)	Lynn Township Sewer Authority P. O. Box 208 New Tripoli, PA 18066	Lehigh County Lynn Township	Ontelaunee Creek 3B	Y
PA0063843 (Industrial)	Municipal Authority of the Borough of Milford 120 Pear Alley P. O. Box 459 Milford, PA 18337	Pike County Milford Township	Vantine Brook 1D	Y
PA0029050 (Minor Sewage)	Pine Forest Camps, Inc. 151 Washington Lane Jenkintown, PA 19046	Lackawaxen Township Pike County	Lake Greeley 01D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0246948 (CAFO)	Brian D. Eckman 357 Black Barren Road Peach Bottom, PA 17563	Lancaster County Fulton Township	Little Conowingo Creek 7-K	Y
PA0082147 (SEW)	Irvin Peifer Holtwood Mobile Home Park P. O. Box 506 Elizabethtown, PA 17022	Lancaster County Martic Township	Susquehanna River 7-K	Y
PA0083429 (SEW)	West Cocalico Township Authority P. O. Box 95 Reinholds, PA 17569-0095	Lancaster County West Cocalico Township	Little Cocalico Creek 7-J	Y
PA0010201 (IW)	David Lewis Columbia Water Company 220 Locust Street P. O. Box 350 Columbia, PA 17512	Lancaster County Columbia Borough	Susquehanna River 7-G	Y
PA0247197 (IW)	Charlotte Katzenmoyer City of Lancaster 120 North Duke Street Lancaster, PA 17608	Lancaster County Lancaster City	Conestoga River 7-J	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>
PA0086860 (SEW)	Springfield Township York County Sewer Authority P. O. Box 75 Seven Valleys, PA 17360	York County Springfield Township	UNT East Branch Conestoga River 7-H	Y
PA0040541 (SEW)	Boyertown Area School District—Earl Elementary School 911 Montgomery Avenue Boyertown, PA 19512-9607	Berks County Earl Township	UNT Oysterville Creek 3-D	Y
PA0085871 (IW)	Mount Joy Borough Authority—Carmany Road Water Treatment Plant P. O. Box 25 Mount Joy, PA 17552	Lancaster County East Donegal Township	UNT Donegal Springs 7-G	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>
PA0103136	Woodhaven Mobile Home Park 136 Pine Leaf Drive Erie, PA 16510	Greene Township Erie County	UNT to Six Mile Creek 15-6M	Y

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

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

NPDES Permit No. PA0260126, Sewage, **HAMM Equities, LLC**, Buffalo Crossing Development STP, 1002 Monroe Boulevard, King of Prussia, PA 19406. This proposed facility is located in Howe Township, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to Watershed 12-B.

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

NPDES Permit No. PA0096369-A1, Sewage, **Patrick J. DiCesare**, 116 East Pittsburgh Street, Greensburg, PA 15601. This proposed facility is located in East Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit amendment issuance for increasing discharge rate from 0.006 mgd to 0.02 mgd.

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

NPDES Permit No. PA0026617, Sewage, **Mark A. Marcucci, d/b/a Remark Estates Mobile Home Park**, 26 Kirkland Road, West Middlesex, PA 16158. This proposed facility is located in Lackawannock Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a new permit for an existing discharge of treated sewage.

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

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

WQM Permit No. WQG012226, Sewerage, **Lehigh Gap Nature Center/Wildlife Information Center**, P. O. Box 198, Slatington, PA 18080. This proposed facility is located in Washington Township, **Lehigh County**.

Description of Proposed Action/Activity: This project is for construction of a small flow treatment facility with a projected flow of 1,800 gpd due to expansion of an existing building at the Nature Center.

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

WQM Permit No. 21080402, Sewerage, **Hampden Township Sewer Authority**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of: Upgrade of Pump Station 2 with new pumps increasing capacity and addition of emergency generator; replacement of Pump Station 13 increasing capacity.

WQM Permit No. 0508402, Sewerage, **Troy and Lisa Dively**, P. O. Box 10, Claysburg, PA 16625. This proposed facility is located in Kimmel Township, **Bedford County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of: a 1,000 gallon septic tank, a dosing tank with pump, a 600-square foot subsurface sand filter and chlorine tank to serve their single-family residence.

WQM Permit No. WQG02360803, Sewerage, **Paradise Township Sewer Authority**, 2 Township Drive, P. O. Box 40, Paradise, PA 17562. This proposed facility is located in Paradise Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of the Vintage Road Pump Station.

WQM Permit No. 2170402, Amendment 08-1, Sewerage, **Lemoyne Municipal Authority**, 3 Lowther Street, Lemoyne, PA 17403-2039. This proposed facility is located in Lemoyne Borough, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of: 195' of relocated 12" force main upstream of MH-191, 362' of relocated 12" sewer from MH-140A in Hummel Avenue to MH-243 in new 30" interceptor and 2,853' of 30" interceptor from MH-246 along Norfolk Southern property to MH-230 at STP (Lower Trunk Interceptor).

WQM Permit No. 2108402, Sewerage, **Hampden Township Sewer Authority**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of: Upgrade of Pump Station 2 with new pumps increasing capacity and addition of emergency generator; replacement of Pump Station 13 increasing capacity.

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

WQM Permit No. WQG018655, Sewerage, **Matthew J. Gatenby**, 9680 Fry Road, McKean, PA 16426-1709. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant.

WQM Permit No. 2588403, Sewerage, **Amendment No. 2, Albion Borough**, 26 Smock Avenue, Albion, PA 16401. This proposed facility is located in Albion Borough, **Erie County**.

Description of Proposed Action/Activity: This permit approves construction and operation of sewage wastewater facilities consisting of a dechlorination system for the plant effluent and an organic rerating of the waterwater treatment plant.

WQM Permit No. WQG018659, Sewerage, **David A. Parmenter**, 297 Kraus Drive, Erie, PA 16511. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant.

WQM Permit No. WQG018658, Sewerage, **Steven C. and Christine L. Volstad**, 13151 Fry Road, Edinboro, PA 16412. This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10-G527-R	Toll Brothers, Inc. Orleans Homebuilders, Inc. K. Hovanian, Inc. 1180 Station Boulevard Chester Springs, PA 19425	Chester	Upper Uwchlan Township	Tributary to Pickering Creek HQ
PAS10-G543-R	Valley View Development Corporation 75 Medinah Drive Reading, PA 19607	Chester	East Coventry Township	UNT Pigeon Creek HQ

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025203005R	Woodloch Pines, Inc. 2 Woodloch Springs Hawley, PA 18428	Pike	Lackawaxen Township	Tributary to Teedyuskung Creek HQ-CWF, MF
PAI023908006	Castle Dev. Group, LTD 310 Schoolhouse Road Suite 1 Souderton, PA 18964	Lehigh and Bucks	Upper Saucon, Lower Milford, Springfield and Milford Townships	Tributary to Tohicken Creek CWF Unami Creek HQ-TSF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106(3)	Ian Salada Penn State East Campus Penn State University 113 Office of Physical Plant University Park, PA 16802	Centre	College Township State College Borough	Slab Cabin CWF Thompson Run HQ-CWF Spring Creek HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water 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>
New Garden Township Chester County	PAG200 1508006	PR New Garden Limited/Chesco Limited Partnership 200 South Broad Street Philadelphia, PA 19102	Broad Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Oxford Township Chester County	PAG200 1508027	Wilmer L. Hostetter 481 Limestone Road Oxford, PA 19363	Muddy Run and Luch Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Thornbury Township Chester County	PAG200 1508040	Robert Gleichirt 1120 Chesten Lane Quincinstown, MD 21658	UNT Radley Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chadds Ford Township Delaware County	PAG200 2308025	Calvary Chapel of Delaware County, Inc. 708 South Middletown Road Media, PA 19063	Brandywine Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

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<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Butler Township Luzerne County	PAG2004008005	Tower 80/81, LLC Attn: Jon Schiavo 680 Kinderkamack Road River Edge, NJ 07661	Tributary to Nescopeck Creek CWF	Luzerne County Conservation District (570) 674-7991
Carbon Township Huntingdon County	PAG2003108010	Gracie Angelo Shoup's Run Watershed Association 976 Dudley Road Six Mile Run, PA 16679	Shoup's Run WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Womelsdorf Borough Berks County	PAG2000608030	William Semko Womelsdorf Management County 113 Intervilla Avenue West Lawn, PA 19609	Tulpehocken Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Conewago and Penn Townships Hanover Borough Adams and York Counties	PAG2000108010	Bruce Rebert Borough of Hanover 44 Frederick Street Hanover, PA 17331	South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Elizabeth Borough Lancaster County	PAG2003608068	Elizabethtown Area Water Authority 5 Municipal Drive Elizabethtown, PA 17022	Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Manheim Township Lancaster County	PAG2003608074	Lancaster County Solid Waste Management Authority 1299 Harrisburg Pike Box 4425 Lancaster, PA 17604	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 334-0636
East Cocalico Township Lancaster County	PAG2003608077	Kasun Development 2938 Columbia Avenue Lancaster, PA 17603	Little Muddy Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 334-0636
Upper Leacock Township Lancaster County	PAG2003608078	Larry Frey L&T Homes Again, LLP 2441 New Holland Pike Lancaster, PA 17601	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 334-0636
Hamburg Borough Tilden Township Berks County	PAG2000608065	Gerald Fry Department of Transportation Engineering District 5-0 1002 Hamilton Boulevard Allentown, PA 18101	Schuylkill River WWF-MF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201

*Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*

Wyomissing
Borough
Berks County

PAG2000603058-R

Mike Jeffers
Kinsley Construction
2700 Water Street
York, PA 17403

Schuylkill River
CWF

Berks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA 19533-9710
(610) 372-4657, Ext. 201

Derry Township
Dauphin County

PAG2002208039

George Cvijic
20 Erford Road
Lemoyne, PA 17043

Spring Creek
WWF

Dauphin County
Conservation District
1451 Peters Mountain
Road
Dauphin, PA 17018
(717) 921-8100

Derry Township
Dauphin County

PAG2002208035

Thomas DeDonatis
DeDo Corporation
345 Elm Avenue
Hershey, PA 17033

Swatara Creek
WWF

Dauphin County
Conservation District
1451 Peters Mountain
Road
Dauphin, PA 17018
(717) 921-8100

Susquehanna
Township
Dauphin County

PAG2002208036

Richard Bowen
Templar Development,
LLC
3 Gateway Center
Pittsburgh, PA 15222

Paxton Creek
WWF

Dauphin County
Conservation District
1451 Peters Mountain
Road
Dauphin, PA 17018
(717) 921-8100

Centre County
Potter Township

PAG2001408017

Scott Burk
Scott's Landscaping
110 Maple Drive
Centre Hall, PA 16828

UNT to Spring Creek
CWF

Centre County
Conservation District
414 Holmes Avenue
Suite 4
Bellefonte, PA 16823
(814) 355-6817

Lycoming County
City of Williamsport

PAG2004108006

Jeff Stover—SEDA-COG
Rail Transfer Facility
201 Furnace Road
Lewisburg, PA 17837

Fox Hollow
WWF

Lycoming County
Conservation District
542 County Farm Road
Suite 202
Montoursville, PA 17754
(570) 433-3003

Greene County
Dunkard Township

PAG2003008012

Trans-Allegheny
Interstate Line Co.
800 Cabin Hill Drive
Room B202
Greensburg, PA 15601

Dooley Run and Dunkard
Creek
WWF

Greene County
Conservation District
(724) 852-5278

Butler County
Cranberry Township

PAG2001008024

Greg Black
Pennwood Commons,
LLC
Benedum Trees Building
Suite 800
223 Fourth Avenue
Pittsburgh, PA 15222

Brush Creek
WWF

Butler County
Conservation District
(724) 284-5270

Erie County
McKean Township

PAG2002508026

McKean Township
Golden Road
Reconstruction
9231 Edinboro Road
P. O. Box 62
McKean, PA 16426-0062

Lamson Run
CWF; MF

Erie County Conservation
District
(814) 825-6403

NOTICES

6793

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water/Use*

*Contact Office &
Phone No.*

Fayette County
Menallen Township

PAG2092608004

Bureau of Abandoned
Mine Reclamation
Cambria Office
286 Industrial Park Road
Ebensburg, PA
15931-4119

Redstone Creek
WWF

Department of
Environmental Protection
Cambria Office
286 Industrial Park Road
Ebensburg, PA
15931-4119
(814) 472-1800

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water/Use*

*Contact Office &
Phone No.*

East Allen Township
Northampton
County

PAR202251

Effort Foundry, Inc.
6980 Chrisphalt Drive
Bath, PA 18014

Discharges to retention
basin

DEP—NERO
Water Management
Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511

North Whitehall
Township
Lehigh County

PAR602244

Buckman Iron & Metal,
Inc.
3980 Portland Street
Coplay, PA 18037

Coplay Creek
CWF

DEP—NERO
Water Management
Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511

Cumberland County
Silver Spring
Township

PAR803714

IBM Corporation
North Castle Drive
Armonk, NY 10504

Hogestown Run
CWF

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707

Franklin County
Antrim and
Montgomery
Townships

PAR403501

Waste Management
Disposal Services of PA,
Inc.
9446 Letzburg Road
Greencastle, PA 17225

UNT Conococheague
Creek
WWF

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707

Berks County
Muhlenberg
Township

PAR233543

Air Liquids Industrial
U.S., LP
P. O. Box 13577
Reading, PA 19605

Schuylkill River
WWF

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707

Dauphin County
Derry Township

PAR123521

The Hershey Company
H.B. Reese Candy
Company
925 Reese Avenue
Hershey, PA 17033-0430

Spring Creek
WWF

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707

Bedford County
Snake Spring
Township

PAR803715

Bedford Valley Petroleum
Corporation—Everett
Bulk Petroleum Storage
Plant
10228 Lincoln Highway
Everett, PA 15537

UNT Raystown Branch
Juniata River
CWF

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707

*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>
Concord Township Delaware County	PAG040018	John and Melissa Skinner 22 Jeremiah Collett Road Glen Mills, PA 19342	UNT to West Branch Chester Creek Watershed 3G	Department of Environmental Protection Southeast Regional Office 2 East Main Street Norristown, PA 19401
Washington Township Lehigh County	PAG042226	Lehigh Gap Nature Center Wildlife Information Center P. O. Box 198 Slatington, PA 18080	Lehigh River TSF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Gallitzin Township Cambria County	PAG046130	Tony Wojtarowicz 151 Horseshoe Curve Road Ashville, PA 16613	UNT to Glen White Run Storm Ditch	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Lower Burrell City Westmoreland County	PAG046193	Donald A. Gathers 428 Spiering Drive Lower Burrell, PA 15068	UNT to Chartiers Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Marshall Township Allegheny County	PAG046178	Dennis Delmonaco and Margaret Dismukes 365 Locust Road Baden, PA 15005	UNT of Big Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
McKean Township Erie County	PAG049470	Matthew J. Gatenby 9680 Fry Road McKean, PA 16426-1709	UNT to Elk Creek 16-EC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Harborcreek Township Erie County	PAG049474	David A. Parmenter 297 Kraus Drive Erie, PA 16511	UNT to Lake Erie 15	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG049473	Steven C. and Christine L. Volstad 13151 Fry Road Edinboro, PA 16412	UNT to Boles Run 16A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8 (SSN)

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Barry Township Schuylkill County and Hegins Township Schuylkill County	PAG08-2201 PAG08-2203 PAG07-0003 PAG08-0008 PAG08-3501 PAG08-0002 PAG08-3535 PAG08-3551 PAG08-3517 PAG08-9903 PAG08-3596 PAG08-3510 PAG08-2211 PAG08-3506 PAG08-3522 PAG08-3515 PAG08-3502 PAG08-9904 PAG08-3547 PAG08-0006 PAG08-3540 PABIG-9903 PAG08-3547 PAG08-3600 PAG08-3565 PAG07-3508 PAG07-0005 PAG08-0003 PAG08-3825 PAG08-3542 PAG08-0004 PAG08-3518 PAG08-9905 PAG08-3556 PAG08-0018 PAG08-3573 PAG08-3597	Synagro 1605 Dooley Road P. O. Box B Whiteford, MD 21160	Robert Scheib Farm 605 Deep Creek Road Hegins, PA 17983	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

General Permit Type—PAG-9 (SSN)

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Lake Township Luzerne County	PAG09-2212	Steve Rogers 1398 SR 29 Hunlock Creek, PA 18621	Rogers Farm 1050 Loyalville Outlet Road Lake Township Luzerne County	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

General Permit Type—PAG-12

<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>
Juniata County Fayette Township	PAG123672	Jay Finkbiner R. R. 1 Box 2975 McAlisterville, PA 17049	Kishacoquillas—Jacks Creek 12-A	DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802

STATE CONSERVATION COMMISSION
NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

ACTIONS—NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET
CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Stephen Haas Haas Farms 15 Haas Road Klingerstown, PA 17941	Schuylkill	1,343.2	757.3	Layers	N/A	Approved
Mt. Pleasant Farms 2071 Mt. Pleasant Road Fayetteville, PA 17222	Franklin	540.0	435.45	Dairy	NA	Approved— 11/10/2008
Leshner's Poultry 1153 Swamp Fox Road Chambersburg, PA 17202	Franklin	2,024.4	1,044.4	Poultry	NA	Approved— 11/10/2008
Burk Lea Farms 3099 Grand Point Road Chambersburg, PA 17202	Franklin	1,179.6	1,809.15	Dairy	NA	Approved— 11/10/2008

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. 2308505, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Marple

County **Delaware**

Type of Facility PWS

Consulting Engineer Joseph Thurwanger
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Permit to Construct Issued November 6, 2008

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

Permit No. 3480050, Operations Permit, Public Water Supply.

Applicant **Easton Suburban Water Authority**
3700 Hartley Avenue
Easton, PA 18045

City of Easton

County **Northampton**

Type of Facility PWS

Consulting Engineer Dennis W. Silbaugh, P. E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106

Permit to Operate Issued November 6, 2008

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

Permit No. 1806501—Operation, Public Water Supply.

Applicant **Chapman Township Water Authority**

Township or Borough Chapman Township

County **Clinton**

Responsible Official Richard Eliason, Chairperson
Chapman Township Water Authority
P. O. Box 433
North Bend, PA 17760

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 26, 2008

Description of Action Operation of the transmission line and booster pump station to convey finished water from the Renovo Borough water system to Chapman Township Water Authority.

Permit No. 5507501—Operation, Public Water Supply.

Applicant **Aqua PA, Inc.—Monroe Marketplace Tank**

Township or Borough Monroe Township

County **Snyder**

Responsible Official Patrick R. Burke, Regional Manager
Aqua Pennsylvania, Inc.
204 East Sunbury Street
Shamokin, PA 17872

Type of Facility Public Water Supply—Operation

Consulting Engineer William LaDieu
CET Engineering Services
1240 North Mountain Road
Harrisburg, PA 17112

Permit Issued Date December 1, 2008

Description of Action Operation of the finished water storage tank at the Monroe Marketplace.

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

Permit No. 0208508, Public Water Supply.

Applicant **Municipal Authority of the Borough of West View**
210 Perry Highway
Pittsburgh, PA 15229

Borough or Township Franklin Park Borough and Neville Township

County **Allegheny**

Type of Facility Franklin Park Pump Station

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
P. O. Box 200
Indianola, PA 15051

Permit to Construct Issued November 18, 2008

Permit No. 5608505, Public Water Supply.

Applicant **Somerset Township Municipal Authority**
2209 North Center Avenue
Somerset, PA 15501

Borough or Township Somerset Township

County **Somerset**

Type of Facility Connection between STMA Friedens and Somerset County General Authority

Consulting Engineer Somerset Planning and Engineering Services, LLC
222 West Main Street
Suite 100
Somerset, PA 15501

Permit to Construct November 17, 2008
Issued

Operations Permit issued to Municipal Authority of the Township of Robinson. P. O. Box 15539, Pittsburgh, PA 15244, (PWSID No. 5020045) Robinson Township, **Allegheny County** on November 17, 2008, for the operation of facilities approved under Construction Permit No. 0207501MA.

Operations Permit issued to Pennsylvania American Water Company, 800 West Hersheypark Drive, P. O. Box 888, Hershey, PA 17033, (PWSID No. 5020039) South Strabane Township, **Washington County** on November 17, 2008, for the operation of facilities approved under Construction Permit No. 6306503.

Permit No. 3208503MA, Minor Amendment, Public Water Supply.

Applicant **Indiana County Municipal Services Authority**
602 Kolter Drive
Indiana, PA 15701

Borough or Township Pine Township
County **Indiana**

Type of Facility Strongstown water tank and waterline extension.

Consulting Engineer Gibson-Thomas Engineering County, Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Construct November 17, 2008
Issued

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

Operations Permit issued to Aqua Pennsylvania, Inc., PWSID No. 6430054, for Emlenton Borough, **Venango County**, on November 26, 2008, for the emergency use of bulk water transport to deliver finished water to customers in Emlenton Borough. Water source is Aqua PA Shenango Valley Division; Aqua PA will act as sole hauler for this project, for a duration not to exceed 90 days while Aqua corrects system deficiencies within the Emlenton Borough Water Treatment Plant.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Scott Township	R. R. 1 Box 432D Olyphant, PA 18447	Lackawanna

Plan Description: This Plan Revision, as outlined in the Executive Summary of the Plan, provides for replacement of the previously approved hybrid gravity/low pressure wastewater collection and conveyance system and pump stations with a low pressure system and associated pump stations. The project service area, interceptor sewer and discharge point (the Lackawanna River Basin Sewer Authority's Wastewater Treatment Plant) remains the same as in the Township's Act 537 Sewage Facilities Plan Revision, as prepared by KBA Engineering in 2002. The initial projected number of equivalent dwelling units (EDU's) to be served by the project is 1,390, up to an ultimate number of 1,660 EDU's over the project design period, with an associated flow per EDU value of 270 gpd. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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>
Upper Leacock Township	P. O. Box 325 Leola, PA 17540	Lancaster

Plan Description: The approved plan for Bradley Estates provides for extension of sewer service to 13 fee simple town homes generating 4,550 gpd in sewage flows tributary to a proposed pump station and force mains to be dedicated to the Leola Sewer Authority. Sewage will then flow to Lancaster Area Sewer Authority system pump stations and then to the City of Lancaster's North pump stations and wastewater treatment facility. The proposed development is located at the intersection of Route 23, New Holland Pike and Forest Hill Road The ID number for this plan revision is A3-36954-167-3 and the APS number is 656191. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bethel Township	P. O. Box 24 Bethel, PA 19507	Berks

Plan Description: The approved plan provides for a proposed one lot industrial development to generate a total of 16,310 gallons of sewage per day to be served by a proposed public pump station and force main tributary to the Village of Bethel Sewage Treatment Plant. The plan revision Department of Environmental Protection (Department) number is A3-06922-266-3. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
City of St. Mary's	11 Lafayette Street St. Mary's, PA 15857	Elk

Plan Description: The approved plan provides for the installation of a 500 gpd small flow treatment facility to serve a proposed four bedroom residence along Route 255. The facility will discharge treated wastewater to a UNT of Water Tank Run (CWF). Department of Environmental Protection Code No. K6-08-024.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Mount Joy Township	159 Merts Drive Elizabethtown, PA 17022	Lancaster

Plan Description: The Scott Ober proposed plan revision for one residential lot using an onlot sewage system plus a residue lot, was disapproved because the well drilled on the property for the preliminary hydrogeologic study failed to provide a sample of the shallow groundwater. The water sample derived from the well does not accurately characterize the conditions found in the shallow groundwater. The property is located near the northeast corner of the intersection of Cloverleaf and Milton Grove Roads in Mount Joy Township, Lancaster County. The Department of Environmental Protection number is B3-36942-329-2 and the APS ID number is 620560.

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:

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

Unison Engine Components, Inc.—Truform, 1141 Highway 315, Plains Township, **Luzerne County**. James Sposito, James P. Sposito Associates, 11 Archbald Street, Carbondale, PA 18407 has submitted a Final Report (on behalf of his client, Unison Engine Components, Inc., 701 Crestwood Drive, Mountaintop, PA 18707), concerning the remediation of soils found to have been impacted by hydraulic oil as a result of an accidental release. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submittal of the Final Report was published in *The Citizens' Voice* on November 17, 2008.

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 Final Report 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 heating oil as a result of an accidental release from a leaking aboveground storage tank. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submittal of the Final Report was published in the *Pocono Record* on November 10, 2008.

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

Corning Frequency Control Plant 1, Mount Holly Springs Borough, **Cumberland County**. Weston Solutions, Inc., 1400 Weston Way, West Chester, PA 19380, on behalf of Corning Incorporated, HP-ME-03-079, Corning, NY 14831, submitted a Final Report concerning remediation

tion of site soils contaminated with solvents. Groundwater will be addressed in a separate report. The site is being remediated to a combination of Nonresidential Statewide Health Standard.

Meska Lewis Residence, Swatara Township, **Dauphin County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Meska Lewis, 6746 Huntingdon Street, Harrisburg, PA 17111, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Clearfield Former MGP Site, Clearfield Borough, **Clearfield County**. The Mahfood Group, LLC, 260 Millers Run Road, Bridgeville, PA 15017 on behalf of PPL Electric Utilities Corp., 2 North 9th Street, GENTW17, Allentown, PA 18101-1179 has submitted a Remedial Investigation Report concerning remediation of soil and groundwater contaminated with polycyclic aromatic hydrocarbons (PAHs) and benzene, toluene, ethylbenzene and xylenes (BTEX). The report was approved by the Department of Environmental Protection on November 25, 2008.

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

Ave Maria St. Marys, 65 Ave Maria, City of St. Marys, **Elk County**. Insite Group, Inc., 611 South Irvin Avenue, Sharon, PA 16146 on behalf of J. M. Hamlin and Sara Johnson, 65 Ave Maria, St. Marys, PA 15857 has submitted a Final Report concerning the 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 24, 2008.

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Hazardous Waste Action

Proposed action on a permit renewal application under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste disposal facility.

Persons wishing to comment on the proposed action are invited to submit a statement to the Regional Office indicated as the office responsible, within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department of Environmental Protection will make a final determination regarding the proposed permit and bond actions. Notice of this determination will be

published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

Intent to Renew Permit

Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. PAD987270725, Siemens Water Technologies, 118 Park Road, Darlington, PA 16115. Storage and treatment (thermal regeneration) of residual and hazardous waste activated carbon and other waste sorbents. Permit renewal was considered for intent to approve by the Regional Office on November 24, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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 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 No. 101168. Bethayres Reclamation Corporation Landfill, 2310 Terwood Drive, Huntingdon Valley, PA 19006-6029. This permit modification is for a reduction in permit area and in groundwater sampling frequency at the Bethayres Reclamation Corporation Landfill located in Lower Moreland Township, **Montgomery County**. The permit was issued by the Southeast Regional Office on November 20, 2008.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 30002. Bangor Quarry Ash Disposal Site, Reliant Energy Northeast Management Company, 121 Champion Way, Suite 200, Canonsburg, PA 15317. A Permit Renewal approval for the continued operation of this Class II Residual Waste Landfill, which is permitted to accept and manage coal ash generated by the Portland Power Plant and is located in Bangor Borough, **Northampton County**. The permit was issued by the Regional Office on December 3, 2008, with an expiration date of December 3, 2018.

Permits Revoked 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 No. 301285. Schuylkill Yankee Realty, 61st and Passyunk Avenue, Philadelphia, PA 19153, City of Philadelphia. Permittee owns and operates a waste oil processing and transfer facility (a/k/a Yankee Point Terminal) under Solid Waste Permit No. 301285. For reason of unlawful conduct, the pending renewal and modification applications have been denied, the permit has been revoked and the bond associated with the permit has been declared forfeited. These actions were taken by the Southeast Regional Office on November 26, 2008.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP1-67-03123: Triumph Apparel Corp. (305 North State Street, York, PA 17403) on November 25, 2008, for a Small Gas and No. 2 Oil Fired Combustion Unit under GP1 in the City of York, **York County**. This is a renewal of the GP1 permit.

GP3-06-05092E: Haines & Kibblehouse, Inc. (P. O. Box 196, Lucon Road, Skippack, PA 19474) on November 21, 2008, for a Portable Nonmetallic Mineral Processing Plant under GP3 in Cumru Township, **Berks County**.

GP9-06-05092E: Haines & Kibbehouse, Inc. (P. O. Box 196, Lucon Road, Skippack, PA 19474) on November 21, 2008, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in Cumru Township, **Berks County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-32-00355B: The Peoples Natural Gas Co. (501 Martindale Street, Suite 500, Pittsburgh, PA 15212-5835) on November 21, 2008, received authorization under GP5 to construct and operate a dehydrator unit with thermal oxidizer control at the Egly Compressor Station, in Conemaugh Township, **Indiana County**.

GP5-32-00399: Atlas Pipeline Pennsylvania, LLC (1550 Coraopolis Heights Road, Suite 2, P. O. Box 611, Moon Township, PA 15108-0611) on November 26, 2008, received authorization under GP-5 to install and operate a natural gas production facility at the Clyde Compressor Station in East Wheatfield Township, **Indiana County**.

GP5-65-00923A: Dominion Transmission, Inc. (501 Martindale Street, Suite 500, Pittsburgh, PA 15212-5835) on November 25, 2008, received authorization under GP-5 to install and operate a natural gas production facility at their Latrobe Compressor Station in Unity 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.

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

10-001N: AK Steel Corp.—Butler Plant (Main Street- Standard Avenue, Butler, PA 16003) on November 21, 2008, to modify their No. 26 Carlite unit (increasing line speed and installation of low NOx burners) in Butler City, **Butler County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

46-0026D: Global Packaging, Inc. (209 Brower Avenue, Oaks, PA 19456) on December 1, 2008, to operate the installation of a W&H flexographic printing press in Upper Providence, **Montgomery County**.

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

55-399-006A: Apex Homes, Inc. (247 US Highway 522, Middleburg, PA 17842) on November 26, 2008, to extend the authorization to operate a modular home manufacturing operation on a temporary basis until May 25, 2009, in Middlecreek Township, **Snyder County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

65-00982A: T.W. Phillips Gas and Oil Co. (205 North Main Street, Butler, PA 16001) on November 25, 2008, to allow issuance of a second plan approval that will combine all air contamination sources at their Rubright Compressor Station in Bell Township, **Westmoreland County**. The plan approval has been extended.

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

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

06-05063: Boyertown Foundry Co. (P. O. Box 443, New Berlinville, PA 19545-0443) on November 20, 2008, to modify their mold making operation by constructing a third mold making machine controlled by a wetted packed bed scrubber in Boyertown Borough, **Berks County**. This Title V operating permit has been administratively amended to incorporate plan approval 06-05063C. This is Revision No. 2.

67-05023: American Color Graphics (215 North Zarfoss Drive, York, PA 17404-5800) on November 19, 2008, to operate a commercial printing facility in West Manchester Township, **York County**. This is a renewal of the Title V operating permit.

67-05114: BAE Systems Land & Armaments, LP (P. O. Box 15512, York, PA 17405-1512) on November 21, 2008, to operate their armored military vehicle manufacturing/refurbishing facility in West Manchester Township, **York County**.

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

20-00035: Molded Fiber Glass Companies—Tray Company (6175 US Highway 6, Linesville, PA 16424) on November 26, 2008, to issue a minor modification of this Title V Operating Permit to incorporate a new 1,000 ton press that was authorized through an RFD in Linesville Borough, **Crawford County**.

24-00131: SGL Carbon Corp.—St. Marys Plant (900 Theresia Street, P. O. Box 1030, St. Marys, PA 15857) on November 20, 2008, to re-issue the Title V Operating Permit to their carbon and graphite manufacturing facility in St. Marys Borough, **Elk County**. The permit is being re-issued for a new 5 year term.

37-00264: Ellwood Quality Steels Co. (400 Moravia Street, New Castle, PA 16101-3950) on November 24, 2008, to administratively amend the Title V Operating Permit to incorporate Plan Approval No. 37-264G for the increase of production in the Melt Shop, testing requirements for CO, NOx, VOC, SOx, PM and PM10 emissions for source 101 and clarification of sources 108 and 112 in the City of New Castle, **Lawrence County**.

62-00012: Reliant Energy Mid-Atlantic Power Holdings LLC—Warren Station (121 Champion Way, Suite 200, Canonsburg, PA 15317) on November 21, 2008, for a minor modification to their facility's Title V Operating Permit in Conewango Township, **Warren County**. The facility is permitted to operate a combustion turbine. This modification is to add a condition to Section C (Site Level Requirements) that specifies that all sources for which an emission reduction credits application has been submitted, are permanently retired and prohibited from operation. These sources include 031 (Boiler 1), 032 (Boiler 2), 033 (Boiler 3), 034 (Boiler 4), 102 (Fugitive Dust: Haul Roads), 103 (Fugitive Dust: Coal Handling), 104 (Fugitive Dust: Ash Disposal) and 105 (Truck Auger Sampling System).

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

21-05052: Valk Manufacturing Co. (66 East Main Street, P. O. Box 428, New Kingstown, PA 17072-0428) on November 21, 2008, for a snow plow and blade manufacturing operation in Silver Spring Township, **Cumberland County**.

21-05027: Gulf Oil, LP (275 Washington Street, Suite 300, Newton, MA 02458-1646) on November 26, 2008, to operate a bulk petroleum product storage and loading facility at their Mechanicsburg Terminal in Hampden Township, **Cumberland County**. This is a renewal of the State-only operating permit.

36-03107: Pennfield Corp. (1088 East Main Street, Mount Joy, PA 17552-9332) on November 24, 2008, to operate a livestock feed plant in Mount Joy Borough, **Lancaster County**. This is a renewal of the State-only operating permit.

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

56-00024: Somerset Foundry & Machine Co. (P. O. Box 352, Somerset, PA 15501) on November 25, 2008, to operate a traditional iron job-shop small foundry producing iron castings for general industry in Somerset Township, **Somerset County**. Operations include melting, molding, mixing and preparing sand for molds, refining, casting iron as well as cleaning and grinding the casting.

56-00153: Somerset Community Hospital (225 South Center Avenue, Somerset, PA 15501-2088) on November 26, 2008, to operate three boilers, two emergency generators and ethylene oxide sterilizers at Somerset Hospital, in Somerset Borough, **Somerset County**. This is a renewal of the State-only permit issued in 2003.

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.

15-00051: Allan A. Myers, LP—d/b/a Independence Construction Materials-Devault Asphalt Plant (4042 State Road, Charlestown Township, PA 19432) on November 25, 2008, for their batch asphalt plant in Charlestown Township, **Chester County**. The State-only Natural Minor Operating Permit was modified 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.

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

21-05042: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104-1645) on November 19, 2008, to operate their hot mix batch asphalt plant (controlled by a knockout box/fabric collector) at their Silver Spring Quarry in Silver Spring Township, **Cumberland County**. This State-only operating permit was administratively amended to modify the proposed permit. This is Revision No. 2.

36-05123: Corixa Corporation—d/b/a GlaxoSmithKline Biologicals, NA (325 North Bridge Street, Marietta, PA 17547-1134) on November 21, 2008, to install an emergency generator at their biological manufacturing facility in East Donegal Township, **Lancaster County**. This State-only operating permit was administratively amended to incorporate plan approval 36-05123B and 36-05123C. This is Revision No. 1.

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

04-00483: Quality Beams, Inc. (P. O. Box 444, 119 AID Drive, Darlington, PA 16115-0444) on October 17, 2008, an administrative amendment to change the company's name, permit contact person and responsible official for the former Interforest Corp Darlington Facility in Darlington Township, **Beaver County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Applications Returned

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

04070101 and NPDES Permit No. PA0251208. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Application for commencement, operation and reclamation of a bituminous surface mining site located in North Sewickley Township, **Beaver County**, proposed to affect 151.7 acres is hereby denied. Receiving streams: Beaver River and UNTs to Beaver River. Application received July 31, 2007. Application denied November 17, 2008.

Coal Permits Actions

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

32823005 and NPDES No. PA0607231. Blairsville Associates, P. O. Box 157, Blairsville, PA 15717-0157, permit renewal for reclamation only of a bituminous surface and auger mine in Burrell and West Wheatfield Townships, **Indiana County**, affecting 367 acres. Renewal is necessary due to treatment of a post-mining discharge. Receiving streams: UNT to Black Lick Creek and Palmers Run and UNTs to Roaring Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 28, 2008. Permit issued November 26, 2008.

32970104 and NPDES No. PA0234401. Amfire Mining Company, LLC, One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface and auger mine in Grant Township, **Indiana County**, affecting 87.2 acres. Receiving streams: UNTs of Little Mahoning Creek to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 30, 2008. Permit issued December 1, 2008.

11880201 and NPDES No. PA0598208. Ebensburg Power Company, 2840 New Germany Road, P. O. Box 845, Ebensburg, PA 15931, permit renewal for reclamation only of a bituminous surface mine in Cambria

Township, **Cambria County**, affecting 56.5 acres. Receiving streams: UNT to South Branch Blacklick Creek, South Branch of Blacklick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 30, 2008. Permit issued December 1, 2008.

32030109 and NPDES No. PA0249505. Amfire Mining Company, LLC, One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface and auger mine in White Township, **Indiana County**, affecting 81.6 acres. Receiving streams: Two Lick Creek to Blacklick Creek to Conemaugh River classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. Application received September 30, 2008. Permit issued December 1, 2008.

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

63980101 and NPDES Permit No. PA0202151. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16528). Permit revised to add 4.7 acres of coal removal at an existing bituminous surface mining site located in Somerset Township, **Washington County**, now affecting 180.7 acres. Receiving streams: UNT to North Branch of Pigeon Creek. Application received July 29, 2008. Revised permit issued November 26, 2008.

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

61970101 and NPDES Permit No. PA0227358. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Revision to an existing bituminous surface strip, limestone and shale removal operation to add 5.0 acres to the permit in Irwin Township, **Venango County**. Receiving streams: Four UNTs to Scrubgrass Creek. Application received February 25, 2008. Permit issued November 21, 2008.

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

17070111 and NPDES No. PA0256579. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), commencement, operation and restoration of a bituminous surface mine in Girard Township, **Clearfield County**, affecting 370.0 acres. Receiving streams: Bald Hill Run and Surveyor Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 16, 2007. Permit issued November 19, 2008.

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

49920102R3. Blaschak Coal Corp., (P. O. Box 12, Mahanoy City, PA 17948), renewal of an existing anthracite surface mine operation in Coal Township, **Northumberland County** affecting 1,016.0 acres, receiving stream: none. Application received September 17, 2008. Renewal issued November 25, 2008.

Noncoal Applications Returned

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

37070304 and NPDES Permit No. PA0258504. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Commencement, operation and restoration of a limestone, shale, sandstone, clay and lower Kittanning coal operation in Slippery Rock Township, **Lawrence County** affecting 79.1 acres. Receiving

Streams: UNT "A" to Slippery Rock Creek and Slippery Rock Creek, classified for the following use: CWF. The first downstream potable water supply intakes from the point of discharge are Camp Allegheny and Pennsylvania American Ellwood City. Application received November 19, 2007. Application denied November 26, 2008.

Noncoal Permits Actions

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

63082801. Arthur J. Boyle (Box 400, Laughlintown, PA 15655). Permit issued for commencement, operation and reclamation of a small noncoal surface mining site (sandstone quarry) located in East Bethlehem Township, **Washington County**, affecting 5.0 acres. Receiving streams: UNT to Ten Mile Creek. Application received September 29, 2008. Permit issued November 25, 2008.

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

09080301 and NPDES Permit No. PA0224642. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), commencement, operation and restoration of a quarry operation in Hilltown Township, **Bucks County** affecting 59.0 acres, receiving stream: UNT to Morris Run. Application received January 18, 2008. Permit issued November 24, 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.

21084155. Douglas Explosives, Inc., P. O. Box 77, Philipsburg, PA 16866-0077, blasting activity permit issued for commercial development in Dickinson Township, **Cumberland County**. Blasting activity permit end date is June 20, 2009. Permit issued November 18, 2008.

21084163. Newville Construction Services, Inc., 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for single dwelling development in Penn Township, **Cumberland County**. Blasting activity permit end date is November 17, 2009. Permit issued November 18, 2008.

28084130. Newville Construction Services, Inc., 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for single dwelling development in Southampton Township, **Franklin County**. Blasting activity permit end date is November 17, 2009. Permit issued November 18, 2008.

28084131. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for residential development in Guilford Township, **Franklin County**. Blasting activity permit end date is November 30, 2009. Permit issued November 20, 2008.

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

24084005. Tamburlin Brothers Coal Co. (P. O. Box 128, Clearfield, PA 16830). Blasting activity permit to blast on GFCC 24-05-02 in Jay Township, **Elk County**. This blasting activity permit will expire on November 21, 2009. Application received November 20, 2008. Application issued November 21, 2008.

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

38084130. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for a milk processing plant in North Cornwall Township, **Lebanon County** with an expiration date of April 30, 2009. Permit issued November 20, 2008.

360841117. Rock Work, Inc., (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for City Mill Road Development in Lancaster Township, **Lancaster County** with an expiration date of November 18, 2009. Permit issued November 24, 2008.

360841118. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Elizabeth Township Park in Elizabeth Township, **Lancaster County** with an expiration date of December 1, 2009. Permit issued November 24, 2008.

35084126. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for a residential development in Scott Township, **Lackawanna County** with an expiration date of January 31, 2009. Permit issued November 26, 2008.

22084117. David H. Martin Excavating, Inc., (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Bio Level 3 Agriculture Building in Susquehanna Township, **Dauphin County** with an expiration date of November 19, 2009. Permit issued November 30, 2008.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the

Pennsylvania Bulletin, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E21-404: Hampden Township Sewer Authority, Steven S. Campbell, 230 South Sporting Hill Road, Mechanicsburg, PA 17050, Hampden Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To remove the existing sewage pump stations and a house and then to construct and maintain: 1) a 21-foot by 10-foot Sewage Pump Station 2 and its associated 6-foot by 6-foot valve pit, a 8-foot by 6-foot wet well, a 4-foot diameter manhole, a 4-inch diameter force main and a 8-inch diameter influent lines; and 2) a 10-foot by 6-foot Sewage Pump Station 13 and its associated 6-foot by 6-foot valve pit, 8-foot by 6-foot wet well, two 4-foot diameter manholes, 4-inch diameter force main and a 8-inch diameter gravity main along the left bank floodplain of Conodoguinet Creek (WWF) to upgrade the pump stations located about 2,000.0 feet upstream of Orr's Bridge Road bridge (Lemoyne, PA Quadrangle N: 22.70 inches; W: 11.60 inches, Latitude: 40° 14' 58"; Longitude: 76° 57' 27", N: 21.80 inches; W: 11.20 inches, Latitude: 40° 14' 52"; Longitude: 76° 57' 20" respectively) in Hampden Township, Cumberland County.

E06-640: Department of Transportation Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103, Greenwich, Perry and Richmond Townships, **Berks County**, United States Army Corps of Engineers, Philadelphia District.

To: (1) raze a bridge installed in 1998 as a temporary crossing of Maiden Creek for SR 0143 (Kutztown, PA Quadrangle N: 4.6 inches; W: 17.3 inches, Latitude 40° 31' 36"; Longitude: 75° 52' 28"); (2) raze the SR 0143 steel plate two-span girder bridge having a width of 18.0 feet, a

total span of 157.0 feet and an underclearance of 16.0 feet carrying SR 0143 over Maiden Creek until it was closed in 1998 (Kutztown, PA Quadrangle N: 4.6 inches; W: 17.3 inches, Latitude 40° 31' 36"; Longitude: 75° 52' 28"); and (3) construct and maintain a two-span steel girder bridge having a width of 43.4 feet, a total span of 180.0 feet and an underclearance of 11.5 feet at a location approximately 60 feet south of the confluence of Maiden and Sacony Creeks (Kutztown, PA Quadrangle N: 4.6 inches; W: 17.3 inches, Latitude 40° 31' 36"; Longitude: 75° 52' 28"). The purpose of this project is to replace the closed SR 0143, Section 01B bridge over Maiden Creek in Greenwich, Perry and Richmond Townships, Berks County. The project will result in 250.0 linear feet of temporary perennial stream impacts and 200.0 linear feet of permanent perennial stream impacts. The project will involve the installation of temporary cofferdams.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-450. Department of Transportation, Engineering District 3-0, 715 Jordan Avenue, P. O. Box 218, Montoursville, PA 17754. SR 3006 Bridge Replacement, in Monroe Township, **Bradford County**, United States Army Corps of Engineers, Baltimore District (Powell, PA Quadrangle N: 41° 40' 55"; W: 76° 30' 42").

To construct and maintain an 84.42 ft. clear span (80.29 ft. normal span) concrete adjacent box beam bridge, with a minimum underclearance of 4.20 ft. and a skew of 72°, carrying SR 3006 over Millstone Creek. The project will be located approximately 40 ft. downstream of the existing structure and will be placed on a new horizontal and vertical alignment. Millstone Creek is listed as a Class A Wild Trout stream and has verified trout reproduction. This project application is a standard joint permit application. This project proposes no impact to any jurisdictional wetlands. This permit also includes 401 Water Quality Certification.

E12-168. Michael A. Songer, 923 Sizerville Road, Emporium, PA 15834. L&M Lumber Company Building and Parking Expansion, Shippen Township, **Cameron County**, United States Army Corps of Engineers, Baltimore District (Emporium, PA Quadrangle Latitude: 41° 31' 12.52"; Longitude: 78° 12' 52.55").

The applicant proposes to modify, operate and maintain an existing commercial facility and its appurtenances that are located in the 100-year floodway of Sinnemahoning, Portage Creek. Modifications within the floodway shall be limited to constructing a 30-foot by 14-foot addition to the existing commercial building and expanding associated parking areas. The project is located along the western right-of-way of SR 0155 approximately 4,766-foot north of SR 0120 and SR 0155 intersection. This permit was issued under Section 105.13(e) "Small Projects."

E14-511. Port Matilda Borough, 400 West High Street, Port Matilda, PA 16870. Port Matilda Park, in Port Matilda Borough, **Centre County**, United States Army Corps of Engineers, Baltimore District (Port Matilda, PA Quadrangle Latitude: 40° 47' 51.25"; Longitude: 78° 30' 22.28").

To construct and maintain two pieces of manufactured children's play equipment, primarily made of multiple

pillars and platforms, over a 28-foot by 24-foot footprint in the right 100-year floodplain of Bald Eagle Creek located 75 feet west of the northwestern dugout of the Port Matilda Park ball field Port Matilda Borough, Centre County. This permit was issued under Section 105.13(e) "Small Projects."

E18-434. M&T Bank, 283 Hogan Boulevard, Mill Hall, PA 17751. M&T Bank and Parking Expansion, Bald Eagle Township, **Clinton County**, United States Army Corps of Engineers, Baltimore District (Mill Hall, PA Quadrangle Latitude: 41° 06' 53.4"; Longitude: 77° 28' 55.1").

The applicant proposes to modify and operate an existing commercial facility and its appurtenances that are located in the 100-year floodway of Fishing Creek. Modifications within the floodway shall be limited to removing an existing 90-square foot structure, constructing a 526-square addition to the existing commercial building and expanding existing paved parking areas. The project is located along the western right-of-way of SR 0150 (Hogan Boulevard) immediately south of the Country Club Lane and Hogan Boulevard intersection. This permit was issued under Section 105.13(e) "Small Projects."

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

E02-301-A1. Pittsburgh Terminals Corporation, P. O. Box 2621, Harrisburg, PA 17105. To construct a new mooring cell within the existing facility in Moon Township, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Ambridge, PA Quadrangle N: 4.8 inches; W: 6.8 inches, Latitude: 40° 31' 36"; Longitude: 80° 10' 27"). To amend Permit No. E02-301 to remove the existing mooring cell and to construct and maintain a new 10-foot diameter mooring cell near the existing cell, located at Mile Point 10.9 along the bank of the Ohio River (WWF). The time limit on this permit amendment has been extended to December 31, 2013.

E02-584-A6 Hanson Aggregates PMA, Inc., 2200 Springfield Pike, Connellsville, PA 15425, in Harrison Township, **Allegheny County**; and Allegheny Township, **Westmoreland County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-584, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to remove Allegheny River Mile Points 26.8 to 27.2 (Downstream beginning point: Freeport, PA Quadrangle N: 3.6 inches; W: 8.9 inches, Latitude: 40° 38' 42.31"; Longitude: 79° 41' 19.65". Upstream end point: Freeport, PA Quadrangle N: 4.5 inches; W: 9.0 inches, Latitude: 40° 39' 4.52"; Longitude: 79° 41' 24.75"), right descending bank in Harrison Township, Allegheny County and Allegheny River Mile Points 27.8 to 28.5 (Downstream beginning point: Freeport, PA Quadrangle N: 5.9 inches; W: 9.5 inches, Latitude: 40° 39' 28.06"; Longitude: 79° 41' 38.22". Upstream end point: Freeport, PA Quadrangle N: 7.6 inches; W: 9.6 inches, Latitude: 40° 40' 2.96"; Longitude: 79° 41' 37.54"), left and right descending banks in Harrison Township, Allegheny County; and Allegheny Township, Westmoreland County.

Permit No. E02-584

Attachment No. 1 Approved Dredging Areas by River Mile

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Allegheny	Allegheny	4	26.4 to 26.7 L	Allegheny Township Westmoreland County		January 18, 2011

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank.

E02-919-A6 Tri-State River Products, Inc., Box 218, 334 Insurance Street, Beaver, PA 15009, in Harrison Township, Allegheny County; and Allegheny Township, Westmoreland County, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-919, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to remove Allegheny River Mile Points 26.8 to 27.2 (Downstream beginning point: Freeport, PA Quadrangle N: 3.6 inches; W: 8.9 inches, Latitude: 40° 38' 42.31"; Longitude: 79° 41' 19.65". Upstream end point: Freeport, PA Quadrangle N: 4.5 inches; W: 9.0 inches, Latitude: 40° 39' 4.52"; Longitude: 79° 41' 24.75"), right descending bank in Harrison Township, Allegheny County and Allegheny River Mile Points 27.8 to 28.5 (Downstream beginning point: Freeport, PA Quadrangle N: 5.9 inches; W: 9.5 inches, Latitude: 40° 39' 28.06"; Longitude: 79° 41' 38.22". Upstream end point: Freeport, PA Quadrangle N: 7.6 inches; W: 9.6 inches, Latitude: 40° 40' 2.96"; Longitude: 79° 41' 37.54"), left and right descending banks in Harrison Township, Allegheny County; and Allegheny Township, Westmoreland County.

Permit No. E02-919

Attachment No. 1 Approved Dredging Areas by River Mile

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Allegheny	Allegheny	4	26.4 to 26.7 L	Allegheny Township Westmoreland County		January 18, 2011

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank.

E02-1326-A6 Glacial Sand and Gravel Company, P. O. Box 1022, Kittanning, PA 16201, in Harrison Township, Allegheny County, and Allegheny Township, Westmoreland County, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-1326, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to remove Allegheny River Mile Points 26.8 to 27.2 (Downstream beginning point: Freeport, PA Quadrangle N: 3.6 inches; W: 8.9 inches, Latitude: 40° 38' 42.31"; Longitude: 79° 41' 19.65". Upstream end point: Freeport, PA Quadrangle N: 4.5 inches; W: 9.0 inches, Latitude: 40° 39' 4.52"; Longitude: 79° 41' 24.75"), right descending bank in Harrison Township, Allegheny County and Allegheny River Mile Points 27.8 to 28.5 (Downstream beginning point: Freeport, PA Quadrangle N: 5.9 inches; W: 9.5 inches, Latitude: 40° 39' 28.06"; Longitude: 79° 41' 38.22". Upstream end point: Freeport, PA Quadrangle N: 7.6 inches; W: 9.6 inches, Latitude: 40° 40' 2.96"; Longitude: 79° 41' 37.54"), left and right descending banks in Harrison Township, Allegheny County; and Allegheny Township, Westmoreland County.

Permit No. E02-1326

Attachment No. 1 Approved Dredging Areas by River Mile

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Allegheny	Allegheny	4	26.4 to 26.7 L	Allegheny Township Westmoreland County		January 18, 2011

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank.

E02-1570. Northern Holdings, LLC, 125 Warrendale-Bayne Road, Suite 325, Warrendale, PA 15086-7570. To fill wetlands in McCandless Township, Allegheny County, United States Army Corps of Engineers, Pittsburgh District (Emsworth, PA Quadrangle N: 20.4 inches; W: 8.2 inches, Latitude: 40° 36' 45"; Longitude: 80° 03' 29"). To place and maintain fill in an existing stormwater detention basin and a 0.048 acre wetland that lies within the stormwater detention basin and adjacent to a UNT to Wexford Run (CWF) for the purpose of constructing the proposed North Meadows Office and Storage Buildings. The project is located on the north side of North Meadows Drive, just north from the intersection of North Meadows

and Forest Oaks Drives and will impact 0.048 acre of wetlands. The Department of Environmental Protection is not requiring mitigation, since the wetland is situated within a maintained stormwater detention basin (Chapter 105.12(a)(6)).

E02-1585. Pennsylvania-American Water, 300 Galley Road, McMurray, PA 15317. To construct a new water pump station in the City of Pittsburgh and Baldwin Borough, Allegheny County, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh East, PA Quadrangle N: 6.4 inches; W: 11.0 inches, Latitude: 40° 24' 37"; Longitude: 79° 57' 14"). To remove existing structures in and along the Monongahela River (WWF); to

construct and maintain a raw water intake structure consisting of two 60" passive screens and two 42" raw water intake pipes in the bank of Monongahela River; to operate and maintain the existing intake structure in the Monongahela River; to construct and maintain the new Becks Run Raw Water Pump Station located in the floodplain of the Monongahela River and Becks Run; to construct and maintain two Dolphins next to the new raw water intake in the Monongahela River and to construct and maintain a 36" discharge transmission main under Becks Run (WWF). The project is located near the intersection of East Carson Street and Becks Run Road in the City of Pittsburgh and Baldwin Borough.

E26-351. Terry and Norma Shallenberger, 2611 Memorial Boulevard, Connellsville, PA 15425. To construct a retaining wall in Bullskin Township, **Fayette County**, United States Army Corps of Engineers, Pittsburgh District (Connellsville, PA Quadrangle N: 7.6 inches; W: 10.7 inches, Latitude: 40° 2' 31" and Longitude: 79° 34' 35"). To construct and maintain a precast concrete block retaining wall approximately 50 feet long located along the right bank side of Mounts Creek (WWF) to protect the channel from erosion. The project is located in the northeast corner of the intersection of SR 119 and SR 1035 (Bellview Road).

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, 16335.

E10-445, Wells Reit II—Cranberry Woods Development Inc., Wells Real Estate Funds, P. O. Box 926040, Norcross, GA 30010-6040. Westinghouse at Cranberry Woods Development in Cranberry Township, United States Army Corps of Engineers, Butler County, Pittsburgh District (Mars, PA Quadrangle N: 40° 40' 59"; W: 80° 05' 26").

To construct and maintain a two lane bituminous roadway, including a Contech Bebo clear span arch bridge that is 54 feet wide by 26.5 feet high to span over a UNT of Brush Creek approximately 1,500 feet east of the I79 228 intersection, in Cranberry Township, Butler County (Mars, PA Quadrangle N: 40° 40' 59"; W: 80° 05' 26").

E10-449, AK Steel Corporation, P. O. Box 832, Butler, PA 16003-0832. New Railroad Track to Tie into Existing Track at FAC in Butler Township, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Butler, PA Quadrangle N: 40° 49' 19.86"; W: 79° 56' 43.26").

To construct and maintain approximately 4,200 feet of new railroad track approximately 900 feet North of the intersection of McCalmont Road and SR 8 in Butler Township, Butler County (Butler, PA Quadrangle N: 40° 49' 19.86"; W: 79° 56' 43.26") consisting of the following activities in Rocklick Run:

1. the replacement of a 72-inch diameter, approximately 63.2-foot long corrugated steel pipe with a 72-inch diameter, approximately 156.92-foot long reinforced concrete pipe;
2. the extension of a 48-inch diameter, approximately 61.1-foot long corrugated steel overflow pipe to a length of approximately 135.5 feet;
3. the extension of a 48-inch diameter approximately 60.8-foot long corrugated steel overflow pipe to a length of approximately 131.13 feet;

4. invasive species removal and riparian plantings along both banks of a UNT to Connoquenessing Creek in downtown Butler as mitigation for proposed watercourse impacts; and

5. 0.01 acre of PEM/PSS wetland impact (de minimis).

E20-571, Vantage Real Estate Investment Company, Ltd., 18282 Technology Drive, Suite 2, Meadville, PA 16335. Former Talon Building 7 Renovation, in the City of Meadville, Crawford County, United States Army Corps of Engineers, Pittsburgh District (Meadville, PA Quadrangle N: 41° 37' 39"; W: 80° 9' 13").

To construct and maintain a renovation of the former Talon No. 7 plant adjacent to and SE of the intersection of SR 322 and Linden Street including grading, building modifications and parking lot construction and involving a net removal of 330 cubic yards of material/earth from the FEMA floodway of French Creek. French Creek is a perennial stream classified as a WWF.

E24-249, Department of Conservation and Natural Resources, Bureau of Facility, Design and Construction, Rachel Carson State Office Building, P. O. Box 8451, Harrisburg, PA 17105-8541. Bridge Over North Fork Straight Creek, in Jones Township, **Elk County**, United States Army Corps of Engineers, Pittsburgh District (Glen Hazel, PA Quadrangle N: 41° 35' 39"; W: 78° 30' 57").

To construct and maintain a single span prestressed concrete box beam bridge having a clear span of 38 feet and an average underclearance of 3.39 feet on a 90° skew across North Fork Straight Creek on Straight Creek Road approximately 200 feet upstream of the confluence of Straight and North Fork Straight Creeks.

E43-343, Preferred Communities, Inc., P. O. Box 9, Canfield, OH 44406-0009. Settlers Walk Subdivision, in the City of Hermitage, **Mercer County**, United States Army Corps of Engineers, Pittsburgh District (Sharpsville, PA Quadrangle N: 4.0 inches; W: 3.75 inches).

The applicant proposes to construct a residential subdivision consisting of 31 residential units, club house, swimming pool, associated roads, utilities and other infrastructure on Clarksville Road (Sharpsville, PA Quadrangle N: 4.0 inches; W: 3.75 inches) in the City of Hermitage, Mercer County approximately 0.7 mile SW of the intersection of SR 18 and SR 518 involving: 1) to fill 0.14 acre of PEM/PSS wetlands; 2) to construct and maintain 0.39 acre of wetland onsite; and 3) to impact (with fill and the construction of a stormwater detention basin) two watercourses (tributaries to Pine Hollow Run) with a drainage area of less than 100 acres having lengths of 358 feet and 170 feet respectively. The tributaries to Pine Hollow Run are intermittent streams classified as WWF. The project proposes to directly impact 0.14 acre of PEM/PSS wetlands and approximately 528 feet of watercourse.

E43-346, Borough of Grove City, P. O. Box 110, Grove City, PA 16127. Grove City Borough Sewage Treatment Plant Upgrade, in Grove City Borough, **Mercer County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh, PA Quadrangle N: 41° 08' 40"; W: 80° 05' 48").

The applicant proposes to construct an upgrade to the existing Borough of Grove City Wastewater Treatment Plant at the SW end of Greenwood Street in Grove City Borough, Mercer County utilizing an Integrated Fixed Film Activated Sludge (IFAS) process involving: 1) to remove various infrastructure covering 5,600 square feet within the FEMA floodplain of Wolf Creek; 2) to construct and maintain a portion of the headworks facility, anaerobic digester, IFAS tanks, plant effluent pump station and other infrastructure covering an area of 5,450 square feet within the FEMA floodplain of Wolf Creek; 3) to construct and maintain an 18-inch diameter ductile iron pipe force main crossing of a PEM wetland having a length of approximately 90 feet; and 4) to construct and maintain an outfall to Wolf Creek having an 18-inch diameter ductile iron pipe. Wolf Creek is a perennial stream classified as a CWF. The project proposes to temporarily impact approximately 0.01 acre (de minimis) of PEM wetland.

ENVIRONMENTAL ASSESSMENTS

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

EA25-08-601, Roadway Express, 2215 Powell Avenue, Millcreek Township, **Erie County**, PA 16509, United States Army Corps of Engineers, Pittsburgh District (Swanville, PA Quadrangle N: 42° 4' 59"; W: 80° 9' 35.6").

Restoration plan provided under Section 105.12(a)(16) for the placement of fill in a manmade 0.15 acre PUBHx borrow pit for the expansion of the existing Roadway Express facility. Site is approximately 0.25 mile NE of the intersection of SR 0020 and Powell Avenue, adjacent to the southeastern section of the Erie International Airport.

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D32-086EA. Green Township Municipal Authority, 77 Musser Street, Commodore, PA 15729. Green Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District.

Project proposes to breach and remove Barr Slope Reservoir Dam across a tributary to Dixon Run (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dam is located approximately 1,700 feet northwest of the intersection of SR 403 and SR 1012 (Barr Slope Road) (Clymer, PA Quadrangle Latitude: 40° 42' 52"; Longitude: 79° 00' 48").

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Persons aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and the Administrative Agency Law (2 Pa.C.S. Chapter 5A), 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 Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board (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 to 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 decisional law.

If individuals want to challenge this action, their appeal must reach the board within 30 days. Individuals do not need a lawyer 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. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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

<i>ESCP No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESCGP1-001008001	Olive M. Marburger Living Trust Gas Well Sites, PC Exploration 502 Keystone Drive Warrendale, PA 15086	Butler	Forward Township	Breakneck Creek WWF

SPECIAL NOTICES

Certification to Perform Radon-Related Activities in Pennsylvania

In the month of November 2008, the Department of Environmental Protection under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Michael Barrow	72 Hakes Hollow Road Wrightsville, PA 17368	Testing
Sandra Bender	929 Mt. Zion Roads Lebanon, PA 17046	Laboratory

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Roger Burens	630 Freedom Business Center Third Floor King of Prussia, PA 19406	Mitigation
Clerkin Home Inspection, LLC	1114 Bergan Road Oreland, PA 19075	Testing
Ronald Crescente	2650 Tacoma Drive Blakeslee, PA 18610	Testing
Ronald Eckenroth	1006 Greenway Terrace Reading, PA 19607	Testing
Bruce Eichenlaub	485 East College Avenue Pleasant Gap, PA 16823	Testing
Daryl Festa	47-A Progress Avenue Cranberry Township, PA 16066	Testing
Rick Hynes	1037 Carnes School Road Seneca, PA 16346	Mitigation
Daniel Jones Alpha Detection & Control	98 Porter Avenue Scottdale, PA 15683	Mitigation
Allan Lenhardt	1419 Glen Rock Road Bloomsburg, PA 17815	Testing & Mitigation
Chris Matteson	912 Bruton Cove Hummelstown, PA 17036	Testing
Radon Specialists, LLC	134 Broad Street Suite 3 Stroudsburg, PA 18360	Testing
Ray Remsnyder	2843 North Front Street Harrisburg, PA 17110	Testing
Mark Runge	4848 Eighth Avenue Temple, PA 19560	Testing
Lloyd Scarborough	429 Hillside Avenue Morrisville, PA 19667	Testing
Kenneth Struder PA Home Inspections	P. O. Box 72722 Thorndale, PA 19372	Testing Laboratory
Todd Ziegler	828 Oak Street Royersford, PA 19468	Mitigation

Special Public Notice

Chesapeake Bay Point Source Nutrient Reduction Strategy

The following permits have been amended to incorporate monitoring requirements for Total Nitrogen and Total Phosphorous under the Chesapeake Bay Tributary Strategy.

Comments should be directed to Program Manager, Water Management, Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711.

NPDES Permit Number

Permittee

PA-0070041-A1	Mahanoy City Sewer Authority, Schuylkill County
PA-0070386-A1	Shenandoah Municipal Sewer Authority, Schuylkill County
PA-0046272-A1	Porter Tower Joint Municipal Authority, Schuylkill County
PA-0023558-A1	Borough of Ashland, Schuylkill County
PA-0023736-A1	Tri-Borough Municipal Authority, Susquehanna County
PA-0062201-A1	Schuylkill County Municipal Authority, Schuylkill County
PA-0060801-A1	Montrose Municipal Authority, Susquehanna County
PA-0060135-A1	Shickshinny Borough Sewer Authority, Luzerne County

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

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Nicely Run Watershed in Jefferson County

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on proposed TMDL for the Nicely Run Watershed in Jefferson County. The meeting will be held on December 17, 2008, beginning at 9 a.m. at the Knox District Office in Knox, PA. The proposed TMDL was developed in accordance with the requirements of The Clean Water Act, section 303(d). One stream segment in the Nicely Run Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals and depressed pH. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
47748	Nicely Run	2.05

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0 to 9.0	NA

The primary pollutant source for this watershed is abandoned mine workings. The watershed was heavily mined for coal in the 1980s and mining continues on a smaller scale today. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations which are established for permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over a 2 year period.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Ely Heferle, Water Pollution Biologist, Knox District Mining Office, White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191. E-mail will be received at eheferle@state.pa.us. Directions to the Knox District Office can also be obtained by contacting this address.

The proposed TMDL for the Nicely Run Watershed can be accessed through the Department's web site www.dep.state.pa.us by typing "TMDL" in the DEP Keyword field, and clicking GO.

Written comments will be accepted at the previous address and must be postmarked by February 10, 2009. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Tuesday December 16, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 797-1191 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 08-2238. Filed for public inspection December 12, 2008, 9:00 a.m.]

Bid Opportunity

OSM 11(0838)101.1, Abandoned Mine Reclamation Project, Fox Run, West Carroll Township, Cambria County. The principal items of work and approximate quantities include clearing and grubbing, 88,300 cubic yards of grading, 14.5 acres of seeding and 7,800 trees for tree planting. This project issues on December 12, 2008, and bids will be opened on January 8, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub.L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977 and is subject to that law, and to the Federal grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2239. Filed for public inspection December 12, 2008, 9:00 a.m.]

Board of Coal Mine Safety; January 2009 Meetings Scheduled

The Board of Coal Mine Safety (Board) will convene two meetings in January 2009. The Board's first meeting will be held on January 7, 2009, at 1 p.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The purpose of the first meeting is to address administrative processes and discuss the charge of the Board. The Board will also meet on January 14, 2009, at 10 a.m. in the Bureau of Mine Safety Training Room in the Fayette County Health Center, 100 New Salem Road, Uniontown, PA. The purpose of this meeting is for the Board to determine whether to promulgate regulations providing for exceptions to the Pennsylvania Bituminous Coal Mine Act (52 P. S. 701-101—701-128).

The agenda and meeting materials, if any, for each meeting will be available through the Public Participation Center on the Department of Environmental Protection's

(Department) web site at www.depweb.state.pa.us (DEP Keyword: "Participate"). Questions concerning the meetings of the Board should be directed to Allison D. Gaida at (724) 439-7289 or agaida@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (724) 439-7289 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2240. Filed for public inspection December 12, 2008, 9:00 a.m.]

Extension of Pennsylvania General NPDES General Permit for Stormwater Discharges Associated with Construction (PAG-2)

Under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) is extending for an additional 6 months the availability of the current National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activities (PAG-2, 2002 amendment). The current PAG-2 permit is scheduled to expire at midnight December 7, 2008. The extension will be effective on December 8, 2008, and expires at midnight June 7, 2009, unless rescinded by the Department at an earlier date. The Department is extending the availability of this permit to adequately complete the preparation of the renewal of PAG-2.

The existing PAG-2 permit documents will continue to be available from the Department's regional offices and local county conservation districts until they are replaced or updated. In addition, the permit documents are on file at the Department of Environmental Protection, Bureau of Watershed Management, 10th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. This package is also available on the Department's web site at www.depweb.state.pa.us (DEP Keyword: Stormwater Management). The permit documents can also be obtained by contacting Barbara Beshore at (717) 772-5961 or bbeshore@state.pa.us. Persons with a disability may use the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2241. Filed for public inspection December 12, 2008, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program; Nutrient Trading Program Activities and NPDES Permits

The Department of Environmental Protection (Department) hereby provides notice of the following actions regarding the Nutrient and Sediment Reduction Credit

Trading Program (Trading Program). These actions were taken in relation to the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID No. 392-0900-001) See 36 Pa.B. 7999 (December 30, 2006). The policy called for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System (NPDES) permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the Program is on the Chesapeake Bay Watershed.

The actions described in this notice relate to: (1) submitted proposals; (2) approved proposals; and (3) registered credits, through November 21, 2008.

Background

Before a credit can be used by an NPDES permittee, a three-step process is followed. First, the credit or offset proposal must be approved, second, it must be verified and third, it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of proposed or implemented activities to generate credits (in some cases the person generating the credits is not permitted to transfer them to another person, in which case they are called "offsets"). Certifications are based on at least: (1) a credit or offset proposal to be submitted describing the qualifying activities that will reduce the nutrient loadings delivered to the applicable watershed; (2) the calculation to quantify the pounds of reductions expected; and (3) a verification plan that, when implemented, ensures that the qualifying nutrient reduction activities have taken place. All of the proposals, certifications and registrations described in this Notice apply to the Chesapeake Bay Watershed.

Once the credits or offsets are certified, they must be verified. Verification means implementation of the verification plan contained in a certified credit or offset proposal as required by the Department. Verification plans require annual submittal of documentation to the Department that demonstrates that the qualifying nutrient reduction activities have taken place for the applicable compliance year.

The credits or offsets also need to be registered by the Department before they can be used in an NPDES permit. Registration occurs only after credits or offsets have been certified and verified, and a trading contract for credits has been submitted to the Department. For the Chesapeake Bay Watershed, the Department will register credits on an annual basis for use during the compliance year in which the qualifying nutrient reduction activities have taken place and will provide such credits with an annual registry number for reporting and tracking purposes.

The Department has received 64 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 43 have been approved, seven are in review, one has been withdrawn and the remaining need additional clarification prior to certification.

Proposals under Review:

The following proposals are being reviewed by the Department. Comments will be received on these projects for 30 days.

<i>Proposal Applicant</i>	<i>Proposal Description</i>
1. Innovative environmental Products, Inc.	Nitrogen and Phosphorus credits generated by installing a manure processing technology and exporting the remaining solids.

Certifications:

The Department has approved the following credit-generating proposals.

<i>Applicant and proposal description</i>	<i>Nitrogen Credits</i>	<i>Phosphorus Credits</i>
1. Mifflin County Conservation District: credits generated by the implementation of no-till.	1,419	
2. Red Barn Trading Company—Client 153: credits generated by exporting poultry manure from Juniata to location outside of the watershed.	24,160	3,020
3. Red Barn Trading Company—Client 164: credits generated by exporting poultry manure from Dauphin to location outside of the watershed.	24,378	3,047
4. Red Barn Trading Company—Client 369: credits generated by exporting poultry manure from Lancaster to location outside of the watershed.	16,035	2,004
5. Red Barn Trading Company—Client 391: credits generated by exporting poultry manure from Montour to location	25,217	3,152
6. Red Barn Trading Company—Client 444: credits generated by exporting poultry manure from Juniata to location outside of the watershed.	7,162	895
7. Red Barn Trading Company—Client 535: credits generated by exporting poultry manure from Lancaster to location outside of the watershed.	138,781	17,348
Total:	237,152	29,466

Verifications and Registrations:

To date, there are no verifications and registrations.

For further information about the previous information or the Department’s Nutrient Trading Program, contact Ann Smith, Water Planning Office, P. O. Box 2063, Har-

risburg, PA 17105-2063, (717) 787-4726, annsmith@state.pa.us or visit the Department’s web site at www.depweb.state.pa.us (DEP Keywords: “Nutrient Trading”).

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2242. Filed for public inspection December 12, 2008, 9:00 a.m.]

State Board for Certification of Sewage Enforcement Officers; 2009 Examination Announcement

The State Board for Certification of Sewage Enforcement Officers (Board) and the Department of Environmental Protection (Department) have scheduled dates for the 2009 Sewage Enforcement Officers (SEO) Precertification Academy and examinations. To qualify to sit for the certification examination, the SEO candidates must complete the Precertification Academy, which consists of 6 days of training over 2 weeks. The SEO Certification examinations will be administered the Friday following completion of the Precertification Academy. Examination applications must be received (not postmarked) by the Board, complete and correct by close of business on the deadlines indicated. Applications received after these dates will not be considered for examination. Applications that do not contain all the necessary required information will be returned and will not be considered eligible for the examination. The 2009 Precertification Academy and examination schedules are as follows:

May 5—7 and May 12—14, 2009 Enola, PA	Examination Date: May 15, 2009 (8:30 a.m. to 12:30 p.m.) Examination Application Deadline: April 15, 2009
July 7—9 and July 14—16, 2009 State College, PA	Examination Date: July 17, 2009 (8:30 a.m. to 12:30 p.m.) Examination Application Deadline: June 17, 2009

To qualify to sit for the certification exam, the SEO candidates must complete the SEO precertification academy, which consists of 6 days of training spread over 2 weeks. For information on the SEO training, contact the Pennsylvania State Association of Township Supervisors, 4855 Woodland Drive, Enola, PA 17025, (717) 763-0930.

The SEO written examination contains multiple-choice questions covering planning requirements, administration and enforcement of the permit program and technical criteria for soils and disposal systems with a 3.5-hour time limit. The passing grade is 50% correct responses in each subject area and an overall minimum of 70 correct answers on the entire examination. This is an open book exam, however, you are not permitted to bring your own materials. Necessary reference materials will be provided at the test site.

Exam applications may be obtained by contacting the Department of Environmental Protection, Certification and Licensing Section, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-6045. Approximately 2 weeks prior to an examination, applicants will receive an admittance letter from the Certification Board.

If you anticipate the need for a testing accommodation due to a disability contact the Board at (717) 787-6045 or through Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss your request. This request must be submitted with your application form.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2243. Filed for public inspection December 12, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Brandywine Valley Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Brandywine Valley Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2244. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application of The Chambersburg Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Chambersburg Hospital has requested an exception to the requirements of 28 Pa. Code § 51.6(c) (relating to identification of personnel).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2245. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application for Exception to 28 Pa. Code § 127.32

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 127.32 (relating to written orders):

ACMH Hospital
Brookville Hospital
Indiana Regional Medical Center
Miners Medical Center
Pinnacle Health
St. Christopher's Hospital for Children
UPMC Northwest
UPMC Presbyterian Shadyside

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2246. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application of HealthSouth Regional Specialty Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that HealthSouth Regional Specialty Hospital has requested an exception to the requirements of 28 Pa. Code § 103.31 (relating to the chief executive officer).

This request is on file with the Department. Persons may receive a copy of a request for exception by request-

ing a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2247. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application of Lackawanna Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lackawanna Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2248. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application of Select Specialty Hospital—Johnstown for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital—Johnstown has requested an exception to the requirements of 28 Pa. Code § 107.26 (relating to additional committees).

This request is on file with the Department. Persons may receive a copy of a request for exception by request-

ing a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2249. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application of Southwest Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Southwest Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2250. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application of Susquehanna Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Susquehanna Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following

publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 3.9.2.2 (relating to examination room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2251. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application of The Washington Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Washington Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2252. Filed for public inspection December 12, 2008, 9:00 a.m.]

Availability of Draft Preventive Health and Health Services Block Grant Application for Federal Fiscal Year 2009

The Department of Health (Department) is making copies available of the draft Preventive Health and Health Services Block Grant Application for Federal Fiscal Year 2009 under 42 U.S.C.A. § 300 w-4. This application is the Commonwealth's draft application request to the United States Department of Health and Human Services for block grant funding to address the Healthy People 2010 Health Status Objectives.

The block grant application (Pennsylvania's funding request to Health and Health Services) describing proposed services, program goals and objectives and activities will be available on or after December 19, 2008, and can be obtained by calling the Bureau of Health Promotion and Risk Reduction at (717) 787-6214.

A public hearing will be conducted by the Department for the purpose of receiving testimony on the previously-mentioned application in accordance with 42 U.S.C.A. § 300 w-4. Comments and suggestions from the public should relate to the priorities and program plans included in the application.

The hearing will be held from 10 a.m. until noon, December 22, 2008, in the Bureau Conference Room, Room 1000, Health and Welfare Building, 625 Forster Street, Harrisburg, PA. Persons wishing to testify are requested to preregister by contacting the Bureau of Health Promotion and Risk Reduction at (717) 787-6214. Registration will be accepted on the day of the hearing. Persons will be allotted a maximum of 15 minutes to testify. Persons who testify should provide the Department with two copies of their testimony at the time of the hearing.

Written comments will be accepted and should be sent to the Bureau of Health Promotion and Risk Reduction, Room 1000, Health and Welfare Building, Harrisburg, PA 17108, and should be received no later than 4 p.m., December 26, 2008.

Persons with a disability who require an alternative format of the previously-mentioned application (such as, large print, audio tape, Braille) or who wish to comment in alternative format should contact the Bureau of Health Promotion and Risk Reduction at (717) 787-6214 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. 08-2253. Filed for public inspection December 12, 2008, 9:00 a.m.]

Preventive Health and Health Services Block Grant Advisory Committee Meeting

The Preventive Health and Health Services Block Grant Advisory Committee will hold a teleconference (public) meeting on Thursday, December 18, 2008, from 9:30 a.m. to 11 a.m. The teleconference will be held in Room 1000, Health and Welfare Building, Bureau of Health Promotion and Risk Reduction's Conference Room, 625 Forster Street, Harrisburg, PA 17120.

For additional information contact Pam Getz, Administrative Assistant or Terry L. Walker, Administrative Officer, Bureau of Health Promotion and Risk Reduction, Room 1000, Health and Welfare Building, Harrisburg, PA at (717) 787-6214.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so contact Terry L. Walker, Administrative Officer at (717) 787-6214 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2254. Filed for public inspection December 12, 2008, 9:00 a.m.]

Tobacco Use Prevention and Cessation Advisory Committee; Public Hearing and Meeting

The Tobacco Use Prevention and Cessation Advisory Committee (Committee) of the Department of Health will hold a public hearing on December 16, 2008, in Hearing Room No. 5, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA from 10 a.m. to 12 p.m.

Comments must be submitted in writing no later than 2:30 p.m. on December 15, 2008, to the Department of Health, Bureau of Health Promotion and Risk Reduction, Division of Tobacco Prevention and Control, Room 833, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701, fax (717) 214-6690. Written comments must be limited to no more than three typewritten pages. Persons wishing to present written statements orally at the public hearing must contact Judy Ochs at (717) 783-6600 no later than 2:30 p.m. on December 15, 2008, to make a reservation for testifying at the hearing. Oral testimony will be limited to 5 minutes. Persons will be scheduled on a first come, first served basis, as time permits.

The Committee will also hold a public meeting on December 16, 2008, from 1:00 p.m. until 3:30 p.m. The purpose of the meeting is to discuss the tobacco use prevention and cessation priorities for the State Fiscal Year 2009-2010.

This meeting is open to the public and no reservations are required.

For additional information contact Judy Ochs, Director, Division of Tobacco Prevention and Control, Room 833, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701 at (717) 783-6600.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so contact Judy Ochs at (717) 783-6600 or V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The hearing and meeting are subject to cancellation without notice.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2255. Filed for public inspection December 12, 2008, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Cupid Cash '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 Cupid Cash '08.

2. *Price:* The price of a Pennsylvania Cupid Cash '08 instant lottery game ticket is \$10.

3. *Play Symbols:* Each Pennsylvania Cupid Cash '08 instant lottery game ticket will contain one play area featuring a "CUPID'S SYMBOLS" area and a "YOUR SYMBOLS" area. The play symbols and their captions printed in black ink, located in the "CUPID'S SYMBOLS" area are: Balloon symbol (BALLOON), Cupcake symbol (CUPCAKE), Cash symbol (CASH), Couple symbol (COUPLE), Crown symbol (CROWN), Diamond symbol (DMND), Gift symbol (GIFT), Kiss symbol (KISS), Note symbol (NOTE), Moneybag symbol (MNYBAG), Wallet symbol (WALLET), Necklace symbol (NCKLACE), Emerald symbol (EMERALD), Mink symbol (MINK), Car symbol (CAR), Perfume symbol (PERFUME), Ring symbol (RING), Rose symbol (ROSE), Candy symbol (CANDY), Teddy Bear symbol (TBEAR), Toast symbol (TOAST), Wink symbol (WINK) and a Candle symbol (CANDLE). The play symbols and their captions printed in red ink, located in the "CUPID'S SYMBOLS" area are: Balloon symbol (BALLOON), Cupcake symbol (CUPCAKE), Cash symbol (CASH), Couple symbol (COUPLE), Crown symbol (CROWN), Diamond symbol (DMND), Gift symbol (GIFT), Kiss symbol (KISS), Note symbol (NOTE), Moneybag symbol (MNYBAG), Wallet symbol (WALLET), Necklace symbol (NCKLACE), Emerald symbol (EMERALD), Mink symbol (MINK), Car symbol (CAR), Perfume symbol (PERFUME), Ring symbol (RING), Rose symbol (ROSE), Candy symbol (CANDY), Teddy Bear symbol (TBEAR), Toast symbol (TOAST), Wink symbol (WINK) and a Candle symbol (CANDLE). The play symbols and their captions printed in black ink, located in the "YOUR SYMBOLS" area are: Balloon symbol (BALLOON), Cupcake symbol (CUPCAKE), Cash symbol (CASH), Couple symbol (COUPLE), Crown symbol (CROWN), Diamond symbol (DMND), Gift symbol (GIFT), Kiss symbol (KISS), Note symbol (NOTE), Moneybag symbol (MNYBAG), Wallet symbol (WALLET), Necklace symbol (NCKLACE), Emerald symbol (EMERALD), Mink symbol (MINK), Car symbol (CAR), Perfume symbol (PERFUME), Ring symbol (RING), Rose symbol (ROSE), Candy symbol (CANDY), Teddy Bear symbol (TBEAR), Toast symbol (TOAST), Wink symbol (WINK), Candle symbol (CANDLE) and an Arrow symbol (ARROW). The play symbols and their captions printed in red ink, located in the "YOUR SYM-

BOLS" area are: Balloon symbol (BALLOON), Cupcake symbol (CUPCAKE), Cash symbol (CASH), Couple symbol (COUPLE), Crown symbol (CROWN), Diamond symbol (DMND), Gift symbol (GIFT), Kiss symbol (KISS), Note symbol (NOTE), Moneybag symbol (MNYBAG), Wallet symbol (WALLET), Necklace symbol (NCKLACE), Emerald symbol (EMERALD), Mink symbol (MINK), Car symbol (CAR), Perfume symbol (PERFUME), Ring symbol (RING), Rose symbol (ROSE), Candy symbol (CANDY), Teddy Bear symbol (TBEAR), Toast symbol (TOAST), Wink symbol (WINK), Candle symbol (CANDLE) and a Red Heart symbol (REDHRT).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR SYMBOLS" area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO) and \$250,000 (TWHNFYTH).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$500, \$1,000, \$10,000 and \$250,000. A player can win up to 15 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 3,600,000 tickets will be printed for the Pennsylvania Cupid Cash '08 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$250,000 (TWHNFYTH) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$250,000.

(b) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$10,000 (TEN THO) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is an Arrow symbol (ARROW), with the symbol and caption printed in black ink, and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area to the right of the Arrow symbol (ARROW), on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Red Heart symbol (REDHRT), with the symbol and caption printed in red ink, and a prize symbol of \$50\$ (FIFTY) appears in ten of the "Prize" areas, and a prize symbol of \$100 (ONE HUN) appears in five 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 SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" 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 SYMBOLS" play symbols is a Red Heart symbol (REDHRT), with the symbol and caption printed in red ink, and a prize symbol of \$25\$ (TWY FIV) appears in ten of the "Prize" areas, and a prize symbol of \$50\$ (FIFTY) 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 SYMBOLS" play symbols is an Arrow symbol (ARROW), with the symbol and caption printed in black ink, and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area to the right of the Arrow symbol (ARROW), on a single ticket, shall be entitled to a prize of \$200.

(i) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" 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 SYMBOLS" play symbols is an Arrow symbol (ARROW), with the symbol and caption printed in black ink, and a prize symbol of \$50\$ (FIFTY) appears in the "Prize" area to the right of the Arrow symbol (ARROW), on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is a Red Heart symbol (REDHRT), with the symbol and caption printed in red ink, and a prize symbol of \$5⁰⁰ (FIV DOL) appears in ten of the "Prize" areas, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in five 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 SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$50\$ (FIFTY) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is an Arrow symbol (ARROW), with the symbol and caption printed in black ink, and a prize symbol of \$25\$ (TWY FIV) appears in the "Prize" area to the right of the Arrow symbol (ARROW), on a single ticket, shall be entitled to a prize of \$50.

(n) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$40\$ (FORTY) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(o) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is an Arrow symbol (ARROW), with the symbol and caption printed in black ink, and a prize symbol of \$20\$ (TWENTY) appears in the "Prize" area to the right of the Arrow symbol (ARROW), on a single ticket, shall be entitled to a prize of \$40.

(p) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(q) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$20\$ (TWENTY) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is an Arrow symbol (ARROW), with the symbol and caption printed in black ink, and a prize symbol of \$10^{.00} (TEN DOL) appears in the "Prize" area to the right of the Arrow symbol (ARROW), on a single ticket, shall be entitled to a prize of \$20.

(s) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$10^{.00} (TEN DOL) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols is an Arrow symbol (ARROW), with the symbol and caption printed in black ink, and a prize symbol of \$5^{.00} (FIV DOL) appears in the "Prize" area to the right of the Arrow symbol (ARROW), on a single ticket, shall be entitled to a prize of \$10.

(u) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches any of the "CUPID'S SYMBOLS" play symbols and a prize symbol of \$5^{.00} (FIV DOL) appears in the "Prize" area to the right of the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

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 Your Symbols Match Any Of Cupid's Symbols, Win Prize Shown To The Right Of The Matching Symbol. Win With Prize(s) Of:

<i>Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 3,600,000 Tickets:</i>
\$5 × 2	\$10	60	60,000
\$5 w/ARROW	\$10	15	240,000
\$10	\$10	15	240,000
\$5 × 4	\$20	120	30,000
\$10 × 2	\$20	120	30,000
\$10 w/ARROW	\$20	60	60,000
\$20	\$20	60	60,000
\$5 × 5	\$25	100	36,000
(\$5 w/ARROW) + (\$5 × 3)	\$25	75	48,000
\$25	\$25	100	36,000
\$5 × 8	\$40	300	12,000
\$10 × 4	\$40	300	12,000
\$20 × 2	\$40	300	12,000
\$20 w/ARROW	\$40	300	12,000
\$40	\$40	300	12,000
\$5 × 10	\$50	600	6,000
\$10 × 5	\$50	600	6,000
\$25 × 2	\$50	600	6,000
\$25 w/ARROW	\$50	600	6,000
\$50	\$50	300	12,000
\$10 × 10	\$100	400	9,000
\$50 × 2	\$100	400	9,000
\$50 w/ARROW	\$100	300	12,000
RED HEART w/(\$5 × 10) + (\$10 × 5)	\$100	300	12,000
\$100	\$100	400	9,000
\$50 × 10	\$500	6,000	600
\$100 × 5	\$500	6,000	600
(\$100 w/ARROW) + (\$100 × 3)	\$500	6,000	600
\$500	\$500	6,000	600
RED HEART w/(\$25 × 10) + (\$50 × 5)	\$500	6,000	600
\$100 × 10	\$1,000	24,000	150
\$500 × 2	\$1,000	24,000	150
\$500 w/ARROW	\$1,000	24,000	150
RED HEART w/(\$50 × 10) + (\$100 × 5)	\$1,000	24,000	150
\$1,000	\$1,000	24,000	150
\$10,000	\$10,000	360,000	10
\$250,000	\$250,000	360,000	10

Arrow (ARROW) symbol = Win double the prize shown to the right of it.
 Red Heart (REDHRT) symbol = Win all 15 prizes 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 Cupid Cash '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 Cupid Cash '08, prize money from winning Pennsylvania Cupid Cash '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 Cupid Cash '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 Cupid Cash '08 or through normal communications methods.

STEPHEN STETLER,
Acting Secretary

[Pa.B. Doc. No. 08-2256. Filed for public inspection December 12, 2008, 9:00 a.m.]

Pennsylvania Sweet Heart\$ 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 Sweet Heart\$.

2. *Price:* The price of a Pennsylvania Sweet Heart\$ instant lottery game ticket is \$2.

3. *Play and Prize Play Symbols:*

(a) Each Pennsylvania Sweet Heart\$ instant lottery game ticket will contain two play areas known as "Game 1" and "Game 2" respectively. Each game has a different game play method and is played separately. Each Pennsylvania Sweet Heart\$ instant lottery game ticket will also contain a "Fast Cash Bonus" area.

(b) The play symbols and their captions located in the play area for "Game 1" are: X symbol (XXX) and an O symbol (OOO).

(c) The play area for "Game 2" will contain five play symbols and a prize symbol directly below each play symbol. The play symbols and their captions located in the "YOUR SWEETS NUMBERS" and "CANDY BOX NUMBER" areas for "Game 2" are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN) and 12 (TWELVE).

(d) The prize play symbol and the play symbols and their captions located in the "Fast Cash Bonus" area are: \$14\$ (FORTN), NO BONUS (TRY AGAIN) and TRY AGAIN (NO BONUS).

4. *Prize Symbols:*

(a) The play area for "Game 1" will contain a "PRIZE" area. The prize symbols and their captions located in the "PRIZE" area for "Game 1" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$400 (FOR HUN), \$1,000 (ONE THO) and \$14,000 (FORTN THO).

(b) The play area for "Game 2" will contain five "prize" areas. The prize symbols and their captions located in the five "prize" areas for "Game 2" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$400 (FOR HUN), \$1,000 (ONE THO) and \$14,000 (FORTN THO).

5. *Prizes:* The prizes that can be won in "Game 1" and "Game 2" are: \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$100, \$400, \$1,000 and \$14,000. The prize that can be won in the "Fast Cash Bonus" area is \$14. The player can win up to five times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the Pennsylvania Sweet Heart\$ instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$14,000 (FORTN THO) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$14,000.

(2) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$1,000 (ONE THO) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$400 (FOR HUN) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$400.

(4) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$100 (ONE HUN) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$40\$ (FORTY) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$40.

(6) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$20\$ (TWENTY) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$20.

(7) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(8) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(9) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$4⁰⁰ (FOR DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$4.

(10) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$2.

(11) Holders of tickets with three matching X (XXX) play symbols in the same row, column or diagonal, and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$1.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$14,000 (FORTN THO) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$14,000.

(2) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(4) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the

"CANDY BOX NUMBER" play symbol and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(6) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(7) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(8) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(9) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$4⁰⁰ (FOR DOL) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(10) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$2⁰⁰ (TWO DOL) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(11) Holders of tickets upon which any one of the "YOUR SWEETS NUMBERS" play symbols matches the "CANDY BOX NUMBER" play symbol and a prize symbol of \$1⁰⁰ (ONE DOL) appears under the matching "YOUR SWEETS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(c) Determination of prize winners for the Fast \$14 (BONUS) area. Holders of tickets with a \$14\$ (FORTN) play symbol appearing in the "Fast \$14 Bonus" area, on a single ticket, shall be entitled to a prize of \$14.

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>Game 1</i>	<i>Game 2</i>	<i>Fast Cash Bonus</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 5,400,000 Tickets</i>
\$1	\$1		\$2	37.50	144,000
	\$1 x 2		\$2	37.50	144,000
\$2			\$2	37.50	144,000
	\$2		\$2	30	180,000
\$1	\$1 x 3		\$4	150	36,000
	\$1 x 4		\$4	150	36,000
\$2	\$2		\$4	150	36,000
	\$2 x 2		\$4	150	36,000
\$4			\$4	150	36,000
	\$4		\$4	75	72,000
\$2	\$1 x 3		\$5	187.50	28,800

Game 1	Game 2	Fast Cash Bonus	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 5,400,000 Tickets
	\$1 × 5		\$5	187.50	28,800
\$5	\$5		\$5	150	36,000
\$2	\$2 × 4		\$5	150	36,000
\$5	\$5		\$10	1,500	3,600
\$10	\$5		\$10	1,500	3,600
	\$10		\$10	1,500	3,600
		\$14	\$14	50	108,000
	\$4 × 5		\$20	1,500	3,600
\$10	\$10		\$20	1,500	3,600
\$20	\$2 × 3	\$14	\$20	250	21,600
	\$20		\$20	1,500	3,600
\$20	\$20		\$20	1,500	3,600
\$20	\$5 × 4		\$40	2,000	2,700
\$20	\$10 × 2		\$40	2,000	2,700
\$20	\$2 × 3	\$14	\$40	341.88	15,795
\$20	\$20		\$40	2,000	2,700
\$40			\$40	2,000	2,700
	\$40		\$40	2,000	2,700
\$20	\$20 × 4		\$100	8,000	675
	\$20 × 5		\$100	8,000	675
\$100			\$100	8,000	675
	\$100		\$100	8,000	675
\$100	\$100 × 3		\$400	120,000	45
\$400			\$400	120,000	45
	\$400		\$400	120,000	45
\$1,000			\$1,000	540,000	10
	\$1,000		\$1,000	540,000	10
\$14,000			\$14,000	1,080,000	5
	\$14,000		\$14,000	1,080,000	5

GAME 1—Get three “X” symbols in a row, column or diagonal, win prize shown.

GAME 2—When any of Your Sweets Numbers match the Candy Box Number, win prize shown under matching number.

Fast Cash Bonus—Reveal \$14 prize amount win \$14 instantly.

Prizes, including the 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 Sweet Heart\$ 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 Sweet Heart\$, prize money from winning Pennsylvania Sweet Heart\$ 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 Sweet Heart\$ 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 Sweet Heart\$ or through normal communications methods.

STEPHEN STETLER,
Acting Secretary

[Pa.B. Doc. No. 08-2257. Filed for public inspection December 12, 2008, 9:00 a.m.]

Rates of Tax on Aviation Gasoline and Jet Fuel for 2009; Oil Company Franchise Tax Rate for 2009; Alternative Fuels Tax Rates for 2009

Aviation Gasoline and Jet Fuels

Aviation Gasoline Rate for 2009

Under 74 Pa.C.S. § 6121(b) (relating to tax on aviation fuels), the Secretary of Revenue (Secretary) announces that for calendar year 2009 the rate of tax on aviation gasoline and all other liquid fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston engine aircraft or aircraft engines increases to a new rate of 5.8c¹ per gallon or fractional part thereof.

¹The rate of 5.8c per gallon consists of the 1.5c per gallon tax imposed by the Liquid Fuels and Fuels Tax Act, 75 Pa.C.S. § 9004(c)(1), and the 4.3c per gallon

Jet Fuel Rate for 2009

Under 74 Pa.C.S. § 6131(b) (relating to tax on jet fuels), the Secretary announces that for calendar year 2009 the rate of tax on jet fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet and jet-driven aircraft and aircraft engines remains at the current rate of 2.0¢ per gallon or fractional part thereof.

Calculating the 2009 Aviation Gasoline and Jet Fuel Rates

The rate of tax on aviation gasoline is adjusted annually beginning on January 1, 1985 and each January 1 thereafter. The rate of tax on jet fuels is adjusted annually beginning on January 1, 1986 and each January 1 thereafter. Under 74 Pa.C.S. §§ 6121(b) and 6131(b) the rate of each tax increases or decreases 0.1¢ per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the U.S. Department of Labor, Bureau of Labor Statistics, for the most recent 12-month period available as of November 1, subject to a maximum rate of 6.0¢ per gallon for aviation gasoline and 2.0¢ per gallon for jet fuels.

On November 1, 2008, the most recently available 12-month period was September 2007 to September 2008, as reported in Bureau of Labor Statistics, U.S. Department of Labor, Producer Price Indexes, September 2008, USDL 08-1456, released October 15, 2008, for which the percentage change was (+) 53.4%. Accordingly, the aviation gasoline tax rate increases from the 2008 rate of 5.3¢ per gallon to the new 2009 rate of 5.8¢ per gallon; however, the jet fuel tax rate is unchanged for 2009, remaining at the 2008 rate of 2.0¢ per gallon.

Oil Company Franchise Tax

Oil Company Franchise Tax Rate for 2009

The Secretary announces that for the calendar year 2009 the rate of the oil company franchise tax remains at the current rate of 19.2¢ per gallon on all liquid fuels and 26.1¢ per gallon on all fuels used or sold and delivered by distributors within this Commonwealth under 75 Pa.C.S. § 9004(b) (relating to imposition of tax, exemptions and deductions).

Calculating the 2009 Oil Company Franchise Tax Rate

The rate of the oil company franchise tax imposed under 75 Pa.C.S. Chapter 95 (relating to taxes for highway maintenance and construction), 75 Pa.C.S. § 9502 (relating to imposition of tax), and collected under 75 Pa.C.S. Chapter 90 (relating to liquid fuels and fuels tax), 75 Pa.C.S. § 9004(b), is determined annually by the Department of Revenue (Department) and announced by each December 15 for the following calendar year. The tax rate is determined on a “cents per gallon equivalent basis,” which is defined by 75 Pa.C.S. § 9002 as:

The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning every January 1 and shall be published as a notice in the *Pennsylvania Bulletin* no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the Department shall

additional tax imposed by 74 Pa.C.S. § 6121(a). As limited by 74 Pa.C.S. § 6121(b), the combined rate of these two component taxes may never exceed 6¢ per gallon or be less than 3¢ per gallon.

redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

“Average wholesale price” as used previously is defined as:

The average wholesale price per gallon of all taxable liquid fuels and fuels, excluding the federal excise tax and all liquid fuels taxes, as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than 90¢ nor more than \$1.25 per gallon.

For the 12-month period ending September 30, 2008 the Department has determined that the average wholesale price of liquid fuels and fuels was \$2.935 per gallon, which exceeds the statutory maximum of \$1.25; therefore, an average wholesale price of \$1.25 is used to compute the tax rate for 2009.

The oil company franchise tax imposed under 75 Pa.C.S. § 9502 in terms of mills applicable to each gallon is:

<i>Imposition Section</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(1)	60.0	60.0
75 Pa.C.S. § 9502(a)(2)	55.0	55.0
75 Pa.C.S. § 9502(a)(3)	38.5	38.5
75 Pa.C.S. § 9502(a)(4)	00.0	55.0
Total Mills per Gallon:	153.5	208.5
Decimal Equivalent:	.1535	.2085
Multiply by Average Wholesale Price:	×\$1.25	×\$1.25
Product:	19.188¢	26.063¢
Oil Company Franchise Tax per Gallon (Rounded Up to Next Highest Tenth):	19.2¢	26.1¢

Collection of Oil Company Franchise Tax

The act of April 17, 1997 (P. L. 6, No. 3) provides that the oil company franchise tax as computed previously is collected at the same time as the liquid fuels and fuels tax of 12¢ per gallon; therefore, effective January 1, 2009 the combined rate of tax for liquid fuels (primarily gasoline) is 31.2¢ per gallon and for fuels (primarily undyed diesel fuel) is 38.1¢ per gallon.

Alternative Fuels Tax Rates for 2009

Under 75 Pa.C.S. § 9004(d) the Secretary is required to compute the rate of tax applicable to each alternative fuel on a gallon-equivalent-basis. Under 75 Pa.C.S. § 9002 “gallon-equivalent-basis” is defined as the “amount of any alternative fuel as determined by the Department to contain 114,500 BTUs.” The amount determined on a “gallon-equivalent-basis” for each alternative fuel is subject to the liquid fuels and oil company franchise taxes currently imposed on one gallon of gasoline. The rate of tax on one gallon of gasoline during the period of this notice is 12.0¢ for the liquid fuels tax and 19.2¢ for the oil company franchise tax for a total tax of 31.2¢ per gallon of gasoline.

The Secretary announces that the 2009 tax rates for alternative fuels are as follows:

Alternative Fuel	Rate of Conversion (BTU/gal of alternative fuel)	Amount Equivalent to One Gallon of Gasoline @ 114,500 BTU per gallon	Tax Rate per Gallon of Alternative Fuel
Ethanol	76,400	1.499	\$.208
Methanol	56,560	2.024	\$.154
Propane/LPG	83,500	1.371	\$.228
E-85	80,460	1.423	\$.219
M-85	65,350	1.752	\$.178
Compressed Natural Gas (CNG)	29,000 @ 3,000 PSI	3.948	\$.079
Liquefied Natural Gas (LNG)	66,640	1.718	\$.182
Electricity	3,412 BTU/KWH	33.558 KWH	\$.0093 \KWH

STEPHEN STETLER,
Acting Secretary

[Pa.B. Doc. No. 08-2258. Filed for public inspection December 12, 2008, 9:00 a.m.]

FISH AND BOAT COMMISSION

2009 VHS-Susceptible Species of Fish

Effective January 1, 2009, the Fish and Boat Commission (Commission) has adopted new regulations that address the sale, introduction and transportation of fish susceptible to Viral Hemorrhagic Septicemia (VHS), known as VHS-susceptible species of fish, from VHS-affected or at risk states or regions. These new regulations may be found at 58 Pa. Code §§ 63.51, 71.8 and 73.3 (relating to sale of VHS-susceptible species of fish; introduction of VHS-susceptible species of fish; and transportation and importation of VHS-susceptible species of fish). The Commission also adopted amendments to § 69.3 (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed) to include provisions regarding the introduction and sale of VHS-susceptible species from the Lake Erie watershed in other watersheds of the Commonwealth. Under these sections, VHS-susceptible species are those species that the Commission defines by notice published in the *Pennsylvania Bulletin*.

For purposes of these sections, the Commission defines the following species of fish as those that are VHS-susceptible, effective January 1, 2009: Bluegill (*Lepomis macrochirus*); Bluntnose minnow (*Pimephales notatus*); Brown trout (*Salmo trutta*); Bullhead catfishes (*Ameiurus spp*); Burbot (*Lota lota*); Channel catfish (*Ictalurus punctatus*); Chinook salmon (*Oncorhynchus tshawytscha*); Common carp (*Cyprinus carpio*); Crappies (*Pomoxis spp*); Emerald shiner (*Notropis atherinoides*); Freshwater drum (*Aplodinotus grunniens*); Gizzard shad (*Dorosoma cepedianum*); Lake trout (*Salvelinus namaycush*);

Largemouth bass (*Micropterus salmoides*); Muskellunge (*Esox masquinongy*); Northern pike (*Esox lucius*); Pumpkinseed (*Lepomis gibbosus*); Rainbow trout/steelhead (*Oncorhynchus mykiss*); Redhorse suckers (*Moxostoma spp*); Rock bass (*Ambloplites rupestris*); Round goby (*Apolonia melanostoma*); Smallmouth bass (*Micropterus dolomieu*); Spottail shiner (*Notropis hudsonius*); Trout-perch (*Percopsis omiscomaycus*); Walleye (*Sander vitreus*); White bass (*Morone chrysops*); White perch (*Morone americana*); White sucker (*Catostomus commersonii*); Whitefishes (*Coregonus spp*); and Yellow perch (*Perca flavescens*).

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

[Pa.B. Doc. No. 08-2259. Filed for public inspection December 12, 2008, 9:00 a.m.]

Proposed Additions to List of Class A Wild Trout Waters

The Fish and Boat Commission (Commission) is considering changes to its list of Class A Wild Trout Streams. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of Pennsylvania's naturally reproducing trout fisheries. The Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

The criteria developed for Class A Wild Trout fisheries are species specific. Wild Trout Abundance Class Criteria include provisions for:

(i) Wild Brook Trout Fisheries.

(A) Total brook trout biomass of at least 30 kg/ha (26.7 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brook trout biomass must comprise at least 75% of the total trout biomass.

(ii) Wild Brown Trout Fisheries.

(A) Total brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brown trout biomass must comprise at least 75% of the total trout biomass.

(iii) Mixed Wild Brook and Brown Trout Fisheries.

(A) Combined brook and brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass must comprise less than 75% of the total trout biomass.

(E) Brown trout biomass must comprise less than 75% of the total trout biomass.

(iv) Wild Rainbow Trout Fisheries.

Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

For a water to be removed from the Class A Wild Trout Streams designation, total trout biomass must be docu-

mented below the set criteria for two consecutive stream examinations.

During recent surveys, Commission staff have documented the following stream sections to have Class A Wild Trout populations (ST=Brook Trout, BT=Brown Trout). The Commission intends to consider adding these waters to its list of Class A Wild Trout Streams at its meeting on January 29 and 30, 2009.

County	Stream	Limits	Brook Trout (kg/ha)	Brown Trout (kg/ha)	Length (miles)
Schuylkill	UNT to Little Schuylkill River	Headwaters at spring fed pond to mouth	35.92		0.81
Potter	Cross Fork	Confluence with Rhulo Hollow/Bear Trap Lodge downstream to confluence with Windfall Run	17.05 (2005) 18.6 (2006) 33.58 (2007)	37.67 (2005) 34.94 (2006) 64.7 (2007)	1.83
Luzerne	Phillips Creek Sec 01	Headwaters to Route 118	ST 46.01		1.80
Luzerne	Phillips Creek Sec 02	Route 118 to mouth	ST 22.59 BT 28.14		3.16
Luzerne	Kitchen Creek Sec 01	Confluence Ganoga Glen/Glen Leigh to Shedy Hill Road (T 559)	ST 47.12		4.15
Luzerne	Crooked Creek	Headwaters to mouth	ST 41.06		1.80
Luzerne	Maple Run Sec 01	Headwaters to pipeline crossing	ST 90.37		2.42
Luzerne	Wasp Branch	Headwaters to mouth	ST 45.98		1.74

Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to 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 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

[Pa.B. Doc. No. 08-2260. Filed for public inspection December 12, 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:

Action Taken—Regulation Disapproved:

Environmental Quality Board #7-421: Triennial Review of Water Quality Standards (amends 25 Pa. Code Chapters 16 and 93)

Disapproval 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, Dissenting

Environmental Quality Board—Triennial Review of Water Quality Standards; Regulation No. 7-421 (#2659)

On December 21, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapters 16 and 93. The proposed regulation was published in the January 12, 2008 *Pennsylvania Bulletin* with a 75-day public comment period. The final-form regulation was submitted to the Commission on October 7, 2008.

This final-form regulation represents the EQB's triennial update of its water quality standards. It makes numerous amendments to Chapters 16 and 93. Our sole concern with this regulation is the implementation of a new water quality standard for Molybdenum (Mo).

In our comments issued on April 28, 2008, we requested the EQB "clearly provide the justification for the inclusion of Mo . . . and the rationale behind the specific Human Health Criteria standard." Further, we referenced concerns raised by commentators concerning the lack of a federal standard for Mo, the inability of these commentators to attain the standards required by this regulation using available technology, and the potential impact of this standard on the continuing operation of at least one business in the Commonwealth.

In its response, the EQB stated that it needs to create a statewide standard for Mo because "Pennsylvania has at least four active major NPDES permits that require Mo monitoring, and at least 2 additional facilities that discharge Mo." It further asserted that Mo is considered a toxic metal, has been labeled a teratogen and can cause "gout-like symptoms." The EQB completed its response by outlining the methodology and data used for developing the water quality criterion for Mo. However, several concerns raised by the regulated community and this Commission remain.

The Regulatory Review Act requires the Commission to consider specific criteria in determining whether the regulation is in the public interest. We have determined the regulation is not in the public interest based on the following criteria: the economic or fiscal impact of the regulation (71 P. S. § 745.5b(b)(1)); protection of the public health, safety and welfare (71 P. S. § 745.5b(b)(2)); need for the regulation (71 P. S. § 745.5b(b)(3)(iii)); reasonableness of the requirements (71 P. S. § 745.5b(b)(3)(iv)); and the comments, objections or recommendations of a committee (71 P. S. § 745.5b(b)(5)).

First, we note the objections and recommendations offered by the Senate Environmental Resources and Energy Committee (Committee). In separate letters dated October 8, 2008, the Committee notified us that it adopted by formal action a recommendation that the Commission disapprove the regulation. The Committee also notified the EQB and us of its intent to further review the regulation after the Commission's final action on the regulation. The Committee stated, "We note that neither the Environmental Protection Agency nor most of our neighboring states have adopted a similar standard, and its inclusion is not required for Pennsylvania to maintain compliance with federal water quality standards." It further stated, "Several employers who currently discharge Molybdenum have raised persuasive arguments regarding the rationale, cost and appropriateness of this standard. We question whether DEP has offered sufficient justification regarding the specific interest of the Commonwealth to exceed federal water quality standards." We agree.

Second, the EQB has not sufficiently addressed the economic and fiscal impact of imposing this water quality criterion on the regulated community. In response to Question 17 in the Regulatory Analysis Form, the EQB states, "[c]osts and savings cannot be determined because of site-specific considerations and because there is no historical accounting of costs that would enable a comparative cost analysis to be conducted." Commentators have stated that the methods of reducing Mo discharges that currently exist are extremely costly and may not attain the requirements set forth in this regulation. Further, some commentators, including Langeloth Metallurgical (LMC), assert that these requirements will place such an economic burden on the regulated community that "... if implemented, will threaten LMC's ability to continue to operate its facilities."

Department of Environmental Protection staff have indicated a willingness to allow time extensions for compliance on a case-by-case basis so that effective technologies for reducing Mo discharges can be identified and implemented. However, we remain concerned that the undefined cost of such a process will be unduly burdensome to existing businesses and could discourage other companies from establishing operations in Pennsylvania.

Finally, the EQB has not fully demonstrated the impact of the consumption of Mo on the public health. The EQB has asserted that Mo is a water toxin, is a teratogen in test animals and has cited numerous studies supporting these positions. However, we note that despite these studies, the federal Environmental Protection Agency (EPA) has not established a water quality standard for Mo. Further, commentators have asserted that this substance has not been categorized as a carcinogen, toxic pollutant or non-priority pollutant by the EPA. In fact, several commentators have indicated that an insufficient intake of Mo would actually have an adverse effect on human health. The EQB has not supplied enough information to adequately refute the commentators' assertions that a statewide criterion for Mo is not needed. Additionally, the EQB has not provided data demonstrating any documented harm to Pennsylvania residents as a result of ingesting any level of Mo. It concerns us that the EQB would propose a water quality standard for a substance for which there is questionable evidence of its toxicity to humans, particularly in the absence of commercially available and cost-effective means to reduce or eliminate this substance from existing and permitted industrial discharges.

Given the potential costs to businesses for reducing Mo discharges to the level required by this regulation; the lack of EPA regulation of Mo; the lack of data demonstrating the adverse health impacts on Pennsylvanians; and the concerns expressed by the Committee, we find that the EQB has not sufficiently justified the need for and reasonableness of imposing a statewide criterion for Mo. Consequently, we conclude that the criterion for Mo should be removed from the regulation.

We have determined this regulation is consistent with the statutory authority of the EQB (Pennsylvania Clean Streams Law at 35 P. S. § 691.5(b)(1)) and the intention of the General Assembly. However, based upon the information made available to us and after considering all of the other criteria of the Regulatory Review Act discussed previously, we find promulgation of this regulation is not in the public interest.

By Order of the Commission:

This regulation is disapproved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2261. Filed for public inspection December 12, 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 Regulatory Review 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>
125-93	Pennsylvania Gaming Control Board Rules of Practice and Procedures 38 Pa.B. 5441 (October 4, 2008)	11/3/08	12/3/08

**Pennsylvania Gaming Control Board
Regulation #125-93 (IRRC #2723)**

Rules of Practice and Procedures

December 3, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the October 4, 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 Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

**1. Section 403a.7. Temporary emergency orders.—
Clarity.**

Although this section employs the term “presiding officer,” neither the existing regulation nor the proposed regulation contains an applicable definition. Section 491a.2 defines the term, but that section applies only to subpart H (pertaining to practice and procedure), not subpart A (pertaining to general provisions), where § 403a.7 is located. The final-form regulation should include a definition of “presiding officer” that is applicable to this section.

**2. Section 493a.5. Answers to complaints, petitions,
motions and other filings requiring a response.**

**Section 493a.10. Motions for summary judgment
and judgment on the pleadings.**

Section 493a.12. Intervention.

Section 494a.6. Reopening of record.

**—Reasonableness and feasibility; Protection of public
welfare; Implementation procedures.**

Changes to existing provisions shift the trigger date for responsive filings from the date of service to the date of filing. We are concerned that this shift could render responsive parties who are served days after filing vulnerable to serious legal consequences, through no fault of their own. Although this problem could dissipate with the implementation of electronic filing and service, it is unclear when the introduction of such electronic transactions will occur.

We recommend that the final-form regulation retain existing provisions that require the calculation of deadlines to start at the time of service. However, should the Board decide to proceed with these provisions as currently conceived, the final-form submittal should further explain its rationale and clarify how this regulatory scheme protects responsive parties, particularly since electronic filing and service is unavailable.

**3. Section 493a.10a. Motions for summary judgment
and judgment on the pleadings.—Clarity, Statutory
authority, Fiscal impact.**

This new section requires parties seeking to protect confidential information to file a Motion to Protect Confidential Information. We raise the following five concerns:

First, pursuant to 4 Pa.C.S. § 1206 and 58 Pa. Code § 407a.3, confidential documents and confidential information are protected. Subsection (a) refers only to information, subsection (b) refers to information and documents in separate paragraphs, and subsection (c) only refers to documents. The final-form regulation should clarify whether and why the Board distinguishes between confidential *documents* and confidential *information*.

Second, as referenced in subsection (a), the term “pleadings and other papers” is vague. The final form regulation should specifically identify the pertinent documents referred to as “other papers.”

Third, although paragraph (b)(1) requires the moving party to “set forth the specific reasons why the information should be deemed to be confidential information and, therefore, protected,” subsection (c) only allows the Director of Hearings and Appeals (Director) to “issue an interim order to protect the documents from disclosure” until the Board takes action. We are concerned that the Motion to Protect Confidential Information might necessarily contain confidential information itself, but this section does not appear to grant the Director the power to protect these portions of the motion. The Board should consider whether providing for the protection of the motion is necessary, and the final-form regulation should clarify whether the Director may issue an interim order of protection that encompasses information in the motion.

Fourth, the Gaming Act requires the Board to protect the confidentiality of the following two kinds of information: 1) “all information submitted by an applicant pursuant to section 1310(a) (relating to slot machine license application character requirements)”; OR 2) information obtained by the Board or the bureau from any source as part of a background investigation. 4 Pa.C.S. § 1206. Existing regulations provide for an even broader description of confidential information. 58 Pa. Code § 407a.3. The Board should clarify whether this proposed section applies to confidential information *other than* the information described in 4 Pa.C.S. § 1206. Additionally, the Board should explain its statutory authority for requiring a party to prevail on a motion to protect information already protected by the statute.

Finally, in the RAF, the Board states this regulation will result in no costs to the regulated community. Members of the regulated community, however, argue that they will incur significant legal costs in complying with this regulation. We recommend that the Board continue to explore cost implications for licensees and other parties. The final-form regulation should explain what steps the Board has taken to investigate and mitigate the potential fiscal impact of this proposal, and whether the public interest is best served by imposing this cost.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2262. Filed for public inspection December 12, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Allstate Property and Casualty Insurance Company; Private Passenger Automobile; Rate Revisions; Rate Filing

On November 20, 2008, the Insurance Department (Department) received from Allstate Property and Casualty Insurance Company a filing for rate level changes for private passenger automobile insurance.

The company requests an overall 6.2% increase amounting to \$9.054 million annually, to be effective February 2, 2009, for new business and March 5, 2009, for renewal business.

Unless formal administrative action is taken prior to January 19, 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. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, mmckenneystate.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2263. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application for Approval of a Proposed Merger Involving a Domestic Health Maintenance Organization

Aetna Health Plans, Inc., an Arizona domiciled for-profit health maintenance organization (HMO), has filed an application for approval to merge with Aetna Health Plans, Inc., a Pennsylvania domiciled for-profit HMO, with the Pennsylvania domiciled HMO surviving the merger. The filing was made under the requirements set forth under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413), 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets) and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21208). Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 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 and relevant facts to inform the Department of the exact basis of the statement. 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. 08-2264. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application for Approval of a Proposed Merger Involving a Domestic Health Maintenance Organization

Aetna Health Plans, Inc., an Illinois domiciled for-profit health maintenance organization (HMO), has filed an application for approval to merge with Aetna Health Plans, Inc., a Pennsylvania domiciled for-profit HMO, with the Pennsylvania domiciled HMO surviving the merger. The filing was made under the requirements set forth under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413), 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets) and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21208). Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 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 and relevant facts to inform the Department of the exact basis of the statement. 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. 08-2265. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application for Approval of a Proposed Merger Involving a Domestic Health Maintenance Organization

Aetna Health Plans, Inc., an Oklahoma domiciled for-profit health maintenance organization (HMO), has filed an application for approval to merge with Aetna Health Plans, Inc., a Pennsylvania domiciled for-profit HMO, with the Pennsylvania domiciled HMO surviving the merger. The filing was made under the requirements set forth under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413), Subchapter C of Chapter 19 of the Business Corporation Law, 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets) and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21208). Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 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 and relevant facts to inform the Department of the exact basis of the statement. 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. 08-2266. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application for Approval of a Proposed Merger Involving a Domestic Health Maintenance Organization

Aetna Health Plans, Inc., a Tennessee domiciled for-profit health maintenance organization (HMO), has filed an application for approval to merge with Aetna Health Plans, Inc., a Pennsylvania domiciled for-profit HMO, with the Pennsylvania domiciled HMO surviving the merger. The filing was made under the requirements set forth under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413), 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets) and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21208). Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 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 and relevant facts to inform the Department of the exact basis of the statement. 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. 08-2267. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application for Domestic Certificate of Authority by Essent Guaranty, Inc.

Essent Guaranty, Inc. has applied for a Certificate of Authority to operate as a domestic stock casualty insurance company in this Commonwealth. The filing was made under The Insurance Company Law of 1921 (40 P. S. §§ 341—991). Persons wishing to comment on the application 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*. 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 and relevant facts to inform the Department of the exact basis of the statement. 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. 08-2268. Filed for public inspection December 12, 2008, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Buckingham SNF, LLC

Buckingham SNF, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Buckingham Valley Rehabilitation and Nursing Center in Buckingham, 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. 08-2269. Filed for public inspection December 12, 2008, 9:00 a.m.]

Keystone Health Plan East; Base Rate Filing; Rate Filing

On November 19, 2008, Keystone Health Plan East submitted a rate filing to increase the base rates of its HMO Group product, for employers groups with less than 100 enrolled employees. The filing requests an average increase of 10.55%. This filing will affect approximately 145,046 contracts and produce additional premium income of about \$80 per contract per month or \$140,124,000 annually. The requested effective date of the change is April 1, 2009.

Unless formal administrative action is taken prior to February 26, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Regional office in Harrisburg.

Interested parties are invited to submit written or email comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, csandersjo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2270. Filed for public inspection December 12, 2008, 9:00 a.m.]

OFFICE OF OPEN RECORDS

Uniform Request Form

Under section 505 of the Right-to-Know Law (65 P. S. § 67.505), the Office of Open Records must create and make available a Uniform Request Form that can be used when making request for records. This form is available on our web site at <http://openrecords.state.pa.us>, click on the FORMS link. Local and Commonwealth agencies are permitted to create and use their own forms, but should be advised that the law requires that they must accept a request submitted on the Office of Open Records Request Form.

TERRY MUTCHLER,
Executive Director



pennsylvania
OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR : _____

STREET ADDRESS : _____

CITY/STATE/COUNTY (Required): _____

TELEPHONE (Optional): _____

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

[Pa.B. Doc. No. 08-2271. Filed for public inspection December 12, 2008, 9:00 a.m.]

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

Financial Statement

Under the provisions of section 207 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (53 P. S. §§ 12720.101—12720.709) the Pennsylvania Intergovernmental Cooperation Authority (Authority) is required to publish a “concise financial statement” annually in the *Pennsylvania Bulletin*. The Authority has issued its annual report for its fiscal year ended June 30, 2008, which includes an audit for such period performed in accordance with generally accepted auditing standards by an independent firm of certified public accountants. The complete annual report of the Authority may be obtained from the Authority’s web site, www.picapa.org or at 1500 Walnut Street, Suite 1600, Philadelphia, PA 19102, (215) 561-9160.

URI Z. MONSON,
Executive Director

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY
STATEMENT OF NET ASSETS
JUNE 30, 2008

ASSETS

	Governmental Activities
CURRENT ASSETS	
Cash, cash equivalents and short-term investments	\$147,659,791
PICA taxes receivable	8,183,893
Accrued interest receivable	185,800
Total current assets	156,029,484
OTHER ASSETS	10,948,309
TOTAL	\$166,977,793

LIABILITIES AND NET ASSETS (DEFICIT)

CURRENT LIABILITIES	
Accounts payable and accrued expenses	\$ 186,375
Due to the City of Philadelphia	9,526,980
Deferred revenue	23,836,279
Bonds payable—current portion	42,415,000
Total current liabilities	75,964,634
BONDS PAYABLE—Long-term portion	529,680,000
Total liabilities	605,644,634
NET ASSETS (DEFICIT):	
Restricted for debt service	78,936,471
Restricted for benefit of the City of Philadelphia	31,751,882
Restricted for subsequent PICA administration	1,565,500
Unrestricted deficit	(550,920,694)
Total net assets (deficit)	(438,666,841)
TOTAL	\$166,977,793

The accompanying notes are an integral part of this statement.

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY
STATEMENT OF ACTIVITIES
JUNE 30, 2008

	Governmental Activities
EXPENSES	
Grants to the City of Philadelphia	\$264,191,114
General management and support— general operations	1,266,171
Interest expense on long term debt	35,981,613
Investment expenses	507,776
Amortization on bond costs	26,540
Write-off of bond issuance costs	2,780,780
	<u>304,753,994</u>
 PROGRAM REVENUES	
Premium amortization	1,615,282
Investment income - net	7,202,098
	<u>8,817,380</u>
Program revenues	<u>8,817,380</u>
Net program expenses	<u>295,936,614</u>
 GENERAL REVENUES	
PICA taxes	341,971,598
Other	330,228
Interest	535,415
	<u>342,837,241</u>
Total general revenues	<u>342,837,241</u>
DECREASE IN NET DEFICIT	46,900,627
NET ASSETS (DEFICIT)—Beginning of year	<u>(485,567,468)</u>
NET ASSETS (DEFICIT)—End of year	<u>(\$438,666,841)</u>

The accompanying notes are an integral part of this statement.

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY
BALANCE SHEET- GOVERNMENTAL FUNDS
JUNE 30, 2008

ASSETS	General	Public Service Funds				Waste Fund	Expendable Trust Funds Capital Asset Fund		Total Committed Funds
		1996	2008	1999	2008		1993	1994	
CURRENT ASSETS:									
Cash, cash equivalents and short-term investments	\$3,374,392	\$	\$1,057,118	\$4,078,279	\$36,673	\$1,972,264	\$12,027,220	\$16,388,259	
P.C.A. loans receivable	47,921	244	1,278	38,880	56	2,777	17,781	21,357	
Accounts receivable								183,894	
Inventory								5,766,732	
Prepaid expenses									
Deferred receivable									
OTHER ASSETS									
Total current assets	3,374,392	244	1,058,496	4,117,259	36,729	1,975,041	12,045,001	16,611,866	
	7,984,629							1,984,629	
TOTAL	\$41,310,942	\$244	\$1,058,496	\$4,117,259	\$36,729	\$1,975,041	\$12,045,001	\$16,611,866	
LIABILITIES AND FUND EQUITY									
CURRENT LIABILITIES:									
Accounts payable	\$86,081	\$	\$72,343	\$	\$	\$	\$	\$	
Accrued interest and taxes	27,055								
Due to the City of Philadelphia	9,700,000								
Deferred revenue	5,600,000								
Identified payable									
Total current liabilities	15,413,136		72,343						
FUND EQUITY:									
Fund balance:									
Unreserved	7,436,013	244	966,153	4,117,259	36,729	1,975,041	12,045,001	16,611,866	
Reserved for debt service									
Reserved for capital projects of the City of Philadelphia									
Reserved for subsequent P.C.A. administration									
Designated for future acquisition activity									
Total fund equity	7,436,013	244	966,153	4,117,259	36,729	1,975,041	12,045,001	16,611,866	
TOTAL	\$48,747,055	\$244	\$1,058,496	\$4,117,259	\$36,729	\$1,975,041	\$12,045,001	\$16,611,866	

Amounts reported for governmental activities in the statement of net assets are different than the amounts reported in the statement of net assets because certain long-term liabilities are not used payable in the current period and therefore are not reported in the funds. Swap positions are disclosed and amortized over the life of the agreement in the statement of net assets. Forward delivery agreements premiums is amortized over the life of the agreement in the statement of net assets. Bond issuance costs are recorded and amortized in the statement of net assets.

Net assets of governmental activities

(27,956,600)

(12,344,540)

3,175,278

2,316,609

(248,256,841)

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - GOVERNMENTAL FUNDS
YEAR ENDED JUNE 30, 2008

	General	PICA Tax Revenue	1996	2000	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total Governmental Funds
REVENUES:														
PICA Taxes	\$ 341,971,598	\$ 341,971,598												\$ 341,971,598
Investment income - net	1,139,757	535,415	7	1,530	60,613	727,388	85,331	4,126,795	58,482	375,708	82,610	544,677	732,513	
Other	-	330,228	-	-	-	-	-	-	-	-	-	-	330,228	
Total revenues	1,139,757	342,837,241	7	1,530	60,613	727,388	85,331	4,126,795	58,482	375,708	82,610	544,677	350,039,339	
EXPENDITURES:														
Grant to the City of Philadelphia	261,242,355													261,242,355
Debt service:														
Principal				311,640	4,675,000	37,402,600	8,345,680							50,440,000
Interest				2,990,221	3,765,587	20,146,697	9,173,689							35,981,613
Administration:														2,990,221
Investment expense	150	6,840		92,164	171,870		236,732							507,776
Operations	1,266,173					57,266,697	18,317,441							1,266,173
Total expenditures	1,266,323	261,249,195		3,356,025	10,632,457	57,266,697	18,317,441							355,376,899
EXCESS OF REVENUES OVER (UNDER) EXPENDITURES	(126,566)	81,588,046	7	(3,354,495)	(10,571,844)	(56,539,309)	(18,233,110)	4,126,795	58,482	245,708	(232,290)	(1,959,282)	(6,337,560)	
OTHER FINANCING SOURCES (USES)														
Net operating transfer in (out)	1,487,194	(81,588,046)	(7)	4,360,648	9,146,213	56,053,211	18,731,672	(8,184,822)						
SOURCES OVER (UNDER) EXPENDITURES AND OTHER USES	1,360,628			966,153	(1,435,631)	(786,098)	499,569	(6,058,027)	58,482	245,708	(232,290)	(1,959,282)	(6,337,560)	
FUND BALANCES, JULY 1, 2007	26,536,280		244		1,468,830	4,903,357	(463,840)	77,429,423	1,916,559	12,399,793	2,727,835	18,571,148	145,488,319	
FUND BALANCES, JUNE 30, 2008	\$27,896,906	\$	\$244	\$966,153	\$35,219	\$4,117,259	\$36,729	\$73,371,326	\$1,975,041	\$12,645,501	\$2,494,515	\$16,611,866	\$150,150,759	

Reconciliation of change in fund balance to change in net assets:
Change in fund balance (6,337,560)
Repayment of bond principal is an expenditure in the governmental funds, but the repayment reduces long-term liabilities in the statement of net assets 50,440,000
Swap and forward delivery agreement premiums are deferred and amortized over the life of the new debt on the statement of net assets 1,615,286
Bond issuance costs written off on statement of assets (2,780,780)
Bond issuance costs paid and capitalized on statement of assets 2,990,221
Bond issuance costs are accrued and amortized on the statement of net assets (26,549)
Change in net assets \$ 46,906,627

[Pa.B. Doc. No. 08-2272. Filed for public inspection December 12, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Indirect Transfer of Control

A-2008-2076038. The United Telephone Company of Pennsylvania, d/b/a Embarq Pennsylvania and Embarq Communications, Inc. Joint application of The United Telephone Company of Pennsylvania, d/b/a Embarq Pennsylvania and Embarq Communications, Inc., for approval of the Indirect Transfer of Control to CenturyTel, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 23, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: The United Telephone Company of Pennsylvania, d/b/a Embarq Pennsylvania

Through and By Counsel: Zsuzsanna E. Benedek, Esquire, 240 North Third Street, Suite 201, Harrisburg, PA 17101

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2273. Filed for public inspection December 12, 2008, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 29, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval to *begin operating as common carriers* for transportation of *persons* as described under the application.

A-2008-2076637. Joseph J. Yates (P. O. Box 183, Springboro, Crawford County, PA 16435)—persons, in paratransit service, whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Crawford, to points in Pennsylvania and return.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Tyler Sanabria, t/a TST Trucking; Doc. No. C-2008-2024302

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 Tyler Sanabria, t/a TST Trucking, respondent, maintains his principal place of business at 38 Ardsley Drive, Dover, PA 19004.

2. That respondent was issued a certificate of public convenience by this Commission on June 29, 2007, for property authority at Application Docket No. A-00123890.

3. That on September 3, 2007, Enforcement Officer John Theodosiades visited respondent's place of business at 277 Wembly Road, Upper Darby, and left a note for respondent to contact him by telephone in reference to scheduling his Safety Fitness Review for his trucking company. Officer Theodosiades also left Mr. Sanabria an approved informational packet. On September 8, 2007, Officer Theodosiades contacted respondent by telephone to ascertain if respondent had received the informational packet that was left in his door and offer Mr. Sanabria his assistance. On September 25, 2007, Officer Theodosiades informed the respondent that his Safety Fitness Review was scheduled for October 31, 2007. On October 31, 2007, Officer Theodosiades arrived at respondent's place of business and no one responded to his knocking on the door. Officer Theodosiades left a note which included his telephone number and requested Mr. Sanabria to call him. Failing to receive any communication from respondent, Officer Theodosiades attempted to contact Mr. Sanabria 20 times by telephone with no success. A letter dated December 3, 2007, was sent to Mr. Sanabria, informing him of an appointment on December 19, 2007, to conduct the Safety Fitness Review. On December 19, 2007, Officer Theodosiades went to respondent's place of business and knocked on the door. Again, no one answered the door. Officer Theodosiades waited one hour and knocked on the respondent's door, again no response.

4. That to date, respondent has failed to submit his company to a Safety Fitness Review. A satisfactory fitness rating must be achieved by respondent in order to maintain a certificate of public convenience to operate as a common carrier of property between points in the Commonwealth of Pennsylvania.

5. That respondent, by failing to obey and comply with a Commission Secretarial letter directing respondent to submit his company to a safety fitness review, violated 66 Pa.C.S. § 501(c), and, for failure 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 Tyler Sanabria, t/a TST Trucking's certificate of public convenience at A-00123890.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove 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 (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the out come. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. The penalty could include the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate.

C. If you file an answer which admits or fails to deny the allegation of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty.

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) 787-1227.

[Pa.B. Doc. No. 08-2274. Filed for public inspection December 12, 2008, 9:00 a.m.]

Telecommunications Services

A-310651F0002AMA-AMG, A-2008-2073665. Service Electric Telephone Company, LLC. Application of Service Electric Telephone Company, LLC for approval to offer, render, furnish or supply telecommunications services to the public as a competitive local exchange carrier in the service territories of Buffalo Valley Telephone Company; Conestoga Telephone and Telegraph Company;

Denver and Ephrata Telephone and Telegraph Telephone Company; Frontier Communications Commonwealth Telephone Company, LLC; Frontier Communications of Lake-wood, LLC; Frontier Communications of Pennsylvania, LLC; TDS Telecom Mahanoy and Mahantango Telephone Company and Windstream Pennsylvania, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 20, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Service Electric Telephone Company, LLC

Through and By Counsel: James H. Lister, Birch Horton Bittner and Cherot, Suite 1200, 1155 Connecticut Avenue NW, Washington, DC 20036

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2275. Filed for public inspection December 12, 2008, 9:00 a.m.]

STATE BOARD OF EDUCATION

Approval of PSSA Science Performance Level Descriptors and Cut Scores

At its regular public meeting held September 18, 2008, the State Board of Education (Board) approved new Pennsylvania System of School Assessment (PSSA) performance level descriptors and performance level cut scores for certain grades in science that were recommended to the Board by the Department of Education (Department). The approved performance level descriptors and PSSA performance level cut scores are based upon the recommendations of teachers, administrators, university faculty and intermediate unit staff who participated in multiday workshops facilitated by the Department's assessment contractor.

The performance level cut scores in science for grades 4, 8 and 11 as well as the science performance level cut scores for the same grades were developed for the first time as 2007-2008 school year was the first year in which the PSSA science assessments were administered in these grade levels. The Federal No Child Left Behind Act of 2001 requires that states begin assessing science in grades 4, 8 and 11 in the 2007-2008 school year. It is important to note that the PSSA Science Assessment, while required by NCLB, is not considered when determining whether a school makes Adequate Yearly Progress (AYP). In addition, current state high school graduation requirements do not require students to demonstrate proficiency on the PSSA Science Assessment; rather school districts determine whether students are proficient in science using local assessments in order to graduate from high school. (See 22 Pa. Code § 4.24(a) (relating to high school graduate requirements).)

The Board action was taken under general authority granted to it by the Public School Code of 1949 (24 P. S. §§ 1-101—27-2702) and in accordance with specific provisions of the Board's regulations codified at 22 Pa. Code Chapter 4 (relating to academic standards and assessment). The approved PSSA performance level cut scores are described *infra* in the Appendix. The performance level descriptors are available for review on the Department's web site at www.ped.state.pa.us.

Background

Published at 29 Pa.B. 399 (January 16, 1999), the regulations of the Board now codified at 22 Pa. Code Chapter 4 "establish rigorous academic standards and assessments to facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined." See 22 Pa. Code § 4.2 (relating to purpose). To help accomplish these goals, the Board established in Chapter 4 a State assessment system. The State assessment system is designed specifically to accomplish the following purposes:

- (1) Provide students, parents, educators and citizens with an understanding of student and school performance.
- (2) Determine the degree to which school programs enable students to attain proficiency of academic standards under § 4.12 (relating to academic standards).
- (3) Provide results to school districts, including charter schools, and AVTSs for consideration in the development of strategic plans under § 4.13 (relating to strategic plans).
- (4) Provide information to State policymakers including the General Assembly and the Board on how effective schools are in promoting and demonstrating student proficiency of academic standards.
- (5) Provide information to the general public on school performance.
- (6) Provide results to school districts, including charter schools, and AVTSs based upon the aggregate performance of all students, for students with an Individualized Education Program (IEP) and for those without an IEP. See 22 Pa. Code § 4.51(a) (relating to State assessment system).

The State assessments must be administered annually and include assessments of the State academic standards in mathematics and reading at grades 3—8 and 11 and in writing at grades 5, 8 and 11 and in science at grades 4, 8 and 11. See 22 Pa. Code §§ 4.51(d) and 403.3(d) (relating to single accountability system).

The Secretary of Education has the authority to establish guidelines for the administration of the State assessment system. See 22 Pa. Code § 4.51(h).

The performance level cut scores and performance level descriptors for reading and mathematics in grades 5, 8 and 11 were first established and published at 31 Pa.B. 2763 (May 26, 2001). The performance level descriptors and performance level cut scores were updated and revised for reading and mathematics in grades 5, 8 and 11 and newly established for grade 3 in June and September 2005. These revisions were published at 35 Pa.B. 5442 (October 1, 2005). The performance level descriptors and performance level cut scores for grades 4,

6 and 7 in reading and mathematics were established in July 2006. They were published at 36 Pa.B. 3934 (July 22, 2006).

Development and Approval of Scores

As part of the State assessment system established by the regulations, the Board delegated to the Department the very important task of developing specific criteria for each of the performance levels prescribed by § 4.51 (b)(4)—advanced, proficient, basic and below basic. Specifically, the Department is directed by the regulations to "consult with educators, students, parents and citizens," and then to "develop and recommend to the Board for its approval specific criteria for each performance level." *Id.*

As reported to the Board at its September 18, 2008, meeting, the Department met with educators from across this Commonwealth to assist the Department in developing the performance levels descriptors and scores. Based on these efforts as described in detail for the Board at its meeting, the Department recommended the performance level descriptors and scores that the Board ultimately adopted at its September 18, 2008, meeting. Before adopting the performance level descriptors and scores on September 18, 2008, the Board provided members of the public in attendance with the opportunity to comment on the Department's recommendation.

The approved performance levels (as they appear *infra*) will be applied to the 2008 PSSA test scores, which will be publicly released in September 2008. The Department and the Board will review the descriptors and scores periodically based on actual experience in using them and consider revisions as appropriate, using the same process prescribed by § 4.51(b)(4).

Persons with questions or needing additional information regarding the Board's approval of these performance levels descriptors and cut scores may contact Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787 or TDD (717) 787-7367. Persons with questions or needing additional information regarding the development and implementation of them should contact Dr. Shula Nedley, Director, Bureau of Assessment and Accountability, 333 Market Street, Harrisburg, PA 17126-0333, (717) 705-2343 or TDD (717) 787-7367.

JIM BUCKHEIT,
Executive Director

Appendix

PSSA Performance Level Cut Scores, as approved by the State Board of Education, are as follows:

Performance Level Cut Scores

<i>Performance Levels</i>	<i>Science</i>		
	<i>Grade 4</i>	<i>Grade 8</i>	<i>Grade 11</i>
Advanced	1483 and up	1464 and up	1347 and up
Proficient	1275—1482	1275—1463	1275—1346
Basic	1150—1274	1150—1274	1150—1274
Below Basic	1149 and below	1149 and below	1149 and below

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RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 139]

Amusement Rides and Attractions Erected Permanently or Temporarily at Carnivals, Fairs and Amusement Parks

The Department of Agriculture (Department) hereby amends Chapter 139 (relating to amusement rides and attractions erected permanently or temporarily at carnivals, fairs and amusement parks) to read as set forth in Annex A.

Statutory Authority

The Amusement Ride Inspection Act (act) (4 P. S. §§ 401—419) provides the legal authority for the final-form rulemaking.

Section 4 of the act (4 P. S. § 404) prescribes the powers and duties of the Department with respect to amusement rides and authorizes the Department to adopt regulations necessary to its administration of the act.

Purpose of the Final-Form Regulations

The final-form regulations update the Department's amusement ride and amusement attraction regulations to reflect developments in the amusement ride and amusement attractions industry in the 21 years since current regulations were last updated, moves these regulations into greater conformity with well-regarded National industry standards for the safe erection and operation of amusement rides and amusement attractions (the American Society for Testing Materials International F-24 Committee Standards) and provides a clearer set of standards for the regulated community.

The amusement ride and amusement attraction industry is a vital, evolving industry. Amusement rides that are common today, such as inflatable bounce rides, climbing walls and water rides, were not in widespread use when the current regulations were last amended. In addition, as the Department has carried-out its responsibilities in administering and enforcing the current regulations over the years, it has identified provisions that are unclear, that are inconsistent with the act or that are not as comprehensive or detailed as their counterpart provisions in the American Society for Testing Materials International F-24 Committee Standards.

Comments and Responses

A notice of proposed rulemaking was published at 37 Pa.B. 2823 (June 23, 2007), affording the public, the Legislature and the Independent Regulatory Review Commission (IRRC) the opportunity to offer comments. Comments were received from IRRC, Hersheypark, Kennywood Entertainment, Inc. (Kennywood) and the Pennsylvania State Association of Township Supervisors.

The Department afforded interested persons a second opportunity to offer comments. Advance notice of the final-form rulemaking was published at 38 Pa.B. 1830 (April 19, 2008). The notice afforded interested persons an opportunity to review the Department's draft of the final-form rulemaking, and to offer comments through May 6, 2008. Five persons offered comments as a result of this advance notice of final rulemaking. The commentators were the Inflatable Industry Purchasing Group, Inc.,

two qualified inspectors, Doylestown Rock Gym Adventure Center, Inc., and the President/CEO of Magic Carousels, LLC.

A summary of comments received during the comment periods described in the preceding paragraphs follows. If the comment was received in response to the advance notice of the final-form rulemaking, that fact is noted in the summary of the comment.

Comment 1: While offering a number of specific comments addressed as follows, Kennywood also offered general support for the Department's effort to provide needed regulatory guidance to park operators. The Pennsylvania Association of Township Supervisors also offered its agreement with the need for an updating of the amusement ride regulations.

Response: The Department acknowledges these comments, and agrees the final-form rulemaking will provide helpful guidance to the regulated community.

Comment 2: In response to the advance notice of this final-form regulations provided by the Department, Doylestown Rock Gym Adventure Center, Inc., sought clarification as to the extent that "climbing walls" are subject to the final-form rulemaking. The commentator wanted to know whether there is a difference between permanently-constructed climbing walls, portable climbing walls and climbing walls that are onsite at amusement parks, fairs or carnivals.

Response: The Department takes the position that a climbing wall located within a rock climbing gym is not located within an "amusement park," "fair" or "carnival," as those terms are defined in the act, and for this reason is not subject to the regular inspection requirements set forth in section 7(a) of the act (4 P. S. § 407(a)).

Comment 3: In response to the advance notice of the final-form rulemaking provided by the Department, a qualified inspector offered a comment expressing in strong terms that he felt the Department did not conduct sufficient outreach to qualified inspectors in drafting the proposed rulemaking and the final-form regulations. The commentator also suggested the Department might have made some deliberate effort to exclude certain sections of the regulated community from participating in the development of the final-form regulations.

Response: The Department rejected this comment. The project to revise the Department's amusement ride regulations has been underway for at least 5 years. In that time, at least six drafts of proposed regulatory revisions have been provided to the Amusement Ride Safety Advisory Board (Board) for review and input. The Department has solicited and considered opinions and advice from all segments of the amusement ride industry; and has striven to make the final-form rulemaking the well-reasoned product of a collaborative effort. The Department took the additional step of publishing advance notice of the final-form rulemaking and providing interested persons a second opportunity to comment—beyond the comment opportunities required under the Regulatory Review Act (71 P. S. §§ 745.1—754.15).

Comment 4: With respect to proposed § 139.1 (relating to scope), IRRC asked ". . . who is responsible for ensuring the safety of users of rented inflatable devices or similar devices?" To focus its question, IRRC offered the example of a neighborhood association that rents an amusement

ride for an event, and raised questions as to who would be responsible for the proper operation of the ride, whether the ride would be considered a “commercially used” ride if the riders were not charged a fee to use the ride, and the extent to which the entity that rented the ride to the neighborhood association remains responsible for its operation.

Response: An owner of an amusement ride that is to be operated within this Commonwealth is required to register the ride with the Department, inspect it regularly in accordance with the act, obtain required minimum insurance coverage in accordance with the act, and see that the ride is erected and operated in accordance with the manufacturer’s instructions. Entities that rent amusement rides to third parties take various approaches to meeting these requirements. Some transport the ride to the site, erect it and provide trained operators for the ride. Some deliver the ride, provide written instructions as to erection and operation, and retrieve the ride at the end of the rental. Some provide instruction but leave pick-up, delivery, erection, operation and return entirely to the person who rents the ride. Whatever the approach of the entity that rents an amusement ride, basic responsibility for compliance with the act and its attendant regulations rests with the ride owner.

The Department acknowledges that the ride rental industry—particularly the segment of that industry that rents inflatable bounce rides—is a comparatively new segment of the amusement ride industry and is not squarely addressed in the act. Section 9 of the act (4 P. S. § 409) describes the circumstances under which the Department is authorized to issue a variance from any rule, regulation or standard relating to amusement rides. The Department has issued a variance with respect to certain entities that rent inflatable bounce rides, modifying certain preoperation inspection and itinerary requirements and acknowledging that it will monitor and—if necessary—revise the variance. The Department intends to seek to have the act more specifically address this segment of the amusement ride industry on the next occasion it is amended.

Under the example provided by IRRC in this comment, the rented ride would be a “commercially used” amusement ride even if the riders were not charged a fee. The proposed definition of the term “commercially used” is set forth in § 139.2 (relating to definitions). Under that definition, the rented ride in the hypothetical would be “. . . offered for use by persons in consideration of payment of a . . . rental fee . . . as a condition of use of the ride or attraction.” The entity that owns the ride and rents it to a third person makes the payment of a rental fee a condition of that third person’s use of the ride, so the use of that ride is a “commercial use.”

With respect to IRRC’s question as to the extent to which the entity that rents a ride to a third party remains responsible for its operation, the entity that rents the ride to a third party is required to have the minimum insurance coverage required under the act, and is ultimately responsible for the safe operation of its ride.

Comment 5: With respect to inflatable amusement rides and other rented amusement rides, IRRC sought clarification as to how and when inspections occur for inflatable devices and other amusement rides or attractions that are rented out to private groups or families. IRRC asked whether these inspections occur when the rides or attractions are rented and erected, and recommended this be explained in the final-form regulations.

Response: All amusement rides—including rented amusement rides—must be inspected in accordance with section 7 of the act (4 P. S. § 407), unless they are exempted from these requirements in accordance with a variance issued by the Department under authority section 9 of the act. A variance issued by the Department on July 17, 1998, defines an “inflatable bounce ride rental entity,” and exempts certain inflatable rides from the inspection and itinerary requirements imposed by the act, but requires the inflatable bounce ride rental entity to file an inspection affidavit with the Department, reflecting that the ride has been inspected no more than 1 month in advance of the rental.

Comment 6: Kennywood noted the increase in Halloween and Fall Harvest seasonal attractions in recent years, and recommended that the final-form regulations make clear that these attractions fall within the scope of the act. The referenced attractions include “haunted houses,” corn mazes and other attractions. Kennywood believes that a number of these attractions do not comply with the act and its attendant regulations. Kennywood also offered that enforcement should be without regard to whether the attractions are temporary or part of established amusement parks, or whether operated by for-profit or nonprofit entities.

Response: For the reasons that follow, the Department declines to attempt to modify or expand upon the statutory definition of an amusement ride or an amusement attraction, but acknowledges that these definitions present enforcement challenges for the Department.

The Department agrees that there has been a proliferation of the type of rides and attractions described in this comment. As is the case with amusement ride rental entities (See previous Comment and Response Nos. 4 and 5), this new and growing segment of the amusement industry is not squarely addressed in the act; and the Department intends to seek to have the act more specifically address this segment of the amusement ride industry on the next occasion it is amended.

The act defines what constitutes an “amusement ride” and what constitutes an “amusement attraction,” and the Department’s authority is limited by those definitions. Although a “haunted house” in a building or structure clearly falls within the definition of an “amusement attraction,” there are such things as “haunted trails,” “haunted forests,” “haunted corn mazes” and similar attractions that are held entirely outdoors. If no building or structure is involved in the attraction, it would not fit within the act’s definition of an “amusement attraction.” This is illustrative of some of the enforcement issues the Department faces in this general area. Against this backdrop, the Department pursues registration of every “haunted house” and other entity that constitutes an “amusement ride” or “amusement attraction,” of which it is aware, and will work with the commentator to identify any ride or attraction that is not operated in compliance with the act.

The Department agrees with the commentator that enforcement of the act should be without regard to whether the subject amusement ride or amusement attraction is temporary or part of an established amusement park, or whether operated by a for-profit or nonprofit entity.

Comment 7: Kennywood recommended the final-form regulations define what constitutes an “accident” for purposes of reporting accidents involving serious injury, serious illness, or death. The commentator offered that:

“Overstating the number of real accidents could mislead the media and the legislature as to the safety of the rides.” The commentator also offered the following definition:

“Accident”—A mechanical, electrical or structural defect or malfunction that results in the failure of the ride or attraction to operate as designed or intended; failure by the ride operator to follow standard operating procedures resulting in an injury to a rider.

Response: The Department declines to add the recommended definition.

Section 13 of the act (4 P. S. § 413) requires the reporting of: “. . . any accident which involves serious injury or illness or death to an individual or individuals as a result of the operation of an amusement ride or attraction.” Although “serious illness or injury” is defined in the act, “accident” and “operation” are not.

Proposed § 139.2 adds a definition of “operation” which includes the loading, unloading and movement of amusement rides and attractions, but would exclude that portion of a passenger line that extends beyond the gate or rail that is required to surround the ride under ASTM International F-24 Committee standards. This provides greater clarity, and would not require the reporting of accidents that occur in waiting lines that extend outside the immediate enclosure of the ride or attraction.

The Department is aware that the ASTM International F-24 Committee is currently considering whether to establish a definition of an “accident,” but is not aware of whether this definition will actually be established. The Department will leave this word undefined in the regulations. If the ASTM International F-24 Committee subsequently defines the term and there is no contrary definition in the act or its attendant regulations, the ASTM International F-24 Committee definition shall control.

Comment 8: Hersheypark recommended that a definition of “attraction” be added to the final-form regulations.

Response: The Department declines to implement this recommendation. The term “amusement attraction” is defined in section 2 of the act (4 P. S. § 402), and is the term that is relevant throughout Chapter 139. Every reference to the term “attraction” in the final-form regulations refers to an amusement attraction—and that phrase is defined by statute and repeated in § 139.2.

Comment 9: Hersheypark recommended that a definition of “amusement ride and devices” be added to the final-form regulations.

Response: The Department declines to implement this recommendation because the phrase is not used in the final-form regulations. The phrase is used and defined in the ASTM International F-24 Committee Standards, but is not used in the act or the final-form regulations and is not needed.

Comment 10: IRRC noted that the definition of “Class I amusement ride or attraction” in proposed § 139.2 included live animal rides within that definition. IRRC also noted that the definition of an “amusement ride” in section 2 of the act uses the words “any device that carries, suspends or conveys passengers” and does not include the word “animal.” Against this backdrop, IRRC asked whether a live animal would need to be registered and inspected as an amusement ride under the act, and requested an explanation of the Department’s authority to address live animal rides.

Response: The Department does not require the registration or inspection of a live animal ride unless the ride entails attaching an animal to a device—in which case the device is an “amusement ride” that is registered and inspected. The typical live animal ride that is registered and regulated under the act resembles a live-animal merry-go-round: a fixed central vertical axle with individual animals tethered or otherwise attached to spoke-like appendages extending from the central axis, restricting the animals to a specific course and direction. When the live animal ride employs a device as described previously, it must be registered and inspected. Live animal rides that entail simply letting the rider steer the animal or having an attendant lead the animal through the ride are not registered or inspected under the act. The Department believes its interpretation of the types of live animal rides that must be regulated as “amusement rides” is consistent with the act.

Comment 11: IRRC also noted a typographical error in the definition of “Class I amusement ride or attraction” in proposed § 139.2, and suggested the parenthetical phrase at the end of subparagraph (iii) be revised to read “(4 P. S. § 414(a)(1))” instead of “(4 P. S. § 414(a)(2)).”

Response: The Department accepts this suggestion, and has implemented the recommended change in the final-form regulation.

Comment 12: Hersheypark asked that the final-form regulations contain definitions of the terms “general inspector” and “independent inspector.”

Response: Proposed § 139.2 defines the terms “affiliated qualified inspector” and “general qualified inspector;” and those terms are used throughout the final-form regulation. While an affiliated qualified inspector may only inspect rides and attractions owned or leased by designated entities, a general qualified inspector may inspect rides and attractions without regard to who owns or leases them. Although the Department declines to implement the commentator’s recommendation, it believes the substance of that recommendation is embodied in the definition and use of the terms “affiliated qualified inspector” and “general qualified inspector.”

Comment 13: Kennywood noted that proposed § 139.2 contains a definition of “operation” that would (in the context of amusement rides and amusement attractions) include the loading and unloading of guests while the ride is in a stationary position. The commentator added:

. . . Reporting bumps, bruises, twisted ankles or other events while loading or unloading a ride will only serve to inflate the number of accidents. Such events are more a reflection on the physical condition of the guests and their ability to pay attention than on ride safety. We do not think the number of guests encountering problems boarding rides is any more or less than for passengers boarding buses, planes or other transportation vehicles. The legislature does not compile data in those cases. We request that events while loading and unloading rides be eliminated from the definition of “operation.”

Response: The Department notes that the ability to load and unload riders in a safe, efficient and rapid manner is a consideration in the design of any amusement ride or amusement attraction, and is frequently addressed in the ASTM International F-24 Committee Standards. For this reason, the Department believes it reasonable to adopt a definition of “operation” that includes some aspects of the loading and unloading process. The referenced definition seeks to limit the scope of what

constitutes the "operation" by excluding activities that take place outside the fence or protective barrier that is required to surround an amusement ride under ASTM International F-24 Committee Standards.

Comment 14: Hersheypark offered a comment that is related to the preceding comment by Kennywood. The commentator suggested language be added to the definition of "operation" in proposed § 139.2 to address situations where the ASTM International F-24 Committee Standards do not require a fence or barrier, and offered language.

Response: The Department accepts this comment, and has added language to the definition of "operation" to implement the commentator's suggestion.

Comment 15: Hersheypark recommended that the definition of "permanent structure" in proposed § 139.2 be better defined, and offered language that would clearly include ride stations and similar structures in the definition.

Response: Although the Department agrees the commentator's idea would add some clarification, the definition of the term "permanent structure" is prescribed by section 2 of the act, and the Department cannot stray from that language in the final-form regulation.

Comment 16: IRRC and Kennywood offered similar comments on the definition of the term "professional engineer" in proposed § 139.2. IRRC offered that the proposed definition is unclear as to whether it would include out-of-State engineers who are allowed to practice temporarily in this Commonwealth under section 5(b) of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § 152(b)). IRRC noted that an amusement park might have affiliated parks in other states, and asked whether an out-of-State engineer who complies with the referenced statutory provision and is familiar with the act and its attendant regulations could provide verification for their rides under proposed § 139.4(d)(7)(ii) (relating to registration). IRRC recommended the final-form regulations clarify whether an out-of-State engineer may perform the required tasks for the owner or lessee.

Kennywood requested that consideration be given to allowing the referenced engineer's verification to be provided by any professional engineer licensed in any state and who is a member of the National Society of Professional Engineers.

Response: The Department has revised the referenced definition to clearly state that the term "professional engineer" does not include engineers who are exempt from registration and licensure under section 5(b) of the Engineer, Land Surveyor and Geologist Registration Law. The exemption allows out-of-State engineers to engage in the practice of engineering within the Commonwealth for up to 30 days each calendar year without having to be licensed and registered, as long as the standards of their home jurisdiction are "at least equal to the standards of the Commonwealth." There are many jurisdictions that do not have professional qualification standards that equal or exceed those of the Commonwealth. The Department believes that the best and simplest way to verify that another jurisdiction's professional qualification standards for engineers are at least equal to those of this Commonwealth is for the out-of-State engineer to have a license (a temporary license would suffice) issued through the State Registration Board for Professional Engineers, Land Surveyors and Geologists.

With respect to Kennywood's request that membership in the National Society of Professional Engineers determine whether an engineer is a "professional engineer," the Department declines to implement this request, since this membership in this organization is not proof that a member meets the Commonwealth's standards for engineers.

Comment 17: IRRC noted that the final-form regulations would add and define two new terms—"affiliated qualified inspector" and "general qualified inspector." IRRC suggested that the definition of "qualified inspector" in § 139.2 be revised to make it clear that the term includes "affiliated qualified inspectors" and "general qualified inspectors."

Response: Although the definition of "qualified inspector" is prescribed by the act, the Department agrees that IRRC's suggested change would add clarity, and has included the recommended language in the final-form regulation.

Comment 18: Kennywood offered several comments with respect to the definition of "serious injury or illness" in proposed § 139.2. The term is used in proposed § 139.11 (relating to accident reporting), which would require owners or lessees of amusement rides to report accidents involving serious injury or illness. The commentator expressed concern that a ride owner or lessee might not know that a particular rider who is injured in connection with the operation of an amusement ride sustained serious injury or illness. The commentator requested that language be added to clarify that there is no reporting requirement unless the park operator has knowledge of the event prior to the time the patron leaves the park, or until the operator receives medical records verifying that offsite medical treatment was administered. The commentator adds:

... This modification will clarify reporting for telephone calls or letters reporting alleged injuries or illness received days or weeks after an event where the operator lacks any prior knowledge. We request clarification that any offsite medical treatment must be administered or recommended by a licensed physician. This will eliminate the uncertainty of who must recommend treatment in order for it to be a "serious injury or illness." Many parks hire first aid professionals to provide onsite assistance. In almost every case the first aid provider will suggest to a guest that they follow up with their own physician if any problems arise. This recommendation should not by itself elevate a minor injury to a "serious injury."

Response: The term "serious injury or illness" is prescribed by section 2 of the act. The Department shares the commentator's concern that—from the perspective of the ride owner or lessee that is required to report "serious injury or illness"—the statutory definition of that term appears to make the owner or lessee responsible to report serious injuries or illnesses of which it might not be aware. In practice, though, the Department does not hold an owner or lessee accountable to report (or report within the required 48-hour window) serious injuries or illnesses of which it is not aware. The Department expects an owner or lessee to pass along the required report of "serious injury or illness" once it acquires knowledge that the injury or illness falls within the statutory definition. In the longer term, the Department intends to consider revisions to this definition on the next occasion the act is amended.

Comment 19: IRRC offered several comments with respect to proposed § 139.4. Proposed § 139.4(d)(7)(ii)(B) would require confirmation from a professional engineer that the materials and construction of a ride or attraction conform to “normal engineering practices, procedures, standards and specifications.” In addition, proposed subsection (d)(7)(ii)(C) uses the term “accepted engineering practices.” IRRC offered that both of these standards are vague, and that: “It would be difficult for professional engineers to know exactly what it is that they are confirming and it would be difficult for the Department to enforce these provisions.” IRRC recommended these standards either be better-defined or deleted. IRRC based the option to delete on subsection (d)(7)(ii)(D), which would require a ride or attraction to meet ASTM International F-24 Committee Standards.

Response: The Department declines to delete or revise the referenced language. The Department consulted with the mechanical engineer member of the Board on this subject. Terms such as “accepted engineering practices” and “normal engineering practices” are commonly used and widely understood throughout the various technical engineering disciplines (such as, mechanical, electrical, civil, structural, and the like). The Department does not seek to constrict or limit the professional engineer.

Comment 20: Hersheypark reviewed proposed § 139.4(e) and suggested that language should be added to address or require Board review of proposed amusement ride or amusement attraction registrations. The commentator asks: “What is the mission of Board relating to ride review?”

Response: For the reasons that follow, the Department declines to implement the commentator’s recommendation.

The duties of the Board do not include a formal role in the Department’s review and approval of amusement rides and amusement attractions under the act. In summary, the statutory duties of the Board (under section 6 of the act (4 P. S. § 406)) are to:

... advise, consult, make recommendations and propose reasonable rules, regulations and standards to the department for the prevention of conditions detrimental to the public in the use of amusement rides and attractions as the board finds necessary for the protection and safety of the public . . .

The Board comprises a knowledgeable cross-section of interests and experience relating to amusement rides and attractions. The Board’s statutory role is to consult and advise. The Department views the Board as an invaluable resource, and seeks-out this body with respect to each application for approval of an amusement ride or amusement attraction. Although the Board is not an adjudicatory or decision-making body, the Department presents every proposed amusement ride or amusement attraction registration to the Board, and seeks its advice and recommendation. The final decision with respect to a registration application lies with the Department, though. The Department cannot, by regulation, expand upon the scope of the duties imposed on the Board under the act.

Comment 21: Hersheypark noted that proposed § 139.4(h) would require that the Department-issued registration plate be affixed to each amusement ride or attraction in a location where the plate is visible to the riding public, and suggested that language be added to allow the plate to be affixed or posted other than on the ride or attraction if necessary to make the plate visible to the riding public.

Response: The Department accepts this suggestion, and has implemented it in the final-form regulation.

Comment 22: Kennywood noted that proposed § 139.5 (relating to insurance) would delete current regulatory language that allows for required insurance coverage to be provided through businesses eligible to do business under the Surplus Lines Insurance Law. The commentator stated that some of its current insurance coverage is provided through “non-admitted surplus lines carriers,” and that the regulation would serve to exclude these providers from being able to provide coverage. The commentator suggested that the regulation should “. . . allow surplus line carriers who have an insurance rating by A. M. Best of B+ or higher.”

Response: The Department agrees that the subject of surplus lines insurance needs to be referenced in the final-form regulations. Although section 14(b) of the act (4 P. S. § 414(b)) authorizes required insurance coverage to be obtained through any insurer or surety that is eligible to do business under the Surplus Lines Insurance Law, the Surplus Lines Insurance Law was repealed by the act of December 18, 1992 (P. L. 1519, No. 178). The subject matter of the repealed Surplus Lines Insurance Law is currently found in Article XVI of The Insurance Company Law of 1921 (40 P. S. §§ 991.1601—991.1625). The Department has inserted this appropriate legal reference in the final-form regulations.

Comment 23: Hersheypark and Kennywood both offered essentially the same comment with respect to proposed § 139.5(c)(3). The concern is with whether that paragraph means that all of a particular owner or lessee’s rides have to be listed individually on the required certificate of insurance. Hersheypark noted that this would be difficult to administer by both the owner and the Department, and Kennywood noted that the Department would have this information on the registration forms it requires with respect to these rides.

Response: The Department agrees with the commentators, and has added language to this paragraph to allow a certificate of insurance to either list all insured rides or clearly state that all rides owned, operated or leased by the insured are subject to the insurance policy.

Comment 24: In response to the advance notice of this final-form rulemaking provided by the Department, the Inflatable Industry Purchasing Group, Inc. recommended that the final-form rulemaking establish a requirement that there be mandatory insurance coverage and documentation requirements for amusement ride and amusement attraction manufacturers and distributors. This would be in addition to the owner and operator insurance requirements set forth in proposed § 139.5.

Response: Although the Department believes it would be sound business practice for an amusement ride or amusement attraction manufacturer or dealer to carry adequate insurance coverage to address the risks and liabilities it is likely to encounter, the Department declines to establish a mandatory insurance requirement for these entities in the final-form rulemaking. The General Assembly has made clear the limits of the type of insurance coverage the Department can require; and the expansion of these requirements recommended by the commentator would exceed the Department’s legislative authority in this area. Section 7 of the act imposes specific insurance requirements with respect to owners and operators of amusement rides and amusement attractions; but does not go so far as to extend insurance requirements to manufacturers and dealers.

Comment 25: Hersheypark noted that proposed § 139.7(b) (relating to inspection) might be read as requiring rides to be inspected year-round, rather than only during seasons when the rides are in operation for the riding public. Hersheypark also noted that the current § 139.7(b)(1)—which is proposed for deletion—uses the phrase “during a season for operation for use by the general public” to limit the period within which regular inspections are required, and suggested this phrase be worked into the final-form regulation to add clarity.

Response: The Department accepts this suggestion, and has implemented it in the final-form regulations.

Comment 26: Hersheypark reviewed proposed § 139.9(a) (relating to qualified inspectors), and observed that it requires amusement ride inspections to be completed by qualified inspectors. The commentator expressed concern that this might be read as requiring that only “qualified inspectors” conduct the numerous daily inspections performed at amusement parks.

Response: The Department believes that a full reading of the referenced provision would avoid confusion on the part of the regulated community. The referenced subsection requires that a qualified inspector perform any inspections of amusement rides or amusement attractions “. . . required under the act.” The numerous daily inspections performed at amusement parks are not the regular inspections required under the act—so they need not be performed by persons who are “qualified inspectors” for purposes of the act.

Comment 27: IRRC noted that proposed § 139.9(g) would require the Department to “promptly” report the results of a Qualified Inspector Test to the applicant. The commentator recommended that the final-form regulation include a more definitive time frame for reporting results to an applicant.

Response: The Department accepts the comment, and has implemented IRRC’s recommendation in the final-form regulation by requiring the test to be scored, and the test results reported to the applicant, within 30 days of the test.

Comment 28: Hersheypark noted that proposed § 139.9(k)(1)(i) would require a qualified inspector who is seeking renewal of certification to provide the Department a variety of information and material to prove compliance with continuing education requirements. The commentator suggested that since proposed § 139.9(l) would require continuing education courses to be approved by the Department, a course completion certificate—reflecting completion of one of these Department—approved continuing education courses—should be all the documentation the Department requires to verify that continuing education requirements have been met.

Response: The Department accepts this comment, and has implemented it in the final-form regulation.

Comment 29: IRRC noted that proposed subsection 139.9(l) includes provisions that would allow the Department to reduce the hours of continuing education required for certain types of rides or attractions by means of a publication of notice in the *Pennsylvania Bulletin* without a rulemaking or amendment to the regulation. IRRC offered the following:

. . . The subsection states that this action would be considered for rides or attractions “of a comparatively simple design or operation.” This is very similar to the definition for “Class I” rides or attractions. Hence, it is unclear what would justify a reduction in the

requirement. This subsection needs to be refined to provide more information about the bases or criteria that would be used to reduce the continuing education requirement for certain rides or amusements.

Response: The distinction between “Class I” amusement rides and “Class II” amusement rides exists only for the purpose of determining the appropriate minimum liability insurance coverage for these rides. The classification of amusement rides as “Class I” or “Class II” is made in section 14 of the act—the provision of the act addressing required insurance coverage—and nowhere else.

The Department seeks to separate insurance issues from continuing education requirements. There is not a perfect correlation between the two. Also, given the constant innovation in the amusement ride industry, the Department seeks to preserve some reasonable leeway with respect to the minimum hours of continuing education required with respect to a particular type of ride.

In response to IRRC’s suggestion, though, the Department has revised this subsection to provide that continuing education would never be less than 16 hours.

Comment 30: Hersheypark reviewed proposed § 139.9(l), emphasized the importance of continuing education, and reminded the Department that its own inspectors should comply with the minimum continuing education requirements. The commentator also recommended that the minimum training for a general qualified inspector be reduced from the proposed 48-hour minimum to 40 hours. The commentator noted that “. . . larger seminars generally last 3 to 5 days with 8 hours of instruction per day,” and suggested that 48 hours would require attendance at more than one of those seminars.

Response: The Department declines to implement this recommendation. The proposed 48-hour minimum will likely require that a general qualified inspector attend more than one seminar during the 3-year certification period preceding recertification; and this is by design. The Department believes continuing education is important, and that requiring a general qualified inspector to attend more than one training course during a period of certification is reasonable.

Comment 31: In response to the advance notice of the final-form rulemaking provided by the Department, the President/CEO of Magic Carousels, LLC, noted his familiarity with the assembly, operation and upkeep of the amusement rides in his charge. He also described how he had a direct interest in making sure these rides are mechanically safe, and are manned by well-trained operators. His concern was that the “current PA training and continuing education is excellent and should be sufficient for re-certification,” but that the training requirements in the final-form regulation would create a hardship by keeping a certified inspector away from his workplace for “more than a week” pursuing the required continuing education described in proposed § 139.9(l).

Response: The Department declines to revise the training requirements described in § 139.9(l) of the final-form rulemaking. The commentator would fall within the “affiliated qualified inspector” category of qualified inspector; and the final-form regulations would simply require 24 hours of appropriate continuing education training over the 3-year interval during which certification remains in effect. This equates to one 8-hour training course each year. The Department believes this is not an unduly burdensome continuing education requirement.

Even if the commentator is a “general qualified inspector,” the continuing education requirement would be a total of 48 hours—averaging only 16 hours of continuing education each year. The Department does not believe this requirement is overly burdensome.

Comment 32: In response to the advance notice of this final-form rulemaking provided by the Department, a qualified inspector offered several related comments with respect to § 139.9(l). The commentator suggested that the minimum number of hours of required continuing education for an affiliated qualified inspector should be 48 hours—the same as for a general qualified inspector. The commentator expressed skepticism over whether there are actual differences between the responsibilities of these inspectors so as to justify different minimum continuing education requirements. The commentator offered that amusement rides: “. . . are becoming more complex and the older rides are aging and both have an increased need for inspector expertise.” The commentator was also critical of the language that would allow the Department to reduce the minimum continuing education requirements to as few as 16 hours with respect to certain rides and attractions it determines to be of a “comparatively simple design.”

Response: The Department declines to revise the minimum continuing education requirements in response to this comment. A general qualified inspector may inspect a wider array of amusement rides than an affiliated inspector. The Department is satisfied that the difference between the minimum continuing education requirements for affiliated qualified inspectors and general qualified inspectors (24 hours v. 48 hours) is justified by the wider range of amusement rides and amusement attractions that may be inspected by a general qualified inspector. As far as the 24-hour minimum continuing education requirement for affiliated qualified inspectors is concerned, the Department is satisfied that this is an adequate requirement. As far as the language affording the Department the option to reduce the continuing education requirement to as few as 16 hours under certain circumstances, the Department believes that this language provides it a tool by which to accommodate the owners and operators of simpler rides. In considering whether to exercise this option, though, the Department will err on the side of requiring more than the minimal training necessary to the safe erection and operation of a given amusement ride or amusement attraction.

Comment 33: Several comments were received with respect to proposed § 139.10 (relating to advisory board), which the Department proposed to delete. Kennywood sought confirmation that the composition and duties of the Board would remain as prescribed by the sections 5 and 6 of the act (4 P. S. §§ 405 and 406). Hersheypark offered that: “. . . The mission and responsibility of the Advisory Board needs to be included and annotated in the rulemaking,” and asked why the section is proposed for deletion. Hersheypark also offered that:

The integration between the Department of Agriculture and the experience of the board member is paramount to the successes of the amusement industry. Deleting any reference to the Advisory Board suggests that safety of the industry is not important.

Hersheypark also recommended that the regulation continue to specify that seats on the Board be reserved for the President and Chairperson of the Pennsylvania Amusement Park Association.

Response: As proposed, the Department would simply delete § 139.10 and allow the language of sections 5 and 6 of the act to speak for itself. The Department believes that the referenced statutory language is self-executing, that the current regulatory provision is somewhat out-of-step with the act, and that it would serve no regulatory purpose to simply repeat the exact language of the act.

In light of the comments offered with respect to proposed § 139.10, though, the Department has revised that section in the final-form regulation to restate the exact composition of the Board, as prescribed by the act. The Department concedes that the inclusion of a reference to the Board’s composition and function can do no harm; but the Department cannot by regulation limit or expand the composition or duties of the Board.

Comment 34: IRRC reviewed proposed § 139.11 (relating to accident reporting), and noted that the definition of the term “serious injury or illness” in section 2 of the act includes situations where “offsite medical treatment . . . may be required at a future date.” IRRC observed that, in practice, an owner or operator might have no idea that a person sought or received “offsite medical treatment” after sustaining an injury or illness related to the operation of an amusement ride or amusement attraction. IRRC questioned whether the Department expected or required a report under these circumstances. IRRC recommended that the final-form regulation clarify the circumstances under which a report is required, and raised the question:

If the injured or ill party is not transported offsite for medical treatment within a few minutes or on the same day of the accident, then why is an owner, operator or lessee required to report the injury or illness?

Response: The Department agrees that the requested clarification would be helpful, and has implemented this recommendation in § 139.11(a) of the final-form regulation by adding language specifying that the Department would not hold an owner or lessee responsible to report a death or serious injury or illness of which it is unaware.

Comment 35: IRRC noted the absence of the word “illness” in proposed § 139.11(b)(5)—(7), and recommended this term be worked into the language of these provisions.

Response: The Department accepts IRRC’s recommendation, and has revised the final-form regulation accordingly.

Comment 36: Section 13 of the act requires that an accident report include a description of the amusement ride involved and the nature of the injuries or the cause of death. Kennywood took note of this, and asked whether the Department would exceed its statutory authority by requiring an accident report to provide more detail than is described in the preceding sentence. The commentator also questioned whether the Health Insurance Accountability and Portability Act of 1996 (HIPAA) would prohibit the disclosure of names of ill or injured persons and the nature of their injuries. The commentator also offered the following:

We believe that such information should remain confidential. We suggest that the regulations indicate that the operator retain all additional information related to the accident and that the inspector shall be permitted to review such records during any follow up inspections.

Response: The Department declines to revise the referenced section in response to this comment. The Department believes the act does not limit the types of information the Department might reasonably require in an accident report. Where section 13(a) of the act states that an accident report "shall include" certain information, the Department interprets this phrase as meaning "shall include, but is not limited to." The Department is also satisfied that it is not an entity to which HIPAA is applicable, in that it is not a health care provider as designated in that statute.

Comment 37: Kennywood reviewed proposed § 139.11 and requested that language requiring an owner or lessee to report certain "serious illness" to the Department be deleted. The commentator stated that:

... Based upon all the information presented, any individual who exits a ride and begins to experience motion sickness, illness or vomiting, which is not uncommon at an amusement facility, would require an accident report to be filed, this would dramatically increase the number of "false" accident reports.

Response: The Department declines to make the requested revision. An illness does not become reportable as a "serious illness" unless the illness requires offsite first aid, offsite medical treatment, observation by a licensed physician or admission to a hospital. In the examples presented by the commentator, the illnesses would rarely be reportable.

Comment 38: Section 7(d) of the act requires that when a death results from the operation of an amusement ride, it not be reopened "... until declared safe by the insurance company of the operator." Proposed § 139.11(c) repeats this requirement. Kennywood took note of this provision, and offered that Kennywood's insurance carriers would not declare a ride safe to reopen after a fatal accident. The commentator suggested that the final-form regulations simply require that an operator provide the Department a current certificate of insurance prior to reopening a ride after a fatal accident.

Response: The Department cannot implement the commentator's suggestion, since the referenced requirement that the insurance carrier declare a ride safe after a fatal accident is prescribed by the act.

Comment 39: IRRC noted that proposed § 139.12 (relating to variances) would be deleted in its entirety, and recommended the regulation retain a reference to section 9 of the act—the provision that describes variances—for owners or lessees who may need to apply for a variance. Kennywood noted this proposed deletion, and sought assurance that the referenced statutory language relating to variances would continue to apply.

Response: The Department accepts IRRC's comment, and has replaced § 139.12 with the relevant *verbatim* text from the act. This revision also addresses Kennywood's comment.

Comment 40: IRRC and Kennywood offered related comments with respect to proposed § 139.42(a) (relating to structures). Both commentators noted that the Pennsylvania Construction Code Act applies to buildings and similar structures, and that it does not include standards or requirements for amusement rides or attractions (which are addressed in the ASTM International F-24 Committee Standards). IRRC recommended that the final-form regulations be revised to clearly indicate that § 139.42 applies only to buildings, facilities or structures not manufactured as part of an amusement ride or

attraction and that the references to "rides" and ride or attraction in the first sentence be stricken.

Response: The Department agrees with the commentators. Language has been added to the final-form regulations to reflect that the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103) is only applicable to shelters and buildings that are not part of the amusement ride or attraction.

Comment 41: IRRC recommended that proposed § 139.43(8) (relating to passenger-carrying rides) be revised to include a reference to the ASTM International F-24 Committee Standards, since the term "clearance envelope" is a term-of-art from those standards. Hersheypark raised a comment with respect to this same paragraph, seeking clarification as to how existing rides might be exempted (grandfathered) from the referenced "clearance envelope" requirement.

Response: The Department accepts IRRC's suggestion, and has included the requested reference in the final-form regulations.

With respect to Hersheypark's concerns, the Department offers that the clearance requirements prescribed in this paragraph are reasonable and would be immediately applicable to an amusement ride or amusement attraction. If a ride or attraction was constructed at a time when the ASTM International F-24 Committee Standard for a "clearance envelope" was something other than as currently prescribed by those standards, the earlier standard would apply, in accordance with proposed § 139.41(c) (relating to general).

Comment 42: IRRC and Hersheypark offered essentially the same comment with respect to proposed § 139.72(2) (relating to erection/disassembly of amusement rides and attractions). Each sought clarification of what constitutes a "high voltage line."

Response: The Department accepts the comment, and has made the recommended clarification in the final-form regulations. Language has been added to link this provision to the definition of "high voltage line" as defined in the National Electric Code.

Comment 43: With respect to proposed § 139.72(3), Kennywood sought clarification as to whether preexisting amusement rides would be "grandfathered" from having to meet the requirement that means of egress be at least 36 inches in width.

Response: The Department believes this 36-inch standard is reasonable, and is consistent with current ASTM International F-24 Committee Standards for amusement ride egress. If a particular ride was designed or constructed with a narrower means of egress at a time when ASTM International F-24 Committee Standards did not require this width, the owner or operator may apply to the Department for a variance in accordance with § 139.12.

Comment 44: In response to the advance notice of final-form rulemaking provided by the Department, a qualified inspector offered that proposed § 139.74(c) (relating to temporary wiring) contained a misspelling of the word "receptacles."

Response: The commentator is correct. The error appears in the current regulation; and the final-form regulations corrects that error.

Comment 45: IRRC recommended that proposed § 139.75(a) (relating to fire protection and prevention) be revised to clarify the phrase "and otherwise where necessary to secure reasonable and adequate protection from fire hazards." IRRC added:

... What is the intent or objective? It is unclear how this phrase would be enforced as a binding standard on regulated parties. It should be clarified in the final-form regulations.

Response: The Department accepts IRRC's recommendation, and has added language to the final-form regulation to clarify that the objectives of fire extinguisher placement are to have extinguishers accessible and in use within 20 seconds of a person spotting a fire, and sufficiently removed or protected from potential exploding or highly-flammable material to prevent their damage or destruction in the initial explosion or flames.

Comment 46: IRRC offered the following comment with respect to proposed § 139.76(6) (relating to ride and attraction operators and attendants):

... It is our understanding that the phrase "sufficient numbers of operators and attendants" will always be enforced as meeting or exceeding the number of operators recommended by the manufacturer. If this is the case, the phrase "sufficient numbers of operators and attendants" is unnecessary and should be deleted. The final-form regulation need only state that the numbers of operators and attendants shall meet or exceed the manufacturer's recommendations.

Response: The Department accepts this suggestion, but has also added language to the final-form regulation to reflect that in the event a manufacturer does not provide recommended minimum numbers of operators or attendants, or these numbers are lesser than those prescribed in ASTM International F-24 Committee Standards, the existing standards calling for the highest number of operators or attendants applies.

Comment 47: In response to the advance notice of final-form rulemaking provided by the Department, a qualified inspector noted that § 139.77(c) (relating to maintenance of amusement rides and attractions) addresses wire rope used in connection with amusement rides, and recommended the "rag test" (a test by which the inspector runs a shop rag over a wire rope, with the expectation that the rag will snag on any broken strand) be described and required in the final-form regulation.

Response: The Department agrees that the rag test is a good method by which to detect tears in wire rope. Rather than incorporate that test into the final-form regulation, though, the Department will see that this tip for detecting tears in wire rope is referenced in relevant training courses.

Comment 48: With respect to proposed § 139.77(f)(8), IRRC recommended that the final-form regulation delete the following sentence: "Additional retention periods for this documentation may be advisable."

Response: The Department has made the recommended revision in the final-form regulation. In addition, the Department has expanded the period for which records must be kept and made available to the Department to 3 years.

Comment 49: Hersheypark sought clarification as to whether § 139.79(a)(2)(i) and (ii) (relating to records) were proposed for deletion in the proposed rulemaking.

Response: Since the Department does not propose to change or delete the referenced paragraphs, the text of these subparagraphs was not printed when the proposed rulemaking was published for comment. These paragraphs will remain unchanged.

Comment 50: With respect to proposed § 139.79, IRRC noted that this section requires owners or lessees to maintain certain records. The commentator offered:

... How long must the regulated parties retain these files in order to make them available for the Department or a qualified inspector? Records discussed in existing § 139.77(e)(8) are required to be retained for a year. The final-form regulation should include a similar directive for the records discussed in this section.

Response: The Department accepts this recommendation, and has revised the final-form regulations accordingly. Since the Department has revised § 139.77(e)(8) to require a 3-year record retention period, though, the new language establishes that same interval as the record retention period required under § 139.79.

Affected Individuals and Organizations

The final-form regulations will impact upon the amusement ride and amusement attraction industry, as well as upon the riding public. There are approximately 7,400 registered amusement rides and amusement attractions that are either located within this Commonwealth or that are brought into this Commonwealth (for events such as fairs and carnivals) each year. There are approximately 675 owners or lessees of these rides and attractions. This community of ride and attraction owners and lessees will be impacted by these final-form regulations, as would the riding public.

Fiscal Impact

Commonwealth. The final-form regulations impose no costs and have no fiscal impact on the Commonwealth.

Political subdivisions. The final-form regulation impose no costs and have no fiscal impact upon political subdivisions.

Private sector. The final-form regulation might impose some new costs on amusement ride or amusement attraction owners or operators. The final-form regulations might require some owners or operators to hire additional operators or attendants for their rides and attractions to meet or exceed the minimum number recommended by the ride or attraction manufacturer. The other changes that would be established by the final-form regulations would not have appreciable fiscal impact upon the private sector. Since the final-form regulations would move the Commonwealth's standards into greater conformity with the ASTM International F-24 Committee Standards and these standards are the widely-accepted industry standards for amusement ride and amusement attraction design, construction and operation, the related industry is either already in compliance with these standards or can readily come into compliance with these standards without appreciable costs.

General public. The final-form regulation would impose no costs and have no fiscal impact on the general public. The final-form regulations would enhance public safety.

Paperwork Requirements

The final-form regulations will not impact upon the paperwork generated by the Department or the regulated communities.

Effective Date

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

Contact Person

Individuals who need information about the final-form regulations should contact the Department of Agriculture, Bureau of Ride and Measurement Standards, Division of

Ride Safety, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: John Dillabaugh, Director.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 13, 2007, the Department submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 2823, to IRRC and the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs (Committees) for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department provided IRRC and the referenced Committees with copies of all comments received during the public comment period.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 5, 2008, the final-form regulations were deemed approved by the Committees. Under section 5.1(g) of the Regulatory Review Act, the final-form regulations were approved by IRRC on November 6, 2008.

Findings

The Department finds that:

(1) Public notice of intention to adopt these final-form regulations have 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, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law; and all comments that were received were considered. In addition, advance notice of the final-form regulations provided interested persons a second opportunity to comment.

(3) The modifications that were made to these regulations in response to comments received do not enlarge the purpose of the proposed amendments published at 37 Pa.B. 2823.

(4) The adoption of the final-form regulations in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The regulations of the Department, 7 Pa. Code Chapter 139, are amended by amending §§ 139.1—139.14, 139.41, 139.42, 139.71—139.77 and 139.79 to read as set forth in Annex A.

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

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

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

DENNIS C WOLFF,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 6429 (November 29, 2008).)

Fiscal Note: Fiscal Note 2-102 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 7. AGRICULTURE

PART V-D. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS

CHAPTER 139. AMUSEMENT RIDES AND ATTRACTIONS

Subchapter A. REGISTRATION AND INSPECTION

§ 139.1. Scope.

(a) This chapter prescribes policies and procedures relating to administration of safety standards for installation, assembly, repair, maintenance, use, operation, disassembly and inspection of amusement rides and amusement attractions erected permanently or temporarily at carnivals, fairs, amusement parks or any other location in this Commonwealth.

(b) This chapter applies to new and existing commercially used amusement rides and attractions subject to the act.

(c) This chapter does not apply to:

(1) An attraction principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

(2) Single passenger, coin-operated, manually, mechanically or electrically operated rides except where admission is charged for the use of the equipment.

(3) Licensed watercraft regulated by the Fish Commission or the United States Coast Guard.

(4) Aircraft regulated by the Federal Aviation Administration.

(5) Devices, including trains, regulated by the United States Government.

(6) Ski lifts, elevators or rides to the extent they are registered and regulated by any other agency of the Commonwealth.

(7) Amusement attractions, and amusement rides regulated by another Commonwealth agency and waterslides, to the extent that they are regulated by the Department of Health for pool design, sanitary facilities and similar features.

§ 139.2. Definitions.

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

Act—The Amusement Ride Inspection Act (4 P. S. §§ 401—419).

Affiliated qualified inspector—A qualified inspector with a Department-issued certificate and credential card authorizing that person to act as a qualified inspector only with respect to the amusement rides or amusement attractions of the owner or lessee designated on that certificate and credential card. An affiliated qualified inspector is not a general qualified inspector.

Amusement attraction—

(i) A building or structure around, over or through which people may move or walk, without the aid of a moving device integral to the building or structure, that provides amusement, pleasure, thrills or excitement.

(ii) The term does not include an enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

Amusement park—A tract or area used principally as a location for permanent amusement structures or rides.

Amusement ride—A device that carries, suspends or conveys passengers along, around or over a fixed or restricted route or course or within a defined area, for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

ASTM—American Society for Testing Materials—This organization is currently named and known as ASTM International.

ASTM International—The organization formerly known as ASTM or the American Society for Testing Materials.

ASTM International F-24 Committee Standards—The ASTM standards promulgated by the ASTM International F-24 Committee, as published in the current annual book of ASTM International Standards Volume 15.07, or its successor document.

ASTM standards—Standards promulgated by the ASTM entitled *Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses*, designation ASTM F 1305, or its successor, which provide procedures for the uniform classification of data related to amusement ride and device injuries and illnesses.

Attendant—A person having responsibility for some aspect of the operation of an amusement ride or attraction, but who is not an operator.

Board—The Amusement Ride Safety Advisory Board.

Carnival—An itinerant enterprise consisting principally of temporary amusement structures or mechanical rides.

Class I amusement ride or amusement attraction—A type of amusement ride or amusement attraction with respect to which the following apply:

(i) The ride or attraction is on the Department's most current list of approved rides.

(ii) The ride or attraction is a comparatively simple ride such as bumper cars, bumper boats, a multipassenger coin-operated kiddie ride, go-carts, a live animal ride, a manually powered ride, a miniature train, an inflatable bounce ride, slide or similar device.

(iii) The Department has, on its most current list of approved rides, designated the ride or attraction as belonging within "Class I" for purposes of establishing the appropriate required minimum liability insurance coverage required with respect to that ride or attraction, in accordance with section 14(a)(1) of the act (4 P. S. § 414(a)(1)).

Class II amusement ride or amusement attraction—A type of amusement ride or amusement attraction with respect to which the following apply:

(i) The ride or attraction is on the Department's most current list of approved rides.

(ii) The Department has, on its most current list of approved rides, designated the ride or attraction as belonging within "Class II" for purposes of establishing the appropriate required minimum liability insurance coverage required with respect to that ride or attraction, in accordance with section 14(a)(2) of the act.

Commercially used—In the context of amusement rides and amusement attractions, the term includes any ride or attraction offered for use by persons in consideration of

payment of a ticket fee, an entry fee, a rental fee or any other fee or charge as a condition of use of the ride or attraction.

Department—

(i) The Department of Agriculture of the Commonwealth.

(ii) The term includes employees of the Department.

Fair—An enterprise principally devoted to the periodic and recurring exhibition of products of agriculture, industry, education, science, religion or the arts that has one or more amusement rides or attractions operated in conjunction therewith in either temporary or permanent structures.

General qualified inspector—A qualified inspector with a Department-issued certificate and credential card authorizing that person to act as a qualified inspector, without limiting the exercise of that inspection authority to the amusement rides or amusement attractions of a particular owner or lessee. A general qualified inspector is not an affiliated qualified inspector.

Inspection—Inspection by a qualified inspector of an amusement ride, device or attraction for compliance with the act and this chapter.

Kiddy ride or kiddie ride—An amusement ride or attraction designed primarily for use by children up to 12 years of age.

Lessee—A person who leases an amusement ride or attraction from its owner, or from an authorized representative of an owner.

Major modification—A change in either the structural or operational characteristics of an amusement ride or amusement attraction which can alter its performance from that specified in the manufacturer's design criteria.

Major ride—An amusement ride or attraction that is not a kiddie ride.

National Electrical Code—The National Electrical Code NFPA No. 70-E, as revised, amended or corrected.

New amusement ride or amusement attraction—An amusement ride or attraction of a design not previously operated in this Commonwealth and for which no regulations have been adopted.

Operation—

(i) When used in the context of an amusement ride or attraction, the term includes the loading of persons onto the ride or attraction, the physical movement of the ride or—in the case of nonmechanical rides (such as slides) or attractions—the movement of persons on or through the ride or attraction, and the unloading of persons from the ride or attraction.

(ii) The term does not include the portion of a patron line that extends outside of any fence, wall, guardrail or gate that limits access to the amusement ride or amusement attraction and that is required in order for the ride or attraction to meet the ASTM International F-24 Committee Standards.

(iii) The term does not include that portion of a patron line that extends outside or beyond any device or object that limits or identifies control access for the ride or attraction if a fence, wall, guardrail or gate is not required in order for the ride or attraction to meet ASTM International F-24 Committee Standards.

Operator—A person actually engaged in or directly controlling the operation of an amusement ride or attraction.

Owner—

(i) A person who owns an amusement ride or attraction.

(ii) The term excludes the Commonwealth or its political subdivisions.

Pennsylvania Construction Code Act—35 P. S. §§ 7210.101—7210.1103.

Permanent structure—A structure, enclosure or arrangement of parts, used or intended to be used for or as an amusement ride or attraction, that is erected to remain a lasting part of the premises.

Person—Includes a corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Professional engineer—

(i) An individual licensed and registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2) or a successor statute to engage in the practice of engineering.

(ii) The term does not include a person who is exempt from licensure and registration under section 5(b) of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § 152(b)).

Qualified inspector—

(i) A person certified by the Department who by education, training or experience is knowledgeable with amusement ride operating manuals and the psychological effects each ride has upon a passenger. The person shall also be experienced in the erection and dismantling of amusement rides and shall be familiar with the specific equipment with that particular operator.

(ii) The term includes affiliated qualified inspectors and general qualified inspectors.

Secretary—The Secretary of the Department.

Serious injury or illness—

(i) An injury or illness that requires one or more of the following:

(A) Offsite emergency first aid.

(B) Offsite medical treatment, whether it is administered or recommended or may be required at a future date.

(C) Observation by a licensed physician.

(D) Admission to a hospital.

(ii) The term also includes an injury or illness that results in death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system.

Temporary structure—A structure, enclosure or arrangement of parts used, or intended to be used for or as an amusement ride or attraction, that is relocated from time to time with or without disassembly.

Working day—A day other than a Saturday, Sunday, National holiday or holiday of the Commonwealth.

§ 139.3. Compliance.

(a) *General requirement.* Owners, lessees and operators of amusement rides or attractions in this Commonwealth shall comply with this chapter.

(b) *Use of nonconforming rides or attractions prohibited.* An amusement ride or amusement attraction which is not in compliance with this chapter may not be used or occupied except as provided in subsection (c).

(c) *Nonconforming individual units.* Where only individual units of a ride, such as cars, seats or other carriers are defective and not in compliance with this chapter, the units shall either be removed from the operating area of the ride or shall be taken out of service and clearly marked with a sign reading “Out of Service” if the defects or removal do not jeopardize the safety of the entire ride or attraction.

§ 139.4. Registration.

(a) *Registration required.* An owner intending to operate or use an amusement ride or an amusement attraction in this Commonwealth during a calendar year shall register the amusement ride or amusement attraction with the Department prior to operation.

(b) *Duration of registration.* Registration of an amusement ride or an amusement attraction shall expire as of the earlier of the following:

(1) January 1 of the year immediately following the year with respect to which the registration is issued.

(2) The date upon which the registered amusement ride or amusement attraction undergoes a major modification.

(c) *Obtaining a registration application.* A person may obtain an amusement ride or amusement attraction registration application form by contacting the Department as described in § 139.14 (relating to contacting the Department). The Department will provide the form upon request, and make the form available for download through the Department’s web site: www.agriculture.state.pa.us.

(d) *Contents of registration application form.* A registration application form will require the following information:

(1) The name, address, e-mail address and telephone number of the owner.

(2) The name, address, e-mail address and telephone number of the lessee, if different than the owner.

(3) If the amusement ride or amusement attraction has previously been registered, the registration number appearing on the registration plate issued by the Department and attached to that ride or attraction.

(4) A description of the type of enterprise involved, whether a carnival, fair, park, rental company, go-cart track, water park, nonseasonal operation, or other.

(5) A list of each amusement ride or amusement attraction with respect to which registration is sought, by name, manufacturer’s name and serial number.

(6) The name, address, e-mail address and telephone number of the insurance carriers providing the owner, lessee or operator the liability coverage required under section 14 of the act (4 P. S. § 414) and § 139.5 (relating to insurance).

(7) With respect to each identified amusement ride or attraction, verification of one of the following:

(i) The amusement ride or amusement attraction is of a type appearing on the Department's most current list of approved rides.

(ii) Written verification under seal of a professional engineer, acknowledging familiarity with the ride or attraction at issue, acknowledging familiarity with the requirements of the act and this chapter and confirming all of the following:

(A) The ride or attraction is designed to carry all loads safely, and to withstand normal stresses to which it may be subjected.

(B) The structural materials and construction of the ride or attraction conform to normal engineering practices, procedures, standards and specifications.

(C) Data pertinent to the design, structures, and factors of safety and performance are in accordance with accepted engineering practices.

(D) The manufacturer or fabricator of the ride or attraction otherwise meets the applicable design and construction requirements of the act, the ASTM International F-24 Committee Standards and this chapter.

(8) An acknowledgment by the applicant that, if the registration is approved, it is the responsibility of the applicant to apprise the Department, in writing, of changes to the information provided on the registration application during the registration period.

(9) An acknowledgment by the applicant that, if registration is approved, the registration automatically ceases as of the date of any major modification, and the ride shall be reregistered with the Department.

(10) The signature of the applicant for registration, verifying that representations in the application are accurate and complete, and making that verification subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(e) *Department action on registration application.* The Department will, within 30 days of receiving a correct and complete registration application form, mail the applicant one of the following:

(1) Written confirmation of registration and, if necessary, a registration plate to be affixed to the amusement ride or attraction.

(2) Written denial of registration, with an explanation of the reasons for denial.

(3) A detailed request for additional information or clarification the Department deems necessary to ensure the amusement ride or amusement attraction meets the requirements in subsection (d)(7)(ii)(A)—(D). This request may also include a requirement the ride or attraction be made available to the Department or persons authorized by the Department, at a time or location mutually agreeable to the applicant and the Department, for inspection and testing. Once the requested information is delivered to the Department or the requested testing and inspection is conducted, the Department will have an additional 30-day period within which to review the registration application.

(f) *Responsibility of registrant.* A person who registers an amusement ride or amusement attraction in accordance with this section shall, during the registration period, be responsible to apprise the Department, in writing, of changes to the information provided on the registration application. In addition, the registrant shall affix the registration plate provided by the Department to the amusement ride or amusement attraction in a loca-

tion where the plate is plainly visible to the riding public, and shall promptly request a replacement plate when necessary.

(g) *Refusal or revocation of registration.* If the Department issues a written denial of registration as described in subsection (e)(2), it will afford the applicant an opportunity for an administrative hearing on the denial. If the Department has reason to believe an amusement ride or amusement attraction that is registered does not meet the requirements for registration, it will issue a written revocation of registration, and will afford the applicant an opportunity for an administrative hearing on the denial.

(h) *Registration plate.* The Department will issue a registration plate, bearing a unique registration number, with respect to each amusement ride or amusement attraction registered in accordance with this section. The registration plate remains the property of the Department after it is issued. The registrant shall be responsible to ensure that the registration plate remains affixed to the registered amusement ride or amusement attraction in a location where the plate is plainly visible to the riding public. The registration plate is intended as a permanent means of identifying the amusement ride or attraction, and shall remain affixed to the ride or attraction from one registration period to the next. If the registration plate cannot be affixed to the registered amusement ride or amusement attraction in a location where the plate is plainly visible to the riding public, it may be affixed to a sign, placard or surface at the point of ingress to the ride or attraction, so as to be plainly visible to the riding public, and shall physically accompany the ride or attraction at all times. Although the Department will not charge a fee for the issuance of a registration plate, it will charge a registrant \$30 to replace a lost or obliterated registration plate. This charge reflects the reasonable cost to the Department of replacing a registration plate.

(i) *Inspection of amusement rides or amusement attractions.* The Department may inspect any amusement ride or attraction, or any device or location it reasonably believes to be an amusement ride or attraction, to determine whether the ride or attraction is properly registered. The inspection will be conducted in accordance with § 139.7(d) (relating to inspection).

§ 139.5. Insurance.

(a) *General requirement.* A person may not operate an amusement ride or amusement attraction unless a policy of insurance is in effect insuring the owner, lessee or operator against liability for injury to persons arising out of the use of an amusement ride or attraction. The insurance policy shall be procured from an insurer or surety authorized to do business in this Commonwealth or eligible to do business under the surplus lines insurance provisions established under Article XVI of The Insurance Company Law of 1921 (40 P. S. §§ 991.1601—991.1625).

(1) If the ride or attraction is a Class I amusement ride or attraction, the minimum limits of the policy must be \$100,000 per occurrence and \$300,000 in the aggregate.

(2) If the ride or attraction is a Class II amusement ride or amusement attraction, the minimum limits of the policy must be \$250,000 per occurrence and \$500,000 in the aggregate.

(b) *Certificate of insurance.* An owner or operator shall deliver a valid certificate of insurance to the Department prior to the operation of an amusement ride or amusement attraction for use by the public. The certificate of insurance shall be delivered to the Department in accord-

ance with § 139.14 (relating to contacting the Department). The owner or operator is responsible for assuring that the insuring company notifies the Department immediately upon cancellation or change of coverage.

(c) *Content of certificate of insurance.* A certificate of insurance must set forth the following:

- (1) The identity of the insured.
- (2) The identity, address and telephone number of the insurance company issuing the policy.
- (3) Identification of the amusement rides and amusement attractions covered by the policy. This may consist of a roster identifying each ride that is insured under the policy, or an acknowledgment that all of the amusement rides and amusement attractions of a designated owner or operator are covered by the policy.
- (4) The policy limits per occurrence.
- (5) The policy limits in the aggregate.
- (6) The effective dates of coverage.
- (7) An acknowledgment that the Department, as certificateholder, is to be notified by the insurance carrier in the event of cancellation of coverage.

§ 139.6. Itinerary.

The owner or operator of an amusement park, carnival, fair, or other itinerant amusement ride or amusement attraction registered with the Department shall deliver

an itinerary to the Department at least 15 days prior to the operation of a ride or attraction for use by the public in this Commonwealth. This delivery may be accomplished by mail, e-mail, personal delivery or fax transmission to the fax number provided in § 139.14 (relating to contacting the Department). The itinerary must include the following:

- (1) The name of the amusement ride or amusement attraction owner.
- (2) The park owner.
- (3) The carnival, fair, activity sponsor and, if available, the name and telephone number of a contact person for the event.
- (4) The address and telephone number of the activity site, the fax number of the site (if available) and an e-mail address for the site (if available).
- (5) The dates open to the public.
- (6) The name of a contact person on site if available.

§ 139.7. Inspection.

(a) *General inspection requirement.* An owner or lessee of an amusement ride or amusement attraction shall have the ride inspected in accordance with section 7 of the act (4 P. S. § 407) and this chapter.

(b) *Occasions when inspection is required.* An amusement ride or amusement attraction shall be inspected as follows:

<i>Location</i>	<i>Type</i>	<i>Interval</i>
Any location	Amusement ride or amusement attraction	Prior to operation for the riding public, and on a monthly basis thereafter during a season of operation for use by the riding public (INSPECTIONS MAY BE DISCONTINUED AT THE END OF A SEASON OF OPERATION FOR THE RIDING PUBLIC, BUT SHALL BE RESUMED PRIOR TO ANY OPERATION FOR THE RIDING PUBLIC THAT IS TO OCCUR OUTSIDE OF THE NORMAL SEASON OF OPERATION)
Amusement park	Amusement ride or amusement attraction	Prior to operation for the riding public, and on a monthly basis thereafter during a season of operation for use by the riding public (INSPECTIONS MAY BE DISCONTINUED AT THE END OF A SEASON OF OPERATION FOR THE RIDING PUBLIC, BUT SHALL BE RESUMED PRIOR TO ANY OPERATION FOR THE RIDING PUBLIC THAT IS TO OCCUR OUTSIDE OF THE AMUSEMENT PARK'S NORMAL SEASON OF OPERATION)
Fair or carnival	Amusement ride or amusement attraction	Prior to operation for the riding public at each new location
Any location	New amusement ride or amusement attraction	Prior to operation for the riding public
Any location	Amusement ride or amusement attraction that has undergone major modification	Prior to operation for the riding public

(c) *Qualified inspector to conduct inspection.* The amusement ride or amusement attraction owner or lessee shall engage a qualified inspector to perform the inspections required by the act and this chapter. The owner or lessee shall make the amusement ride or amusement attraction available to the qualified inspector. The owner or lessee shall be solely responsible for expenses in connection with the inspection. The qualified inspector

shall, at the conclusion of an inspection, issue the owner or lessee the original plus one copy of a complete inspection affidavit form, as described in § 139.8 (relating to inspection affidavits), and retain a copy for the qualified inspector's records.

(d) *Inspection by the Department.* The Department may inspect any amusement ride or amusement attraction (including the operation of that amusement ride or

amusement attraction), or any device or location it reasonably believes to be an amusement ride or amusement attraction, to determine whether the ride or attraction is properly registered, whether the ride or attraction has been inspected by a qualified inspector, whether the qualified inspector has performed a competent inspection of the ride or attraction and whether the ride or attraction otherwise complies with the act and this chapter. The inspection may be unannounced or with advance notice to the owner or lessee. The Department will endeavor to conduct these inspections at reasonable times and with a minimum intrusion, unless otherwise necessary to safeguard the public.

(e) *Responsibility of owner, lessee or operator to allow inspection.* An owner, lessee or operator shall allow the Department to inspect an amusement ride or amusement attraction, and may not hinder or impede the Department in the performance of the inspection.

(f) *Responsibility of owner, lessee or operator to produce records.* At the request of the Department, an owner, lessee or operator shall produce documentation as to both the operation and maintenance of an amusement ride or amusement attraction.

§ 139.8. Inspection affidavits.

(a) *Inspection affidavit required.* An owner or lessee shall, with respect to each amusement ride or amusement attraction that is to be operated for use by the public, file a written affidavit with the Department, affirmed by a qualified inspector, that the amusement ride or amusement attraction has been inspected in accordance with the requirements of the act and this chapter, and meets those requirements. A single inspection affidavit may pertain to multiple amusement rides or amusement attractions.

(b) *Filing the inspection affidavit.* An owner or lessee shall file an inspection affidavit with the Department within 48 hours of the inspection. Filing shall be accomplished in accordance with § 139.14 (relating to contacting the Department).

(c) *Copy of inspection affidavit to be retained for inspection onsite.* An owner or lessee shall be responsible to ensure that a copy of the inspection affidavit described in subsection (b) is retained at the site where the amusement ride or amusement attraction is being operated for public use. The inspection affidavit shall be made available for inspection upon request of the Department. The Department may retain the onsite copy of the inspection affidavit, provide the owner, lessee, operator or attendant a receipt for the same, and allow the amusement ride or amusement attraction to continue being operated for public use.

(d) *Notice of compliance to be posted.* An owner or lessee of an amusement ride or amusement attraction shall post a notice advising the public of compliance with the act. This notice is in addition to any registration plate issued in accordance with § 139.4 (relating to registration). The notice shall be posted at a place readily observed by the public and consist of a sign made of durable material suitable for the location where it is posted. The notice must be on a bright green background, with white lettering. The size of the letters must be at least 1/2 inch in height and 1/8 inch width stroke reading:

THIS RIDE HAS (OR ALTERNATE—THE RIDES IN THIS PARK, CARNIVAL, FAIR, ETC. HAVE) BEEN INSPECTED AS REQUIRED BY THE PENNSYLVANIA AMUSEMENT RIDE INSPECTION ACT.

§ 139.9. Qualified inspectors.

(a) *General.* The Department will certify persons who meet the requirements of this section to act as qualified inspectors. Any inspection of an amusement ride or amusement attraction required under the act shall be conducted by a qualified inspector who is certified by the Department with respect to the category of amusement ride or amusement attraction that is being inspected. Persons who have been certified by the Department as qualified inspectors prior to December 13, 2008, may continue to inspect amusement rides and attractions under authority of that certification, but shall meet the requirements of this section when the qualified inspector next renews the certification in accordance with subsection (k).

(b) *Certification categories.* The Department will categorize amusement rides and attractions, and will be guided by ASTM categorizations of amusement rides and attractions in this categorization process. The Department will establish specific written tests or hands-on tests, or both, with respect to each category. These categories may address water rides, climbing walls, kiddie rides, train rides, hydraulics, inflatable rides or any other category described in ASTM standards and designated by the Department. The Department will publish the current list of certification categories on its web site (www.pda.state.us). The Department may categorize an amusement ride or amusement attraction in a manner other than as categorized by ASTM if there is no applicable ASTM categorization or the Department, in its discretion, believes another categorization is more appropriate.

(c) *Application.* A person may apply to the Department to become a qualified inspector. A qualified inspector application form may be obtained by contacting the Department through any means described in § 139.14 (relating to contacting the Department). The qualified inspector application form will require the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The e-mail address of the applicant (if it exists).
- (3) The name, address and telephone number of the particular owner or lessee with respect to which the applicant seeks to become an affiliated qualified inspector, if the applicant seeks to be an affiliated qualified inspector.
- (4) A detailed description of the education, training or experience of the applicant with respect to the safe erection, operation and dismantling of the amusement rides and attractions.
- (5) The specific categories of amusement rides or amusement attractions with respect to which certification is sought.
- (6) Verification that the applicant is at least 18 years of age as of the date of the qualified inspector application form.
- (7) The signature of the applicant, verifying that representations made in the application are true and correct, and made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(d) *Application fee.* The application fee with respect to a qualified inspector application form is \$50. This fee is not refundable, and shall be paid by check or money order made payable to the "Commonwealth of PA" in that amount.

(e) *Filing the application.* An applicant shall submit a complete qualified inspector application form to the Department by mailing or delivering the form, together with the fee described in subsection (d), to the address in § 137.14.

(f) *Department review and action.* The Department will promptly review an application to determine whether the application form is complete and will, within 30 days of receiving the application, provide the applicant the following by mail or electronic means:

(1) An acknowledgment of receipt of the complete application.

(2) A schedule showing dates, times and locations of upcoming Qualified Inspector Tests, and instructions for scheduling the applicant to sit for the test.

(3) Written instructions as to how the applicant may download a Qualified Inspector Test study packet from the Department's internet web site, receive a test study packet by e-mail or request the Department mail the applicant a test study packet.

(g) *Qualified Inspector Test.* The Qualified Inspector Test shall be a written test or a hands-on test, or both, measuring the experience and ability of the applicant with respect to the safe erection, operation and dismantling of amusement rides or attractions that are in the category of amusement ride or amusement attraction with respect to which certification is sought. The test may address multiple categories of amusement rides and attractions. The Department will score a Qualified Inspector Test. The passing score for the test shall be 70% or higher. The Department will report the results to the applicant by mail or electronic means within 30 days of the date of the qualified inspector test.

(h) *Qualified inspector's certificate and credential card.*

(1) If an applicant passes the Qualified Inspector Test, the Department will issue a certificate and a credential card identifying the applicant as a qualified inspector of amusement rides and attractions, specifying whether the person is an affiliated qualified inspector or a general qualified inspector, and setting forth the following:

(i) The name of the qualified inspector and, on the credential card only, a photograph of the qualified inspector.

(ii) The date of certification and the expiration date.

(iii) The particular owner or lessee with respect to which the applicant is authorized to act as an affiliated qualified inspector, if the application does not specify an affiliation, if issued to an affiliated qualified inspector.

(iv) The categories of amusement rides or attractions with respect to which the applicant is certified as a qualified inspector.

(2) The certificate and credential card will remain the property of the Department and shall, upon the written request of the Department, be surrendered to the Department. The applicant shall be responsible to coordinate with the Department to obtain the photograph required for the issuance of the credential card.

(i) *Powers of affiliated qualified inspectors and general qualified inspectors.*

(1) An affiliated qualified inspector may do the following:

(i) Conduct an inspection of an amusement ride or amusement attraction that is both of the following:

(A) Owned or leased by a person designated on the affiliated qualified inspector's certificate and credential card.

(B) Within a category with respect to which the qualified inspector is certified.

(ii) Issue inspection affidavits as described in § 139.8 (relating to inspection affidavits).

(iii) Charge a fee for conducting an inspection, but not a fee that varies with whether an amusement ride or amusement attraction passes or fails the inspection.

(2) A general qualified inspector may do the following:

(i) Conduct an inspection of an amusement ride or amusement attraction that is within a category with respect to which the qualified inspector is certified.

(ii) Issue inspection affidavits as described in § 139.8.

(iii) Charge a fee for conducting an inspection, but not a fee that varies with whether an amusement ride or amusement attraction passes or fails the inspection.

(j) *Duration of certification.* A qualified inspector's certification will expire 3 years from the date of certification, unless revoked or suspended earlier by the Department.

(k) *Renewal of current certificate and credential card.*

(1) A qualified inspector may renew certification by delivering to the Department, at the address in § 139.14 and prior to the expiration of the current certificate and credential card, a complete renewal form. A person may obtain this form by contacting the Department through any means described in § 139.14. The renewal form will require the information described in subsection (c)(1)—(7), and the following:

(i) A copy of a course completion certificate verifying that the applicant has met the continuing education requirement in subsection (l).

(ii) A nonrefundable \$50 application fee, by check or money order made payable to the "Commonwealth of Pennsylvania" in that amount.

(2) The Department will, within 30 days of receipt of a complete renewal form, mail or deliver to the applicant approval or denial of the requested renewal, or a request for additional information. If the Department denies the renewal it will provide written notice of the basis for denial. A renewed certificate will be valid for the period described in subsection (j).

(l) *Continuing education requirement.* As a prerequisite to renewal of certification under subsection (k), an affiliated qualified inspector shall attend at least 24 hours of relevant Department-approved continuing education training in the area of safe amusement ride and attraction erection and operation during the period of certification. A general qualified inspector shall attend at least 48 hours of this training during the period of certification. If a qualified inspector fails to comply with this continuing education requirement, certification will expire as of the expiration date on the qualified inspector's current certificate and credential card. If the Department determines that amusement rides or amusement attractions belonging to a particular category established under subsection (b) are of a comparatively simple design or operation to reasonably justify a requirement of fewer hours of continuing education for qualified inspectors of that particular category of amusement ride or amusement attraction than are otherwise required under this subsection, it may establish this continuing education requirement by publishing notice of this requirement in the *Pennsylvania*

Bulletin, posting notice of this requirement on its web site and providing all qualified inspectors for the subject category of amusement ride or amusement attraction with written notice of this requirement. This reduced continuing education requirement may not entail less than 16 hours of continuing education training.

(m) *Revocation or suspension of certification.* The Department may revoke the certification of a qualified inspector for cause, after providing the qualified inspector written notice and opportunity for a hearing. A revocation will be for a specific period of time determined by the Department. The circumstances justifying revocation include the following:

- (1) Allowing another person to conduct an amusement ride or amusement attraction inspection under authority of the certificate or credential card.
- (2) Issuing an inspection affidavit without first conducting a thorough inspection of the amusement ride or amusement attraction that is the subject of the inspection affidavit.
- (3) Issuing an inspection affidavit with respect to an amusement ride or amusement attraction that does not meet the requirements of the act and this chapter.
- (4) Representing a qualified inspector to be an employee or agent of the Department.
- (5) Inspecting an amusement ride or amusement attraction that is not in the category of amusement ride or amusement attraction with respect to which the qualified inspector is certified.
- (6) Basing an inspection fee amount upon whether an inspection affidavit is issued with respect to the amusement ride or amusement attraction inspected.
- (7) Altering or defacing a certificate or credential card for the purpose of obscuring or misrepresenting the information on either document.
- (8) Other violations of the act or this chapter.

§ 139.10. Advisory Board.

(a) The Board is established under authority of the act, to exercise the powers and perform the duties ascribed to it in the act. The Board is appointed by the Governor, and consists of ten members, as follows:

- (1) A representative of the amusement ride manufacturers.
- (2) Two representatives of the Pennsylvania State Showmen's Association.
- (3) Two representatives of the Pennsylvania Amusement Park Association.
- (4) A representative of the Pennsylvania State Association of County Fairs.
- (5) A mechanical engineer.
- (6) Two public representatives.
- (7) The Secretary or a designee, who will be designated by the Governor as the Chairperson.

(b) The Board will hold public hearings at a time and place that the Board specifies to carry out its responsibilities.

§ 139.11. Accident reporting.

(a) *Report required.* An owner or lessee shall file an accident report with the Department with respect to any accident which results in death or serious injury or illness as a result of the operation of an amusement ride or

amusement attraction. The accident report form shall be faxed or delivered to the Department, at the address or fax number in § 139.14 (relating to contacting the Department), within 48 hours after the owner, lessee or operator is aware of the death, serious injury or illness. The reporting requirement described in this subsection applies from the time the owner or lessee acquires knowledge that such a death has occurred, or that the injury or illness is a serious injury or illness, as that term is defined in § 139.2 (relating to definitions) and section 2 of the act (4 P. S. § 402).

(b) *Accident report form.* An accident report required under the act and this section shall be made on a form provided by the Department. The accident report form may be downloaded from the Department's web site, or a supply of accident report forms may be obtained from the Department by request directed to the Department in accordance with § 139.14. The following information shall be included in an accident report:

- (1) The name and address of the operator of the amusement ride or amusement attraction at which the death or serious injury or illness occurred.
- (2) The name and address of the owner or lessee of the amusement ride or amusement attraction at which the death or serious injury or illness occurred.
- (3) A description of the ride involved, including registration number, name of ride, manufacturer and manufacturer's serial number.
- (4) A detailed description of the incident giving rise to the death or serious injury or illness.
- (5) The name and address of the dead, ill or injured person.
- (6) A general summary of the apparent illness or injuries sustained by each dead, ill or injured person.
- (7) The names and addresses of all known witnesses to the incident giving rise to the death, illness or injury.
- (8) The signature of the owner or lessee, verifying the accuracy of the injury report form subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(c) *Duty of owner, lessee or operator to close ride or attraction pending inspection.*

- (1) When a death, a serious injury or illness or a fire occurs as a result of an operation of an amusement ride or amusement attraction, the owner, operator or lessee shall immediately close the ride or attraction until it has been inspected and declared safe by a qualified inspector.
- (2) If the serious injury described in paragraph (1) results in death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, the required inspection shall be performed by a qualified inspector who is an employee of the Department, and the ride or attraction may not be reopened until it has been inspected and approved to reopen, in writing, by the Department.
- (3) If the serious injury described in paragraph (1) results in death, the ride or attraction may not be reopened until the written approval described in paragraph (2) is obtained and the ride or attraction is declared safe by the insurance company of the owner. This declaration shall be by writing delivered to the Department.

§ 139.12. Variances.

(a) *Application.* An affected owner or lessee of amusement rides or attractions may apply in writing to the Department for an order for a variance from any rule, regulation or standard.

(b) *Exceptions.* The Secretary may grant exceptions from the rules, regulations and standards adopted by the Department under the act if one of the following applies:

(1) It is evident that the action is necessary to prevent undue hardship.

(2) Existing conditions prevent practical compliance and reasonable safety of the public can, in the opinion of the Secretary, be assured.

§ 139.13. Penalties.

(a) *Civil penalties.*

(1) A person who willfully or repeatedly violates the act or this chapter is subject to a civil penalty not to exceed \$2,000 with respect to each violation.

(2) If the Department elects to pursue a civil penalty, it will provide the person who is the proposed subject of that civil penalty with written notice of the proposed adjudication assessing the civil penalty, and afford that person 7 working days from receipt of that notice within which to deliver to the Department a written request for an administrative hearing on the proposed civil penalty.

(3) A written request for an administrative hearing must specify those portions of the proposed adjudication with respect to which the person requesting the hearing takes issue, the basis for the objection and other relevant facts or arguments not addressed in the proposed adjudication. The administrative hearing will be limited to these objections, additional facts or arguments. Any portion of the proposed adjudication that is not specifically objected to will be deemed admitted at the administrative hearing.

(4) The Department will, in accordance with section 11(a) of the act (4 P. S. § 411(a)), grant an administrative hearing within 7 days of receiving a written request for an administrative hearing. The Department will grant this hearing by mailing or delivering a notice to the person making the request, setting forth the date, time and location of the administrative hearing. An administrative hearing is "granted" for purposes of section 11(a) of the act if the referenced notice is mailed or delivered within the 7-day period, regardless of whether the actual scheduled date of the administrative hearing is before or after the expiration of the referenced 7-day period.

(5) If a timely request for an administrative hearing is not received, the Department will issue the proposed adjudication as its final adjudication, and deliver that final adjudication to the subject of that document.

(b) *Criminal penalties.* An owner or lessee of an amusement ride or amusement attraction who willfully violates the act or this chapter where the violation causes death to a member of the public exposed to the violation, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not exceeding \$2,500 or to a term of imprisonment not exceeding 1 year, or both. If the conviction is for a violation committed after a first conviction, the offender shall be sentenced to pay a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 1 year, or both.

(c) *False representation.* A person who knowingly makes a false statement, representation or certification in an application, record, report, plan or other document

filed or required to be maintained under the act commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not exceeding \$2,500 or to a term of imprisonment not exceeding 6 months, or both.

§ 139.14. Contacting the Department.

(a) *Methods of contact.* For purposes of the act and this chapter, the Department may be contacted as follows:

(1) By mail to the following address:

Pennsylvania Department of Agriculture
ATTN: Bureau of Ride and Measurement Standards
2301 North Cameron Street
Harrisburg, PA 17110-9408

(2) By telephone to (717) 787-2291.

(3) By fax to (717) 783-4158.

(4) By e-mail to: ra-amusementrides@state.pa.us.

(b) *Obtaining forms.* Forms and documents referenced in this chapter may be obtained by mailing, faxing or telephoning a request to the Department, or may be available from the Department's web site, at: www.agriculture.state.pa.us

(c) *Filing documents with the Department.* A document required to be filed with the Department under this chapter will be considered "filed" as of the date of postmark, fax transmission, e-mail delivery or actual delivery, whichever occurs first.

(d) *Delivering documents to the Department.* A document required to be delivered to the Department under this chapter will be considered "delivered" as of the date it is received at the Department, whether by mail delivery, e-mail, personal delivery, facsimile transmission or other electronic means.

Subchapter B. DESIGN AND CONSTRUCTION**§ 139.41. General.**

(a) *Design and construction.* Manufacturers and fabricators of amusement rides and attractions shall design and construct the amusement rides, devices and structures to carry all loads safely and to withstand normal stresses to which they may be subjected. Structural materials and construction of rides and attractions must conform to recognized engineering practices, procedures, standards and specifications. This information shall also be furnished by the owner or operator for existing rides and attractions if required by the Department. Stress analysis and other data pertinent to the design, structure, factors of safety or performance characteristics shall be in accordance with accepted engineering practices.

(b) *ASTM International F-24 Committee Standards.* Manufacturers and fabricators of amusement rides and attractions shall comply with current ASTM International F-24 Committee Standards concerning amusement rides and devices as they pertain to manufacturer responsibilities for equipment design, testing, erection, operation maintenance and inspections. These ASTM International F-24 Committee Standards and subsequent amendments are incorporated by reference.

(c) *Changes or modifications.*

(1) The applicable standards shall be the ASTM International F-24 Committee Standards in effect as of the earlier of the following:

(i) The date of contract for original manufacture of the amusement ride or attraction.

(ii) The date of the bill of sale from the manufacturer to the original purchaser of the amusement ride or attraction.

(2) Any changes or modifications to the ASTM International F-24 Committee Standards after the earlier of the dates described in paragraph (1)(i) and (ii) may not apply to the amusement ride or amusement attraction unless the standards themselves require retroactive implementation or the Department makes adherence to these new standards a condition of registration.

(d) An amusement ride or amusement attraction shall operate in strict accordance with the applicable ASTM International Standards. If the attraction is modified the latest version of the ASTM International Standards shall apply to the change, alteration or modifications.

(e) Owners of existing amusement rides and attractions are responsible for obtaining the required construction maintenance and operational information from the manufacturer if available.

§ 139.42. Structures.

Permanent buildings, enclosed structures that are not manufactured as part of an amusement ride or amusement attraction but that are nevertheless used for or as an amusement ride or amusement attraction shall be constructed to conform to the Pennsylvania Construction Code Act unless exempted under that statute or its attendant regulations, and shall have posted therein a certificate of occupancy issued by a building code official in accordance with the Pennsylvania Construction Code Act.

§ 139.43. Passenger-carrying rides.

Amusement rides and amusement attractions shall be designed for safe operation and meet applicable ASTM International Standards, as described in § 139.41(c) (relating to general), and conform to the other requirements of this section to the extent they do not conflict with applicable ASTM International Standards.

(1) *Interior and exterior parts.* The interior and exterior parts of passenger-carrying amusement rides with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws or other projections which might cause injury.

(2) *Padding.* Interior parts upon which a passenger may be forcibly thrown by the action of the ride shall be adequately padded.

(3) *Restraining devices.* Rides equipped with a safety bar, cage or other mechanically operated restraining device shall be equipped with a retiring cam or other device so designed that the safety bar, cage or other mechanically operated device cannot be inadvertently released.

(4) *Self-powered rides.* Rides which are self-powered and which are operated by a passenger shall have the driving mechanism and any moving part that might pose a threat to the rider guarded and the guards secured in place to prevent passengers from gaining access to the mechanism.

(5) *Safe entrance, exit and support.* Belts, bars, foot-rests and other equipment as may be necessary for safe entrance and exit and for support while the ride is in operation shall be provided. The equipment and the fastenings must be of sufficient strength to retain the passengers.

(6) *Passenger restraints.* Passenger restraining or containing devices used on tubs, cars, chairs, seats, gondolas and other carriers on a ride where the forces generated by the action of the ride require retention, restraining or actual physical support of the passenger shall be designed, constructed and installed where deemed necessary by the manufacturer to support the passenger safely. The fastening must be of a type which cannot be inadvertently released.

(7) *Anchorage.* Anchorages for the required restraining devices must have strength at least equal to the strength of the restraining device.

(8) *Travel clearance.* The path of travel of an amusement ride must have a clearance envelope that meets ASTM international standards for patron clearance envelopes, to ensure that a passenger on the ride cannot be injured by contacting a structural member or other fixed or moveable object when the passenger is in the riding position in accordance with the manufacturer's specifications.

(9) *Emergency brakes and antirollback devices.* Emergency brakes and antirollback devices must be in accordance with manufacturer's specifications and, if required or recommended by the manufacturer, must be in place and operational when the ride is open for use by the public.

(i) If cars or other components of an amusement ride are subject to collide upon failure to normal controls, emergency brakes sufficient to prevent collisions shall be provided.

(ii) On rides which make use of inclined tracks, automatic antirollback devices shall be installed to prevent backward movement of the passenger-carrying units in case of failure of the propelling mechanism, unless movement in the reverse direction would not cause injury or damage.

(10) *Speed-limiting device.* An amusement ride capable of exceeding its maximum safe operating speed shall be provided with a maximum speed-limiting device.

(11) *Signal systems.*

(i) Signal systems for the starting and stopping of amusement rides shall be provided where the operator of the ride does not have a clear view of the point at which passengers are loaded and unloaded, or where the ride operator does not have a clear view of oncoming or returning passenger-carrying vehicles with sufficient line-of-sight to prevent a collision. A signal system must be a mechanical, electronic or other system that meets or exceeds the manufacturer's recommendations.

(ii) A code of signals adopted for the operation of an amusement ride shall be printed and kept posted at both the operator's station and the signalman's station. A person who may use these signals shall be adequately instructed in their use.

(iii) Signals for the movement or operation of an amusement ride shall be printed and kept posted at both the operator's and signalman's stations. A person who may use these signals shall be carefully instructed in their use.

(12) *Protection against moving parts.*

(i) An amusement ride may not be used or operated while a person is located in a position where a person would be endangered by the amusement ride. Areas in which persons may be endangered must be fenced, barricaded or otherwise guarded against public intrusion.

(ii) A ride containing or having a mounting that could entangle a passenger's hair must be guarded to minimize the risk of entanglement in accordance with manufacturer's specifications.

(iii) Machinery used in or with an amusement ride must be enclosed, barricaded or otherwise effectively guarded against accidental contact. Guards removed for maintenance purposes shall be replaced before normal operation is resumed.

(13) *Amusement ride and attraction ancillary equipment.*

(i) *Air compressors and hydraulic equipment.*

(A) Air compressors, air compressor tanks and appurtenances used in connection therewith shall be designed, constructed, equipped and maintained to insure safe operation.

(B) Air compressor tanks and other receivers used in connection with air compressors must comply with 34 Pa. Code Chapter 3a (relating to boilers and unfired pressure vessels).

(C) Air compressor tanks and other air receivers used in connection with air compressors must have the maximum allowable working pressure conspicuously marked thereon.

(ii) *Oil and hydraulic systems.*

(A) Oil and hydraulic systems and related equipment used in connection with amusement rides and attractions must be free of leaks and maintained to insure safe operations. These systems must have a dumping or by-pass valve that shall be drilled and sealed at 125% of working pressure by the manufacturer. Pressure gauges must have the maximum safe working pressures conspicuously marked thereon. Systems must have a manual lowering valve.

(B) Flexible hoses must have a bursting strength sufficient to withstand eight times working pressure and be tested at a pressure at least four times working pressure. They must be compatible with the fluid used therein.

(iii) *Internal combustion engine power sources.*

(A) Internal combustion engine power sources must be of adequate type design and capacity to handle the design load.

(B) Refueling of fuel tanks shall be performed only when the ride or attraction is closed down and unloaded and the engine is not running.

(C) When the engine is in an enclosed area, adequate ventilation shall be provided and the engine exhaust shall discharge to the outside.

Subchapter C. OPERATION, MAINTENANCE AND RECORDS

§ 139.71. General requirement.

(a) Owners and operators of amusement rides, devices and structures shall conform to the ASTM International F-24 Committee Standards in effect as of the date the amusement ride or amusement attraction is registered with the Department, as they pertain to owner/lessee/operator responsibilities for equipment erection, testing, operation, maintenance and inspection. Changes or modifications to the ASTM International F-24 Committee Standards after this registration date may not apply to the amusement ride or amusement attraction unless the standards themselves require retroactive implementation

or the Department makes adherence to these new standards a condition of registration.

(b) An amusement ride or amusement attraction must be constructed, maintained and operated in strict accordance with the applicable ASTM International F-24 Committee Standards. If the attraction is modified, the latest version of the ASTM International F-24 Committee Standards apply to the change, alteration or modification. If the modification is a major modification, the owner, operator or manufacturer shall also comply with § 139.78 (relating to rebuilt and modified rides).

(c) Air compressors and hydraulic equipment shall be inspected under § 139.43(13) (relating to passenger-carrying rides).

§ 139.72. Erection/disassembly of amusement rides and attractions.

The owner or lessee shall cause each amusement ride, device or attraction to be erected in accordance with the manufacturer's recommendations as provided for in ASTM International F-24 Committee Standards, and conform to the other requirements of this section to the extent they do not conflict with applicable ASTM International Standards.

(1) *Lighting.* Amusement rides, access thereto, and means of egress therefrom shall, while in operation or occupied, be provided with illumination by natural or artificial means sufficient to guard against injuries to the public.

(2) *Proximity to high voltage lines.* Amusement rides must be located at least 15 feet from suspended high voltage lines carrying greater than 600 volts, or as otherwise defined in the *National Electrical Code*.

(3) *Ride entry and discharge.* Safe and adequate means of normal entry and normal discharge from each ride shall be provided.

(i) At least two unrestricted means of egress remote from each other shall be provided from each floor, tier, room or balcony in structures which house amusement rides.

(ii) Access to the means of egress shall be marked by readily visible signs in all cases where it is not immediately visible to the passengers.

(iii) A means of egress must be at least 36 inches in width.

(iv) The width of a stairway shall be taken as the length of the treads between stringers. The width of a doorway shall be taken as the width of the door.

(v) The maximum travel distance from the most remote point in a room or enclosed space to an exit may not be greater than the following:

(A) One hundred fifty feet in unsprinklered construction.

(B) Two hundred feet in sprinklered construction.

(C) Seventy-five feet in dead ends.

(vi) Means of access and egress must have protection from adjacent hazards and protection from falling by use of rails, enclosures or similar means.

(vii) Means of access and egress must be free from debris, obstructions, projections and slipping, tripping and other hazards.

(viii) The head clearance in passageways may not be less than 7 feet.

(ix) Means of access or egress must have either stairways or ramps and connecting landings or platforms where the public enter or leave an amusement ride that is above or below grade.

(x) Stairways, passageways, ramps, landings or platforms must be at least 36 inches in width for single lane passage or 44 inches for double lane passage. Landings or platforms must be at least 3 feet long measured in the direction of travel.

(xi) Stair treads must be at least 9 inches deep, exclusive of nosing, and the rise may not exceed 8 inches. Between two connecting levels, the treads must be uniform depth and the risers must be of uniform height. The slope of ramps may not exceed one in ten except when nonslip surfaces are provided.

(xii) Handrails must be provided on both sides of all stairways of four or more risers connecting adjoining levels whose difference in elevation is 30 inches or more.

(xiii) Handrails must be at least 30 inches and no more than 34 inches above the surface of step treads and 42 inches above the landings, platforms, runways and ramps which are 4 feet or more in height or are adjacent to dangerous equipment or areas over deep water.

(xiv) The distances between handrails may not be less than 18 inches for single lane passage and 36 inches for a double lane passage.

(xv) One intermediate rail spaced equal distance from handrail and base construction to prevent a passenger from falling through the handrails shall be provided with all handrails.

(xvi) Stairways and ramps requiring handrails which are more than 8 feet wide shall be provided with railings dividing the widths into not more than 8 feet, and not less than 22 inches in width.

§ 139.73. Electrical system and equipment.

(a) Amusement rides and attractions where restoration of electrical power could create a hazard shall be provided with a magnetic disconnect switch.

(b) An electrically operated amusement ride not designed to be controlled by the passenger shall be provided with an emergency stop switch placed within easy reach of the operator. A second back up—dead man, timer or safety switch, wired in series with the primary start/stop switch, shall be added to kiddie rides to provide added safety from unauthorized starting of the device. The safety switch shall be deenergized at the end of each ride cycle by the operator.

(c) Where electrical distribution and transmission lines have not been deenergized or where special insulating barriers to prevent physical contact with the lines have not been erected, a person shall be designated to give timely warning for all maneuvers of equipment, ride structures and machinery operated proximate to the lines so that ample clearance is maintained.

(d) Electrical wiring and equipment located outdoors shall be of a quality and constructed or protected that exposure to weather will not interfere with its normal operation.

(e) Electrical transformer stations must be properly enclosed and proper warning signs shall be posted.

(f) Outlets of more than 120 volts must be clearly marked to show their voltage.

(g) Services shall be installed in conformance with Article 525 of the *National Electrical Code*.

(h) Temporary electrical power and lighting installation shall be permitted during periods of construction, remodeling or demolition activities. Temporary electrical power and lighting shall be permitted for a period not to exceed 90 days when associated with operating amusement rides or attractions.

§ 139.74. Temporary wiring.

(a) Feeders must be provided with overcurrent protection in accordance with the load imposed and conductor size as specified in Article 240 of the *National Electrical Code*.

(b) Branch circuits must originate in an approved power outlet or panelboard. Conductors shall be permitted within multiconductors. Conductors shall be protected by overcurrent devices at their rated capacity.

(c) Receptacles must be of the grounding type. Unless installed in a complete metallic raceway, branch circuits must contain a separate equipment grounding conductor and all receptacles must be electrically connected to the grounding conductor.

(d) Bare conductors or earth returns may not be used for the wiring of a temporary circuit.

(e) Suitable disconnecting switches or plug connectors shall be installed to permit the disconnection of ungrounded conductors of a temporary circuit.

(f) Lamps for general illumination exclusive of decorative or festoon lighting shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from a normal working surface or by a suitable fixture or lamp-holder with a guard.

(g) Temporary wiring over 600 volts shall be permitted during periods of construction, tests, experiment or emergency. A less permanent class of wiring and equipment shall be permitted than would be required for permanent installations.

(h) Suitable fencing, barriers or other effective means shall be provided to prevent access of other than authorized and qualified personnel to temporary wiring over 600 volts.

(i) Temporary wiring over 600 volts shall be removed immediately upon completion of construction or purpose for which the wiring was installed.

(j) Temporary electric wiring, if suspended, shall be supported so that its protective insulation will not be damaged.

(k) Overcurrent protection devices may not be installed in neutral or grounding conductors.

(l) Where electrical power is supplied for an amusement ride by a generating system, the generator and equipment must be properly grounded.

(m) Receptacles and attachment plugs must be of the grounding type and have ground fault interrupter (GFI) protection.

(n) Electrical installations and each electrically powered amusement ride must be effective as to noncurrent carrying metal parts which may become energized and which are exposed to contact by personnel. The path to ground from circuits, equipment and conductor enclosures must:

(1) Be permanent and continuous.

(2) Have ample carrying capacity to conduct currents liable to be imposed on it.

(3) Have impedance, as evidenced by testing, sufficiently low to limit the potential above ground and to facilitate the operation of the overcurrent devices in the circuit.

(o) Grounding which does not have a resistance to ground of 25 ohms or less as evidenced by testing shall be augmented by additional electrodes as needed spaced not less than 6 feet apart.

(p) Temporary electrical lines placed at ground level must be of the "S" or equivalent type and be adequately insulated and protected in areas of vehicular or pedestrian traffic to provide the maximum public safety.

§ 139.75. Fire protection and prevention.

(a) Approved U. L. fire extinguishers shall be provided at gasoline-driven rides and otherwise where necessary to secure reasonable and adequate protection from fire hazards. Fire extinguishers shall be placed to be accessed and in use within 20 seconds of a person spotting a fire, and shall be sufficiently removed or protected from highly-flammable or exploding material to prevent their damage or destruction in the initial explosion or flames.

(b) Flammable waste, such as oily rags or other flammable materials, shall be placed in covered metal containers which shall be kept in easily accessible locations. The containers may not be kept at or near exits.

(c) Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. The liquids shall be in approved containers. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited in an area where liquids or gases are stored or are transferred from one container to another.

(d) Fabrics constituting part of an amusement ride must:

(1) Conform to the following requirements, based on tests conducted in accordance with ASTM-E-84, or its current successor document:

(i) Flame spread rating of 0 to 75.

(ii) Smoke development of 0 to 450.

(2) Conform to the requirement of vertical burn test as follows:

(i) The average burn length may not exceed 8 inches.

(ii) The average flame time after removal of the flame source may not exceed 15 seconds.

(iii) Drippings from the test specimen may not continue to flame for more than 15 seconds.

(e) All parts of amusement rides and attractions shall be maintained in a clean condition.

§ 139.76. Ride and attraction operators and attendants.

The ride operator shall operate the ride, device or attraction as follows:

(1) The ride operator shall be at least 16 years of age as specified in the Child Labor Law (43 P. S. §§ 41—71).

(2) On rides involving exposure to water to the extent that accidental drowning could occur, at least one person who is trained in life saving techniques shall be available on the premises at all times during operating hours.

(3) The operator shall operate one ride at a time.

(4) The operator may not operate a ride while under the influence of alcohol or drugs.

(5) The operator shall be in the immediate vicinity of the operating controls during operation and no other person shall be permitted to handle the controls during normal operation. This paragraph does not apply to amusement rides designed to be operated or controlled safely by a passenger.

(6) The number of operators and attendants shall meet or exceed the number of operators and attendants recommended by the manufacturer of the ride, device or attraction or the number prescribed in the ASTM International F-24 Committee Standards, whichever number is higher.

§ 139.77. Maintenance of amusement rides and attractions.

(a) *Maintenance program.* The owner of an amusement ride or amusement attraction shall implement a program of maintenance, testing and inspection, based on manufacturer's recommendations, providing for the duties and responsibilities necessary in the care of each amusement ride or attraction. The maintenance program must include a checklist to be made available to the person performing the regularly scheduled maintenance. The maintenance program must include, the ASTM International F-24 Committee Standards for the operation, maintenance, testing and inspections.

(b) *Electricity lock-out.* A person performing maintenance or repairs, or making an inspection, shall lock-out the electrical disconnect switch when restoration of electrical power to an amusement ride or amusement attraction could create a hazard to persons during the performance of maintenance, repair, inspection or an emergency evacuation of persons, and ensure that it remains locked out until restoration of power will not create a hazard.

(c) *Identification and rating plates.* Manufacturers' identification information affixed to the ride or attraction shall be maintained in a readily visible and legible condition at all times to the inspector.

(d) *Wire rope.*

(1) Wire rope shall be thoroughly examined. Wire rope found to be damaged shall be replaced with a new rope or proper design and capacity as set forth on the manufacturer's date tag. If failure of the rope would affect safety of the ride or attraction and its passengers any of the following conditions will be cause for rope replacement:

(i) In running ropes, six randomly distributed broken wires in a rope lay, or four broken wires in one strand of a rope lay. A rope lay is the length along the rope in which one stand makes a complete revolution around the rope.

(ii) In pendants or standing ropes—ropes bearing the entire load and subject to constant pressure and surge shocks—evidence of more than one broken wire in one rope lay.

(iii) Abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside individual wires.

(iv) Severe corrosion.

(v) Kinking, crushing, birdcaging or other damage resulting in distortion of the rope structure.

(vi) Heat damage.

(vii) Reduction from nominal diameter of more than 6.0%. Marked reduction diameter indicates deterioration

of the core resulting in lack of proper support for the load carrying strands. Excessive rope stretch or elongation may be an indication of internal deterioration.

(viii) Bird-caging or other distortion resulting in some members of the rope structure carrying more load than others.

(ix) Noticeable rusting or development of broken wires in the vicinity of attachments. If the condition is localized in an operating rope, the section in question can be eliminated by making new attachment. This may be done rather than replacing the entire rope.

(2) Wire ropes used to support, suspend, bear, or control forces and weights involved in the movement and utilization of tubs, cars, chairs, sets, other carriers, the sweeps, or other supporting members of a ride or attraction may not be lengthened or repaired by splicing.

(3) Mechanical devices that brake, control, or come in contact with wire rope, such as rollers, drums and sheaves shall be examined to ensure cleanliness and safe condition. Mechanical devices with broken chips, undue roughness or uneven wear shall be replaced immediately.

(f) *Articulations and bearings.*

(1) The articulating pinions, frames, sweeps, eccentrics and other mechanical members shall be inspected for wear, out-of-round, cracks and other signs of deterioration, and shall be kept in good repair.

(2) Main center spindles shall be tested by nondestructive methods according to the manufacturer's specifications. Test results must list the date of the test, name of the ride owner and serial number or identification number of the device.

(3) Bearing surfaces, ball joints and other single or multiple direction mechanical surfaces shall be kept well lubricated, clean and inspected for out-of-round or out-of-spherical and shall be kept in good repair.

(4) Gear alignment and gear drives shall be kept in good repair.

(5) Motor wiring, general service circuitry, decorative wiring and festoon wiring shall be inspected for signs of deterioration such as cracking. Secure tape repairs may be used; however, use of tape repairs shall be kept to a minimum. Wire clips on articulating devices shall be kept in good repair, and particular attention shall be paid to wires at elbows and at the end of articulating devices during inspections.

(6) Retaining, restraining and containing devices shall be inspected to insure they can continuously fulfill their function. Worn and damaged areas shall be repaired immediately or be immediately replaced.

(7) The hydraulic system shall be checked for leaks, damaged pipes and worn or deteriorated hoses.

(8) A record of each inspection, test and maintenance shall be made immediately upon completion of the inspection/test and indicate those components subjected to special examination, such as X-ray, liquid penetrant, magnetic particle or ultrasonic testing and the dates the examinations were performed. The record must also include breakdowns or repairs and violations of this chapter with action taken to rectify the violation. The record shall be kept and made available to the Department and qualified inspector for at least 3 years.

§ 139.79. Records.

(a) The owner or lessee of an amusement ride or amusement attraction shall maintain the following records onsite for 3 years, and make them available upon request of the Department, the Department's representative or the qualified inspector:

(1) *Daily inspection records.* Daily inspection records—including daily ride-specific inspection checklist records referenced in ASTM International F-24 Committee Standards—shall be prepared and maintained by the owner, lessee or operator who shall be experienced and knowledgeable in the proper assembly and operation of the ride or attraction. The inspection and tests must include operation of control devices, speed-limiting devices, brakes and other safety equipment. The inspection shall be made each day the ride or attraction is put into normal operation.

(2) *Tests.* Tests recommended by the manufacturer shall be recorded and a copy made available to the Department, the Department's representative and the qualified inspector. Evidence of satisfactory test results shall be recorded on a form or statement by one of the following:

(i) The manufacturer of the ride or attraction.

(ii) An insurance carrier lawfully doing business in this Commonwealth and carrying public liability insurance on the ride or attraction.

(iii) A professional engineer.

(iv) A person recommended by the manufacturer as qualified to perform the test.

(b) A complete maintenance and testing history file for each amusement ride and attraction shall be maintained at the ride or by the owner and be available to the Department or the qualified inspector.

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