

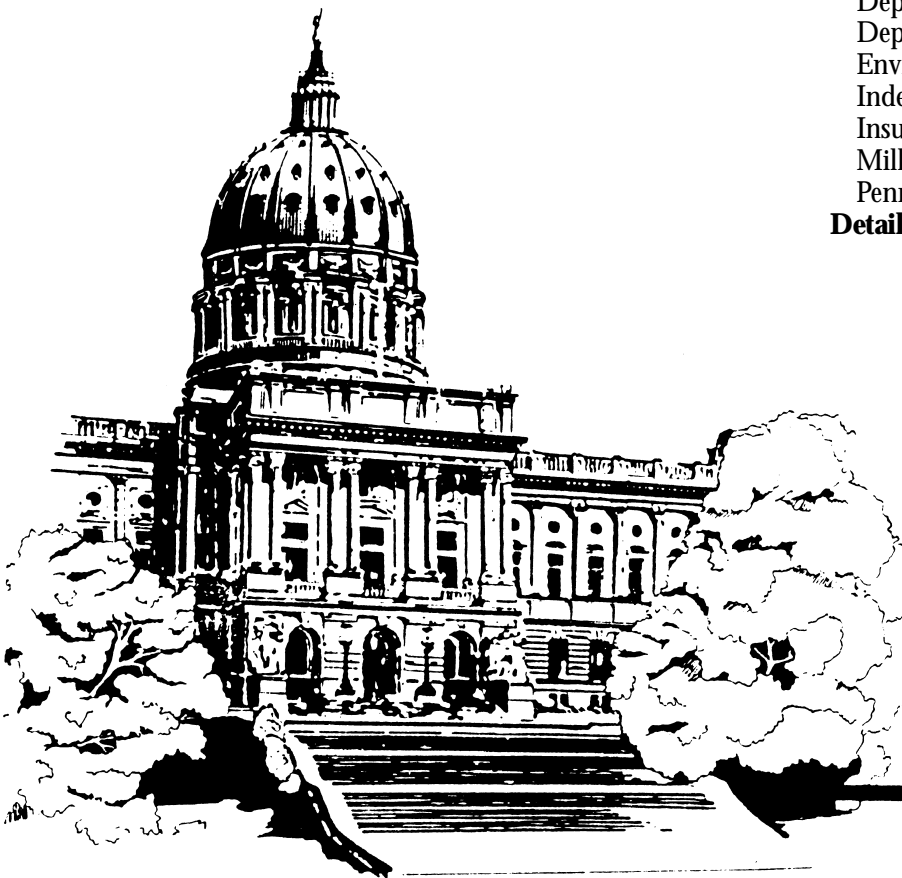
# PENNSYLVANIA BULLETIN

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## Agencies in this issue

The Governor  
The General Assembly  
The Courts  
Department of Banking  
Department of Environmental Protection  
Department of Health  
Department of Labor and Industry  
Department of Transportation  
Environmental Hearing Board  
Independent Regulatory Review Commission  
Insurance Department  
Milk Marketing Board  
Pennsylvania Public Utility Commission

**Detailed list of contents appears inside.**



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(Master Transmittal Sheet):**

**No. 399, February 2008**

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

### **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

### **Citation to the *Pennsylvania Bulletin***

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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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

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 6 ]

[ EXECUTIVE ORDER NO. 2007-04 ]

#### Office of Health Equity

*Whereas*, racial and ethnic minorities and urban and rural populations in Pennsylvania suffer from poorer health status and outcomes; and

*Whereas*, health disparities exist in the incidence and mortality rates for heart disease, stroke, cancer, diabetes, infant mortality and HIV/AIDS, as well as obesity and other preventable disease; and

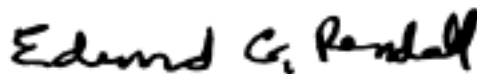
*Whereas*, health disparities occur by gender, race and ethnicity, education and income, disability, geographic location and/or sexual orientation; and

*Whereas*, the prevention and early treatment of diseases is impacted by health disparities resulting in additional human, social and economic costs; and

*Whereas*, the diversity of the Pennsylvania population may be one of the Commonwealth's greatest assets, it also presents a range of health improvement challenges that must be addressed by individuals, the community and agencies throughout the Commonwealth; and

*Whereas*, the Department of Health is working with academic institutions, community based organizations, state agencies, health partners, providers and others in the public and private sectors to achieve its primary strategic goal—to eliminate health disparities in Pennsylvania.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby create the Office of Health Equity (hereinafter referred to as the Office), within the Department of Health, and the Office of Health Equity Advisory Committee and do order and direct as follows:



*Governor*

**Fiscal Note:** GOV 07-02. (1) General Funds; (2) Implementing Year 2006-07 is \$68,301; (3) 1st Succeeding Year 2007-08 is \$90,000; 2nd Succeeding Year 2008-09 is \$92,000; 3rd Succeeding Year 2009-10 is \$94,000; 4th Succeeding Year 2010-11 is \$96,000; 5th Succeeding Year 2011-12 is \$98,000; (Actual costs as of 6/30/07 for 2006-07; actual allocation for 2007-08; 2% increase for succeeding years.); (4) 2005-06 Program—\$0; 2004-05 Program—\$0; 2003-04 Program—\$0; (7) General Government Operations; (8) recommends adoption.

## Annex A

## TITLE 4. ADMINISTRATION

## PART I. GOVERNOR'S OFFICE

## CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

## Subchapter U. OFFICE OF HEALTH EQUITY

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6.281.	Office of Health Equity.
6.282.	Office of Health Equity Advisory Committee.
6.283.	Responsibilities of Commonwealth agencies.
6.284.	Effective date.
6.285.	Termination date.

**§ 6.281. Office of Health Equity.**

(a) *Establishment.* The Office of Health Equity (Office) is hereby established within the Department of Health.

(b) *Infrastructure.* The infrastructure of the Office will, at a minimum, include the Director of the Office and appropriate staff.

(c) *Responsibilities.* The responsibilities of the Office are as follows:

(1) Provide leadership to increase public awareness of health disparities in this Commonwealth.

(2) Advocate for the development of programs to address health disparities.

(3) Work with policy makers, insurers, health care providers and communities to implement policies and programs that result in a measurable and sustained improvement in health status of underserved and disparate populations.

(4) Continue collaboration with State agencies, academic institutions, community based organizations, health partners, providers and others in the public and private sectors to eliminate health disparities in this Commonwealth.

**§ 6.282. Office of Health Equity Advisory Committee.**

(a) *Establishment and membership:* The Health Equity Advisory Committee (Advisory Committee) is hereby established. The membership of the Advisory Committee will be at the discretion of the Secretary of Health and will, at a minimum, include representatives of academia, provider community, faith based community and organized representatives of disparate populations.

(b) *Powers and duties.* The Advisory Committee has the following duties:

(1) Advise the Secretary of Health on matters concerning health inequalities and recommend actions which are data-driven, evidence-based and culturally aware; increase public awareness of the existence of health disparities; and mobilize Statewide, community and individual actions to eliminate health disparities in this Commonwealth.

(2) Assist in the identification of Federal and private foundation funding to support programs that address health disparities.

(3) Assist in identifying the conditions and causes of disparities and prioritizing strategies to address the elimination of health disparities.

(4) Enhance the coordination and support of existing Commonwealth programs, including, but not limited to, the following:

(i) Identification of evidence-based practices.

(ii) Provision of advice and guidance about public and private resources.

(iii) Dissemination of information on programs to reduce and eliminate identified disparities.

(iv) Utilization of assessment tools to improve cultural competency of health care providers.



(5) Provide advice and guidance to the Governor through the Office of Health Equity and the Secretary of Health on programs and activities to accelerate the elimination of disparities in the delivery of health care in this Commonwealth.

**§ 6.283. Responsibilities of Commonwealth agencies.**

Commonwealth agencies under the jurisdiction of the Governor shall cooperate with the Office of Health Equity to support and promote its mission and goals.

**§ 6.284. Effective date.**

This subchapter takes effect immediately.

**§ 6.285. Termination date.**

This subchapter will remain in effect unless revised or rescinded by the Governor.

[Pa.B. Doc. No. 08-212. Filed for public inspection February 8, 2008, 9:00 a.m.]

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# THE GENERAL ASSEMBLY

## COMMISSION ON SENTENCING

### Meetings Scheduled

The Commission on Sentencing announces the following public meetings to be held at The Harrisburg Hilton and Towers Hotel, One North Second Street, Harrisburg, PA 17101:

Wednesday, February 27, 2008	Dinner/Policy Committee Meeting	6:30/ 7:30 p.m.
Thursday, February 28, 2008	Quarterly Commission Meeting	9:00 a.m.

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 08-213. Filed for public inspection February 8, 2008, 9:00 a.m.]

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# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

### PART 1. GENERAL

[ 234 PA. CODE CH. 1 ]

Order Amending Rule 105; No. 362; Doc. No. 2

#### Order

*Per Curiam:*

Now, this 25th day of January, 2008, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 35 Pa.B. 5768 (October 22, 2005) and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 882), and a *Final Report* to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 105 is amended in the form as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective February 1, 2009.

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

#### PART A. Business of the Courts

#### Rule 105. Local Rules.

(A) For the purpose of this rule, the term "local rule" shall include every rule, **administrative order**, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas, by the Philadelphia Municipal Court, or by the Philadelphia Traffic Court to govern criminal practice and procedure.

(B) **[(1)]** Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

**(1) The Criminal Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.**

**(2) The Criminal Procedural Rules Committee may suspend that local rule pending action by the Court on that recommendation.**

**[(2)] (C)** Local rules shall be given numbers that are keyed to the number of the general rules to which the local rules correspond.

**(D) All proposed local criminal rules and proposed amendments to local criminal rules shall be submitted in writing to the Criminal Procedural Rules Committee for the Committee to review. The adopting court shall not proceed with the proposed local rule or amendments until the adopting court receives written notification from the Committee that the proposed local rule or amendments are not inconsistent with any general rule of the Supreme Court.**

**(E) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.**

**(1) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the statement from the Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.**

**(2) The adopting court shall distribute two certified copies of the local rule and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.**

**(3) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.**

**[(C)] (F) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall file seven certified copies of the local rule with the Administrative Office of Pennsylvania Courts. [A local rule shall not become effective and enforceable until the adopting court has fully complied with all the following requirements:]**

**[(1)] A local rule shall be in writing.**

**(2) Seven certified copies of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.**

**(3) Two certified copies of the local rules and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b) shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.**

**(4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Criminal Procedural Rules Committee.]**

**[(5)] (G) The local rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of courts. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.**

**[(6)] (H) A local rule promulgated before the effective date of this rule shall be filed on or before that effective date with the prothonotary or clerk of courts and shall be kept by the prothonotary or clerk for inspection, copying, and furnishing as provided in paragraph [(C)(5)] (G).**

**[(D)] A local rule shall become effective not less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.]**

**[(E)] (I) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule. No case shall be dismissed nor request for relief granted or denied because of failure to comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the [attorney] party to comply with the local rule.**

**[ (F) The Criminal Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule and may suspend that local rule pending action by the Court on that recommendation. ]**

COMMENT: The policy of the Supreme Court as declared in the Order promulgating this rule is "to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of criminal procedure normally preempts the subject covered." In accordance with the Court's policy, it is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

The caption or other words used as a label or designation shall not determine whether something is or establishes a local rule; if the definition in paragraph (A) of this rule is satisfied the matter is a local rule regardless of what it may be called. The provisions of this rule are also intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

To simplify the use of local rules, local criminal rules are required to be given numbers that are keyed to the number of the general criminal rules to which the local rules correspond. This requirement is not intended to apply to local rules that govern the general business of the court and which do not correspond to a general criminal rule.

**Paragraph (D), added in 2008, requires that, before publishing the local rule or proceeding with any of the other requirements in Rule 105(E) and (F), the adopting court must submit all proposed local criminal rules or rule amendments to the Criminal Procedural Rules Committee for review.**

**[ Paragraph (C) was amended in ]** The 2000 and 2008 amendments **[ to ]** emphasize that the adopting authority must comply with all the provisions of **this rule [ paragraph (C) ]** before any local rule, or any amendments to local rules, will be effective and enforceable.

Paragraph **[ (C)(3) ] (E)** requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b), any documents that are submitted for publication must be accompanied by a diskette formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette must be labeled with the court's name and address and the local rule's computer file name.

Paragraph **[ (C)(5) ] (G)** requires that a separate consolidated set of local rules be maintained in the prothonotary's or clerk's office.

The Administrative Office of the Pennsylvania Courts maintains a webpage containing the texts of local rules. That webpage is located at: <http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>

Although under paragraph **[ (D) ] (E)(3)** a local rule shall not be effective until at least 30 days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The purpose of paragraph **[ (E) ] (I)** is to **(1) require that all documents presented for filing are accepted by the clerk of courts, also see Rule 576(A)(3), and (2) prevent the dismissal of cases, or the grant or denial of requested relief, because a party has failed to comply with a local rule.** In addition, paragraph **[ (E) ] (I)** requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph **[ (E) ] (I)**, the court may impose a sanction for subsequent noncompliance either on counsel or the defendant if proceeding pro se, but may not dismiss the case, or grant or deny relief because of non-compliance.

**Official Note:** Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; amended September 9, 2005, effective February 1, 2006[ . ]; **amended January 25, 2008, effective February 1, 2009.**

\* \* \* \* \*

#### *Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the October 24, 2000 amendments published with the Court's Order at 30 Pa.B. 5842 (November 11, 2000).

Final Report explaining the June 8, 2001 Comment revision citing to the AOPC's webpage published with the Court's Order at 31 Pa.B. 3310 (June 23, 2001).

Final Report explaining the October 15, 2004 amendment to paragraph (A), and to paragraph (C)(3) concerning the Legislative Reference Bureau publication requirements, published with the Court's Order at 34 Pa.B. 5893 (October 30, 2004).

Final Report explaining the September 9, 2005 amendments to paragraph (A) published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

**Final Report explaining the January 25, 2008 changes to Rule 105 concerning submission of local rules for review prior to adoption published with the Court's Order at 38 Pa.B. ( , 2008).**

#### **FINAL REPORT<sup>1</sup>**

##### *Amendments to Pa.R.Crim.P. 105 (Local Rules)*

#### **PROCEDURES FOR REVIEW OF LOCAL RULES**

On January 25, 2008, effective February 1, 2009, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 105 (Local Rules) to require that all new local rules and local rule amendments be submitted in writing to the Criminal Procedural Rules Committee for review before the local rule is enacted and published. The changes also further clarify the definition of local rules, the procedures concerning the implementation of local rules, and the enforcement of these procedures.

<sup>1</sup> The Committee's *Final Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the Committee's explanatory *Final Reports*.

## I. BACKGROUND

Rule of Criminal Procedure 105 was adopted in 1983 “to facilitate the statewide practice of law under this Court’s general rules, and to promote the further policy that a general rule of criminal [and civil] procedure normally preempts the subject covered.”<sup>2</sup> The new rule provided a uniform definition of local rules, prerequisites to effectiveness and effective dates, procedures for accessibility and distribution, and for the suspension of inconsistent local rules.

Since 1983, because judicial districts have continued to enact local rules that fail to comply with the provisions of Rule 105, the Court has adopted several additional amendments to Rule 105 that were intended to make the requirements for local rules absolutely clear. Notwithstanding these subsequent changes, from the Committee’s ongoing monitoring of local criminal rules and local practices, from the experience of the Committee members, and from communications from other members of the Bar, the Committee is aware that Rule 105 continues to be honored in the breach. Some judges continue to implement local practices and procedures that do not comply with Rule 105 by calling them something other than a local rule, even though the practices and procedures are local rules within the definition of Rule 105. In addition, some judicial districts’ “local rules” still are not being published or are not being made available to the members of the Bar. Finally, in many cases, these local practices and procedures conflict with the statewide rules.

The Court and Committee are frustrated by the ongoing failure to comply with the requirements of Rule 105 by some judicial districts notwithstanding the clarifying changes implemented in 1983 and subsequently. In view of this, the Committee agreed that the only recourse to ensure compliance with Rule 105 is to require that before a judicial district may enact or amend a local rule, the local rule or local rule amendments must be submitted in writing to the Committee for review. Unless the local adopting court receives a written notification from the Committee that the local rule is not inconsistent, the local rule will not be effective and enforceable. This requirement and some additional clarifying amendments are discussed below.

## II. DISCUSSION

The new procedural requirement that all new local rules and local rule amendments must be submitted to the Committee for the Committee’s review before the local rule may be published and before the rule or amendments will be effective and enforceable is set forth in new paragraph (D). Pursuant to this new procedure, the adopting court is required to submit in writing to the Committee for the Committee’s review any proposal that governs criminal practice and procedure. This pre-adoption review is narrow in scope. The Committee merely is determining whether the proposed local rule provisions comply with the requirements of Rule 105. Specifically, the Committee will be considering whether the local rule change is consistent with the general rules of the Supreme Court as required in current Rule 105(B). The Committee is not passing judgment on the wisdom of the local rule or the substantive validity of the provisions of the local rule or on the merits of the local rule.

Following our review, the Committee will communicate in writing with the adopting court. The adopting court is prohibited from proceeding with the local rule proposal until receiving written notification from the Committee that the proposed local rule satisfies the requirements of Rule 105 and is not inconsistent with the statewide rules.

Rule 105 also has been reorganized to emphasize more clearly the essential requirements of the rule. Paragraph (A), which sets forth the “definition” of local rule, remains the same. The term “administrative order” has been added to the list of things in paragraph (A) that are considered “local rules.” In our experience, many local enactments labeled “administrative orders” are in fact “local rules” that should comply with the Rule 105 requirements. Because some judicial districts continue to ignore the clear mandate of Rule 105 by, for example, designating as “administrative orders” various directives that actually govern practice and procedure in criminal cases, and by failing to publish or provide copies of these administrative orders to the Committee, the Committee agreed that “administrative order” should be added to paragraph (A). As has been intended since the inception of Rule 105, only administrative orders that govern criminal practice and procedure in some way would be subject to Rule 105. This change is not intended to affect administrative orders that govern other aspects of court operations, such as administrative orders that establish local court calendars.

Current paragraph (B) addresses both the requirement for consistency with statewide rules and Acts of Assembly, paragraph (B)(1), and the requirement that local rules be given numbers keyed to the statewide rules, paragraph (B)(2).<sup>3</sup> To add emphasis to both requirements, paragraph (B)(1) is retained as paragraph (B), and paragraph (B)(2) is now paragraph (C). In addition, the provisions of current paragraph (F) that address the procedures concerning the suspension, vacation, and amendment of local rules that are not in compliance with Rule 105 have been separated and moved into new paragraphs (B)(1) and (B)(2). The Committee reasoned that moving the provisions enumerating the sanctions for noncompliance into paragraph (B) provides more emphasis.

New paragraph (E) sets forth the provisions related to publishing proposed local rules in the *Pennsylvania Bulletin*, making it clear that to be effective and enforceable, the local rule must be published, but not until the Committee has provided written notification that the local rule is not inconsistent as required by new paragraph (D). In addition, current paragraph (C)(3) that explains what must be sent to the *Pennsylvania Bulletin* is now new paragraph (E)(2), and current paragraph (D) that requires the effective date of new local rules and amended local rules be not less than 30 days after publishing in the *Pennsylvania Bulletin* is now new paragraph (E)(3).

New paragraph (F) is taken from former paragraph (C)(2) and requires that, contemporaneously with publishing in the *Pennsylvania Bulletin*, the adopting court must file seven copies of the local rule with the AOPC. Because new paragraph (D) requires that the adopting court submit a written copy of the proposed local rule to the Committee for prior approval, current paragraphs (C)(1) and (C)(4) are no longer necessary.

Current paragraph (C)(5) has been moved to new paragraph (G) and current paragraph (C)(6) has been moved to new paragraph (H), both without change.

<sup>2</sup> Rule of Civil Procedure 239 governing local civil rules was adopted at the same time.

<sup>3</sup> The Committee still receives copies of local rules that are not numbered to key to the statewide rules.

New paragraph (I) incorporates former paragraph (E), and includes as a first sentence the requirement that the clerk of courts accept all pleadings and other legal papers for filing even if the document does not satisfy the requirements of a local rule. This new provision is comparable to Pa.R.Civ.P. 205.2, and conforms with the requirements in Pa.R.Crim.P. 576(A).

[Pa.B. Doc. No. 08-214. Filed for public inspection February 8, 2008, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### SCHUYLKILL COUNTY

Amended Civil Rule of Procedure; S-161-08; No. 1920.55-2(d), (e), (g)

#### Order of Court

And Now, this 16th day of January 2008 at 2:30 p.m., the Court hereby amends Schuylkill County Civil Rule of Procedure No. 1920.55-2 (d), (e), (g). These rule amendments are adopted for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District) and shall be effective immediately.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a CD-ROM reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rules as they existed prior to the amendment are hereby repealed and annulled on the effective date of said rules as amended, but no right acquired thereunder shall be disturbed.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

#### Schuylkill County Amended Rules of Civil Procedure

#### Rule 1920.55-2. Master's Report. Notice. Exceptions. Final Decree.

(d) In all cases, whether contested or uncontested, the Master shall serve written notice upon counsel of record for the parties, or by first class mail to the last known address of any party not represented by an attorney of record, of the Master's intent to file his report with the Prothonotary on a date certain and that all exceptions to the report shall be filed within twenty (20) days from the date of filing of the Master's report. This notice shall be substantially in the form provided for in Sch.R.C.P. 1920.55(e) and shall have attached thereto a copy of the Master's report and the proposed decree.

(e) Notice of filing Master's Report shall be substantially in the following form:

(CAPTION)

#### NOTICE OF PROPOSED FILING OF MASTER'S REPORT AND THE TIME IN WHICH TO FILE EXCEPTIONS

Dear Counselor (or party pro se):

The report of the Master in the above entitled case will be filed in the office of the Prothonotary on \_\_\_\_\_, 20 \_\_\_\_.

The Master recommends in his report, which is enclosed, that a final decree in divorce (or annulment) be entered on the grounds of \_\_\_\_\_ (or that the complaint be dismissed). (and that the related issues be disposed of according to the proposed "Order of Court" enclosed herewith).

You are hereby notified that written exceptions to the report of the Master must be filed with the Prothonotary within twenty (20) days from the date of filing of the report or a final decree may be entered by the Court without further notice.

\_\_\_\_\_  
MASTER

(g) After the Master's report has been on file twenty (20) days in the office of the Prothonotary and no exceptions filed, the Prothonotary shall transmit the Master's report to the Court for review.

[Pa.B. Doc. No. 08-215. Filed for public inspection February 8, 2008, 9:00 a.m.]

### YORK COUNTY

#### Clerk of Courts—Fee Schedule Approval Pursuant to Act 36-2000 Criminal Law; CP-67-MD-0000060- 2008; CP-67-AD-0000001-2008

#### Administrative Order

And Now, To Wit, This 25th day of January 2008, pursuant to the provisions of 42 P. S. Section 1725.4, the fee bill of the Clerk of Court of York County, Pennsylvania, is amended to reflect the herein attached Fee Schedule. The fee bill shall be effective the first day of April 2008, upon due advertisement as required by the Administrative Rules of Court.

It Is Further Ordered that in accordance with Pa.R.C.P. No. 239, the District Court shall:

- (a) File seven (7) copies hereof with the Administrative Office of Pennsylvania Courts;
- (b) Distribute two (2) certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- (c) Cause a copy hereof to be published in the *York Legal Record* once a week for two (2) successive weeks at the expense of the County of York;
- (d) Supervise the distribution thereof to all Judges and members of the Bar of this Court.

*By the Court,*

RICHARD K. RENN,  
*President Judge*

**Fee Scheule 2008-2010**

	<i>Base Rate</i>		<i>Base Rate</i>
<i>Clerk Fees:</i>		*Resolution of Township Supervisors	\$ 18.00
**Non Jury Trial or Guilty Plea	\$ 145.00	Expungment Petition	\$ 55.00
**Indirect Criminal Contempt	\$ 145.00	<i>Forms:</i>	
**Jury Trial	\$ 195.00	*Record Check	\$ 6.00
**Summary	\$ 40.50	Bail Piece	\$ 12.00
		(Charged on each case issued)	
<i>Copies:</i>		<i>Miscellaneous:</i>	
Per page	\$ 0.55	Postage (Charged per case)	\$ 11.00
Certified Copy	\$ 10.00	Automation Fee	\$ 5.00
<i>Filing Fees:</i>		*Add \$5.00 for Equipment Automation Fund	
*Miscellaneous Papers	\$ 18.00	**Add \$16.00 for Equipment Automation Fund and Postage	
*Tax Collector Bond	\$ 18.00	Note: \$5 automation fee set by Act 36 of 2000	
*Constable Bond	\$ 18.00		
**Summary Conviction Appeal (Charged each Docket #)	\$ 47.50		
**Appeals to Commonwealth/ Superior or Supreme Court	\$ 58.00		
*Road Cases	\$ 18.00		

[Pa.B. Doc. No. 08-216. Filed for public inspection February 8, 2008, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF HEALTH

[ 28 PA. CODE CH. 23 AND 27 ]

### Communicable and Noncommunicable Diseases

The Department of Health (Department), with the approval of the State Advisory Health Board (Board), proposes to amend 28 Pa. Code Chapter 23, Subchapter C (relating to immunization) and 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings). The proposed amendments are set forth in Annex A.

#### A. Purpose of the Regulation

The proposed amendments would revise § 23.83 (relating to immunization requirements) to combine immunization requirements for school entry into kindergarten or first grade with immunization requirements for school attendance in all grades; and to add two new immunization requirements for entry into the seventh grade. The Department has developed these proposed amendments following review of the recommendations of the Centers for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP). The Department has determined that certain of ACIP's recommendations would serve to meet the needs of the Commonwealth with respect to requirements for school immunizations. The proposed amendments would require that students before entering school be immunized with the hepatitis B vaccine (previously required for entry into either kindergarten or first grade and entry into the seventh grade); and would require that students entering the seventh grade be immunized with the tetanus, diphtheria and acellular pertussis (Tdap) vaccine, if at least 5 years has elapsed since their last tetanus and diphtheria immunization, and be immunized with the meningococcal conjugate vaccine (MCV).

Finally, the proposed amendments would institute ACIP recommendations regarding an additional dose requirement for mumps vaccine and for varicella vaccine. The proposed amendments would change the existing requirement for varicella immunity upon school entry and for entry into the seventh grade into an all-grades requirement, but would phase in the 2-dose requirement. Children entering school in kindergarten or first grade would be required to have 2 properly-spaced doses of the vaccine. The Department's requirement that children who are 13 years of age or older have 2 properly-spaced doses for entry into the seventh grade would become a requirement for school attendance for those children. The Department would then require 2 properly-spaced doses of the varicella vaccine for all grades beginning school year 2010/2011. The proposed amendments would not alter the existing option that varicella immunity may be proven by either a written history from a parent, guardian or physician or by laboratory confirmation of the disease.

Further, the proposed amendments are also intended to clarify what immunization requirements apply to children under the age of 5 years attending child care group settings located in a school. In addition, the proposed amendments are intended to clarify that children in a school district operated prekindergarten program, early intervention program operated by a contractor or subcontractor (this includes districts, intermediate units and private vendors), and in a private academic preschool are

required to obtain appropriate immunizations as a condition of attending those programs.

Finally, the proposed amendments would also add a 4-day grace period for vaccine administration, also in accordance with recommendations of ACIP, and would revise the Department's requirements for school reporting of immunizations in § 23.86 (relating to school reporting).

#### B. Requirements of the Regulation

### CHAPTER 23. SCHOOL HEALTH

#### Subchapter C. IMMUNIZATION

##### § 23.82. Definitions.

The Department proposes to clarify the definition for "attendance at school." It proposes to add a sentence to that definition that clarifies that attendance at school does not include the attendance of children in child care group settings located in schools. The term "child care group setting," and the requirements for immunizations relating to those settings are included in the Department's regulations relating to communicable and noncommunicable diseases in § 27.1 (relating to definition) and § 27.77(d). Section 27.77(d) states that children attending kindergarten, elementary school or higher school and children known to the care giver to be 5 years of age or to attend a kindergarten are to follow the requirements in § 28.83. The Department promulgated these exceptions to § 27.77 because some immunizations required in § 27.77 are not age-appropriate for these children. Immunization requirements should be applied based on age, not on the location of the child. The requirements in § 23.83 are those that are appropriate for a child older than the age of 5 years, and are those recommended by ACIP for children in those age groups.

Although § 27.77 is clear on which immunizations are appropriate by age in a child care group setting, there is no comparable language in § 23.83. This has resulted in some confusion when a child care group setting is located in a school, or where a school has a K-4 class, that is, kindergartens that accept children at the age of 4 years. The Department is proposing to add a new subsection (d) to § 23.83 to clarify that children attending child care group settings located in schools are to follow the immunization requirements included in § 27.77. These requirements are specifically geared towards children under the age of 5 years. It would be medically inappropriate and contrary to the recommendations of ACIP for these children to be required to have some doses of certain immunizations listed in § 23.83. If a child attending that child care group setting is older than 5 years of age, the school immunization requirements would apply regardless of the child's location.

To take into account the attendance of children younger than 5 years of age in kindergarten classes, the Department is also proposing to make changes to § 27.77(d). Those revisions would reflect this change in the ages of children attending kindergartens, and ensure that the immunizations required to be given to children are age-appropriate, regardless of the setting in which the child is located.



*§ 23.83. Immunization requirements.*

*Subsection (a). Duties of a school director, superintendent, principal or other person in charge of a public, private, parochial or nonpublic school.*

The Department proposes to combine subsection (a), which addresses immunizations required for entry into kindergarten or first grade, with subsection (b), which addresses immunizations required for attendance in all grades. Because there should be no difference between the list of immunizations required for school entry, and those required for school attendance, there is no need for two separate subsections addressing those immunization requirements. The Department proposes to create a new subsection (a), relating to duties of a school director, superintendent, principal, or other person in charge of a public, private, parochial or nonpublic school. New subsection (a) would include the statutory requirement that a school director, the superintendent, principal, or other person in charge of public, private, parochial or other nonpublic schools within this Commonwealth must ascertain whether children are immunized in accordance with the list of immunizations developed by the Department. That list is set out in proposed subsection (b).

These amendments would make no change to the regulation that permits provisional enrollment of students who have received at least 1 dose of the required immunization for a disease. A child may enter school with 1 dose of a vaccine series, but is then required to obtain all the necessary doses to continue in attendance. See § 23.85 (relating to responsibilities of schools and school administrators).

*Subsection (b). Required for attendance.*

The Department proposes to revise subsection (b) of this section to add hepatitis B immunizations (see proposed paragraph (7)) and chickenpox (varicella) immunity (see proposed paragraph (8)), now required for entry into kindergarten or first grade, to those immunizations required for school attendance. The Department chose to phase in the requirements for hepatitis B immunizations and varicella immunity of all students attending school by requiring those immunizations first be obtained upon school entry into kindergarten or first grade and into the seventh grade, rather than requiring immediate compliance in all grade levels. This allowed schools to gradually require compliance of their student populations. In 1998, the hepatitis B immunization requirement and the 4th dose of tetanus/diphtheria immunization requirement were added to school entry into kindergarten or first grade. In 2002, the chickenpox (varicella) immunity requirement was added to school entry into kindergarten or first grade; and the hepatitis B immunization and varicella immunity requirements were added to entry into the seventh grade. Those children initially affected by the 1998 requirements are now in grade 8 and those children initially affected by the 2002 regulation are now in grades 4 and 11. Therefore, there are not many children that remain to "catch up" with one or both of these requirements.

In addition to making varicella immunity an all-grades requirement, the Department is proposing to revise the requirements for vaccination, in accordance with ACIP recommendations. ACIP recommends that children receive 2 doses of the varicella vaccine for them to be appropriately immunized. To meet this recommendation without placing undue burden on either parents and guardians, who must obtain these vaccinations for their children, or on schools, which must determine whether

children have met these requirements to attend school, the Department has elected to phase in the 2 varicella dose requirement. The Department proposes that until the school year 2010/2011, in order to enter school in kindergarten or first grade, children must have 2 properly-spaced doses of varicella vaccine administered after 12 months of age. (See proposed paragraph (8)(i)(A).) Children 13 years of age or older would also be required to have 2 properly-spaced doses to attend school. This requirement had been in place solely for children entering the seventh grade; the proposed amendments would make it a requirement for school attendance for children 13 years of age or older. (See proposed paragraph (8)(i)(B).) At the beginning of school year 2010/2011, all children will be required to have 2 properly-spaced doses of varicella vaccine to attend school. (See proposed paragraph (8)(i)(C).)

Finally, the Department has not altered the provision allowing immunity to be proven by laboratory evidence or laboratory confirmation of the disease or by the statement from a physician, parent or guardian of a history of disease, rather than by evidence of a vaccination. (See proposed paragraph (8)(ii).)

The Department is also proposing to revise subsection (b), paragraphs (4) and (5), which state what is required to show a history of immunity from measles (rubeola) and from German measles (rubella). In both those paragraphs, a history of immunity may be shown by "serological evidence showing antibody determined by the hemagglutination inhibition test or any comparable test." Because of changing technology, however, the Department is reluctant to continue to require a specific test for this particular purpose. The Department, therefore, is proposing to replace the language in both paragraphs with the requirement that a history of immunity be shown by "laboratory testing." (See proposed subsection (b)(4) and (5).) This allows the most effective test for this purpose to be used, without dictating what test is being required.

Finally, the Department is also proposing to amend subsection (b), paragraphs (1), (2) and (6) to add new dosage requirements relating to diphtheria/tetanus and mumps. Paragraphs (1) and (2) currently only require 3 doses of diphtheria/tetanus; the Department proposes to require a 4th dose after the child's 4th birthday. Paragraph (6) currently requires only 1 dose of live attenuated mumps vaccine for children at 12 months of age or older for attendance at school. (28 Pa. Code § 23.83(b)(6).) In response to recent outbreaks of mumps in school-age children who had been previously vaccinated, ACIP recently revised recommendations for mumps immunizations to recommend 2 doses of mumps vaccine instead of 1 dose for school-aged children, that is, children attending school in kindergarten through the 12th grade. Observation of the recent mumps outbreaks in schools suggests that 1 dose of the mumps vaccine or MMR (measles, mumps, rubella) vaccine is not sufficient to prevent mumps outbreaks in school-age children. The Department is proposing to adopt ACIP's recommendation, and proposing to add the requirement of an additional dose of live attenuated mumps vaccine to prevent future outbreaks of mumps in schools in this Commonwealth.

*Subsection (c). Required for entry into the 7th grade.*

The Department proposes to revise subsection (c), which lists those immunizations required for entry into the seventh grade, to delete the hepatitis B immunization and varicella immunity requirements and to include tetanus and diphtheria toxoid and acellular pertussis

vaccine (Tdap) and meningococcal conjugate vaccine (MCV) immunizations. The proposed amendment would require 1 dose of Tdap vaccine, if at least 5 years have elapsed since the last dose of a vaccine containing tetanus and diphtheria toxoid, and 1 dose of MCV.

Pertussis is the most prevalent vaccine preventable disease among older children, adolescents and adults. The number of adolescents and adults diagnosed with pertussis has increased five-fold over the past 14 years. In 2003 in the United States, persons 11-18 years of age made up 36% of the total reported pertussis cases. In 2004, there were 342 cases of pertussis in this Commonwealth with 91 of those cases in the 10-14 year old age group. Children complete their routine series of tetanus/diphtheria/pertussis vaccine at 4 to 6 years of age; data suggest that immunity declines 5 to 10 years after the last childhood vaccination.

Pertussis is easily transmitted and carries risks in older age groups, as well as for unimmunized or partially immunized infants. In older age groups, risks include prolonged coughing, vomiting and missed school or work. The clinical presentation of pertussis in adolescents ranges from mild cough illness to serious and prolonged coughing lasting for weeks to months. Pertussis outbreaks in schools with adolescents are disruptive and lead to significant public health control efforts. Studies have reported that parents lose an average of 6 days of work to care for an ill child with pertussis. This translates to an average cost of \$767 in lost productivity. Adolescents miss an average of 5.5 days of school with pertussis. When pertussis is transmitted to unimmunized or partially immunized infants, the complications can be serious.

The Federal Food and Drug Administration (FDA) licensed two Tdap vaccines in 2005 to provide protection against these diseases in adolescents and adults. On June 30, 2005, ACIP recommended the routine use of Tdap vaccine in adolescents 11-18 years of age. ACIP's preferred age for the Tdap immunization is 11-12 years of age. The Department is proposing to follow these recommendations by making the Tdap immunization required for entry into the 7th grade or at 12 years of age in an ungraded class if at least 5 years have elapsed since the last dose of a vaccine containing tetanus and diphtheria toxoid has been received.

The proposed amendments would also require 1 dose of MCV for entry into the 7th grade or at 12 years of age in an ungraded class. (See proposed subsection (c)(2).) This newly licensed meningococcal conjugate vaccine, licensed as of January 14, 2005, by the FDA for use in persons 11-55 years of age, offers longer protection against meningococcal disease than previous meningococcal vaccines.

Meningococcal disease strikes up to 3,000 Americans, killing approximately 300 people every year. Ten to 12% of people with meningococcal disease die and among survivors up to 15% may suffer long-term permanent disabilities including hearing loss, limb amputation or brain damage. Meningococcal disease is particularly dangerous because it progresses rapidly and can kill within hours. Although the incidence of invasive meningococcal disease is highest in infants, the case fatality rate is highest in adolescents. The incidence of invasive meningococcal disease peaks in infants younger than 12 months, but a second peak occurs during adolescence.

The General Assembly has recognized the dangers of meningococcal disease. In response to these concerns, it passed the College and University Student Vaccination

Act (35 P. S. §§ 633.1—633.3), which prohibits a student from residing in a college or university dormitory or housing unit unless the student has a one-time vaccination against meningococcal disease. (See 35 P. S. § 633.3.)

ACIP has recommended routine vaccination of adolescents (defined as persons 11-12 years of age) at a preadolescent health-care visit. For those adolescents who have not previously received MCV, ACIP recommends vaccination before high school entry (at approximately 15 years of age) and for college freshmen living in dormitories. The Department has reviewed ACIP's recommendations relating to MCV, and has determined that they are acceptable to meet the needs of this Commonwealth. Therefore, the Department is basing its proposed amendment on ACIP's recommendations.

*Subsection (d). Child care group settings.*

This subsection is new. It is intended to clarify questions raised because some child care group settings are located in schools, and some schools now have kindergarten classes including children who are younger than 5 years of age. Because the ACIP recommendations for children younger than 5 years of age differ from those recommended for most children of the ages attending kindergarten, elementary school or higher school, only a child in a child care group setting who is 5 years of age or older should receive the immunizations included in § 23.83. Children younger than 5 years of age should still continue to receive the immunizations included in § 27.77, regardless of where their child care group setting is located, or whether they are in a kindergarten class.

By proposing to add subsection (d), the Department is proposing to clarify that children younger than 5 years of age attending child care group settings located in schools are not to follow the immunization requirements for school attendance, but are to follow the requirements for immunizations in child care group settings included in the Department's regulations relating to communicable and noncommunicable diseases. (See § 27.77.) These regulations are specifically directed at children younger than the age of 5 years, and require immunizations appropriate to those younger age groups. The Department is also proposing changes to § 27.77(d) to reflect that children younger than 5 years of age are now attending kindergartens, and to ensure that age appropriate immunizations are provided to children regardless of the location of their setting.

*Subsection (e). Prekindergarten programs, early intervention programs and private academic preschools.*

This subsection is new. It would make it clear that children in prekindergarten programs, early intervention programs and private academic preschools are required to comply either with the immunization requirements for school attendance, or those required for attendance at child care group settings, depending upon the age of the child. This clarification is important because children who are not yet attending kindergarten or first grade but who are still surrounded by other children, both older and younger, may contract disease as easily as those who are attending school in kindergarten or the first grade. It is important for the health of the child and the health of this Commonwealth that the spread of potentially dangerous and debilitating disease be prevented or at least contained through the use of immunization in educational settings.

It is equally important that the immunizations received by the child be age-appropriate, as mentioned previously. Therefore, the Department is proposing that children

younger than 5 years of age would be required to comply with the Department's regulation in § 27.77. Children 5 years of age or older would be required to comply with the requirements of subsection (b) of the proposed amendments.

*Subsection (f). Grace period.*

This subsection is new. The Department is proposing to include a 4-day grace period for the administration of required vaccines in accordance with ACIP recommendations and with the notice of its intention to amend its regulations published at 32 Pa.B. 1305 (March 9, 2002).

There is no scientific basis for concluding that if a vaccine is not given with a strict interval between doses or at an exact age, the vaccine is ineffective or unsafe. The CDC published recommendations in the February 8, 2002, Morbidity and Mortality Weekly Report (MMWR) which would allow vaccines to be given at a time less than or equal to 4 days prior to the recommended minimal interval between dosages and before the appropriate age for vaccine is reached and still be counted as a valid dose of vaccine. The Pennsylvania Chapter of the American Academy of Pediatrics supported ACIP's recommendations of allowing a 4-day grace period for dose interval and age limit. The recommendation, however, conflicts with the Commonwealth's school immunization requirement in this section for measles, mumps, rubella and varicella vaccines, which states that these vaccines must be administered on or after a child turns 12 months old for the vaccine to be accepted as a valid dose. With respect to varicella, the Department's regulations for entry into seventh grade require either 1 dose of vaccine at 12 months of age or older, or 2 doses of vaccine at 13 years of age or older. (See current subsection (c)(2)(i) and (ii).)

After consideration of ACIP's February 8, 2002, recommendation and review of the relevant information relating to that recommendation, the Department agreed with ACIP's determination that administering a vaccine dose 4 days earlier than the minimum interval or age limit would be unlikely to have a significant negative effect on the immune response to that dose. After discussion with and agreement from the Pennsylvania Department of Education (PDE), the Department published a notice at 32 Pa.B. 1305 (March 9, 2002) to that effect. That notice stated that the Department intended to amend its regulations to reflect this ACIP recommendation. The Department now proposes to do so.

*§ 23.86. School reporting.*

The Department is proposing to revise this section to address requirements for reporting immunization data placed on the Department by the CDC. The CDC requests annual school immunization coverage reports from the Department as part of the Federal Immunization Grant process. In the last few years, the CDC has requested that the Department provide to the CDC information relating to individual vaccine dose coverages. To comply with this request, the Department has been estimating individual vaccine dose coverage by schools' self-reports and validation audits for up-to-date status for all required vaccines. The CDC may not accept the Commonwealth's estimated vaccine coverage rates in the future. The Department is proposing to amend this section to allow it to meet the CDC's reporting requirements and to ensure that the Department continues to receive grant funding for immunizations.

**CHAPTER 27. COMMUNICABLE AND NONCOMMUNICABLE DISEASES**

**Subchapter C. QUARTINE AND ISOLATION**

**Communicable Diseases in Children and Staff Attending Schools and Child Care Group Settings**

*§ 27.77. Immunization requirements for children in child care group settings.*

The Department is proposing to amend subsection (d) of this section. Subsection (d) excludes children 5 years of age and older attending kindergarten, elementary school or higher school and children known to the care giver to attend a kindergarten from the immunization requirements of § 27.77, and requires them to follow the school immunization requirements in § 28.83. Because more children are now attending school based settings under the age of 5 years, this language will work to require children younger than 5 years of age that are in child care group settings located in schools to obtain immunizations appropriate for their age. The Department, therefore, is proposing to revise this subsection to ensure that those children younger than 5 years of age in school based settings such as prekindergarten, are required to obtain immunizations that are age appropriate.

*C. Affected Persons*

The proposed amendments would affect children attending school in this Commonwealth and entering the seventh grade or at 12 years of age in an ungraded class who have not received tetanus and diphtheria toxoid immunizations within the last 5 years or who have not received the MCV immunization. The proposed amendments would also affect those students who missed the school entry requirement for hepatitis B vaccination, varicella immunity and the 4th dose of the tetanus and diphtheria vaccinations. In addition, the proposed amendments would affect those students who missed the seventh grade entry requirements for hepatitis B vaccination and varicella immunity. Finally, the proposed amendments would affect those children who need to receive a second dose of varicella and mumps vaccines.

The proposed amendments would also affect the parents or guardians of these students, since they would have to ensure that the children receive these vaccinations, and may be required to pay out-of-pocket for them. However, because requiring these immunizations would protect children from contracting tetanus, diphtheria, pertussis and meningitis, chickenpox and mumps, their parents or guardians would not have to miss work, worry, or pay medical bills related to these diseases. Physicians and health care providers would not have to treat sick children. Department staff would not need to become involved in the prevention of outbreaks as they do now.

Those children who suffer the rare adverse reaction to a required immunization and their parents or guardians would also be affected. Conversely, children who might otherwise have become ill, or perhaps died, from meningitis, pertussis, diphtheria, tetanus, hepatitis B, chickenpox or mumps, are also affected beneficially by these proposed amendments.

The proposed amendments would affect school districts and their employees, since school districts are required to ensure that children attending school have the appropriate vaccinations, and to report that information to the Department according to the Department's revised reporting requirements. The impact would be slight, however, in that school districts already have systems in place to document immunization status of students, and because

the recommendation by ACIP that a grace period be provided in determining the immunization status of students was initially made in 2002.

#### D. *Cost and Paperwork Estimate*

##### 1. *Cost*

###### a. *Commonwealth*

The Commonwealth would incur some costs for the purchase of Tdap and meningococcal conjugate vaccines, as well as additional hepatitis B and varicella vaccines; and the MMR, through the expenditure of Federal immunization grant funds. The Commonwealth would also incur costs through the Medical Assistance Program, which pays for administering the vaccines for eligible persons. The Department makes vaccines available at no cost to private providers enrolled in the Vaccines For Children (VFC) Program for children through 18 years of age who have no insurance, who are Medicaid eligible or who are Alaskan Native or American Indian. In addition, VFC Program vaccine is also made available to other public clinic sites (Federally Qualified Health Centers and Rural Health Clinics) for the same population but also for underinsured children through 18 years of age. Vaccines are made available to schools at no cost through the Department's School Based Catch-Up Program for those students who have no medical home or are unable to seek the immunization through a public clinic site. The Commonwealth should realize savings, at the same time, based on the amount of funds that would not be needed to control the outbreak of the disease the vaccine prevents.

The inclusion of a grace period into the regulations should add no cost for the Commonwealth, including either the Department or PDE. The 4-day grace period is intended to allow a vaccine dose administered 4 days before the minimum interval between doses or before the appropriate age is reached to be counted as a valid dose. Since there is no scientific basis for taking a position that a vaccine must be given with a strict interval between doses or at an exact age or the vaccine is ineffective or unsafe, the grace period would merely allow schools to accept vaccines provided within this period for purposes of determining compliance with the Department's regulations relating to school attendance.

###### b. *Local Government*

There would be no fiscal impact on local governments. Local governments could see a slight cost savings, since local governments do bear some of the cost of disease outbreak investigations and control measures. (The Department addresses the potential impact of these proposed amendments on school districts, which may be considered to be local government, under the heading of "Regulated Community.")

###### c. *Regulated Community*

Families whose children's vaccinations are covered by their insurance plans (public or private) under State law should not see any out-of-pocket cost for the added vaccines. Families whose insurance plans do not cover these vaccinations, or who do not have insurance, will need to seek other assistance to pay for the vaccines, or pay out-of-pocket. In general, there is other assistance provided for vaccinations from the Department, if no third party payer is available. The Department, through

its State health centers, provides vaccinations. The Department also provides vaccines to providers for certain eligible children through the VFC Program, and to schools through its Catch-Up Program. The savings in prevention of childhood illness would outweigh the minimal cost of the vaccine.

The inclusion of a grace period should not add cost for school districts. School districts currently decide which children are appropriately immunized, and which are not appropriately immunized and so should be excluded from attendance. The inclusion of a 4-day grace period, which is intended to allow a vaccine dose administered 4 days before the minimum interval between doses or before the appropriate age is reached to be counted as a valid dose, would now have to be taken into consideration in making this determination. This proposed amendment should not add significantly to the cost of determining whether children are appropriately immunized, since this recommendation has been in place since the Department published its notice in 2002.

These proposed amendments would add 2 additional immunizations for school officials to review, 2 additional vaccine doses to account for (2 doses of varicella and 2 doses of mumps), and could increase the amount of follow-up needed to ensure that provisionally enrolled students in all grades receive the necessary doses in the series for all required immunizations prior to the expiration of the 8-month provisional enrollment deadline. Provisional enrollment allows for a child who has not had all the required vaccine doses described in § 23.83 to continue attendance at school if the child has had at least 1 dose of each required vaccine and there is a plan for that child obtaining all required immunizations. (§ 23.85(e).) A child provisionally admitted to school must have completed the immunizations required by § 23.83 within an 8-month period from the date of the child's provisional admission, or the school administrator may neither admit the child to school, nor permit the child's continued admission. Again, the savings in the prevention of an outbreak of a childhood illness in a school district should outweigh the minimal cost in staff time to review two additional immunizations and to follow-up on provisional enrollments.

No additional cost should be added to the regulated community by the Department's proposal to delete the requirements that the hemagglutination test or a comparable test be used to show a history of immunity to measles or German measles, and to replace that requirement with a more current test. Even without any amendment to the regulations, there would be a cost associated with choosing this particular method of showing immunity—the cost of the hemagglutination test. Since the amendment would not prohibit that particular test from being used in the future, no cost beyond that of the hemagglutination test would be incurred, and the cost of the regulations in this regard should remain stable. Future tests may, in fact, decrease in price, which could provide a cost savings for affected persons. Further, use of this method of proving immunity is not required.

Lastly, no additional cost should be added by the Department's clarification regarding children in child care group settings located in schools. The requirements for attendance at school and school reporting should not apply to those children. The regulations that would apply are those immunization requirements that are already in place that deal with child care group settings in § 27.77.

#### d. *General Public*

The general public should not see an increase in cost. The general public should see a decrease in costs resulting from a reduction in medical treatment needed to treat the disease and a reduction in the loss of work in order to stay home with a sick child. The general public may see a benefit in the reduction of vaccine preventable diseases, such as pertussis, chickenpox, mumps and meningitis. Since the school environment is conducive to the contracting and transmission of diseases among children with no immunity, failure to immunize properly not only puts children at risk for contracting these debilitating diseases, it also places the public at risk since these diseases are then easily spread by staff and children outside the school setting and into the general public.

### 2. *Paperwork Estimates*

#### a. *Commonwealth and the Regulated Community*

Schools would need to report in accordance with the new reporting requirements, which would require them to report the number of doses of individual antigens that have been administered to students. The Department would need to review and include those new reported numbers in its report to the CDC. Schools are currently required to report immunization coverage status for their students to the Department for the Department to satisfy CDC requirements relating to reporting of immunizations. The additional paperwork requirements for the Commonwealth, including both the Department and PDE, and the regulated community would be minimal, however, since school districts already complete this annual report regarding the number of immunizations and follow up on provisional enrollment. School nurses, who perform recordkeeping and reporting requirements in the schools, currently maintain and report this information. The CDC, however, is in the process of changing these requirements. The Department would provide reporting forms to schools, as it currently does, and the reports would be sent to the same Department office as the current reports. Schools also have the option of electronic reporting.

#### b. *Local Government*

There is no additional paperwork requirement for local government. (The Department has included school districts, which may be considered to be local government, under the heading of "Regulated Community.")

#### c. *General Public*

There is no additional paperwork requirement for the general public.

### E. *Statutory Authority*

The Department obtains its authority to promulgate regulations relating to immunizations in schools from several sources. Generally, the Disease Prevention and Control Law of 1955 (35 P. S. §§ 521.1—521.21) (act) provides the Advisory Health Board (Board) with the authority to issue rules and regulations on a variety of matters relating to communicable and noncommunicable diseases, including what control measures are to be taken with respect to which diseases, provisions for the enforcement of control measures, requirements concerning immunization and vaccination of persons and animals, and requirements for the prevention and control of disease in public and private schools. (See 35 P. S. § 521.16(a).) Section 16(b) of the act (35 P. S. § 521.16(b)) gives the Secretary of Health (Secretary) the authority to review existing regulations and make recommendations to the Board for changes the Secretary considers to be desirable.

The Department also finds general authority for the promulgation of its regulations in The Administrative Code of 1929 (Administrative Code) (71 P. S. § 51—732). Section 2102(g) of The Administrative Code (71 P. S. § 532(g)) gives the Department this general authority. Section 2111(b) of the Administrative Code (71 P. S. § 541(b)) provides the Board with additional authority to promulgate regulations deemed by the Board to be necessary for the prevention of disease, and for the protection of the lives and the health of the people of this Commonwealth. That section further provides that the regulations of the Board shall become the regulations of the Department.

The Department's specific authority for promulgating regulations relating to school immunizations is found in The Administrative Code and in the Public School Code of 1949 (Code) (24 P. S. §§ 1-101—27-2702). Section 2111(c.1) of The Administrative Code (71 P. S. § 541(c.1)) provides the Board with the authority to make and revise a list of communicable diseases against which children are required to be immunized as a condition of attendance at any public, private or parochial school, including kindergarten. The section requires the Secretary to promulgate the list, along with any rules and regulations necessary to insure the immunizations are timely, effective, and properly verified.

Section 1303a of the Code (24 P. S. § 13-1303a) provides that the Board will make and review a list of diseases against which children must be immunized, as the Secretary may direct, before being admitted to school for the first time. The section provides that the school directors, superintendents, principals, or other persons in charge of any public, private, parochial, or other school including kindergarten, shall ascertain whether the immunization has occurred, and certificates of immunization will be issued in accordance with rules and regulations promulgated by the Secretary with the sanction and advice of the Board.

### F. *Effectiveness/Sunset Dates*

The proposed amendments will become effective upon their publication in the *Pennsylvania Bulletin* as final rulemaking. No sunset date has been established. The Department will continually review and monitor the effectiveness of these regulations.

### G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), the Department submitted a copy of this proposed rulemaking on January 24, 2008, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form. A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed amendments, it will notify the Department by April 9, 2008. The notifications shall specify the regulatory review criteria which have not been met by that portion. The act specifies detailed procedures for review, prior to final publication of the regulations by the Department, the General Assembly and the Governor, of objections raised.

#### H. Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed regulation to Heather Stafford, Director, Division of Immunization, Department of Health, 7th and Forster Streets, Harrisburg, PA 17120, (717) 787-5681, by March 10, 2008. Persons with a disability who wish to submit comments, suggestions or objections regarding the proposed rulemaking may do so by using the previous number or address. Speech or hearing, or both, impaired persons may use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT). Persons who require an alternative format of this document may contact Heather Stafford so that necessary arrangements may be made.

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

**Fiscal Note:** 10-181 proposed. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 28. HEALTH AND SAFETY

#### PART III. PREVENTION OF DISEASES

#### CHAPTER 23. SCHOOL HEALTH

#### Subchapter C. IMMUNIZATION

#### § 23.82. Definitions.

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

\* \* \* \* \*

*Attendance at school*—The attendance at a grade, or special classes, kindergarten through 12th grade, including public, private, parochial, vocational, intermediate unit and home education students. **The term does not include the attendance of children at a child care group setting, defined in § 27.1 (relating to definitions), located in a public, private or vocational school, or in an intermediate unit.**

\* \* \* \* \*

#### § 23.83. Immunization requirements.

(a) [ *Required for entry.* ] ***Duties of a school director, superintendent, principal or other person in charge of a public, private, parochial or nonpublic school.* [ The following immunizations are required for entry into school for the first time at the kindergarten or first grade level, at public, private or parochial schools in this Commonwealth, including special education and home education programs:**

(1) ***Hepatitis B.*** Three properly-spaced doses of hepatitis B vaccine or a history of hepatitis B immunity proved by laboratory testing.

(2) ***Diphtheria.*** Four or more properly-spaced doses of diphtheria toxoid, which may be administered as a single antigen vaccine, in combination with tetanus toxoid or in combination with tetanus toxoid and pertussis vaccine. One dose shall be administered on or after the 4th birthday.

(3) ***Tetanus.*** Four or more properly-spaced doses of tetanus toxoid, which may be administered as a single antigen vaccine, in combination with diphtheria toxoid or in combination with diphtheria toxoid and pertussis vaccine. One dose shall be administered on or after the 4th birthday.

(4) ***Poliomyelitis.*** Three or more properly-spaced doses of any combination or oral polio vaccine or enhanced inactivated polio vaccine.

(5) ***Measles (rubeola).*** Two properly-spaced doses of live attenuated measles vaccine, the first dose administered at 12 months of age or older, or a history of measles immunity proved by serological evidence showing antibody to measles as determined by the hemagglutination inhibition test or a comparable test. Each dose of measles vaccine may be administered as a single antigen vaccine.

(6) ***German measles (rubella).*** One dose of live attenuated rubella vaccine, administered at 12 months of age or older or a history of rubella immunity proved by serological evidence showing antibody to rubella determined by the hemagglutination inhibition test or any comparable test. Rubella vaccine may be administered as a single antigen vaccine.

(7) ***Mumps.*** One dose of live attenuated mumps vaccine, administered at 12 months of age or older or a physician diagnosis of mumps disease indicated by a written record signed by the physician or the physician's designee. Mumps vaccine may be administered as a single antigen vaccine.

(8) ***Chickenpox (varicella).*** One of the following:

(i) One dose of varicella vaccine, administered at 12 months of age or older.

(ii) A history of chickenpox immunity proved by laboratory testing or a written statement of a history of chickenpox disease from a parent, guardian or physician. ]

Each school director, superintendent, principal or other person in charge of a public, private, parochial or nonpublic school in this Commonwealth, including vocational schools, intermediate units, and special education and home education programs, shall ascertain that a child has been immunized in accordance with subsections (b), (c) and (e) prior to admission to school for the first time.

(b) *Required for attendance.* The following immunizations are required as a condition of attendance at school in this Commonwealth [ **if the child has not received the immunizations required for school entry listed in subsection (a) ]**.

(1) ***Diphtheria.*** [ Three ] Four or more [ properly spaced ] properly-spaced doses of diphtheria toxoid, which may be administered as a single antigen vaccine, in combination with tetanus toxoid or in combination with tetanus toxoid and pertussis vaccine. One dose shall be administered on or after the 4th birthday.

(2) *Tetanus*. [ **Three** ] **Four** or more [ **properly spaced** ] **properly-spaced** doses of tetanus toxoid, which may be administered as a single antigen vaccine, in combination with diphtheria toxoid or in combination with diphtheria toxoid and pertussis vaccine. **One dose shall be administered on or after the 4th birthday.**

\* \* \* \* \*

(4) *Measles (rubeola)*. Two [ **properly spaced** ] **properly-spaced** doses of live attenuated measles vaccine, **the first dose** administered at 12 months of age or older or a history of measles immunity proved by [ **serological evidence showing antibody to measles as determined by the hemagglutination inhibition test or a comparable test** ] **laboratory testing**. Each dose of measles vaccine may be administered as a single antigen vaccine.

(5) *German measles (rubella)*. One dose of live attenuated rubella vaccine, administered at 12 months of age or older or a history of rubella immunity proved by [ **serological evidence showing antibody to rubella determined by the hemagglutination inhibition test or any comparable test** ] **laboratory testing**. Rubella vaccine may be administered as a single antigen vaccine.

(6) *Mumps*. [ **One dose** ] **Two properly-spaced doses** of live attenuated mumps vaccine, administered at 12 months of age or older or a physician diagnosis of mumps disease indicated by a written record signed by the physician or the physician's designee. Mumps vaccine may be administered as a single antigen vaccine.

(7) *Hepatitis B*. **Three properly-spaced doses of hepatitis B vaccine, unless a child receives a vaccine as approved by the Food and Drug Administration for a 2-dose regimen, or a history of hepatitis B immunity proved by laboratory testing.**

(8) *Chickenpox (varicella)*. **One of the following:**  
 (i) *Varicella vaccine*.

(A) Required for school entry in kindergarten or the first grade until the school year 2010/2011, 2 properly-spaced doses of varicella vaccine, the first dose administered at 12 months of age.

(B) Required for school attendance until the school year 2010/2011, 2 properly-spaced doses of varicella vaccine for children 13 years of age or older.

(C) Required for school attendance as of the school year 2010/2011, 2 properly-spaced doses of varicella vaccine.

(ii) *Evidence of immunity*. Evidence of immunity may be shown by one of the following:

(A) Laboratory evidence of immunity or laboratory confirmation of disease.

(B) A written statement of a history of chickenpox disease from a parent, guardian or physician.

(c) *Required for entry into 7th grade*. In addition to the immunizations listed in subsection (b), the following immunizations are required at any public, private, parochial or [ **vocational** ] **nonpublic** school in this Commonwealth, including **vocational schools, intermediate units and special education and home education programs**, as a condition of entry for students entering

the 7th grade; or, in an ungraded class, for students in the school year that the student is 12 years of age:

(1) [ *Hepatitis B*. **Three properly-spaced doses of hepatitis B vaccine or a history of hepatitis B immunity proved by laboratory testing.**

(2) *Chickenpox (varicella)*. **One of the following:**

(i) **One dose of varicella vaccine, administered at 12 months of age or older.**

(ii) **Two properly-spaced doses of varicella vaccine for children 13 years of age and older.**

(iii) **A history of chickenpox immunity proved by laboratory testing, or a written statement of history of chickenpox disease from a parent, guardian, emancipated child or physician. ]**

*Tetanus and diphtheria toxoid and acellular pertussis vaccine (Tdap)*. **One dose if at least 5 years have elapsed since the last dose of a vaccine containing tetanus and diphtheria as required in subsection (b).**

(2) *Meningococcal Conjugate Vaccine (MCV)*. **One dose of Meningococcal Conjugate Vaccine.**

(d) *Child care group setting*. Attendance at a child care group setting located in a public, private or vocational school, or in an intermediate unit is conditional upon the child's satisfaction of the immunization requirements in § 27.77 (relating to immunization requirements for children in child care group settings), unless the child is 5 years of age or older. Attendance of a child who is 5 years of age or older at a child care group setting is conditional upon the child's satisfaction of the immunization requirements in this subchapter.

(e) *Prekindergarten programs, early intervention programs and private academic preschools*. Attendance at a prekindergarten program operated by a school district, an early intervention program operated by a contractor or subcontractor including intermediate units, school districts and private vendors, or at private academic preschools is conditional upon the child's satisfaction of the immunization requirements in § 27.77. If a child is 5 years of age or older, the child's attendance shall be conditional upon the child's satisfaction of the immunization requirements set out in subsection (b).

(f) *Grace period*. A vaccine dose administered within the 4-day period prior to the minimum age for the vaccination or prior to the end of the minimum interval between doses shall be considered to be a valid dose of the vaccine for purposes of this chapter.

§ 23.86. School reporting.

(a) A public, private [ **or** ], parochial or **nonpublic** school in this Commonwealth, including **vocational schools, intermediate units and special education and home education programs**, shall report immunization data to the Department by October 15 of each year, using forms provided by the Department.

(b) The school administrator or the administrator's designee shall forward the reports to the [ **Immunization Program, Bureau of Communicable Diseases, Post Office Box 90, Harrisburg, Pennsylvania 17108** ] Department as indicated on the reporting form provided by the Department.

\* \* \* \* \*

(d) The school administrator or the administrator's designee shall ensure that the school's identification information, including the name of the school, school district, county and school address, is correct, and shall make any necessary corrections, prior to submitting the report.

(e) [ **Content** ] The content of the reports [ **shall** ] must include the following information:

(1) [ **The identification of the school including the name of the school, the school district, the county, the intermediate unit and the type of school.**

(2) ] The month, day and year of report.

[ (3) ] (2) The number of students attending school [ **by** ] in each grade-level, or in an ungraded school, in each age group, as indicated on the reporting form.

[ (4) The number of students attending school by grade-level who were completely immunized. ]

(3) The immunization status by doses of individual antigens of every enrolled student in each grade-level, or in an ungraded school, in each age group, as indicated on the reporting form.

[ (5) ] (4) The number of students attending school [ **by grade-level** ] who were classed as medical exemptions in each grade-level, or in an ungraded school, in each age group, as indicated on the reporting form.

[ (6) ] (5) The number of students attending school [ **by grade-level** ] who were classed as religious exemptions in each grade-level, or in an ungraded school, in each age group, as indicated on the reporting form.

[ (7) ] (6) The number of students provisionally admitted to any grade or, in an ungraded school, in any age group.

[ (8) ] (7) The number of [ **children** ] students in any grade level who were denied admission because of [ **their** ] the student's inability to qualify for provisional admission or, in an ungraded school, in any age group.

[ (9) ] (8) Other information [ **as** ] required by the Department.

[ (e) For purposes of reporting the immunization status of a school's students to the Department, the following grade-levels will be used: kindergarten, grades 1-6, 7-9, 10-12 and special education. ]

## CHAPTER 27. COMMUNICABLE AND NONCOMMUNICABLE DISEASES

### Subchapter C. QUARANTINE AND ISOLATION COMMUNICABLE DISEASES IN CHILDREN AND STAFF ATTENDING SCHOOLS AND CHILD CARE GROUP SETTINGS

#### § 27.77. Immunization requirements for children in child care group settings.

\* \* \* \* \*

(d) *Exemptions.*

(1) This section does not apply to the following:

(i) [ **Kindergarten** ] Children attending kindergarten, elementary school or higher school who are 5 years of age or older. These caregivers shall comply with §§ 23.81—23.87 (relating to immunization).

(ii) Children who are known by the caregiver to be [ **6** ] 5 years of age or older or known to attend a kindergarten, elementary school or high school.

\* \* \* \* \*

[Pa.B. Doc. No. 08-217. Filed for public inspection February 8, 2008, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 63 ]

[L-00070188/57-260]

### Abbreviated Procedure for Review of Transfer of Control and Affiliate Filings for Telecommunications Carriers

The Pennsylvania Public Utility Commission (Commission) on September 27, 2007, adopted a proposed rulemaking order which sets forth amendments to Chapter 63 to streamline transfer of control and affiliate filings by telecommunications carriers.

#### *Executive Summary*

On October 19, 2007, the Commission entered an order initiating a rulemaking aimed at streamlining the review and approval process for mergers and stock transactions under sections 1102 and 1103(a) of the Public Utility Code (*The October Rulemaking Order*). *The October Rulemaking Order* also proposed regulations implementing the affiliate transaction provisions of 66 Pa.C.S. (Chapter 30) (relating to alternative form of regulation of telecommunications services).

*The October Rulemaking Order* responded to the Petition of Level 3, a Pennsylvania Competitive Local Exchange Carrier, seeking abbreviated review of CLEC applications seeking Commission approval under 66 Pa.C.S. §§ 1102 and 1103(a) (relating to enumeration of acts requiring certificate; and procedure to obtain certificates of public convenience). *The October Rulemaking Order* also addressed comments of Verizon, Inc. and the Pennsylvania Telephone Association seeking similar streamlined review for incumbent local exchange carriers.

The Commission initiated the rulemaking because of concerns about the current review and approval process given the pace of technological and corporate change in the telecommunications industry. Currently, the Commission reviews applications seeking approval of acquisitions,



diminutions in control, mergers, stock sales or transfers, and transfers of assets or control of a telecommunications public utility as transactions involving issuance of a certificate of a public convenience under 66 Pa.C.S. §§ 1102 and 1103.

The Public Utility Code provisions do not require a decision by a date certain. Although the Commission is generally able to review and approve most transactions in a reasonable period of time, the increase in their number and the rapid pace of technological change in the telecommunications market warrants consideration of another approach. The Commission is considering the feasibility of shortening the review and approval period to something much less than the current 6-to-9 month period.

The proposed regulations establish a three-tier timeline for Commission review and approvals for mergers and stock transactions for telecommunications public utilities.

Mergers or stock transactions that do not affect rates or conditions of service would be reviewed and approved within 30 days as *pro forma transactions* provided the utility files with the Commission no later than 30 days before the expected closing date. This includes customer transfers.

Mergers or stock transactions that affect rates or conditions of service would be reviewed and approved within 60 days as *general rule transactions* provided the utility files no later than 60 days before the closing date. This includes transfers of customers that involve rates or changes in conditions of service.

The "open ended" review and approval process, currently applied to all review and approvals for any transaction regardless of its complex or routine nature, will be confined to mergers or stock transactions that are complex, controversial or raise difficult questions. The Commission retains the discretion to "reclassify" a *pro forma* transaction as a *general rule* transaction or open-ended transaction, and vice versa.

The proposed regulations also remove a transaction from the 60-day general rule if a statutory advocate (the Office of Consumer Advocate, the Office of Small Business Advocate, or the Office of Trial Staff) files a formal protest, the filing involves a major acquisition or merger between firms with substantial market shares, or when the filing raises novel or important issues. The filing of a general comment or formal protest by a person other than a statutory advocate does not typically reclassify a transaction.

Under the proposed regulations, the applicant files information identical to that sought by the FCC regardless of the nature of the transaction. There are additional Pennsylvania-specific filing requirements which reflect Pennsylvania law and Commission practice. These include the obligation to show the general public benefit in a transaction as required by judicial precedent, appending diagrams illustrating the applicant's organizational structure before and after the transaction to facilitate faster staff review, and confirming that the applicant is complying with Commission rules and regulations. An applicant must keep the Commission informed of any developments while approval is pending, particularly the actions of other state or federal regulators.

Finally, the proposed regulation in § 63.326 implements the minimal affiliate filing requirements under 66 Pa.C.S. § 2101(a) (relating to definition of affiliated interest) for telecommunications public utilities in 66 Pa.C.S. §§ 3016(f)(1) and 3019(f)(1) (relating to competitive services; and additional powers and duties).

Public Meeting held  
September 27, 2007

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Tyrone J. Christy, Statement attached; Kim Pizzigrilli

*Petition of Level 3 Communications, LLC to Amend the Public Utility Commission Regulations to Streamline Transfer of Control and Affiliate Filing Requirements for Competitive Carriers; Doc. No. P-00062222*

*Rulemaking to Amend Chapter 63 Regulations so as to Streamline Procedures for Commission Review of Transfer of Control and Affiliate Filings for Telecommunications Carriers; Doc. No. L-00070188*

### Proposed Rulemaking Order

*By the Commission:*

Before the Commission for disposition is a Petition by Level 3 Communications, LLC (Level 3 Petition). The Level 3 Petition seeks revision to the Commission's rules and procedures governing the transfer of control and affiliate filing requirements under 66 Pa.C.S. §§ 1102(a)(3) and 1103, including the issuance of a Certificate of Public Convenience evidencing Commission approval. The Commission's regulations governing these transfers are set out as application filing requirements in §§ 5.1, 5.11 and 5.43 of our regulations, 52 Pa. Code §§ 5.1, 5.11 and 5.43. Those regulations were recently revised although acquisitions, mergers, and transfers of control or assets were not addressed in detail. Moreover, there has been considerable change in the technology and marketplace for public utility service involving communications. Indeed, the telecommunications industry continues to undergo rapid changes both for incumbent carriers and new competitors, and there appears to be need to update our regulations to allow for more rapid review of proposed transactions, provided that the public interest remains protected. Under these circumstances, we agree that a review and possible revision of our procedures for transfers of control and affiliate transactions is appropriate.

The Level 3 Petition was filed on May 31, 2006. Level 3 provided copies to the Office of Consumer Advocate (OCA), Office of Trial Staff (OTS), and the Office of Small Business Advocate (OSBA) consistent with § 5.41(c) of the Commission's regulations. Level 3 also provided a copy to Verizon Pennsylvania Inc. (Verizon) and the Pennsylvania Telephone Association (PTA) as persons affected, consistent with § 5.41(c).

The Level 3 Petition asks the Commission to initiate a rulemaking to streamline the administrative process by which certificated competitive carriers may complete transfers of control and affiliate transactions. The Level 3 petition proposes revisions to the Commission's current review and approval process that allegedly impose unnecessary and burdensome requirements on non-dominant, competitive carriers. Level 3 contends that the public interest in a competitive environment does not require strict scrutiny of nondominant carriers' transactions as they do not wield control over bottleneck facilities, possess market power, or exercise control over local exchange bottleneck facilities.

Level 3 contends that comments or protests are rarely filed with respect to nondominant carrier transactions. Level 3 also contends that a 3 to 6-month process for securing regulatory approval or a 6-month process following referral to an Administrative Law Judge is untenable in an era of real-time transactions. Level 3 concludes that

revisions are necessary because non-dominant carriers facing important commercial needs have no procedural means to avoid these protracted review periods and notes that even with the proposed revisions the Commission would still retain discretion over the administrative process.

Verizon and PTA filed response comments that support revision of our regulatory procedures governing transfers of control and affiliate transactions. However, both entities contend that any revision apply equally to incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs), including Level 3.

Verizon disputes the Level 3 assertion that any abbreviated procedures should only apply to CLECs because they are non-dominant carriers. Verizon notes that the Federal Communication Commission's (FCC) recent order, *Streamlining Measures for Section 214 Authorizations*, CC Docket No. 01-150 (March 21, 2002) (*Streamlined Regulation Order*) did not prohibit ILEC use of the Federal streamlined procedures. Verizon also notes that in today's telecommunications environment, traditional monopoly wireline services are only one portion of the total market. Verizon agrees with Level 3 that our transfer approval processes have not changed in response to technological change, including the proliferation of wireless communications and voice over internet protocol (VoIP) service. Verizon also filed a Motion for Admission Pro Hac Vice of Leigh A. Hyer, Esquire.

The PTA filed comments nunc pro tunc. The PTA stated that it had expected the Commission to publish the Level 3 Petition, in the *Pennsylvania Bulletin*, for comment.

The PTA's comments agree with Verizon that a streamlined procedure should be applied to all carriers given the proliferation of wireless service, cable company plans to provide communications services, and satellite competition. The PTA notes, in particular, that CLECs currently service over 23% of all wireline access lines in Pennsylvania. PTA argues that such concentration is sufficient to warrant a close examination of the Level 3 request for differential treatment of "nondominant" service providers in this Commonwealth. Finally, the PTA claims that Chapter 30 warrants a streamlined approval process for all carriers given 66 Pa.C.S. § 3011(13)'s goal of reducing regulation on incumbent carriers' similar to that imposed on competitive carriers.

The Commission's last action addressing these issues focused on utility stock transfers reflected in our adoption on October 24, 1994 of a Policy Statement under 66 Pa.C.S. §§ 1102(a), in 52 Pa. Code § 69.901. Although this nonbinding policy statement proved useful in the intervening years in addressing the transactions that require Commission approval, we agree that the evolution of utility regulation since 1994, including the recently reenacted Chapter 30 of the Public Utility Code, warrants a reexamination of our procedures regarding the nature, extent and rapidity of the Commission's approval process.

Upon consideration, we agree that examination of our rules and procedures should include acquisitions, diminution in control, mergers, stock sales or transfers, and transfers of assets or control of a telecommunications public utility, requiring a certificate of public convenience. We also agree that it is necessary to examine affiliate filing requirements.

Consequently, we issue this Proposed Rulemaking Order and seek Comments on our proposed revisions.

### Summary of Rulemaking.

The current Commission practice reviews applications seeking approval of acquisitions, diminutions in control, mergers, stock sales or transfers, and transfers of assets or control of a telecommunications public utility as transactions involving issuance of a certificate of a public convenience under 66 Pa.C.S. §§ 1102 and 1103. Our approval lacks a specific mandate for a decision by a date certain. Although the Commission is proficient at reviewing and approving most of these transactions in a reasonable period of time, the increase in their number and the rapid pace of technological change in the telecommunications market warrants serious consideration of whether it is feasible to shorten the Commission's review and approval period for issuing a certificate of public convenience for most transactions to less than the current 6-to-9 month period Level 3 laments in their pleadings.

The proposed regulation retains the discretion to subject some transactions to the traditional review procedures currently associated with 66 Pa.C.S. §§ 1102 and 1103 applications. However, the proposed regulation would make this traditional review procedures an exception instead of the general rule.

The proposed regulation would create a general rule for review and approval within a 60-day period for the vast majority of applications seeking approval for transactions under 66 Pa.C.S. §§ 1102(a)(3) and 1103 of the Public Utility Code involving acquisitions, diminutions in control, mergers, stock sales or transfers, transfers of assets or control of a telecommunications public utility. This general rule commits the Commission to completing review and approval within 60 days of publication in the *Pennsylvania Bulletin*. This general rule would apply to most transactions that also involve changes in conditions of service or rates.

The Commission also proposes to create an even more rapid 30-day review and approval process for pro forma transactions. Pro forma transactions are those transactions that do not involve changes in conditions of service or rates and those that do not reduce an applicant's control by more than 10%. The filing would be made 30 days before closing and Commission approval would issue no more than 30-days after filing or posting on the Commission website.

This proposed regulation establishes a strong presumption in favor of the 60-day general rule given the significant changes in the telecommunications industry and regulation since 1994. For that reason, a reclassification of a transaction from the 60-day general rule would occur only in very limited circumstances. Reclassification is limited because reclassification of a transaction means either a pro forma review period (30 days) or the current traditional review and approval process, which may be considerably longer than 60 days.

A transaction will be removed from the 60-day general rule proposed herein if a statutory advocate files a formal protest, the filing involves a major acquisition or merger between firms with substantial market shares, and where the filing raises novel or important issues. The filing of a general comment or formal protest by persons other than a statutory advocate would not, in most instances, reclassify a transaction. Of course, the Commission retains the discretion to decide otherwise depending on the circumstances.

Moreover, the Commission also reserves the discretion to reclassify transactions in those circumstances where the more extensive review period has competitive impact. In such instances, the Commission prefers to keep the formal protest within the abbreviated 60-day general rule or the shorter pro forma review period to minimize competitive impact, the consumption of scarce resources, and the use of our process for purposes other than addressing the merits of a transaction and determining if the transaction is in the public interest.

Pro forma transactions are transactions that require a certificate of public convenience but are seamless to the customer and do not involve any change in conditions of service or rates as well as transactions that do not reduce an applicant's ownership by more than 10%. The Commission expects that the vast majority of these types of transactions will concern transfers of customer bases, name changes, or de minimus changes in utility stock transfers that do not dilute the controlling interest, and other similarly routine but not complex transactions. In those cases, the applicant will file for approval 30 days before closing a transaction. The Commission will review the transaction within 30 days after the applicant's notice and issue a Secretarial Letter approving the transaction.

The Commission did consider the alternative of allowing a telecommunications public utility to file for approval 30 days after the transaction as at the FCC. The Commission tentatively rejects that approach because it creates a narrow exception to the Commission's long-standing rule that nunc pro tunc filings for approval after a closing do not comply with the Public Utility Code. Those nunc pro tunc filings in the past could, and did, result in penalties. By allowing a filing after a closing, the Commission effectively endorses filings that violate precedent without a compelling reason to do so.

Other transactions, including transfers of a customer base that will result in a change in conditions of service or rates as well as transactions that reduce an applicant's control by more than 10%, will be subject to the 60-day general review and approval period. This provides the Commission with the time needed to examine a transaction's impact and to ensure that appropriate information and customer responses are factored into the Commission's deliberation. This also allows a transaction to proceed apace even if there are some general comments filed that object to the transaction because of changes in the conditions of service or rates. On the other hand, there may be times when a more detailed analysis is appropriate. This 60-day general rule period allows the Commission time to consider both alternatives far better than a 30-day pro forma review period. The 30-day pro forma review period is reserved for transfers of customers that do not involve changes in conditions of service or rates as well as a transaction that does not reduce an applicant's control by more than 10%.

Under the proposed regulations, the applicant files information identical to that sought by the FCC regardless of the nature of the transaction. There are additional Pennsylvania-specific filing requirements which reflect Pennsylvania law and Commission practice. These include the obligation to detail the general public benefit in a transaction, appending diagrams illustrating the applicant's organizational structure before and after the transaction, and confirming that the applicant is complying with Commission rules and regulations. An applicant is also required to keep the Commission informed about federal developments by filing copies of information provided to the FCC and the DOJ.

Importantly, the proposed regulation requires the filing of the same information regardless of the review and approval period. That way, if the Commission would have to reclassify a transaction, the applicant would not experience more delay because of new information filing requirements or incur additional cost to compile new information.

### Discussion

The Commission is undertaking this rulemaking because it has been several years since the last revision. Our § 69.901 (relating to Utility Stock Transfer Policy Statement) was issued in 1994. The time since then has brought significant changes to the Commission's jurisdiction and responsibilities, as well as within the utility industry itself. The Commission agrees that the intervening time, changes in technology, and legislative enactments warrant examination of our current rules and practices. The Commission also agrees that streamlining our rules on transfers of control and affiliate filing requirements should be considered.

Level 3 provided a copy of the Level 3 Petition to the Office of Consumer Protection (OCA), Office of Small Business Advocate (OSBA), and the Office of Trial Staff (OTS) consistent with § 5.41(b) of the Commission's recently revised procedural rules. The statutory advocates filed no response to the Level 3 Petition.

The comments received to date, however, reflect considerable disagreement with the scope of the Level 3 Petition even though there is agreement on the need for substantive revisions. The Level 3 Petition seeks revisions in our regulations for competitors but not for incumbents. The Verizon and PTA Comments, on the other hand, support revisions for all providers.

The Reply Comments of Level 3, Verizon, and the PTA demonstrate disagreement in other areas as well. The parties disagree on the intent of Chapter 30 and the impact of the FCC's March 21, 2002 *Streamlined Regulation Order*. The parties also disagree on the meaning and measurement of competition. They further disagree on what role competition should play in determining the scope and content of the Commission's review and approval of transfers of control and affiliated interest requirements.

We agree with Level 3, Verizon, and the PTA that the Commission should address this request to revise our rules and streamline procedures governing the transfers of control and affiliate filing requirements. However, to date, we have limited comment from others.

Upon consideration of comments received to date, we conclude that a proposed rulemaking is appropriate. However, we also want to solicit input from others. Other parties may have different suggestions or subjects that should be included in the proposed rulemaking. Of course, any comments should contain proposed text as well.

The proposed regulation in Annex A, reflects our tentative agreement with the Level 3 Petition proposing a shortened but uniform period of time governing transfers of control and affiliate filing requirements. Unlike the Level 3 Petition, however, we also agree with Verizon and the PTA that the requirements should apply equally to incumbent and competitive carriers.

In addition, Annex A incorporates provisions of the FCC's *Streamlined Order* with due regard for Pennsylvania law and policies. Annex A reflects our conclusion that an abbreviated 60-day review process is appropriate in most circumstances, and that a shorter 30-day review

period is appropriate in certain other circumstances where: (1) the transaction is seamless to the customer and does not involve any change in conditions of service or rates; and (2) the transaction does not reduce an applicant's ownership by more than 10%. Those transactions that do involve changes in conditions of service or rates, as well as transactions involving a reduction in the applicant's control of more than 10%, would get a longer review period with approval coming 60 days after filing.

Nevertheless, these proposed rules would retain the traditional and more extensive review where (1) a protest is filed by a statutory advocate; (2) the filing involves a major acquisition or merger between firms with substantial market shares; (3) the filing raises novel or important issues; and (4) the Commission, in its sole discretion, determines that the traditional review is necessary to protect the public interest.

Given the limited comments received to date, we are discussing our tentative conclusions in order to explain why Annex A deviates from the suggestions provided to date. We also provide a more detailed discussion to better inform parties that may wish to submit comments to this proposed rulemaking.

#### Extended Discussion of Annex A.

*Section 63.321. Purpose.* This provision details the types of transactions for which a telecommunications public utility can ask for approval from the Commission. This provision reflects the Commission's statutory authority to issue certificate of public convenience evidence the type of transactions in this section.

*Section 63.322. Definitions.* The definitions for "affiliated interest," "formal complaint," "formal investigation," "formal proceeding," "incumbent local exchange carrier," "informal complaint," "informal investigation," "informal proceeding," "party," "Pennsylvania counsel," "person," "staff," "statutory advocate" and "verification" reflect definitions contained in the Public Utility Code or the Commission's existing regulations at 52 Pa. Code §§ 1.1, 3.1 and 5.1, et seq. These are not new definitions.

The definitions for "controlling interest" and "diminution in control" are modified versions of definitions set out in the Commission's Policy Statement on Utility Stock Transfers in 52 Pa. Code § 69.901. These are not new definitions either.

The definitions for "carrier," "certificated carrier," and "competitive carrier" reflect existing State and Federal law. The proposed definitions reflect the evolving legal classification and regulatory structures for telecommunications service and information service in particular.

The definitions for "dominant market power," the "Herfindahl-Hirschman Index" ("HHI"), and "predominant market presence" reflect current merger guidelines of the FCC and the DOJ. The "dominant market power" and "HHI" definitions reflect DOJ guidelines on vertical mergers. The "predominant market presence" definition reflects current DOJ merger guidelines on nonvertical mergers.

This approach reflects the view that vertical or non-vertical jurisdictional merger review under 66 Pa.C.S. §§ 1102(a) and 1103 would benefit by Federal law. This approach also reflects the real differences between any service provided by an incumbent compared to a competitor and, equally important, differences between "any

service" provided by one competitive carrier or public utility compared to another competitor.<sup>1</sup>

The definition of "pro forma" transactions reflects the FCC's *Streamlined Regulation Order* and the Commission Policy Statement on Utility Stock Transfers. There is a new provision addressing diminutions of the controlling interest of stock based on the 10% rule followed at the FCC. This definition encompasses mundane and repetitive transactions that require a certificate of public convenience but do not involve changes in conditions of service or rates.

*Section 63.323. Applicability.* The proposed regulation formalizes the scope of relief sought in the Level 3 Petition as well as the Comments and Reply Comments of Level 3, Verizon, and the PTA. This provision is consistent with the Commission's authority to issue a certificate of public convenience granting an application to approve an acquisition, diminution in control, mergers, stock sales or transfers, and transfers of assets or control of a telecommunications public utility under 66 Pa.C.S. §§ 1102(a) and 1103 and Chapter 30.

*Section 63.324. Requirements for a telecommunications public utility seeking approval of a general rule transaction under 66 Pa.C.S. §§ 1102(a)(3) and 1103.* This proposed section addresses filings seeking approval for the acquisitions, diminutions in control, mergers, stock sales or transfers, and transfers of assets or control of a telecommunications public utility for which Level 3 seeks a different regulatory structure. This provision establishes the 60-day general rule in which Commission review and approval will be completed within 60-days of publication in the *Pennsylvania Bulletin*.

*Section 63.324. General rule transaction.* The proposed regulation incorporates the parties' suggestion that Commission review mirror Federal review by the FCC and DOJ. The Commission will complete review and approval of a transaction within 60-days notice of publication in the *Pennsylvania Bulletin*. This reduces the current review and approval period.

This is modeled on the FCC practice of dating the FCC's review period from posting at the FCC. In this case, however, web posting is not legal notice. The Commission concluded because these kinds of transactions involve changes in conditions of service or rates, legal notice is preferable because it provides for a quicker review on transactions with issues that are typically of concern to the public: conditions of service and rates.

*Section 63.324(a)(1)–(7).* The proposed regulation lists the transactions eligible for review under the 60-day general rule. The list is greater than that proposed by the parties. More transactions are included so the Commission can refocus scarce resources on complex, novel, or controversial transactions.

Section 63.324(a)(3) includes any dilution in control greater than 10%. This addresses situations in recent mergers in which there was a significant dilution in a public utility's ownership of stock in the merged or spun-off entity even if there was no loss of control. In those instances, stock ownership was diluted but it never fell below a 51% ownership. In these situations, dilution in voting percentage transfers utility property by reducing but not changing public utility control. These kinds of transactions are included within the regulation because they are transfers of assets even if control is retained.

<sup>1</sup> *Streamlined Regulation Order*, paragraph 28. The FCC carefully distinguishes between applicants that are not dominant with regard to "any service" compared to those that are dominant in one service and not another. This approach apparently reflects federal definitions of service set out in 47 USC 153.

Currently, utility stock transfers in excess of 20% are addressed in the Commission's *Policy Statement on Utility Stock Transfers*, 52 Pa. Code § 69.901 (*Control Policy Statement*). However, a policy statement is not a binding regulation. Moreover, the earlier *Control Policy Statement* uses a 20% threshold compared to the 10% threshold used by the DOJ and the FCC.

The proposed regulation includes telecommunications utility stock transfers within the scope of the regulation as opposed to the 20% reflected in the nonbinding Policy Statement. The 10% threshold is based on the 10% relied on by the FCC in the *Streamlined Regulation Order*<sup>2</sup> and cited by Level 3 in their petition. The proposal also reflects similar decisions by other state regulators on affiliate transactions as well.<sup>3</sup>

Given these considerations, the Commission tentatively concludes that a 10% threshold is consistent with federal law and practice in other states. The Commission also tentatively concludes that use of a uniform standard may be appropriate here because it enhances regulatory predictability and uniformity.

The Commission recognizes that the definition of "affiliated interest" in 66 Pa.C.S. §§ 1102(a)(4) and 2101 in the Public Utility Code rely on a 5% threshold. The *Utility Stock Transfer Policy Statement* uses a 20% threshold. Given this difference in the treatment of threshold percentages, the Commission seeks comment on whether or not the Commission could, and should, implement a uniform 10% threshold for telecommunications transactions.

Section 63.324(a)(4) reflects Verizon's suggestion that any transaction requiring issuance of a certificate of public convenience under 66 Pa.C.S. §§ 1102(a)(3) and 1103 be included within the general rule. Section 63.324(a)(5) incorporates the *Utility Stock Transfer Policy Statement* as well.

Section 63.324(a)(6) brings transfers of a limited class of customer base within the general rule. The class consists only of customer base transfers that contain a change in conditions of service or rates. Otherwise, a transfer of a customer base is treated as a pro forma transfer under § 63.325.

The Commission takes this approach for several reasons. First, the Commission is often concerned with transfers of customer base from a customer impact and education perspective, particularly when there is a change in conditions of service or rates. Although the Commission does not regulate every rate involved in every transfer of a customer base, a service provider's change inevitably triggers a considerable amount of customer inquiries that could be reduced by transparent information.

Our approach is consistent with the FCC's *Streamlined Regulation Order*. The FCC concluded that review of transfers of control that did not involve an acquisition of control, which in Pennsylvania's case includes a transfer of a customer base, should be abbreviated. The FCC no longer treats these kinds of transfers as a "discontinuance of service" but, instead, treats them like a transfer of control.

Our approach also reflects the FCC's concern that transfers of control not be used to circumvent conditions of service or attempt to do indirectly that which cannot be

done directly.<sup>4</sup> Customers must be aware of a customer base transfer. However, the filing of a customer comment which is not a formal protest should not automatically remove a transaction from the general rule. That would occur if every negative general comment filed by a customer were treated as a formal protest, regardless of the transaction.

The proposed regulation differentiates between general comments, formal protests that reclassify a general rule transaction, and formal protests that may, but do not automatically, warrant reclassification. General comments should not delay review or reclassify a general rule transaction. Formal protests by a statutory advocate would automatically reclassify a general transaction to either traditional review or, when appropriate, the even shorter-term pro forma review. Formal protests by others could, but will not automatically, reclassify a transaction.

Formal protests trigger formal administrative proceedings. In turn, this results in traditional review under the Public Utility Code. By keeping a transaction within the general rule even if there is a formal protest, the Commission can more quickly ascertain the nature of the protest and whether the protest warrants traditional review or a 60-day review. Of course, § 63.324(a)(7) codifies the Commission's discretion when a formal protest warrants reclassification as being in the public interest.

Unlike our proposal, the FCC includes all transfers of customer base within the pro forma rule. The FCC does not differentiate between transfers of control where there are changes in conditions of service or rates and where there is no such change. The FCC took this approach because the FCC identified "other means to track and contact carriers" regarding such transfers.

The Commission lacks other means to track and contact carriers regarding such transfers, particularly when they involve a transfer of a customer base. For that reason, the Commission's proposed regulation differentiates between transfers of a customer base involving a change in conditions or rates and those that do not. For those that do not involve changes, the proposed regulation takes the FCC approach and subjects the transaction to pro forma review. For those that involve changes, the proposed regulation deviates from the FCC rule but still provides an abbreviated review period. The proposed regulation takes this approach because, in the case of transfers with no changes, the transaction is seamless to the customer.

The Commission agrees with Verizon that seamless transfers requiring a certificate of public convenience without substantive changes should not be subjected to our standard review procedures. The Commission agrees with Verizon that such transactions should be subject only to some kind of pro forma review.

Section 63.324(a)(7) contains a provision that allows the Commission to implement the 60-day rule for other transactions. This allows the Commission to apply this provision to transactions that arise in the future and that do not require the time and resources of an extended proceeding. This also includes pro forma transactions that staff or the Commission reclassified as a general transaction after more closely reviewing the filing.

<sup>2</sup> *Streamlined Regulation Order*, paragraph 30 and n. 65.

<sup>3</sup> *In the Matter of the Review of Chapter 4901:1-6, Ohio Administrative Code*, Case No. 06-1345-TP-ORD (June 6, 2007), Proposed Rule 4901:1-6-09(D) Affiliate Transactions, p. 48.

<sup>4</sup> *Streamlined Regulation Order*, paragraphs 51 and 52.

*Section 63.324(b). Reclassification of a general rule transaction.* This provision addresses reclassification of a general rule transaction when reclassification is appropriate. There are three issues here.

Section 63.324(b) plainly states that reclassification would favor reclassification to a pro forma classification. The purpose of the proposed regulation is to shorten review not lengthen it unless there is a good reason for doing otherwise. Section 63.324(b)(1)–(3) governs the new “trigger date” for review if a transaction is reclassified. In all instances, the “trigger date” would be the date the Commission informs the applicant of a reclassification. Importantly, these provisions also provide an applicant with a right of appeal directly to the Commission mirroring procedures in § 5.44 of our rules for delegated authority if staff makes a reclassification decision and the applicant disagrees.

*Section 63.324(c). Notification requirements for general rule transactions.* The proposed regulation contains a revised version of proposals presented by Level 3, Verizon, and the PTA. In some instances, the Commission agrees with Verizon while in others the Commission agrees with Level 3.

Section 63.324(c) establishes that a filing must be submitted no later than 60 days before the closing of any transaction. The Commission agrees with Verizon on the need for a viable period to trigger review. The Commission also recognizes that an applicant seeks approval on or right at the closing, not significantly after. By allowing a filing to occur 45, 30 or 15 days before a closing, the 60-day review period would extend beyond the closing. This seems counter to what the applicants seek and for that reason the proposed regulation contains a “trigger date” for filing 60 days before closing a transaction. That way, barring some unforeseen event, an applicant will have Commission approval on or shortly near the anticipated closing date that drove the filing in the first place.

Sections 63.324(c)(1)–(4) reflect the suggestion of Level 3 and Verizon that a simultaneous filing be made at the time that any filing is made with the FCC or the DOJ. This makes sense from a consistency perspective although the Commission seeks comment on the proposal.

The provision also implements additional notification requirements on updating filings different from those proposed by Level 3 and Verizon in three instances. The Commission requires the applicant to provide notice to the statutory advocates as well as the Commission.

That is because Pennsylvania, unlike the FCC, has autonomous institutions legally charged with representing the interests of discrete customer classes or the public interest. Consequently, notification to those advocates when a filing is made with the Commission seems advisable so that the concerns they might have are quickly presented and not presented very late in a proceeding and then only after they learn about a transaction.

Section 63.324(c)(1)–(3) requires notification if there are other Federal or State proceedings involved. Section 63.324(c)(4) requires simultaneous notification of any filing made by a party in response to regulatory action by other State or Federal regulators at the suggestion of others. This provision keeps the proceeding in Pennsylvania informed about the transaction’s progress before other regulatory bodies. Depending on developments in those jurisdictions, the Commission may conclude that reclassification of a transaction from this subchapter is appropriate as a matter of public interest. An updated information

filing requirement makes is easier for the Commission to conduct abbreviated review while staying informed of developments.

Section 63.324(c)(5) requires notification if the Commission requires it in response to a request. The first would be at the request of a statutory advocate. The second would be at the request of another telecommunications public utility. The third and fourth are at the request of staff or a person or party with a stake in the transaction other than mere curiosity.

These provisions collectively allow simultaneous notification when a party does not file a protest or delay a proceeding but wants to keep abreast about a transaction. This provision provides an alternative to a formal adjudicatory proceeding in response to every protest, particularly if there is a desire just for updates.

This would include cases where reclassification is not in the public interest, particularly when there is competitive impact. This also reduces the temptation to misuse traditional review. Consequently, we propose this viable and less expensive way of keeping a proceeding on track without reclassifying a transaction to accommodate every formal protest and general objection, particularly when doing so invites concessions that are later removed in response to antitrust concerns of other regulators like the DOJ.<sup>5</sup>

*Section 63.324(d). Contents of notification for general rule transactions.* This provision details the filing requirements for abbreviated review. The proposed regulation is more extensive than that proposed by Level 3, Verizon, or the PTA. It incorporates the filing requirements in § 5.14 of the Commission’s Rules of Administrative Practice and Procedure, which promotes regulatory consistency.

This provision reflects the more detailed information requirements the FCC imposed on applicants for streamlined review in the *Streamlined Regulation Order*.<sup>6</sup> The Commission’s review of the *Streamlined Regulation Order* identified significant information requirements beyond those identified by Level 3, Verizon, and the PTA. The Commission agrees that regulatory uniformity and predictability warrants requiring at a minimum the same information required by the FCC because it expedites review.

Section 63.324(c)(11) contains a list of affirmative benefits that an applicant must describe to the Commission. This requirement facilitates the Commission’s compliance with the obligation under Pennsylvania law, set out in *City of York v. Pennsylvania Public Utility Commission*, 295 A.2d 825 (Pa. 1972), requiring that a transaction under 66 Pa.C.S. § 1102 demonstrate an affirmative public benefit. This provision also allows the Commission to effectively determine what, if any, conditions may be appropriate under 66 Pa.C.S. § 1103 in order to meet this requirement.

*Section 63.324(e). Continuing obligations for notification of general rule transactions.* This provision reflects the Commission’s agreeing with Verizon that updates are necessary and appropriate. This proposed revision also supplements the Verizon suggestions by including notice of orders or subsequent actions by the FCC or DOJ. This

<sup>5</sup> *Telephone Company in Pennsylvania Eliminates Provisions Restricting Competition to Address Justice Department Concerns, Procompetitive Changes to Rural Incumbent Telephone Company’s Settlements with New Entrants Will Deter Misuse of Regulatory Challenges and Benefit Rural Pennsylvania Telephone Customers*, United States Department of Justice, Antitrust Division, Press Release 07-448, June 25, 2007 (*Pennsylvania Telco Release*).

<sup>6</sup> 52 Pa. Code § 5.14(a); *Streamlined Regulation Order*, paragraphs 16 and 17.

approach maximizes information that should be provided to the Commission given the abbreviated review compared to the standard review procedures.

*Section 63.324(f). Commission publication of general rule transactions.* This provision incorporates current publication requirements for applications under § 5.14 of the Commission's Rules of Administrative Practice and Procedure. The provision requires notice to consumers for transfers of a customer base.

Section 63.324(f)(1) and (2) establish the minimum publication requirements. The rules would draw a distinction between a general comment and a formal protest following notice to the public. This distinction allows the Commission to consider whether simultaneous notice under § 63.324(c) may be a better approach. This distinction also allows the Commission to consider some pleadings more in the nature of a general comment than a formal protest, particularly if that means an adjudicatory proceeding and traditional review.

Moreover, § 63.324(f)(2)(ii) provides that even if the pleading is a formal protest, it will not necessarily reclassify a transaction and result in an adjudicatory proceeding and traditional review. Depending on the circumstances, the formal proceeding could be abbreviated. However, in instances where the statutory advocate files a formal protest, § 63.324(f)(2)(iii) recognizes that the legal authority of those advocates warrants a more considered approach that would most likely require formal proceedings and a reclassification to accommodate that.

*Section 63.324(g). Telecommunications public utility notice to customers.* Section 63.324(g)(1) requires the applicant to prepare and distribute a public notice with the approval of the Commission's Bureau of Consumer Services (BCS). BCS' involvement is appropriate because the transaction involves changes in conditions of service or rates, items of probable interest to customers. Moreover, BCS' involvement makes it more probable that a notice would be understandable to consumers. That, in turn, should encourage general comments as opposed to formal protests.

Section 63.324(g)(2)(i)—(iv) takes an approach to pleadings in response to a telecommunications public utility's notice similar to that taken in response to a Commission publication of a transaction. The regulation distinguishes between a general comment that does not involve a formal protest and formal protests. Section 63.324(g)(2)(ii) provides that a general comment would not reclassify a transaction nor constitute a formal protest. Section 63.324(g)(2)(iii) and (iv) distinguishes between formal protests filed by a statutory advocate, which would probably require reclassification and a more formal adjudicatory proceedings, and the formal protests of others that might not.

*Section 63.324(h). Commission review of transactions subject to the general rule.* This provision formalizes the Commission's discretionary authority under 66 Pa.C.S. 1102(a)(3) and 1103, particularly regarding the imposition of conditions for approval of the transactions when such conditions are in the public interest. Discretion on the matter of conditions would also be consistent with due process because parties have notice and an opportunity to be heard notwithstanding the abbreviated review period.

*Section 63.324(i). Formal protests to a general rule transaction.* This provision allows the filing of a formal protest. The filing requirements are set out in the Commission's Rule of Practice and Procedure.

*Section 63.324(j). Reclassification of a transaction from the general rule.* This provision recognizes that some transactions may have to be reclassified from the general rule and reclassified as a pro forma transaction or a transaction subject to traditional review under 66 Pa.C.S. §§ 1102 and 1103. This provision recognizes that there are cases where a general comment or formal protest should warrant reclassification and traditional review. This also ensures that the mere filing of a general comment by a consumer is not tantamount to a formal protest requiring traditional review.

Section 63.324(j)(1) reflects the fact that the formal protest of a statutory advocate will usually result in reclassification but a formal protest by others could, but would not automatically, result in a reclassification. Section 63.324(j)(2) and (3) provide that major acquisitions by and mergers between telecommunications firms with substantial market share or those raising novel or important issues are likely candidates for reclassification. And, finally, subsection (j)(4) provides that the Commission may determine that a given application should be reclassified to provide for a more extensive traditional review when, in its sole discretion, it is necessary to protect the public interest.

*Section 63.324(k). Commission approval for a general rule transaction.* This provision establishes the 60-day review and approval period for general rule transaction triggered by publication in the *Pennsylvania Bulletin*. This reflects the concern of Level 3, Verizon, and the PTA that review beyond the federal time period must be reduced.

This provision is consistent with the approach taken in the FCC's *Streamlined Regulation Order*. Although the petitioners requested abbreviated review within 15 days after filing, the proposal rejects that suggestion. The *Streamline Regulation Order* proposed a 60-day review period for dominant carriers but adopted a uniform 30-day review period. The public is allowed to file comments and replies within the 30-day period. Comments and replies are not the same thing as a formal protest. For that reason, the Commission proposes a review period longer than that adopted by the FCC.

Moreover, the proposed regulation is consistent with the *Streamlined Regulation Order* which dates the review period from the time an application is posted for comment. The FCC does not use the application's filing day as the trigger for FCC review.<sup>7</sup> The proposed regulation established a 60-day review period dating from public notice in the *Pennsylvania Bulletin* in the way the FCC triggers review from posting at the FCC.<sup>8</sup>

The *Streamlined Regulation Order* established a 30-day review period for non-dominant carriers but retained a 60-day review period for dominant carriers. Level 3 wants a 15-day review period but only for competitors. Verizon wants an identical review and approval period.

Given these considerations, the 60-day period will apply equally to all carriers, incumbent or competitive. This period provides a less-costly alternative to a 6 to 9-month process if there is a formal protest. Finally, this gives the Commission a reasonable review period to address any formal protests and to conduct a more thorough analysis. This includes consideration of any conditions needed to meet the City of York standard and analysis of restrictions on market entry.

<sup>7</sup> *Streamlined Regulation Order*, paragraph 22.

<sup>8</sup> *Streamlined Regulation Order*, paragraph 19.

Section 63.324(l). *Limitations on general rule transactions.* This concluding provision addresses bankruptcy and the possible misuse of pro forma transactions.

Section 63.325(l)(1) excludes bankruptcy proceedings from pro forma treatment. Bankruptcy filing requirements are addressed in the Commission's regulations in §§ 1.61 and 1.62. The Commission sees no compelling reason to revisit that provision at this time. Section 63.325(l)(2) prohibits a carrier or public utility from using this pro forma provision to circumvent existing obligations consistent with the FCC's *Streamlined Regulation Order*.<sup>9</sup>

*Section 63.325. Requirements for a telecommunications public utility seeking Commission approval of a pro forma transaction subject to 66 Pa.C.S. § 1102(a)(3) and 1103.* This provision addresses pro forma changes when a carrier or public utility undergoes restructurings that also require a certificate of public convenience. This provision reflects Verizon's suggestions on the matter as well as the *Streamlined Regulation Order* and more recent concerns with transfers of a customer base.

*Section 63.325(a). Pro forma transactions.* This provision provides that pro forma review and approval would apply to a transaction that does not involve changes in conditions of service or rates as well as transactions which do not reduce an applicant's control by more than 10%. Since there is no rate change or service conditions involved, the general public interest in these kinds of transactions is usually far less than a transaction involving rates or conditions of service.

*Section 63.325(b). Reclassification of a pro forma transaction.* This provision mirrors the § 63.324(b) provision addressing reclassification of a general rule transaction. In this provision, as there, reclassification can result in two possibilities. In this case, however, the results can be either a general rule classification or a traditional review and approval.

This provision requires a reclassification to be in writing. This provision also provides that any reclassification in writing by staff has a right of appeal using procedures for an appeal of staff in § 5.44 of our rules. This appeal, unlike a § 5.44 appeal however, operates independent of delegation although, like § 5.44, the process would be identical.

*Section 63.325(c). Notification requirements for pro forma transactions.* This provision mirrors the provision in § 63.324(c) for notification in general rule transactions. The reasoning here is similar to the reasoning there. A simultaneous notice requirement to the Commission and the statutory advocates or others constitutes a cost-effective way to keep informed while keeping a transaction on track. This should minimize the use of formal protests to reclassify a transaction just to stay informed or, possibly, misuse this process notwithstanding any competitive impact. This provision allows the Commission to keep a concerned party informed by means other than being a party to traditional review in a formal adjudicatory proceeding.

*Section 63.325(d). Content of notification for pro forma transaction.* This provision also mirrors the § 63.324(d) provision addressing the filing requirements for a general rule transaction. This provision provides the same detailed list of filing information that a telecommunications public utility must submit when seeking Commission approval. This list reflects current Federal requirements

and information the Commission needs to help make a finding that a transaction will affirmatively benefit the public in some substantial way as required by Pennsylvania law. Finally, the list reflects staff information needs that greatly facilitate a prompt and cost-effective review.

*Section 63.325(e). Continuing obligations for notification of pro forma transactions.* This provision also mirrors § 63.325(e) provisions for general rule transactions. This provision essentially requires an applicant to keep the Commission informed about subsequent developments in other jurisdictions on the transaction if those developments related to the transaction pending at the Commission.

*Section 63.325(f). Commission publication of pro forma transaction.* This provision addresses Commission publication about these transactions. However, the publication requirements are markedly different from those for the general rule in § 63.324(f) because pro forma transactions are more mundane and involve no changes in conditions of service or rates that might be of interest to the general public.

Section 63.325(f)(1)–(3) does not require publication in the *Pennsylvania Bulletin* nor a formal protest period. The Secretary has the discretion, not the obligation, to post a transaction on the Commission's web site. Depending on the circumstances, the Secretary can solicit general comments but not formal protests unless the Commission determines otherwise for good cause shown. Typically, these kinds of transactions do not involve pressing issues of general public interest.

However, there may be exceptions. In those cases, § 63.325(f)(4) allows the Commission to exercise discretion and treat a pro forma transaction like a general rule transaction when it comes to publication. A pro forma transaction subject to general rule publication requirements will have to be published in the *Pennsylvania Bulletin* and solicit general comments or formal protests, in addition to any other requirements.

Section 63.325(f)(4)(i)–(iii) creates the same three categories of pleadings in response to a publication as in the provisions for a general rule transaction. There are general comments, formal protests that may not reclassify a transaction, and formal protests that will reclassify a transaction. General comments would not reclassify a transaction or constitute a formal protest because they are, typically, concerns of the public not related to rates or changes in conditions of service. Formal protests by a statutory advocate would reclassify a transaction and would constitute a formal protest given the statutory advocate's distinct legal authority and constituency representation obligations. Formal protests by entities other than the statutory advocates could, but in most cases would not, constitute a formal protest. The fact that it is a formal protest does not mean the transaction will be reclassified unless the Commission determines otherwise for good cause shown.

*Section 63.325(g). Telecommunications public utility notice to customers.* This provision addresses information the applicant provides to the public. Since these transactions do not involve changes in service conditions or rates, the regulation authorizes the applicant to prepare and distribute a notice to the customers. But, as with notice for a general rule transaction in § 63.324(g), the applicant must provide notice before the Commission approves the transaction unless that is not practical. This approach ensures that the Commission and the public are informed about a transaction in a way that does not undermine the abbreviated review and approval goals of this rulemaking.

<sup>9</sup> *Streamlined Regulation Order*, paragraph 52.



*Section 63.325(h). Commission review of pro forma transactions.* This provision formalizes the Commission's discretionary authority under 66 Pa.C.S. §§ 1102(a)(3) and 1103, particularly regarding the imposition of conditions when they are needed to justify approving a transaction as in the public interest. Conditions are consistent with due process. The parties expressly have notice and an opportunity to be heard notwithstanding the abbreviated review period.

*Section 63.325(i). Protests to a transaction subject to the general rule.* This provision allows the filing of a formal protest. The filing requirements are set out in the Commission's Rule of Practice and Procedure.

*Section 63.325(j). Removal of a transaction as a pro forma transaction.* This provision recognizes that some transactions may have to be reclassified from a pro forma transaction into either a general rule transaction or a transaction subject to traditional review under 66 Pa.C.S. §§ 1102 and 1103. This provision recognizes that there are cases where a general comment or formal protest might warrant reclassification into traditional review. Conversely, this ensures that the filing of a general comment is not tantamount to a formal protest.

Section 63.325(j)(1) reflects the fact that the formal protest of a statutory advocate will usually result in reclassification but a formal protest by others could, but would not automatically, result in a reclassification. Section 63.325(j)(2) and (3) provides that major acquisitions by and mergers between telecommunications firms with substantial market share or those raising novel or important issues are likely candidates for reclassification. Section 63.325(j)(4) codifies the Commission's discretion to reclassify a transaction when doing so is in the public interest. And, finally, subsection (j)(4) provides that the Commission may determine that a given application should be reclassified to provide for a more extensive traditional review when, in its sole discretion, it is necessary to protect the public interest.

*Section 63.325(k). Commission approval for a pro forma transaction.* This provision establishes the 30-day review and approval period for pro forma transaction following filing with the Commission or posting on the Commission's web site, whichever is longer. This responds to the concern of Level 3, Verizon, and the PTA that review beyond the Federal period must be reduced.

This provision tracks the approach taken in the FCC's *Streamlined Regulation Order*. Although the petitioners requested review within 15 days after filing, the proposal rejects that suggestion. The *Streamline Regulation Order* proposed a 60-day review period for dominant carriers but adopted a uniform 30-day review.

The FCC allows the public to file comments and replies within the 30-day period. Comments and replies are not the same thing as a formal protest. For that reason, the Commission proposes a review period longer than that adopted by the FCC. Unlike the FCC, moreover, the proposed regulation does not distinguish between "dominant" and "nondominant" applicants but provides the same filing options to all applicants.

The proposed regulation tracks with the *Streamlined Regulation Order*. The FCC dates the review period from the time an application is posted for comment and the FCC does not use the application's filing day as the trigger for FCC review.<sup>10</sup>

The proposed regulation established a 30-day review period dating from filing with the Commission (unlike the FCC) or posting on the web site (like the FCC but not yet available at the Commission as at the FCC). This is similar to the way the FCC triggers review from posting at the FCC.<sup>11</sup>

The *Streamlined Regulation Order* established a 30-day review period for nondominant carriers but retained a 60-day review period for dominant carriers. Level 3 wants a 15-day review period but only for competitors. Verizon wants an identical review and approval period.

The proposed regulation adopts Verizon's regulatory parity suggestion regardless of a carrier's "dominant" or "nondominant" role in the market. This is consistent with the FCC's *Streamlined Regulation Order*.<sup>12</sup>

This also reflects real differences between CLECs and incumbent carriers in Pennsylvania markets.<sup>13</sup> There are real differences between "nondominant" CLECs as well. Nondominant CLECs with a predominant market presence in related markets, like markets for access to internet transmission backbones, occupy a position in Pennsylvania markets that is very different than a nondominant CLEC with no transmission backbone.

The 30-day review and approval period is substantially shorter than the traditional rule for acquisitions, diminution in control, mergers, stock sales and transfers, transfers of assets or control of a telecommunications public utility, and utility stock transfers. The 30-day review period accommodates the differences between incumbents and CLECs as well as differences between CLECs. An ILEC traditionally has a more extensive presence in their service territory compared to new CLEC entrants. By the same token, however, a reseller CLEC without access to a corporate affiliate's assets, like an internet transmission backbone or a long-standing wireline operation, is not in the same market position as a CLEC with access to those assets. The proposed "equality of review and approval" regulation reflects those situations.

This regulation treats all applicants equally since all telecommunications public utilities could benefit from a general review and approval period, a pro forma review and approval period, and traditional review and approval. This is a marked improvement over subjecting all transactions to traditional review.

Given these considerations, we conclude that a 30-day period should be equally available to all telecommunications public utilities, incumbent or competitive. This period provides a less-costly alternative to traditional review and approval which can allegedly take 6-to-9 months to complete, particularly if there are formal protests.

Section 63.325(k)(1)–(3) addresses the mechanics of approval. Section 63.325(k)(1) provides that the Commission will issue a Secretarial Letter or order approving a transaction. Section 63.325(k)(2) recognizes that staff may need to extend a review period, reclassify a transaction, or take other action deemed appropriate to the circumstances. Section 63.325(k)(3) provides that final staff action shall be taken in writing and subject to an appeal of staff which shall be stated in the writing informing the applicant of the decision.

*Section 63.325(l). Limitations on pro forma transactions.* This concluding provision addresses bankruptcy and the possible misuse of pro forma transactions.

<sup>11</sup> *Streamlined Regulation Order*, paragraph 19.

<sup>12</sup> *Streamlined Regulation Order*, paragraph 21.

<sup>13</sup> *Pennsylvania Telco Release*, Department of Justice Release 07-448, June 25, 2007.

<sup>10</sup> *Streamlined Regulation Order*, paragraph 22.

Section 63.325(l)(1) excludes bankruptcy proceedings from pro forma treatment. Bankruptcy filing requirements are addressed in the Commission's regulations in §§ 1.61 and 1.62. The Commission sees no compelling reason to revisit that provision at this time.

Section 63.325(l)(2) prohibits a carrier or public utility from using this pro forma provision to abandon existing conditions of service, like payment dates and penalty provisions, or embed a rate change in an otherwise seamless transaction. This is consistent with the FCC's *Streamlined Regulation Order*.<sup>14</sup>

*Section 63.326. Approval of contracts between a carrier or public utility and an affiliated interest under sections 2101(a), 3016(f)(1) and 3019(b).*

This provision reflects Level 3's request to codify the limited affiliated interest review and approval authority of the Commission under Chapter 30 of the Public Utility Code. Level 3 and Verizon agree on this point.

This provision, however, reflects our agreement with the comments although the provision reiterates the Commission's authority to monitor and prohibit the use of noncompetitive services to subsidize competitive services under section 3016(f)(1). This provision reflects the discretion the Commission has to conduct the necessary reviews, audits or other necessary action so long as the Commission does so consistent with due process. As with Section 63.324, the Commission would exercise this discretionary authority only upon notice and opportunity to be heard.

#### Additional Issues

The FCC's *Streamlined Order* addressed other issues not discussed heretofore that may warrant resolution in this rulemaking.

The first issue is the FCC's distinction between "presumptively streamlined" matters involving CLECs and "eligible for streamlining" matters involving incumbent carriers even though both are subject to a 30-day review and approval period. In particular, the Commission seeks comment on whether the list set forth in paragraph 28 of the *Streamlined Order* should be the basis for distinguishing between "presumptively streamlined" and "eligible for streamlining" treatment in this Commonwealth.

The second issue is whether there should be an opportunity to provide comments and reply comments in response to an application. The FCC permits this in its regulations. The Commission's regulations anticipate a protest period which includes an opportunity to file a general comment that would not constitute a formal protest and would not reclassify a transaction.

The Commission seeks comment on whether the regulation should incorporate a comment and reply comment period within the 60-day review period for a general rule and pro forma transaction. The Commission is particularly interested in comments on whether, and how, a comment and reply period could substitute for the filing of a formal protest or objection consistent with Pennsylvania law. This approach minimizes the need for a full-blown formal administrative adjudication but is also responsive to due process and formal protests in an efficient manner.

The third issue is Commission review and approval. The proposed general rule completes review and approval within 60 days for most transactions under 66 Pa.C.S. §§ 1102(a)(3) and 1103. General rule transactions require

prior approval within a 60-day period dating from publication in the *Pennsylvania Bulletin*. Pro forma review is completed within 60 days, but notice is not required until 30 days before the transaction is completed. The Commission retains discretion to reclassify any transaction as well.

One way to accomplish review or reclassification is to charge staff with reviewing and addressing the transaction or making any reclassification decisions. Staff would issue a Secretarial letter on any final staff decision. A staff decision would be expressly subject to appeal mirroring the procedures set out in § 5.44 of our regulations, even though there is no delegation of Commission authority, so that an applicant can appeal a staff action and thereby ensure final action by the Commission at Public Meeting.

A second option is for staff to conduct a review and prepare a recommendation for disposition at public meeting regardless if the transaction is traditional, general, or pro forma. This requires a detailed level of oversight for many transactions that may not necessarily warrant such oversight.

Another concern is transactions involving less than 2% of the nation's subscribers or, in Pennsylvania's case, every carrier except Verizon. The FCC's *Streamlined Regulation Order* subjects those transactions to abbreviated review unless the transaction involves service areas adjacent to each other. Neither Level 3, PTA, nor Verizon addressed rural carrier issues. The Commission seeks comment on whether, and how, rural carrier transactions could be treated under the regulation.

Finally, the Commission recognizes that there may be other issues or suggestions beyond those set out in this order and Annex A. The Commission encourages comment on any other appropriate issue. The Commission asks that members of the public providing any comment also provide proposed language as well.

Due to the complexities of a rulemaking addressing transfers of control and affiliate filing requirements, particularly in light of 66 Pa.C.S. Chapter 30, interested members of the public will be given 60 days from the date of publication of Annex A in the *Pennsylvania Bulletin* to file comments. The Commission is committed to considering revisions in a timely fashion. Since the comment period is a generous one, extensions of time will not be granted absent compelling reasons.

#### Procedural Issues

This proceeding arose as a petition for rulemaking under 52 Pa. Code. §§ 1.5, 5.11 and 5.43 of our Rules of Administrative Practice and Procedure. The Level 3 Petition was not published in the *Pennsylvania Bulletin* although the Commission did receive some comments and replies on the Level 3 Petition. Verizon also filed a motion seeking the pro haec vice admission of Attorney Leigh A. Hyer, Esquire.

Additionally, the Commission received numerous updates on decisions from other jurisdictions from Level 3. There were decisions from Louisiana, North Carolina, Minnesota, Ohio and Texas. In June 2007, Level 3 provided a press release indicating that Level 3's network and transmission backbone is so extensive that Pennsylvania selected Level 3 as the exclusive network provider

<sup>14</sup> *Streamlined Regulation Order*, paragraph 52.

for Wall Street West, a Federal and Pennsylvania-funded initiative to provide back-up systems to New York City's financial institutions.<sup>15</sup>

We will grant Verizon's motion for admission pro haec vice under § 1.22(b) of our regulations. The Commission will also incorporate all pleadings and filings to date into the record of this rulemaking proceeding.

Accordingly, under the Public Utility Code, 66 Pa.C.S. §§ 502, 1102—1103, 2101—2107 and 3019; the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202), and the regulations promulgated thereunder; section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)); and section 5 of the Regulatory Review Act (71 P.S. § 745.5); the Commission proposes adopting the regulations set forth in Annex A, therefore,

*It Is Ordered That:*

1. The Motion for Admission pro haec vice of Leigh A. Hyer, Esquire, is granted.

2. The pleadings and filings filed to date on the Level 3 Petition are incorporated into the record of this proceeding.

3. A rulemaking proceeding is hereby initiated at this docket to consider the adoption of new regulations appearing as Subchapter O, §§ 63.321—63.326.

4. The Secretary shall submit this order and Annex A to the Office of the Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.

5. The Secretary shall certify this order and Annex A for review and comments to the Independent Regulatory Review Commission and Legislative Standing Committees.

6. The Secretary shall certify this order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

7. Interested parties shall have 60 days from the date of publication in the *Pennsylvania Bulletin* of the notice of proposed rulemaking to file written comments and replies to comments 30 days after filing written comments.

8. Parties filing comments or reply comments should, where appropriate, include a numerical reference to the proposed regulations as set forth in Annex A, should include proposed language for revision, and should provide a clear explanation for the recommendation.

9. Interested parties should file an original plus 15 copies of each comment and reply comment to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg PA 17105-3265. Comments should be filed in Word format and mailed electronically to joswitmer@state.pa.us.

10. A copy of this order and Annex A shall be served on all certificated telephone utilities subject to the Commission's jurisdiction.

11. The Commission's contact person on this matter is Assistant Counsel Joseph K. Witmer, (717) 787-3663.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-260. No fiscal impact; (8) recommends adoption.

<sup>15</sup> Level 3 Selected as Exclusive Network Provider for the Commonwealth of Pennsylvania's "Wall Street West," Level 3: Broomfield, CO, (June 7, 2007).

**STATEMENT OF TYRONE J. CHRISTY**

Before the Commission for consideration is Law Bureau's recommendation to grant, in part, the Level 3 petition regarding amending our regulations to streamline the transfer of control and affiliate filing requirements for competitive telecommunications carriers. The Law Bureau recommends that the Commission issue a Notice of Proposed Rulemaking to amend Chapter 63 of the Commission's regulations to streamline procedures for the review of transfers of control and affiliated filings for all telecommunications carriers.

I am pleased that the Commission is granting this petition to permit at comprehensive examination of our current procedures to review and approve transfers of control and affiliated filings for all telecommunications carriers. I believe that the commencement of a notice of proposed rulemaking in this matter moves the discussion in the right direction by examining our current procedures and possibly modifying them to provide options for adequate review and analysis of both simple and complex matters while providing proper safeguards and protecting the public interest. In doing so, it may permit this Commission to develop a process that will provide the necessary, but expedited, regulatory approvals to keep pace with the rapid changes in the telecommunications marketplace.

I look forward to reviewing the comments submitted in response to the notice of propose rulemaking so that this Commission can determine whether streamlined, yet comprehensive, procedures are appropriate to approve these types of transactions for all telecommunications carriers.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**Subpart C. FIXED SERVICE UTILITIES**

**CHAPTER 63. TELEPHONE SERVICE**

**Subchapter O. ABBREVIATED PROCEDURES FOR REVIEW OF TRANSFER OF CONTROL AND AFFILIATE FILINGS FOR TELECOMMUNICATIONS CARRIERS**

Sec.	Purpose.
63.321.	Purpose.
63.322.	Definitions.
63.323.	Applicability.
63.324.	Commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.
63.325.	Commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.
63.326.	Approval of contracts between a carrier or public utility and an affiliated interest under 66 Pa.C.S. §§ 2101(a), 3016(f)(1), and 3019(b)(1).

**§ 63.321. Purpose.**

This subchapter establishes cost-effective review and approval periods that abbreviate the traditional time for approving transactions involving an acquisition, diminution in control, merger, stock sales or transfers, transfer of assets or transfer of control of a telecommunications public utility requiring a certificate of public convenience under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate) or approval of a contract between public utilities and affiliates.

**§ 63.322. Definitions.**

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

*Affiliated interest*—An entity associated with a public utility as set forth in 66 Pa.C.S. § 2101(a) (relating to definition of affiliated interest).

*Carrier*—An entity defined as a “public utility” in 66 Pa.C.S. 102 (relating to definitions) or defined as a “public utility” in 66 Pa.C.S. § 102 and certificated by the Commission under 66 Pa.C.S. § 1102(a).

*Competitive carrier*—An entity that provides information service or telecommunications service as defined in section 3 to the Telecommunications Act of 1934 (47 U.S.C.A. § 153), or an alternative service provider as defined in 66 Pa.C.S. § 3012 (relating to definitions) including a certificated carrier under 66 Pa.C.S. § 1102(a).

*Controlling interest*—An interest, held by a person or group acting in concert, which enables the beneficial holder or holders to control 10% or more of the voting interest in the telecommunications public utility or its parent, regardless of the remoteness of the holder or holders or the transaction. A contingent right may not be included.

*Diminution of control*—A reduction in the controlling interest of 10% or more held by a person or group acting in concert, which reduces the beneficial holders ability to control a telecommunications public utility through the voting interest in the telecommunications public utility or its parent, regardless of the remoteness of the holder or the transaction. A contingent right may not be included.

*Dominant market power*—A carrier that has or will have a moderately concentrated or concentrated market using the Herfindal-Hirschman Index (HHI) utilized by the United States Department of Justice Antitrust Division in any service following Commission approval of a merger under 66 Pa.C.S. § 1102(a) or as otherwise alleged or documented by a party or the Commission in a proceeding seeking Commission approval under 66 Pa.C.S. 1102(a).

*Formal complaint*—The term as defined in § 1.8 (relating to definitions) of the Commission’s rules of practice and procedure.

*Formal investigation*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Formal proceeding*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Herfindahl-Hirschman Index*—The commonly accepted measure of market concentration utilized by the United States Department of Justice in which market concentration is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers.

*Incumbent local exchange carrier*—A local exchange carrier as defined in section 3(26) of the Telecommunications Act of 1934 or a local exchange telecommunications company as defined in 66 Pa.C.S. § 3012 including a certificated carrier under 66 Pa.C.S. § 1102(a).

*Informal complaint*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Informal investigation*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Informal proceeding*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Party*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Pennsylvania legal counsel*—The attorney of record appearing before the Commission as required under §§ 1.21 and 1.22 (relating to appearance; and appearance by attorney or certified legal intern) of the Commission’s rules of practice and procedure.

*Person*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Predominant market presence*—A utility that could or would possess market power in any service following approval of a Commission merger under 66 Pa.C.S. § 1102(a) using the nonhorizontal merger guidelines of the United States Department of Justice Antitrust Division or as otherwise alleged or documented by a party or the Commission in a proceeding seeking Commission approval under 66 Pa.C.S. § 1102(a).

*Pro forma transaction*—A transaction that is seamless to the customer and does not result in a change in rates or conditions of service which, taken together with all previous internal corporate restructurings, does not change the telecommunications public utility’s controlling interest, or result in a diminution of control greater than 10%.

*Staff*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Statutory Advocate*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

*Telecommunications public utility*—An entity that provides information service or telecommunications service as defined in section 103 of the Telecommunications Act of 1934 or 66 Pa.C.S. § 3012 or as a carrier.

*Verification*—The term as defined in § 1.8 of the Commission’s rules of practice and procedure.

### **63.323. Applicability.**

This subchapter applies to a telecommunications public utility seeking Commission approval for an acquisition, diminution in control, merger, stock sales or transfers, transfer of assets or transfer of control of a telecommunications public utility requiring a certificate of public convenience under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate) or approval of a contract between public utilities and affiliates.

### **§ 63.324. Commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.**

(a) *General rule transactions.* The following transactions of a telecommunications public utility involving a change in conditions of service or rates that seeks Commission approval for acquisition, diminution in control, merger, stock sales or transfers, transfer of assets or transfer of control of a telecommunications public utility requires notification to the Commission and approval by the Commission as a general rule transaction:

(1) A transaction resulting in the transfer of 10% or more of the assets of a carrier.

(2) A transaction resulting in the transfer of 10% or more of the direct or indirect control of a carrier.

(3) A transaction resulting in the diminution of 10% or more in the control of a carrier.

(4) A transaction requiring a certificate of public convenience issued under 66 Pa.C.S. § 1102(a) (relating to enumeration of acts requiring certification).

(5) A transaction subject to evaluation under the statement of policy on transfer of control. See § 69.901 (relating to utility stock transfer under 66 Pa.C.S. § 1102(a)(3)).

(6) A transaction that transfers the customer base of a telecommunications public utility or carrier and involves a change in conditions of service or rates.

(7) A transaction subjected to this subchapter by decision of the Commission, including a transaction no longer classified as a pro forma transaction by the Commission.

(b) *Reclassification of a general rule transaction.* When a telecommunications public utility seeks review and approval of a transaction as a general rule transaction and the Commission reclassifies the general rule transaction, the transaction shall be subject to the requirements of a pro forma transaction in § 63.325 (relating to Commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103) unless determined otherwise for good cause shown.

(1) *Review of a general rule transaction reclassified as a pro forma transaction.* The 30-day review and approval period for a general rule transaction reclassified as a pro forma transaction shall begin on the date that the telecommunications public utility is notified in writing that the general rule transaction is reclassified.

(2) *Review of a general rule transaction reclassified as other than a pro forma transaction.* The review and approval of a general rule transaction not reclassified as a pro forma transaction shall begin on the date that the telecommunications public utility is notified in writing that the transaction is reclassified. A transaction classified under this section shall be reviewed within the time governing review and approval under 66 Pa.C.S. §§ 1102 and 1103 (relating to enumeration of acts requiring certification; and procedure to obtain certificates of public convenience).

(3) *Right of appeal for reclassification of a transaction.* When a telecommunications public utility is notified in writing by staff that a general rule transaction will be reclassified, the determination shall be subject to appeal as an appeal from an action of staff. The provisions governing an appeal shall be those governing appeals from an action of staff under § 5.44 (relating to petitions for appeal from actions of the staff) of the rules of practice and procedure. The writing will inform the telecommunications public utility of the right of appeal.

(c) *Notification requirements for general rule transactions.* Notification shall be filed with the Commission on the date of filing with a Federal regulatory agency seeking Federal approval of a general rule transaction or no later than 60 days prior to the closing of a transaction subject to this subchapter, whichever is longer. The telecommunications public utility filing the notification shall comply with the Commission's rules of practice and procedure governing applications. (See §§ 5.11—5.14 (relating to applications.)) A telecommunications public utility shall provide an updated copy to the Commission and the statutory advocates of filings in the following circumstances:

(1) Filing with the Federal Communications Commission (FCC) of an application seeking approval of the transaction (FCC application).

(2) Filing of a notice with the United States Department of Justice (DOJ) under the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C.A. §§ 15c-15h, 18a and 66) (HSR Filing).

(3) Filing by a telecommunications public utility of a pleading responding to a formal or informal complaint, investigation, or proceeding undertaken by the FCC or the DOJ or other State or Federal regulatory agency involving the transaction.

(4) Filing required by the Commission from a telecommunications public utility in response to a notification by the Commission that simultaneous notification is appropriate to protect the public interest.

(5) Filing required by the Commission from a carrier in response to a request by any of the following:

(i) A request by a statutory advocate.

(ii) A request by a carrier with a certificate of public convenience obtained under 66 Pa.C.S. 1102(a) for a copy.

(iii) A request by the Commission or staff for a copy.

(iv) A request by a person or party for a copy.

(d) *Content of notification for general rule transactions.* In addition to the information required by § 5.12 (relating to contents of applications) of the Commission's rules of practice and procedure, a general rule transaction must contain the following information:

(1) The name, address and telephone number of each party or applicant to the transaction.

(2) The government, state or territory under the laws of which each corporate or partnership applicant to the transaction is organized.

(3) The name, title, post office address and telephone number of the officer or contact point, including legal counsel in this Commonwealth, to whom correspondence concerning the transaction is to be addressed.

(4) The name, address, citizenship and principal place of business any person, party or entity that directly or indirectly owns more than 10% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).

(5) A summary description of the transaction.

(6) A description of the geographic areas subject to the transactions and what services are provided in the geographic area.

(7) A verified statement as to how the transaction fits into one or more of the categories subject to the general rule for notification.

(8) Identification of other transactions related to the transaction.

(9) A verified statement whether the transaction warrants special consideration because either party to the transaction is facing imminent business failure.

(10) Identification of a separately filed waiver request sought in conjunction with the transaction.

(11) A verified statement showing:

(i) How the transaction will serve the public interest, convenience and necessity.

(ii) A description of the general and specific affirmative public benefit to this Commonwealth and its consumers warranting approval of the transaction.

(iii) Additional information that may be necessary to address the effect of the transaction on dominant market power or predominant market presence.

(12) A verified statement affirming that the utility is in compliance with Commission obligations and filings.

(13) A verified statement affirming that customers received notice.

(14) A verified statement containing a copy of any Commonwealth utility certificates held by the telecommunications public utility.

(15) A verified statement on the effect of the transaction on existing Commonwealth tariffs. If applicable or in response to a request from staff, a telecommunications public utility shall provide a red-line document identifying changes in existing Commonwealth tariffs before and after the transaction for which the telecommunications public utility seeks approval from the Commission.

(16) A verified statement on the transaction's effect on the existing affiliate interest agreements of the utility.

(17) A verified statement establishing that no State or Federal regulatory agency is expected to undertake an informal or formal investigation, complaint or proceeding relating to the transaction.

(18) A verified statement that no State or Federal regulatory undertaking is appropriate regarding the transaction because the telecommunications public utility lacks dominant market power or predominant market presence.

(19) Organizational charts showing the effect on the applicant's organization before and after the transaction.

(20) A copy of the application filed at the FCC or a notice filed with the DOJ, if any.

(e) *Continuing obligations for notification of general rule transactions.* When a Commission or Federal proceeding related to the general rule transaction is pending, the telecommunications public utility to the transaction shall file with the Commission copies of all procedural motions, public responses to discovery, and orders or other actions addressing or terminating the proceeding. The telecommunications public utility shall supplement the notification filing with any FCC or DOJ public notice issued concerning the transaction.

(f) *Commission publication of general rule transactions.*

(1) The Secretary will publish notice of a general rule transaction in the *Pennsylvania Bulletin* under § 5.14(a) and (b) (relating to applications requiring notice) of the Commission's rules of practice and procedure and, as directed by the Secretary, require additional publication in a newspaper of general circulation serving the geographic territory affected by the general rule transaction unless the Commission determines otherwise for good cause shown.

(2) Any notice will contain a 15-day general comment period and a formal protest period established under § 5.14(d) of the Commission's rules of practice and procedure, unless the Commission determines otherwise for good cause shown.

(i) A general comment addressing the general rule transaction involving a change in conditions of service or rates does not constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure nor reclassify the general rule transaction, unless the Commission determines otherwise for good cause shown.

(ii) A formal protest objecting to the general rule transaction involving a change in conditions of service or rates shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and may reclassify the general rule transaction, unless the Commission determines otherwise for good cause shown.

(iii) A formal protest objecting to a general rule transaction involving a change in conditions of service or rates by a statutory advocate shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and shall reclassify a general rule transaction as a pro forma transaction or a transaction subject to the review and approval for transactions under 66 Pa.C.S. §§ 1102 and 1103, unless the Commission determines otherwise for good cause shown.

(g) *Telecommunications public utility notice to customers.*

(1) *General rule transactions involving a change in conditions of service or rates.* A telecommunications public utility shall prepare and distribute notice to the customers of a general rule transaction involving a change in conditions of service or rates with the approval of the Commission's Bureau of Consumer Services. Notice to the customers shall occur prior to Commission approval unless circumstances make distribution prior to approval impractical or unnecessary.

(2) *Transfers of customer base subject to the general rule.*

(i) A transaction transferring a customer base involving a change in conditions of service or rates shall require additional notice to the customer base prepared with the approval of the Commission's Bureau of Consumer Services.

(ii) A general comment addressing the transfer of a customer base involving a change in conditions of service or rates does not constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure nor reclassify the general rule transaction, unless the Commission determines otherwise for good cause shown.

(iii) A formal protest objecting to transfer of a customer base involving a change in conditions of service or rates shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and may reclassify the general rule transaction, unless the Commission determines otherwise for good cause shown.

(iv) A formal protest objecting to a general rule transaction involving a change in conditions of service or rates by a statutory advocate shall constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure and shall reclassify a general rule transaction as either a pro forma transaction or a transaction subject to the review and approval for transactions under 66 Pa.C.S. §§ 1102 and 1103.

(h) *Commission review of transactions subject to the general rule.* The Commission retains the discretion to make inquiries and, after notice and opportunity to be heard, take action to protect the public interest, including the imposition of conditions on approval of the transaction when deemed necessary or proper under 66 Pa.C.S. § 1103 and to establish affirmative public benefit as required by law of the Commonwealth.

(i) *Formal protests to a general rule transaction.* A protest filed to a transaction subject to the general rule must comply with the Commission's rules of practice and procedure. (See Subpart A (relating to general provisions).)

(j) *Reclassification of a transaction from the general rule.* The Commission will reclassify a general rule transaction in the following circumstances:

(1) The filing of a formal protest by a statutory advocate or the filing of a formal protest warranting reclassification for good cause shown, including competitive impact.

(2) The filing involves a major acquisition or merger between telecommunications firms with substantial market shares.

(3) The filing involves an acquisition, merger or other transaction that raises novel or important issues.

(4) The Commission determines that reclassification is necessary to protect the public interest.

(k) *Commission approval for a general rule transaction.* A transaction subject to this subchapter will be deemed to be in the public interest and approved in law and fact 60 days after public notice in the *Pennsylvania Bulletin* unless the Commission determines otherwise for good cause shown.

(1) The Commission will issue a Secretarial letter or order approving a general rule transaction and issue a certificate of public convenience authorizing the transaction under 66 Pa.C.S. §§ 1102(a) and 1103.

(2) The Commission or staff may extend the review and approval period, reject the filing or transaction, remove a transaction from the general transaction rule or take other action deemed appropriate to protect the public interest.

(3) A staff action will be in writing and inform the telecommunications public utility of the right of appeal. An appeal from an action of staff shall be governed by the procedures governing appeals from an action of staff under § 5.44 (relating to petitions to appeal from actions of the staff) of the Commission's rules of practice and procedure.

(l) *Limitations on general rule transactions.*

(1) *Bankruptcy proceedings.* General rule transactions related to bankruptcy remain subject to §§ 1.61 and 1.62 (relating to matters before other tribunals) of the Commission's rules of practice and procedure.

(2) *Scope of general rule transactions.* A general rule transaction may not operate to permit a telecommunications public utility to circumvent an obligation by doing or refraining from doing anything that a telecommunications public utility must do or cannot do.

**§ 63.325. Commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103.**

(a) *Pro forma transactions.* The following transactions of a telecommunications public utility not involving a change in conditions of service or rates that seeks Commission approval for acquisition, diminution in control, merger, stock sales or transfers, transfer of assets or transfer of control of a telecommunications public utility requires notification to the Commission and approval by the Commission as a pro forma transaction:

(1) A transaction resulting in the transfer of less than 10% of the assets of a carrier.

(2) A transaction resulting in the transfer of less than 10% of the direct or indirect control of a carrier.

(3) A transaction resulting in the diminution of less than 10% in the control of a carrier.

(4) A transaction requiring a certificate of public convenience issued under 66 Pa.C.S. § 1102(a) (relating to enumeration of acts requiring certificate).

(5) A transaction subject to evaluation under the statement of policy on transfer of control, § 69.901 (relating to utility stock transfer under 66 Pa.C.S. § 1102(a)(3)).

(6) A transaction that transfers the customer base of a telecommunications public utility and does not involve a change in conditions of service or rates.

(7) A transaction subjected to this subchapter by decision of the Commission, including a general rule transaction reclassified as a pro forma transaction.

(b) *Reclassification of a pro forma transaction.* When a telecommunications public utility seeks review and approval of a transaction as a pro forma transaction and the Commission reclassifies the pro forma transaction, the pro forma transaction shall be subject to the requirements of a general rule transaction in § 63.324 (relating to Commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a) and 1103) unless the Commission determines otherwise for good cause shown.

(1) *Review of a pro forma transaction reclassified as a general rule transaction.* The 60-day review and approval period for a pro forma transaction reclassified as a general rule transaction shall begin on the date that the telecommunications public utility is notified in writing that the pro forma transaction is reclassified.

(2) *Review of a pro forma transaction reclassified as other than a general rule transaction.* The review and approval of a pro forma transaction reclassified as other than a general rule transaction shall begin on the date that the telecommunications public utility is notified in writing that the pro forma transaction is reclassified but not as a general rule transaction. A pro forma transaction reclassified under this section shall be reviewed within the period governing review and approval under 66 Pa.C.S. §§ 1102 and 1103 (relating to enumeration of acts requiring certificate; and procedure to obtain certificates of public convenience).

(3) *Right of appeal for reclassification of a pro forma transaction.* When a telecommunications public utility is notified in writing by staff that a pro forma transaction will be reclassified, the determination shall be subject to appeal as an appeal from an action of staff. The provisions governing an appeal shall be those governing appeals from an action of staff under § 5.44 (relating to petitions for appeal from actions of the staff) of the Commission's rules of practice and procedure. The writing will inform the telecommunications public utility of the right of appeal.

(c) *Notification requirements for pro forma transactions.* Notification of a pro forma transaction shall be filed with the Commission on the date of filing with a Federal regulatory agency seeking Federal approval of a pro forma transaction or no later than 30 days prior to the closing of a pro forma transaction subject to this subchapter, whichever is longer. The utility filing the notification shall comply with the Commission's rules of practice and procedure governing applications. A telecommunications public utility shall provide an updated copy to the Commission and the statutory advocates of filings in the following circumstances:

(1) Filing with the Federal Communications Commission (FCC) of an application seeking approval of the transaction (FCC application).

(2) Filing of a notice with the United States Department of Justice (DOJ) pursuant to the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C.A. §§ 15c-15h, 18a and 66) (HSR Filing).

(3) Filing by a telecommunications public utility of a pleading responding to a formal or informal complaint, investigation, or proceeding undertaken by the FCC or the DOJ or other State or Federal regulatory agency involving the transaction.

(4) Filing required by the Commission from a telecommunications public utility in response to a notification by the Commission that simultaneous notification is appropriate to protect the public interest.

(5) Filing required by the Commission from a carrier in response to a request by any of the following:

(i) A request by a statutory advocate.

(ii) A request by a carrier with a certificate of public convenience obtained under 66 Pa.C.S. § 1102(a) for a copy.

(iii) A request by the Commission or staff for a copy.

(iv) A request by a person or party for a copy.

(d) *Content of notification for pro forma transactions.* In addition to the information required by § 5.12 (relating to contents of applications) of the Commission's rules of practice and procedure, a pro forma transaction must contain the following information:

(1) The name, address and telephone number of each party or applicant to the transaction.

(2) The government, state or territory under the laws of which each corporate or partnership applicant to the transaction is organized.

(3) The name, title, post office address and telephone number of the officer or contact point, including Pennsylvania legal counsel, to whom correspondence concerning the transaction is to be addressed.

(4) The name, address, citizenship and principal place of business any person, party or entity that directly or indirectly owns more than 10% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).

(5) A summary description of the transaction.

(6) A description of the geographic areas subject to the transactions and what services are provided in the geographic area.

(7) A verified statement as to how the transaction fits into one or more of the categories subject to the pro forma rule.

(8) Identification of other transactions related to the transaction.

(9) A verified statement whether the transaction warrants special consideration because either party to the transaction is facing imminent business failure.

(10) Identification of a separately filed waiver request sought in conjunction with the transaction.

(11) A verified statement showing:

(i) How the transaction will serve the public interest, convenience and necessity.

(ii) A description of the general and specific affirmative public benefit to this Commonwealth and its consumers warranting approval of the transaction.

(iii) Additional information that may be necessary to address the effect of the transaction on dominant market power or predominant market presence.

(12) A verified statement affirming that the utility is in compliance with Commission obligations and filings.

(13) A verified statement affirming that customers received or will receive notice.

(14) A verified statement containing a copy of any Commonwealth utility certificates held by the telecommunications public utility.

(15) A verified statement on the effect of the transaction on existing Commonwealth tariffs. When applicable or in response to a request from staff, a telecommunications public utility shall provide a red-line document identifying changes in existing Commonwealth tariffs before and after the transaction for which the utility seeks approval from the Commission.

(16) A verified statement on the effect of the transaction on the existing affiliate interest agreements of the utility.

(17) A verified statement establishing that no State or Federal regulatory agency is expected to undertake an informal or formal investigation, complaint, or proceeding relating to the transaction.

(18) A verified statement that no State or Federal regulatory undertaking is appropriate regarding the transaction because the carrier lacks dominant market power or predominant market presence.

(19) Organizational charts showing the effect on the applicant's organization before and after the transaction.

(20) A copy of the application filed at the FCC or a notice filed with the DOJ, if any.

(e) *Continuing obligations for notification of pro forma transactions.* When a Commission or Federal proceeding related to the pro forma transaction is pending, a telecommunications public utility seeking approval of a pro forma transaction shall file with the Commission copies of all procedural motions, public responses to discovery, and orders or other actions addressing or terminating the proceeding. The telecommunications public utility shall supplement the notification filing with any FCC or DOJ public notice issued concerning the transaction.

(f) *Commission publication of pro forma transactions.*

(1) The Secretary may publish notice of a pro forma transaction in the *Pennsylvania Bulletin*. The Secretary may post notice of the pro forma transaction on the Commission's web site, unless the Commission determines otherwise for good cause shown.

(2) A notice posted on the Commission web site may contain a general comment period established according to § 5.14(d) (relating to applications requiring notice) of the Commission's rules of practice.

(3) There shall be no formal protest period under § 5.14(d) of the Commission's rules of practice and procedure, unless the Commission determines otherwise for good cause shown.

(4) A pro forma transaction subject to publication in the *Pennsylvania Bulletin*, in addition to any additional publication or posting on the Commission's web site, shall be subject to a general comment period and a formal protest period established under § 5.14(d) of the Commission's rules of practice and procedure, unless the Commission determines otherwise for good cause shown.

(i) A general comment addressing a transaction not involving a change in conditions of service or rates will not constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure nor reclassify the general rule transaction, unless the Commission determines otherwise for good cause shown.



(ii) A formal protest objecting to a transaction not involving a change in conditions of service or rates constitutes a formal protest under § 5.14 of the Commission rules of practice and procedure and may reclassify the general rule transaction, unless the Commission determines otherwise for good cause shown.

(iii) A formal protest objecting to a transaction not involving a change in conditions of service or rates by a statutory advocate constitutes a formal protest under § 5.14 of the Commission's rules of practice and procedure and reclassify a general rule transaction either as a general rule transaction or as a transaction subject to the review and approval for transactions under 66 Pa.C.S. §§ 1102 and 1103.

(g) *Telecommunications public utility notice to customers.*

(1) *Pro forma transactions not involving a change in conditions of service or rates.* A telecommunications carrier shall prepare and distribute notice of a pro forma transaction not involving a change in conditions of service or rates to the customers of a telecommunications carrier. Notice and distribution may also be required for transactions that do not reduce an applicant's control by more than 10%. Notice shall be distributed prior to Commission approval of a pro forma transaction unless the circumstances make distribution prior to approval impractical or unnecessary.

(2) *Notice of pro forma transfers of customer base.*

(i) A pro forma transaction transferring a customer base not involving a change in conditions of service or rates or not reducing an applicant's control by more than 10% does not require additional notice to the customer base beyond the general notice in this subchapter.

(ii) A general comment addressing the transfer of a customer base not involving a change in conditions of service or rates will not constitute a formal protest under § 5.14 of the Commission's rules of practice and procedure nor reclassify the pro forma transaction, unless the Commission determines otherwise for good cause shown.

(iii) A formal protest objecting to transfer of a customer base not involving a change in conditions of service or rates constitutes a formal protest under § 5.14 of the Commission rules of practice and procedure but does not reclassify the pro forma transaction, unless the Commission determines otherwise for good cause shown.

(h) *Commission review of pro forma transactions.* The Commission retains the discretion to make inquiries and, after notice and opportunity to be heard, take action to protect the public interest, including the imposition of conditions on approval of the transaction when deemed necessary or proper under 66 Pa.C.S. § 1103 and to establish affirmative public benefit as required by law of the Commonwealth.

(i) *Formal protests to a pro forma transaction.* A protest filed to a transaction subject to the general rule must comply with the Commission's rules of practice and procedure.

(j) *Removal of a transaction as a pro forma transaction.* The Commission will remove a transaction as a pro forma transaction and reclassify the transaction in the following circumstances:

(1) The filing of a protest by a statutory advocate or the filing of a formal protest warranting reclassification for good cause shown, including competitive impact.

(2) The filing involves a major acquisition or merger between telecommunications firms with substantial market shares.

(3) The filing involves an acquisition, merger or other transaction that raises novel or important issues.

(4) The Commission determines that reclassification is necessary to protect the public interest.

(k) *Commission approval for a pro forma transaction.* A transaction subject to this subchapter will be deemed to be in the public interest and approved in law and fact 30 days after filing with the Commission or posting on the Commission's web site, whichever is longer, unless the Commission determines otherwise for good cause shown.

(1) The Commission will issue a Secretarial letter or order approving a pro forma transaction and issue a certificate of public convenience authorizing the transaction under 66 Pa.C.S. §§ 1102(a) and 1103.

(2) The Commission or staff may extend the consideration period, reject the filing or transaction, remove a transaction from the pro forma rule or take other action deemed appropriate to protect the public interest.

(3) A staff action will be in writing and inform the telecommunications public utility of the right of appeal. An appeal from an action of staff shall be governed by the procedures governing appeals from an action of staff under § 5.44 of the Commission's rules of practice and procedure.

(l) *Limitations on pro forma transactions.*

(1) *Bankruptcy proceedings.* Pro forma changes related to bankruptcy remain subject to §§ 1.61 and 1.63 (relating to matters before other tribunals) of the Commission's rules of practice and procedure.

(2) *Scope on pro forma transactions.* A pro forma transaction may not operate to permit a telecommunications public utility to abandon a condition of service or rate. A pro forma transaction may not operate to permit a telecommunications public utility to circumvent an obligation by doing or refraining from doing anything that a telecommunications public utility must do or cannot do.

**§ 63.326. Approval of contracts between a carrier or public utility and an affiliated interest under 66 Pa.C.S. §§ 2101(a), 3016(f)(1) and 3019(b)(1).**

(a) A written or oral contract or transaction between a telecommunications utility and an affiliated interest is governed by 66 Pa.C.S. §§ 3016(f)(1) and 3019(b)(1) (relating to competitive services; and additional powers and duties). A written or oral contract between a telecommunications utility and an affiliate requires approval by the Commission and may not violate the prohibition against subsidization of competitive services by noncompetitive services.

(b) *Written contract or transaction.* The carrier or public utility shall file a copy and written summary of a written contract or transaction between a carrier or public utility and an affiliated interest with the Commission. A written contract or transaction shall remain

subject to examination, audit or other action to ensure compliance with 66 Pa.C.S. § 3016(f)(1) and other applicable sections of the code.

(c) *Oral contract or transaction.* The filing of a written summary of an oral contract or transaction shall be deemed compliant with this subchapter. An oral contract or transaction shall remain subject to examination, auditing or other action to ensure compliance with 66 Pa.C.S. § 3016(f)(1) and other applicable sections of the code.

(d) *Retention of contract or transaction.* A public utility or carrier shall retain and make available copies or summaries of the contract or transaction and shall file the copies or summaries at the request of the Commission.

(e) *Commission discretion.* The Commission retains discretion to make inquiries, audits and other investigations and, after notice and opportunity to be heard, take action to protect the public interest.

[Pa.B. Doc. No. 08-218. Filed for public inspection February 8, 2008, 9:00 a.m.]

## [ 52 PA. CODE CHS. 54, 62 AND 76 ]

[L-00070186/57-257]

### Universal Service and Energy Conservation Reporting Requirements and Customer Assistance Programs

The Pennsylvania Public Utility Commission (Commission) on August 30, 2007, adopted a proposed rulemaking order which establishes a unified process by which the level of funding for each natural gas distribution company (NGDC) and electric distribution company (EDC) could be determined in conjunction with the Commission's review of the company's universal service and energy conservation plan.

#### *Executive Summary*

On December 15, 2005, the Commission issued an order closing its investigation on universal service funding for EDCs and NGDCs. *Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923. In its order, the Commission directed that a rulemaking be instituted to establish an administrative process in which program funding and cost recovery could be determined in conjunction with the Commission's triennial review of a distribution company's universal service and energy conservation plan.

In its September 4, 2007, proposed rulemaking order, the Commission proposed that its regulations relating to universal service and energy conservation reporting in §§ 54.74 and 62.4 (relating to review of universal service and energy conservation plans, funding and cost recovery) be revised (with other necessary regulations) to create a unified proceeding for the approval of distribution company's customer assistance program (CAP) designs and funding levels, the determination of recoverable costs and the establishment of a cost recovery mechanism. The proposed revisions require that company plans include CAP rules and proposals for universal service cost recovery, and that the plans be submitted as a tariff filing consistent with Chapter 53 (relating to tariffs for non-common carriers). Also it is proposed that the tariff contain rules for applying Low Income Home Energy Assistance Program (LIHEAP) grants to customer accounts.

Other proposed amendments address the implementation of CAPs and control of CAP costs. For example, proposed § 76.3(a) (relating to approval process) would require Commission approval before a company can implement a CAP plan or a permanent or temporary modification to an existing plan. Proposed § 76.5 (relating to default provisions for failure to comply with program rules) mandates dismissal from CAP participation for the following: the failure to accept usage reduction services; the failure to verify eligibility requirements; the failure to apply for the LIHEAP; the failure to report changes in income or household size; and the failure to accept free budget counseling offered by the utility. The proposed amendments also address CAP cost recovery and notify the companies that the Commission will consider timeliness of collection activities in evaluating costs claimed for recovery.

Housekeeping revisions are also proposed to make shared language mutually consistent in §§ 54.71—54.78 (relating to universal service and energy conservation plan: review funding and reporting requirements; electric) and similar regulations in §§ 62.1—62.8 (relating to universal service and energy conservation plan: review, funding and reporting requirements; natural gas). These proposed revisions are clearly marked in the Annex A.

Public Meeting held  
August 30, 2007

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Terrance J. Fitzpatrick; Tyrone J. Christy; Kim Pizzingrilli

*Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements, 52 Pa. Code §§ 54.71—54.78 (electric); §§ 62.1—62.8 (natural gas) and Customer Assistance Programs, §§ 76.1—76.6;*  
*Doc. No. L-00070186*

### Proposed Rulemaking Order

*By the Commission:*

In the *Final Investigatory Order in Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Order entered December 18, 2006 at Docket No. M-00051923, the Commission directed, inter alia, that a rulemaking be instituted to revise its regulations at 52 Pa. Code § 54.74 and § 62.4. The purpose of the rulemaking would be to establish a unified process by which the level of funding for each natural gas distribution company and electric distribution company could be determined in conjunction with the Commission's triennial review of the company's universal service and energy conservation plan. By this order, we initiate this rulemaking.

### DISCUSSION

#### Background

On December 15, 2005, the Commission initiated an investigation with the purpose of developing general standards for appropriately funding universal service programs, including Customer Assistance Programs (CAPs) for electric distribution companies (EDCs) and natural gas distribution companies (NGDCs). In its December 15, 2005 order, the Commission requested comments on the types of cost recovery mechanisms that best

allow utilities to “fully recover” universal service costs and on the following CAP design elements: consumption limits, maximum energy burdens, maximum CAP benefits, default provisions, restoration provisions, timely collections for delinquent CAP accounts, minimum CAP budgets, eligibility and income verification, arrearage forgiveness and coordination of energy assistance benefits. See *Policy Statement on Customer Assistance Programs*, 52 Pa. Code §§ 69.261—69.267.

Written comments were filed by 40 interested parties.<sup>1</sup>

On December 18, 2006, the Commission entered its *Final Investigatory Order* that directed inter alia that a rulemaking proceeding be initiated to amend:

[Commission] regulations at 52 Pa. Code § 54.74 and § 62.4 to establish a triennial review process that takes the form of a tariff filing and addresses CAP program funding, design criteria and cost recovery on a case-by-case basis. This proposed rulemaking will address surcharge adjustments, the types of costs to be included in the surcharge as well as the recognition of CAP savings, if any, as offsetting some of these costs. This proposed rulemaking will also address how utilities will provide for the application of LIHEAP cash grants.

Additionally, the proposed rulemaking will address the issues of Default Provisions for Failure to Comply with Program Rules and Timely Collections as discussed within the body of this order.

#### *Final Investigatory Order*

The instant proposed rulemaking order has been drafted to revise current Commission regulations so that they are consistent with these directives.<sup>2</sup>

#### **Establishment of a Triennial Review Process for Review of CAP Design and Tariff Filings Relating to Funding and Cost Recovery**

In the *Final Investigatory Order*, the Commission refrained from establishing a uniform level of universal service funding for every distribution company. Instead the Commission determined that the review of the adequacy of universal service funding for each company would be accomplished on a case-by-case basis in conjunction with the established triennial review of the company's universal service program under 52 Pa. Code §§ 54.74 and 62.4.

*Final Investigatory Order*. The rationale for this decision was cost containment:

It is critically important that the Commission move toward a comprehensive, integrated consideration of

<sup>1</sup> The commenters were as follows: Energy Association of Pennsylvania, Office of Consumer Advocate, Department of Public Welfare, Office of Trial Staff, Dollar Energy Fund, Inc., Office of Small Business Advocate, City of Philadelphia—Mayor's Office—Consumer Affairs, Action Alliance of Senior Citizens of Southeastern Pennsylvania, through counsel Community Legal Services, Inc. and the Pennsylvania Utility Law Project (collectively, “Action Alliance”), Allegheny Power, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company, PECO Energy Company, PPL Electric Utilities Corporation and PPL Gas Utilities, Columbia Gas of Pennsylvania, Inc., Peoples Natural Gas Company d/b/a Dominion Peoples, Equitable Gas Company, National Fuel Gas Distribution Corporation, PG Energy, Philadelphia Gas Works, Valley Energy, Inc., Citizens' Electric Company of Lewisburg PA, and Wellsboro Electric Company, UGI Utilities, Inc., T.W. Phillips Gas and Oil Co., Pennsylvania Association of Community Organizations for Reform Now, Energy Coordinating Agency of Philadelphia, Inc., AARP Pennsylvania, and the Industrial Energy Consumers of Pennsylvania, the Columbia Industrial Intervenor, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the Philadelphia Industrial and Commercial Gas Users Group, the PP&L Industrial Customer Alliance, the UGI Industrial Intervenor, the West Penn Power Industrial Intervenor, and Senator LeAnna M. Washington, 4th District.

<sup>2</sup> In order to revise §§ 54.74 and 62.4 consistent with the direction given in the *Final Investigatory Order*, it was necessary to revise other related regulations. Although these additional revisions are not expressly discussed in this order, they are clearly marked in Annex A and proposed subject to comment by interested parties.

CAP designs and CAP cost recovery. The total state-wide cost of CAP programs has increased dramatically over the past several years. Since the year 2000, this cost has risen from \$69.6 million in 2000 to \$242.8 million in 2005,<sup>3</sup> an increase of 249%. To illustrate the cost impact on paying customers, in 2005 the average electric customer was billed an extra \$25.83 for universal service programs; the average natural gas customer paid an extra \$60.78 (CAP programs constitute roughly 90% of a utility's universal service costs). If energy prices continue to increase, so will the cost of these programs. In order to balance the interests of beneficiaries of CAP programs with the interests of paying customers, the Commission must begin to consider CAP designs and recovery of CAP costs at the same time.

In order to remedy this truncated consideration of CAP issues, we direct that Commission regulations be amended so that (1) a utility's CAP rules are placed in its tariff, (2) the triennial update filing take the form of a tariff filing and (3) adjustments to the CAP surcharge be addressed in the same tariff filing.

Using this process,<sup>4</sup> the Commission can consider the rate implications of changes to a company's CAP proposed by affected parties and recommended by staff, and can establish with greater certainty the appropriate funding level to ensure availability of universal service throughout the company's service territory.

*Final Investigatory Order* (footnote in the original).

Consistent with the discussion in the *Final Investigatory Order*, §§ 54.74 and 62.4 have been amended to establish the review process for CAP review and funding. These sections have also been revised to require that triennial filings, including CAP rules and proposals for cost recovery, be submitted as a tariff filing consistent with Commission regulations at 52 Pa. Code Ch. 53 (relating to tariffs for noncommon carriers).<sup>5</sup> These sections have also been revised to require that the tariff contain a method for applying LIHEAP grants.<sup>6</sup> See Annex A.

#### **Prior Commission Approval**

Proposed § 76.3 (relating to approval process) establishes that prior Commission approval is required before the distribution company can implement a CAP plan, or a revision or modification of an existing CAP program. This requirement for prior Commission approval also applies when there is a temporary modification to maintain the operation of an established CAP. Specifically, § 76.3(b) requires that, when a temporary modification must be made, the distribution company must file an application for special permission to file a tariff revision or supplement on less than statutory notice consistent with the requirements of 52 Pa. Code §§ 53.102 and 53.103 (relating to exception to the requirement for statutory notice; and concurrently furnished information). To ensure due

<sup>3</sup> These figures were provided by the Bureau of Consumer Services as supplied by the electric and gas utilities.

<sup>4</sup> A similar process was adopted by the Commission in its order that consolidated a contested settlement in Dominion Peoples' tariff filing with its triennial CAP filing and assigned the proceeding for hearing to the OALJ. See Commission order entered July 31, 2006 re: *Dominion Peoples' Universal Service and Energy Conservation Plan Submission Pursuant to 52 Pa. Code § 62.4*, Docket No. M-00051880; Pa. PUC, *OSBA v. The Peoples Natural Gas Company d/b/a Dominion Peoples*, Docket No. R-00051093, R-00051093C0001.

<sup>5</sup> Housekeeping and style changes have also been proposed to these sections. Because these changes are fairly obvious and clearly marked in Annex A, they are not discussed in detail here.

<sup>6</sup> See *Final Investigatory Order*, p. 66.

process, the distribution company is required to serve a copy of the application including the supporting information on the Office of Consumer Advocate, the Office of Trial Staff, and other advocates for low income customers, and to provide a copy of the filing to BCS. See § 76.3, Annex A.

#### **Default Provisions for Failure to Comply with Program Rules**

In the Final Investigatory Order, the Commission directed the promulgation of regulations that would establish rules for dismissal of customers from Customer Assistance Programs.

After reviewing the comments, we believe that failure to accept usage reduction services and failure to verify or certify eligibility are two of the reasons that may lead to dismissal from CAP for not complying with program rules. We believe that the following additional program rules should also be included and also should result in dismissal from the CAP if not complied with:

- (1) Failure to apply for LIHEAP;
- (2) Failure to report changes in income and household size; and
- (3) Failure to accept free budget counseling offered by the utility.<sup>7</sup>

We believe that each of the above-listed rules is justified on the basis that it makes the CAP programs more “cost effective.” They also seem to be fair requirements for customers receiving the benefits of CAP without placing an unreasonable burden upon them.

#### *Final Investigatory Order*

The Commission did decide, however, that failure to allow for a meter reading will not be proposed as a reason for dismissal from a CAP. See *Final Investigatory Order*.

We have added the default provisions for failure to follow CAP rules in new § 76.5. See Annex A.

#### **Coordination of Energy Assistance Benefits Application of LIHEAP Cash Payments**

Coordination of benefits refers to the manner in which a LIHEAP (Low Income Heating Energy Assistance Program) grant is applied to a customer’s account. In the *Final Investigatory Order* the Commission concluded that:

[d]irecting utilities on how to apply LIHEAP cash grants requires making a policy decision. The basic choice here affects who benefits and pays for these programs. By initiating a change directing that the LIHEAP cash benefits are used to reduce a customer’s monthly CAP budget or a customer’s preprogram arrearage allows the individual CAP customer to receive the benefit of such a grant, while the customers who are not beneficiaries of CAP programs will most likely end up contributing more to support CAP programs.

Instead of establishing an inflexible standard in a regulation directing how LIHEAP cash benefits are to be applied, the Commission will address this issue on a case-by-case basis in the tariff filing as part of the triennial review process. As a result, § 69.265(9) of the CAP statement of policy should be amended accordingly. Additionally, with the tariff filing as part

<sup>7</sup> Failure to apply for LIHEAP is a newly-proposed default provision; however, the other two additional program rules are included in the existing CAP Policy Statement. 52 Pa. Code § 69.265(7).

of the triennial review process, each utility’s tariff must provide for the method of application of LIHEAP cash grants.

#### *Final Investigatory Order*

In accordance with this direction, §§ 54.74 and 62.4 have been revised by adding new subsections (b)(2)(iv) and (b)(2)(iv), respectively to require that a distribution company propose a tariff rule dealing with the application of LIHEAP grants to CAP customer accounts. See Annex A.

#### **Timely Collection Efforts**

Issues related to timely collection efforts on the part of the distribution companies are to be addressed in this proposed rulemaking. The *Final Investigatory Order* discusses the need for timely collection as follows:

Although we find that Chapter 14 cannot be used to limit the amount of termination notices or reconnection requirements, we believe that utilities should focus equally on both timely payments and timely collections. In most situations, failing to take timely collection action on multiple months of missed CAP payments is not cost effective and, therefore, is unreasonable. Therefore, while customers have the responsibility to consistently pay their monthly bills on time, utilities also should initiate timely collection actions when customers fall behind on their monthly CAP obligations. Failure to do so may result in a denial of cost recovery if the Commission were to conclude that certain costs were imprudent. A regulation consistent with the language delineated above should be proposed.

#### *Final Investigatory Order*

New § 76.4 (relating to recovery of costs of customer assistance programs) addresses categories of CAP costs that may be recovered by a distribution company. To qualify for recovery, the costs must be prudently incurred and reasonable in amount, as is standard under Pennsylvania law, and include the following cost categories: CAP credits given to participants, preprogram acreage forgiveness, administrative costs, and taxes and other costs that can be proven to be associated with the distribution company’s CAP. See § 76.4(b) in Annex A. In addition, there may be cost savings to the distribution company as a consequence of a successfully operating CAP that should be considered. To address these potential cost savings, subsection (c) requires the distribution company to identify savings that would offset costs in certain operational areas, including collection. See § 76.4(c) in Annex A. The timeliness of a distribution company’s collection activities will be considered in evaluating the reasonableness of costs claimed for recovery. See § 76.4(d) in Annex A.

The basis for proposed § 76.4(d) is simple. The costs of CAPs are borne by all residential customers and timely collection of overdue customer accounts, including those of CAP customers, decrease the overall cost of these programs. In enacting Chapter 14 of the Public Utility Code, 66 Pa.C.S. §§ 1401–1418 (relating to responsible utility customer protection), the General Assembly recognized the need to provide “protections against rate increases for timely paying customers resulting from other customers’ delinquencies.” 66 Pa.C.S. § 1402(2). To ensure this protection, the General Assembly provided the distribution companies with “an equitable means to reduce their uncollectible accounts by modifying the procedures for

delinquent account collections and by increasing timely collections." 66 Pa.C.S. § 1402(3). For these reasons, we have proposed that prudently incurred operational expenses related to collection activities may be recoverable by surcharge. However, consistent with 66 Pa.C.S. § 1408, we have specifically excluded the recovery by surcharge of uncollectible expenses. See § 76.4(e) in Annex A.

### CONCLUSION

As a result of our investigation into funding levels and cost recovery for Customer Assistance Programs, we propose to amend Commission regulations at 52 Pa. Code §§ 54.71—54.78 (relating to universal service and energy conservation reporting requirements for electric distribution companies) and §§ 62.1—62.8 (relating to universal service and energy conservation reporting requirements for natural gas distribution companies). We also propose to promulgate new regulations in 52 Pa. Code §§ 76.1—76.6 (relating to customer assistance programs) as set forth in Annex A. All interested parties are invited to submit comments on the proposals set forth in Annex A. Persons submitting comments are requested to provide supporting justification for requested revisions and proposed regulatory language.

Accordingly, under 66 Pa.C.S. §§ 501, 1501, 2202, 2203(8) and 2801—2812; 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 in 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 745.5) and section 612 of The Administrative Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder in 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed amendments set forth in Annex A. Therefore,

#### *It Is Ordered That:*

1. The proposed amendments to 52 Pa. Code Chapters 54 and 62 and the proposed addition of Chapter 76 as set forth in Annex A, be issued for comment.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall submit this order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. An original and 15 copies of written comments referencing the docket number of the proposed amendments be submitted within 60 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. To facilitate posting, all filed comments shall be forwarded by means of e-mail to Michael Smith, at [michasmit@state.pa.us](mailto:michasmit@state.pa.us), Patricia Krise Burket, at [pburket@state.pa.us](mailto:pburket@state.pa.us) and Cyndi Page at [cypage@state.pa.us](mailto:cypage@state.pa.us).
6. A copy of this order and Annex A shall be served on all jurisdictional EDCs, all NGDCs, all licensed electric generation suppliers, all licensed natural gas suppliers, the Office of Trial Staff, the Office of Consumer Advocate, and the Office of Small Business Advocate, and all other

parties of record in the *Investigation into Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms* at Docket No. M-00051923.

7. The contact persons for this proposed rulemaking are Michael Smith, Consumer Policy Analyst, Bureau of Consumer Services, (717) 783-3232 (technical), and Patricia Krise Burket, Law Bureau, (717) 787-3464 (legal). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597, [sdelbiondo@state.pa.us](mailto:sdelbiondo@state.pa.us).

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-257. No fiscal impact; (8) recommends adoption.

### Annex A

## TITLE 52. PUBLIC UTILITIES

### PART I. PUBLIC UTILITY COMMISSION

#### Subpart C. FIXED SERVICE UTILITIES

#### CHAPTER 54. ELECTRICITY GENERATION CUSTOMER CHOICE

#### Subchapter C. UNIVERSAL SERVICE AND ENERGY CONSERVATION PLAN: REVIEW, FUNDING AND REPORTING REQUIREMENTS

#### § 54.71. Statement of purpose and policy.

[ **Section** ] **The requirements of 66 Pa.C.S. § 2804(9) [ of the code ] (relating to standards for [ restructuring ] restructuring of electric industry) [ mandates ] mandate that the Commission ensure universal service and energy conservation policies, activities and services for residential electric customers are appropriately funded and available in each EDC territory. This subchapter establishes a unified process which allows the Commission, in the context of its review of an EDC's universal service and energy conservation plan, to approve an adequate level of program funding, to determine the types and amount of program costs recoverable from residential customers and to approve a mechanism for full cost recovery.** This subchapter requires covered EDCs to establish uniform reporting requirements for universal service and energy conservation policies, programs and protections and to report this information to the Commission.

#### § 54.72. Definitions.

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

#### **BCS—Bureau of Consumer Services.**

**CAP—Customer Assistance Program—[ An alternative collection method that provides payment assistance to low-income, payment troubled utility customers. CAP participants agree to make regular monthly payments that may be for an amount that is less than the current bill in exchange for continued provision of electric utility services. ] A plan implemented by a distribution company for the purpose of providing universal service and energy conservation services to low income customers, in which the customers shall:**

(i) **Make monthly payments based on household income and household size.**

(ii) **Comply with specific responsibilities to remain eligible for the program.**

\* \* \* \* \*

**CARES—Customer Assistance and Referral Evaluation Services**—A program that provides a cost-effective service that helps selected, payment-troubled customers maximize their ability to pay utility bills. A CARES program provides a casework approach to help customers secure energy assistance funds and other needed services.

**CARES benefits**—The number **[ and kinds ]** of referrals **[ to ]** and number of customers accepted into CARES.

**Classification of accounts**—Accounts are classified by the following categories: all residential accounts and confirmed **[ low-income ]** low income residential accounts.

\* \* \* \* \*

**Confirmed [ low-income ] low income residential account**—Accounts where the EDC has obtained information that would reasonably place the customer in a **[ low-income ]** low income designation. This information may include receipt of LIHEAP funds, self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon ratepayer or occupant contact prior to termination).

\* \* \* \* \*

**Distribution company**—A natural gas distribution company or an electric distribution company.

**EDC—Electric distribution company**—The **[ public utility ]** distribution company providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners/operators that manage the internal distribution system serving the building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

\* \* \* \* \*

**LIHEAP—Low Income Home Energy Assistance Program**—A Federally funded program that provides financial assistance in the form of cash and crisis grants to low income households for home energy bills and is administered by the Department of Public Welfare.

**LIURP—[ Low-income usage reduction program ] Low Income Usage Reduction Program**—**[ An energy usage reduction ]** A program that assists **[ low-income ]** low income customers to conserve energy and reduce residential energy bills established by a distribution company consistent with Chapter 58 (relating to residential low income usage reduction programs).

**[ Low-income ] Low income customer**—A residential utility customer whose gross household income is at or below 150% of the Federal poverty guidelines. Gross household income does not include the value of food stamps or other noncash income.

**Outreach referral contacts**—**[ Addresses and telephone numbers ]** An address and telephone number

that a customer would call or write to apply for the hardship fund. Contact information should be specific to each county in the EDC's service territory, if applicable.

**Payment rate**—**[ Payment rate is the ]** The total number of full monthly payments received from CAP participants in a given period divided by the total number of monthly bills issued to CAP participants.

**Payment troubled**—A household that has failed to maintain one or more payment arrangements in a 1-year period or has received a termination notice.

**Residential account in arrears**—A residential account that is at least 30 days overdue. This classification includes all customer accounts which have payment arrangements.

**Successful payment arrangements**—A payment arrangement in which the agreed upon number of payments have been made in full in the **[ preceeding ]** preceding 12 months.

**Universal service and energy conservation**—**[ Policies, protections and services that help low-income customers to maintain electric service. The term includes customer assistance programs, termination of service protection and policies and services that help low-income customers to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs, application of renewable resources and consumer education. ]** The term as defined in 66 Pa.C.S. § 2803 (relating to definitions).

§ 54.73. Universal service and energy conservation program goals.

\* \* \* \* \*

(b) The general goals of universal service and energy conservation programs include the following:

(1) To protect consumers' health and safety by helping **[ low-income ]** low income customers maintain affordable electric service.

(2) To provide for affordable electric service by making available payment assistance to **[ low-income ]** low income customers.

(3) To assist **[ low-income ]** low income customers **[ conserve ]** in conserving energy and **[ reduce ]** reducing residential utility bills.

(4) To establish universal service and energy conservation programs that are operated in a cost-effective and efficient manner to minimize overall program costs.

§ 54.74. **[ Universal ]** Review of universal service and energy conservation plans, funding and cost recovery.

(a) *Plan submission.*

(1) **[ Each ]** An EDC shall submit to the Commission for approval an updated universal service and energy conservation plan in the form of a tariff filing every 3 years **[ beginning February 28, 2000, on a staggered schedule ]**.

(2) The plan **[ should cover ]** must provide for universal service and energy conservation for the next 3-calendar years.

(3) An EDC shall file its universal service and energy conservation plan in the form of a tariff filing. The tariff filing must conform with applicable regulations in Chapters 53 and 76 (relating to tariffs for noncommon carriers; and customer assistance programs). The plan should state how it differs from the previously approved plan.

(4) [The plan should include revisions based on analysis of program experiences and evaluations.] An EDC shall consult BCS for advice regarding the design and implementation of its plan at least 30 days prior to submission of the plan to the Commission for approval.

(5) In the proceeding on the plan, the Commission will establish a funding level that balances efforts to ensure the availability of universal service and energy conservation programs throughout an EDC's service territory with the cost of the programs and the rate impact on residential customers that are not enrolled in the programs, and will permit an EDC to recover costs related to universal service and energy conservation from residential customers. The Commission will approve recovery of CAP costs consistent with § 76.4 (relating to recovery of costs of customer assistance programs). [If the Commission rejects the plan, the EDC shall submit a revised plan under the order rejecting or directing modification of the plan as previously filed. If the order rejecting the plan does not state a timeline, the EDC shall file its revised plan within 45 days of the entry of the order.]

(6) The Commission will act on the plans within 90 days of the EDC filing date. ]

(b) [Plan] *Tariff contents.* The tariff must include the following information:

(1) [The components of] *General requirements.* A universal service and energy conservation plan that may include [the following:] a CAP, LIURP, CARES, Hardship Funds [and] or other programs, policies and protections consistent with Commission orders, regulations and other applicable law. For each component of [universal service and energy conservation,] the plan [shall include, but not be limited to], the following information shall be submitted:

[ (1) Program ] (i) The program description including an explanation of the manner and the extent to which the universal service or energy conservation component operates in an integrated manner with other components of the plan to accomplish the goals stated in § 54.73 (relating to universal service and energy conservation program goals).

[ (2) Eligibility ] (ii) The eligibility criteria.

[ (3) Projected ] (iii) The projected needs assessment. The needs assessment must include:

(A) The number of identified low income customers.

(B) An estimate of low income customers.

(C) The number of identified payment troubled, low income customers.

(D) An estimate of payment troubled, low income customers.

(E) The number of customers who still need LIURP services and the cost to serve that number.

(F) The enrollment size of the CAP to serve all eligible customers.

[ (4) Projected ] (iv) The projected enrollment levels.

[ (5) Program ] (v) The program budget.

[ (6) Plans ] (vi) The plans to use community-based organizations.

[ (7) Organizational ] (vii) The organizational structure of staff responsible for universal service programs.

[ (8) Explanation ] (viii) An explanation of [any] differences between the EDC's approved plan and the implementation of that plan. The [EDC should] plan must include a [plan] proposal to address [those] the identified differences. When an EDC has not implemented all of the provisions of an approved plan, the EDC shall provide a justification for that failure and plans for corrective action. When an EDC is requesting approval of a revised plan, the EDC shall provide a justification of the revisions in its request for approval.

(ix) A description of outreach and intake efforts, including the specific steps used to identify low income customers with arrears and to enroll them in appropriate universal service and energy conservation programs.

(2) *Program rules.* The tariff must contain rules that apply to the universal service and energy conservation programs. The rules must be consistent with the code, applicable Commission regulations, orders and other applicable law. The rules must address the following:

(i) Program eligibility.

(ii) Enrollment process.

(iii) Customer responsibilities for continued program participation.

(iv) Coordination of energy assistance benefits including the application of LIHEAP grants.

(v) Arrearage forgiveness.

(vi) Dismissal from the program, including default rules in § 76.5 (relating to default provisions for failure to comply with program rules).

(vii) Reinstatement to the program.

(viii) Termination of service.

(ix) Restoration of service.

(x) Treatment of CAP customers who become income ineligible for continued participation.

(xi) Other matters required for the implementation and operation of the program.

(3) *Documentation in support of funding and cost recovery for universal service and energy conservation.* The tariff filing must contain documentation of costs for the EDC's existing universal service and energy conservation program and a projection of costs for the next 3 years. The cost projection must take into account changes proposed to be made to the programs and the impact of their implementation on costs. The tariff filing must contain docu-

mentation of cost savings that result from customer participation in these programs, to the extent that savings exist.

(4) **Surcharge.** An EDC may propose a surcharge under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) to provide for full recovery of universal service and energy conservation costs. The surcharge may be subject to annual reconciliation or may be adjusted prospectively on a quarterly basis as required by changes in the level of costs incurred. When a surcharge is proposed, the tariff filing must contain:

(i) A description of the surcharge, a list of the specific costs proposed for recovery, and, when applicable, an adjustment mechanism. Consistent with 66 Pa.C.S. § 1408 (relating to surcharges for uncollectible expenses prohibited), the surcharge may not recover uncollectible expenses.

(ii) A statement of the time period after which the surcharge becomes effective for service referenced from the date of the filing of the tariff.

(iii) Calculations based on current and projected costs that support the use of the surcharge and the adjustment mechanism, when applicable.

(iv) A statement that the surcharge is applicable only to residential customers.

§ 54.75. Annual residential collection and universal service and energy conservation program reporting requirements.

[ Each ] An EDC shall report annually to the Commission on the degree to which universal service and energy conservation programs within its service territory are available and appropriately funded. Annual EDC reports [ shall ] must contain information on programs and collections for the prior calendar year. Unless otherwise stated, the report shall be due April 1 each year [ , beginning April 1, 2001 ]. [ Where ] When noted, the data shall be reported by classification of accounts as total residential customers and confirmed low income residential customers. [ Each ] An EDC's report [ shall ] must contain the following information:

(1) **Collection reporting.** Collection reporting [ shall ] must be categorized as follows:

\* \* \* \* \*

(vi) The total dollar amount of annual residential revenues by classification of accounts.

(vii) The total number of residential accounts in arrears and on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(viii) The total number of residential accounts in arrears and not on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(ix) The total dollar amount of residential accounts in arrears and on payment agreements by month for the 12 months covered by the report, by classification of accounts.

[ (vi) ] (x) The total dollar amount of residential accounts in arrears and not on payment agreements by month for the 12 months covered by the report, by classification of accounts.

[ (vii) ] (xi) The total number of residential customers who are payment troubled by month for the 12 months covered by the report, by classification of accounts.

[ (viii) ] (xii) The total number of terminations completed by month for the 12 months covered by the report, by classification of accounts.

[ (ix) ] (xiii) The total number of reconnections by month for the 12 months covered by the report, by classification of accounts.

[ (x) ] (xiv) The total number of [ low-income ] low income households. EDCs may estimate this number using census data or other information the EDC finds appropriate.

(2) **Program reporting.** Program reporting [ shall ] must be categorized as follows:

(i) For [ each ] a universal service and energy conservation component, program data [ shall ] must include information on the following:

\* \* \* \* \*

(B) Program recipient demographics, including the number of [ family ] household members under [ age ] 18 years of age and [ over age ] 62 [ family ] years of age or older, household size, income and source of income.

\* \* \* \* \*

(D) The number of program participants by source of intake.

(E) The number of program participants participating in two or more of the EDC's universal service and energy conservation programs, broken down by program component.

(ii) Additional program data for individual universal service and energy conservation components [ shall ] must include the following information:

(A) LIURP. Reporting requirements as established [ at ] in § 58.15 (relating to program evaluation).

(I) LIURP reporting data shall be due annually by April 30.

(II) Actual [ production ] number of completed jobs and spending data for the recently completed program year and projections for the current year shall be due annually by the end of February.

\* \* \* \* \*

(D) *Hardship funds.*

\* \* \* \* \*

(II) Special contributions, other than shareholder or ratepayer contributions.

\* \* \* \* \*

§ 54.76. Evaluation reporting requirements.

(a) [ Each ] An EDC shall [ have ] select, after conferring with BCS, an independent third-party to conduct an impact evaluation of its universal service and energy conservation programs and to provide a report of findings and recommendations to the Commission and EDC.

(b) [ The first impact evaluation will be due beginning October 31, 2002, on a staggered schedule. Subsequent evaluation reports shall be presented



to the EDC and the Commission at no more than 6 year intervals. ] An EDC shall submit an impact evaluation report to the Commission every 6 years. When an EDC is required to submit an impact evaluation in the same year as it is required to file its universal service and energy conservation plan, the EDC shall file the impact evaluation report 6 months prior to the filing date for the universal service and energy conservation plan.

(c) To ensure an independent evaluation, neither the EDC nor the Commission shall exercise control over content or recommendations contained in the independent evaluation report. The EDCs may [ provide ] submit to the Commission [ with ] a companion report that expresses where [ they agree or disagree ] there is agreement or disagreement with the independent evaluation report content or recommendations.

[ (d) An independent third-party evaluator shall conduct the impact evaluation. ]

§ 54.77. [ Electric distribution companies ] EDCs with less than 60,000 residential accounts.

[ Beginning March 1, 2000, each ] An EDC with less than 60,000 accounts shall report to the Commission every 3 years the following information in lieu of the requirements in §§ 54.74—54.76 (relating to review of universal service and energy conservation plans, funding and cost recovery; annual residential collection and universal service and energy conservation program reporting requirements; and evaluation reporting requirements):

\* \* \* \* \*

(2) [ Expenses ] The expenses associated with [ low-income ] low income customers.

(3) A description of the universal service and energy conservation services provided to [ low-income ] low income residential customers.

(4) The number of services or benefits provided to [ low-income ] low income residential customers.

(5) The dollar amount of services or benefits provided to [ low-income ] low income residential customers.

**CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE**

**Subchapter A. UNIVERSAL SERVICE AND ENERGY CONSERVATION PLAN: REVIEW, FUNDING AND REPORTING REQUIREMENTS**

**§ 62.1. Statement of purpose and policy.**

The requirements of 66 Pa.C.S. § 2203(8) (relating to standards for restructuring of natural gas utility industry) mandate that the Commission ensure universal service and energy conservation policies, activities and services for residential natural gas customers are appropriately funded and available in each NGDC territory. **This subchapter establishes a unified process which allows the Commission, in the context of its review of an NGDC's universal service and energy conservation plan, to approve an adequate level of program funding, to determine the types and amount of program costs recoverable from residential customers and to approve a mechanism for full cost recovery.** This subchapter requires covered NGDCs to establish uniform reporting requirements for universal

service and energy conservation policies, programs and protections and to report this information to the Commission.

**§ 62.2. Definitions.**

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

**BCS—Bureau of Consumer Services.**

\* \* \* \* \*

**CAP—Customer Assistance Program—[ An alternative collection method that provides payment assistance to low-income, payment troubled utility customers. CAP participants agree to make regular monthly payments that may be for an amount that is less than the current bill in exchange for continued provision of natural gas utility services. ] A plan implemented by a distribution company for the purpose of providing universal service and energy conservation services to low income customers, in which the customers shall:**

(i) **Make monthly payments based on household income and household size.**

(ii) **Comply with specific responsibilities to remain eligible for the program.**

**[ CARES benefits—The number of referrals and number of customers accepted into CARES. ]**

\* \* \* \* \*

**CAREs benefits—The number of referrals and number of customers accepted into CARES.**

**Classification of accounts—Accounts are classified by the following categories: all residential accounts and confirmed [ low-income ] low income residential accounts.**

\* \* \* \* \*

**Confirmed [ low-income ] low income residential account—Accounts where the NGDC has obtained information that would reasonably place the customer in a [ low-income ] low income designation. This information may include receipt of LIHEAP funds ( [ Low-Income ] Low Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon ratepayer or occupant contact prior to termination).**

\* \* \* \* \*

**LIHEAP—Low Income Home Energy Assistance Program—A Federally funded program that provides financial assistance in the form of cash and crisis grants to low income households for home energy bills and is administered by the Department of Public Welfare.**

**LIURP—[ Low-income ] Low Income Usage Reduction Program—An energy usage reduction program that helps [ low-income ] low income customers to conserve energy and reduce residential energy bills established by a distribution company consistent with Chapter 58 (relating to residential low income usage reduction programs).**

**[ Low-income ] Low income customer**—A residential utility customer whose gross household income is at or below 150% of the Federal poverty guidelines. Gross household income does not include the value of food stamps or other noncash income.

\* \* \* \* \*

**Payment troubled**—A household that has failed to maintain one or more payment arrangements in a 1-year period or has received a termination notice.

\* \* \* \* \*

**§ 62.3. Universal service and energy conservation program goals.**

\* \* \* \* \*

(b) The general goals of universal service and energy conservation programs include the following:

(1) To protect consumers' health and safety by helping **[ low-income ] low income** customers maintain affordable natural gas service.

(2) To provide for affordable natural gas service by making available payment assistance to **[ low-income ] low income** customers.

(3) To **[ help low-income ] assist low income** customers **[ conserve ] in conserving** energy and **[ reduce ] reducing** residential utility bills.

(4) To ensure universal service and energy conservation programs are operated in a cost-effective and efficient manner to **minimize program costs**.

**§ 62.4. [ Universal ] Review of universal service and energy conservation plans, funding and cost recovery.**

(a) *Plan submission.*

(1) **[ Each ] An** NGDC shall submit to the Commission for approval an updated universal service and energy conservation plan **in the form of a tariff filing** every 3 years **[ beginning February 28, 2002, on a staggered schedule ]**.

(2) The plan **[ should cover ] must provide for universal service and energy conservation** for the next 3-calendar years.

(3) **An NGDC shall file its universal service and energy conservation plan in the form of a tariff filing. The tariff filing must conform with applicable regulations in Chapters 53 and 76 (relating to tariffs for noncommon carriers; and customer assistance programs).** The plan should state how it differs from the previously approved plan.

(4) **[ The plan should include revisions based on analysis of program experiences and evaluations. ] An NGDC shall consult BCS for advice regarding the design and implementation of its plan at least 30 days prior to submission of the plan to the Commission for approval.**

(5) **In the proceeding on the plan, the Commission will establish a funding level that balances efforts to ensure the availability of universal service and energy conservation programs throughout an NGDC's service territory with the cost of the programs and the rate impact on residential customers that are not enrolled in the programs, and will permit an NGDC to recover costs related to**

**universal service and energy conservation from residential customers. The Commission will approve recovery of CAP costs consistent with § 76.4 (relating to recovery of costs of customer assistance programs). [ The Commission will act on the plans within 90 days of the NGDC filing date.**

**(6) If the Commission rejects the plan, the NGDC shall submit a revised plan pursuant to the order rejecting or directing modification of the plan as previously filed. If the order rejecting the plan does not state a timeline, the NGDC shall file its revised plan within 45 days of the entry of the order. ]**

(b) **[ Plan ] Tariff contents.** The tariff must contain the following information:

**(1) [ The components of ] General requirements.** A universal service and energy conservation plan that may include **[ the following: ] a CAP, LIURP, CARES, Hardship Funds [ and ] or other programs, policies and protections consistent with Commission orders, regulations and other applicable law.** For each component of **[ universal service and energy conservation, ]** the plan, **[ shall include ]** the following information shall be submitted:

**[ (1) ] (i)** The program description **[ that includes a description of the program rules for each program component ] including an explanation of the manner and the extent to which the universal service or energy conservation component operates in an integrated manner with other components of the plan to accomplish the goals stated in § 62.3 (relating to universal service and energy conservation program goals).**

**[ (2) ] (ii)** The eligibility criteria **[ for each program component ]**.

**[ (3) ] (iii)** The projected needs assessment **[ for each program component and an explanation of how each program component responds to one or more identified needs ]**. The needs assessment **[ shall ] must include [ the ]:**

**(A) The number of identified [ low-income ] low income customers [ and ].**

**(B) An estimate of [ low-income ] low income customers [ , the ].**

**(C) The number of identified payment troubled, [ low-income ] low income customers [ , an ].**

**(D) An estimate of payment troubled, [ low-income ] low income customers [ , the ].**

**(E) The number of customers who still need LIURP services and the cost to serve that number [ , and the ].**

**(F) The enrollment size of CAP to serve all eligible customers.**

**[ (4) ] (iv)** The projected enrollment levels **[ for each program component ]**.

**[ (5) ] (v)** The program budget **[ for each program component ]**.

[ (6) ] (vi) The plans to use community-based organizations [ for each program component ].

[ (7) ] (vii) The organizational structure of staff responsible for universal service programs.

[ (8) ] (viii) An explanation of [ any ] differences between the NGDC's approved plan and the implementation of that plan. **The plan must include a proposal to address the identified differences.** [ If ] When an NGDC has not implemented all of the provisions of an approved plan, the NGDC [ should ] shall provide a justification for that failure and plans for corrective action. [ If ] When an NGDC is requesting approval of a revised plan, the NGDC [ should ] shall provide a justification of the revisions in its request for approval.

[ (9) ] (ix) A description of outreach and intake efforts, [ for each program component.

(10) **An identification of the ] specific steps used to identify [ low-income ] low income customers with arrears and to enroll them in appropriate universal service and energy conservation programs.**

[ (11) **An identification of the manner in which universal service and energy conservation programs operate in an integrated fashion. ]**

(2) **Program rules.** The tariff must contain rules that apply to the universal service and energy conservation programs. The rules must be consistent with the code, applicable Commission regulations, orders and other applicable law. The rules must address the following:

- (i) Program eligibility.
- (ii) Enrollment process.
- (iii) Customer responsibilities for continued program participation.
- (iv) Coordination of energy assistance benefits including the application of LIHEAP grants.
- (v) Arrearage forgiveness.
- (vi) Dismissal from the program, including default rules in § 76.5 (relating to default provisions for failure to comply with program rules).
- (vii) Reinstatement to the program.
- (viii) Termination of service.
- (ix) Restoration of service.
- (x) Treatment of CAP customers who become income ineligible for continued participation.
- (xi) Other matters required for the implementation and operation of the program.

(3) **Documentation in support of funding and cost recovery for universal service and energy conservation.** The tariff filing must contain documentation of costs for the NGDC's existing universal service and energy conservation program and a projection of costs for the next 3 years. The cost projection must take into account changes proposed to be made to the programs and the impact of their implementation on costs. The tariff filing must contain documentation of cost savings that result from customer participation in these programs, to the extent savings exist.

(4) **Surcharge.** An NGDC may propose a surcharge under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) to provide for full recovery of universal service and energy conservation costs. The surcharge may be subject to annual reconciliation or may be adjusted prospectively on a quarterly basis as required by changes in the level of costs incurred. When a surcharge is proposed, the tariff filing must contain:

- (i) A description of the surcharge, a list of the specific costs proposed for recovery, and, when applicable, an adjustment mechanism. Consistent with 66 Pa.C.S. § 1408 (relating to surcharges for uncollectible expenses prohibited), the surcharge may not recover uncollectible expenses.
- (ii) A statement of the time period after which the surcharge becomes effective for service referenced from the date of the filing of the tariff.
- (iii) Calculations based on current and projected costs that support the use of the surcharge and the adjustment mechanism, when applicable.
- (iv) A statement that the surcharge is applicable only to residential customers.

**§ 62.5. Annual residential collection and universal service and energy conservation program reporting requirements.**

(a) [ Each ] An NGDC shall report annually to the Commission on the degree to which universal service and energy conservation programs within its service territory are available and appropriately funded. Annual NGDC reports [ shall ] must contain information on programs and collections for the prior calendar year. Unless otherwise stated, the report shall be due April 1 each year [ , beginning April 1, 2003 ]. When noted, the data shall be reported by classification of accounts as total residential customers and confirmed low income residential customers. [ Each ] An NGDC's report [ shall ] must contain the following information:

(1) *Collection reporting.* Collection reporting [ shall ] must be categorized as follows:

\* \* \* \* \*

(ii) Annual collection operating expenses by classification of accounts. **Collection operating expenses include administrative expenses associated with termination activity, negotiating payment arrangements, budget counseling, investigation and resolving informal and formal complaints associated with payment arrangements, securing and maintaining deposits, tracking delinquent accounts, collection agencies' expenses, litigation expenses other than Commission related, dunning expenses and winter survey expenses.**

\* \* \* \* \*

(xiii) The total number of [ low-income ] low income households. NGDCs may estimate this number using census data or other information the NGDC finds appropriate.

(2) *Program reporting.* Program reporting [ shall ] must be categorized as follows:

(i) For [ each ] a universal service and energy conservation component, program data [ shall ] must include information on the following:

\* \* \* \* \*

(ii) Additional program data for individual universal service and energy conservation components [ shall ] **must** include the following information:

(A) *LIURP [ reporting requirements ]*. [ As ] **Reporting requirements** as established in § 58.15 (relating to program evaluation).

(I) [ *LIURP reporting data. Due* ] **LIURP reporting data shall be due** annually by April 30.

(II) [ *Actual number of completed jobs and spending data.* ] **Actual number of completed jobs and spending data for the recently completed program year and projections for the current year shall be due** annually by April 1.

\* \* \* \* \*

### § 62.6. Evaluation reporting requirements.

(a) [ **Each** ] **An** NGDC shall select, after conferring with [ **the Commission's Bureau of Consumer Services** ] **BCS**, an independent third-party to conduct an impact evaluation of its universal service and energy conservation programs and to provide a report of findings and recommendations to the Commission and NGDC.

(b) [ **The first impact evaluation will be due beginning August 1, 2004, on a staggered schedule. Subsequent evaluation reports shall be presented to the NGDC and the Commission at no more than 6-year intervals.** ] **An** NGDC shall submit an impact evaluation report to the Commission every 6 years. **When an NGDC is required to submit an impact evaluation in the same year as it is required to file its universal service and energy conservation plan, the NGDC shall file the impact evaluation report 6 months prior to the filing date for the universal service and energy conservation plan.**

(c) To ensure an independent evaluation, neither the NGDC nor the Commission shall exercise control over **content** or recommendations contained in the independent evaluation report. The NGDCs may [ **provide** ] **submit to** the Commission [ **with** ] a companion report that expresses where [ **they agree or disagree** ] **there is agreement or disagreement** with the independent evaluation report content or recommendations.

### § 62.7. NGDCs with less than 100,000 residential accounts.

[ **(a) Beginning June 1, 2003, each** ] **An** NGDC with less than 100,000 accounts shall report to the Commission every 3 years the following information in lieu of the requirements in §§ 62.4—62.6 (relating to **review of universal service and energy conservation plans, funding and cost recovery**; annual residential collection and universal service and energy conservation program reporting requirements; and evaluation reporting requirements):

\* \* \* \* \*

(2) [ **Expenses** ] **The expenses** associated with [ **low-income** ] **low income** customers.

(3) A description of the universal service and energy conservation services provided to [ **low-income** ] **low income** residential customers.

(4) [ **Number** ] **The number** of services or benefits provided to [ **low-income** ] **low income** residential customers.

(5) [ **Dollar** ] **The dollar** amount of services or benefits provided to [ **low-income** ] **low income** residential customers.

## CHAPTER 76. CUSTOMER ASSISTANCE PROGRAMS

Sec.	
76.1.	Purpose.
76.2.	Definitions.
76.3.	Approval process.
76.4.	Recovery of costs of customer assistance programs.
76.5.	Default provisions for failure to comply with program rules.
76.6.	Restoration of service after termination for nonpayment of CAP bills.

### § 76.1. Purpose.

Universal service and energy conservation shall be made available to low income customers throughout a distribution company's territory. To ensure their availability, universal service and energy conservation programs shall be developed and funded individually for each distribution company. To ensure cost effectiveness and compliance with statutory requirements that protect all ratepayers, certain rules must be consistent for all programs. These rules relate to costs that shall be recovered by the distribution company, customer actions or inactions that result in dismissal from participation in a CAP, and billing and collection practices that shall be observed for CAP customers.

### § 76.2. Definitions.

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

*CAP—Customer Assistance Program*—A plan implemented by a distribution company for the purpose of providing universal service and energy conservation services to low income customers, in which the customers shall:

- Make monthly payments based on household income and household size.
- Comply with specific responsibilities to remain eligible for the program.

*Distribution company*—A natural gas distribution company or an electric distribution company.

*LIHEAP—Low Income Home Energy Assistance Program*—A Federally-funded program that provides financial assistance in the form of cash and crisis grants to low income households for home energy bills and is administered by the Department of Public Welfare.

### § 76.3. Approval process.

(a) A distribution company shall obtain Commission approval prior to implementing a CAP plan, or a revision or expansion of an existing CAP. A distribution company shall utilize the procedures in § 54.74(a)(3) or § 62.4(a)(3) (relating to review of universal service and energy conservation plans, funding and cost recovery).

(b) When an immediate temporary modification must be made to an existing CAP to maintain its operation, a distribution company shall submit an application for special permission to file a tariff revision or supplement on less than statutory notice consistent with §§ 53.102 and 53.103 (relating to exception to requirement for statutory notice; and concurrently furnished information). A copy of the application, including the supporting infor-

mation, shall be served on the Office of Consumer Advocate, the Office of Trial Staff, and other advocates for low income customers, and provided to BCS. A distribution company shall obtain Commission approval prior to implementing a temporary modification to an existing CAP.

**§ 76.4. Recovery of costs of customer assistance programs.**

The following considerations apply to the recovery of CAP costs by a distribution company:

- (1) CAP costs shall be recoverable only from residential customers.
- (2) The following CAP costs are eligible for recovery, if prudently incurred and reasonable in amount:
  - (i) CAP credits.
  - (ii) Administrative costs, including costs related to collection activities.
  - (iii) Preprogram arrearage forgiveness to the extent that a distribution company can prove that recovery of these costs will not result in double recovery.
  - (iv) Taxes that a distribution company is able to prove are attributable to its CAP.
  - (v) Other costs that a distribution company is able to prove are attributable to its CAP.
- (3) The company shall include, as an offset to cost recovery, cost savings it incurred in the following areas:
  - (i) Cash working capital.
  - (ii) Bad debt expense.
  - (iii) Credit costs.
  - (iv) Collection costs.

(4) The Commission will consider the timeliness of a distribution company's collection activities in evaluating the reasonableness of costs claimed for recovery.

(5) A distribution company may propose a surcharge under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) to provide for full recovery of CAP costs as part of the surcharge permitted by §§ 54.74(b)(4) and 62.4(b)(4) (relating to review of universal service and energy conservation).

**§ 76.5. Default provisions for failure to comply with program rules.**

(a) The failure of a CAP customer to comply with the following shall result in dismissal from CAP participation:

- (1) Failure to apply for LIHEAP.
- (2) Failure to verify or certify eligibility.
- (3) Failure to report changes in income and household size.
- (4) Failure to accept free budget counseling offered by the distribution company.
- (5) Failure to accept usage reduction services.

(b) The failure of a CAP customer to make payments shall result in dismissal from CAP participation and may lead to termination of service.

**§ 76.6. Restoration of service after termination for nonpayment of CAP bills.**

When a CAP customer's service has been terminated for nonpayment, restoration of service shall be governed by 66 Pa.C.S. § 1407 (relating to reconnection of service) and applicable Commission regulations and orders.

[Pa.B. Doc. No. 08-219. Filed for public inspection February 8, 2008, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending January 29, 2008.

#### BANKING INSTITUTIONS

##### Interim Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-18-2008	Landmark Interim Bank Pittston Luzerne County	Pittston	Filed

Incorporation of an interim bank in conjunction with the reorganization of Landmark Community Bank, Pittston, into a bank holding company form of business whereby Landmark Community Bank will become the wholly-owned subsidiary of Landmark Bancorp, Inc., a new holding company in formation.

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-23-2008	First Columbia Bank & Trust Co., Bloomsburg, and Columbia County Farmers National Bank, Bloomsburg Surviving Institution: First Columbia Bank & Trust Co., Bloomsburg	Bloomsburg	Filed

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
1-11-2008	F.N.B. Corporation, Hermitage, to acquire 100% of Omega Financial Corporation, State College, and thereby indirectly acquire Omega Bank, State College, which will merge with and into First National Bank of Pennsylvania, Hermitage, a wholly-owned subsidiary of F.N.B. Corporation	Hermitage	Filed
1-23-2008	CCFNB Bancorp, Inc., Bloomsburg, to acquire 100% of Columbia Financial Corporation, Bloomsburg	Bloomsburg	Filed
1-28-2008	National Penn Bancshares, Inc., Boyertown, to acquire 100% of KNBT Bancorp, Inc., Bethlehem, and thereby indirectly acquire Keystone Nazareth Bank & Trust Company, Bethlehem, which will merge with and into National Penn Bank, Boyertown, a wholly-owned subsidiary of National Penn Bancshares, Inc.	Boyertown	Approved

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-17-2008	Marion Center Bank Marion Center Indiana County	1271 Indian Springs Road Indiana Indiana County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-23-2008	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	Chew and Wister Streets Philadelphia Philadelphia County	Approved
1-28-2008	Northwest Savings Bank Warren Warren County	860 Long Pond Road Greece Monroe County, NY	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-23-2008	Reliance Savings Bank Altoona Blair County	3119 Pleasant Valley Boulevard Altoona Blair County	Approved
1-23-2008	Susquehanna Bank DV Bryn Mawr Montgomery County	500 Shiloh Pike Bridgeton Cumberland County, NJ	Approved
1-25-2008	Omega Bank State College Centre County	205 Park Place, Suite 6 Bellefonte Centre County	Filed
1-25-2008	Omega Bank State College Centre County	639 South Main Street Wilkes-Barre Luzerne County	Filed
1-25-2008	Omega Bank State College Centre County	814 Westminster Drive Williamsport Lycoming County	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
1-16-2008	Pennsylvania State Employees Credit Union, Harrisburg, and Clarion University Federal Credit Union, Clarion Surviving Institution: Pennsylvania State Employees Credit Union, Harrisburg	Harrisburg	Filed
1-18-2008	Schuylkill County School Employees Credit Union, Pottsville, and PFP Federal Credit Union, Marlin Surviving Institution: Schuylkill County School Employees Credit Union, Pottsville	Pottsville	Filed

**Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
1-23-2008	Viriva Community Credit Union Philadelphia Philadelphia County	157 York Road Warminster Bucks County	Filed
1-25-2008	Belco Community Credit Union Harrisburg Dauphin County	452 South Duke Street Lancaster Lancaster County	Filed

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 08-220. Filed for public inspection February 8, 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 EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

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

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

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

#### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0051811 (Industrial Waste)	Lehigh County Authority (Green Hills Pumping Station) P. O. Box 3348 1053 Spruce Street Allentown, PA 18106	South Whitehall Township Lehigh County	UNT to Little Cedar Creek 02C	Y



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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0082953 (IW)	Boyd E. Diller, Inc. 6820 Wertzville Road Enola, PA 17025-1032	Cumberland County Silver Spring and Hampden Townships	Sears Run 7-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0103292	Hamilton Township P. O. Box 23 Ludlow, PA 16333	Hamilton Township McKean County	Twomile Run 16-F	Y
PA0101117	Shady Acres Mobile Home Park P. O. Box 358 Edinboro, PA 16412	Cussewago Township Crawford County	UNT to Cussewago Creek 16-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.*

**PA0056731**, Sewage, SIC 4952, **Historic Salem Village Homeowners Association**, 2193 Yellow Springs Road, Malvern, PA 19355. This existing facility is located in Tredyffrin Township, **Chester County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge treated sewage effluent from Historic Salem Village STP.

The receiving stream, a UNT to Valley Creek, is in the State Water Plan Watershed 3F and is classified for: exceptional value, existing quality, aquatic life, water supply and recreation. The nearest downstream public water supply intake for PA American—Norristown is located on the Schuylkill River and is approximately 11 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0017 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum mg/l</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>			10		20
Total Suspended Solids			10		20
Ammonia as N					
(5-1 to 10-31)			1.5		3.0
(11-1 to 4-30)			4.5		9.0
Fecal Coliform (col/100 ml)			200		
Dissolved Oxygen			6.0 Minimum		
pH (Standard Units)			6.0 Minimum		9.0
Phosphorus as P			1.0		2.0

The proposed effluent limits for Monitoring Point 101 are based on a design flow of 0.0017 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum mg/l</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>			15		30
Total Suspended Solids			20		40
Ammonia as N					
(5-1 to 10-31)			2.0		4.0
(11-1 to 4-30)			4.0		8.0
Fecal Coliform (col/100 ml)			200		
Dissolved Oxygen			6.0 Minimum		
pH (Standard Units)			6.0 Minimum		9.0
Phosphorus as P			2.0		4.0

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

1. Notification of Designation of Responsible Operator.
2. Abandon STP when Public Sewers Become Available.
3. Remedial Measures if Public Nuisance.
4. No Stormwater to Sewers.
5. Necessary Property Rights.
6. Small Stream Discharge.
7. Change of Ownership.
8. Proper Sludge Disposal.
9. DMR Reporting Requirements.
10. Monitoring Requirements.
11. Operator Training.
12. Constructed Wetland Maintenance.
13. Laboratory Certification.
14. Instantaneous Maximum Limitations.

The EPA waiver is in effect.

**PA0026018**, Sewage, **West Chester Borough**, 401 East Gay Street, West Chester, PA 19380. This existing facility is located in East Bradford Township, **Chester County**.

Description of Proposed Activity: This is a second notice for an application for the renewal of an NPDES permit for an existing discharge of treated sewage from the West Chester Taylor Run sewage treatment plant.

The receiving stream, Taylor Run, is in the State Water Plan Watershed 3H and is classified for: TSF, MF, aquatic life, water supply, recreation and fishing. Taylor Run is a tributary to East Branch Brandywine Creek, which flows into Brandywine Creek. There are no public water supply intakes identified downstream in this Commonwealth. The State Line is approximately 14 river miles downstream of the discharge. A Wilmington, DE, water supply intake is located on Brandywine Creek approximately 7.5 river miles downstream of the State Line.

The proposed sewage effluent limits for Outfall 001 are based on a design flow of 1.5 mgd and are as follows:

<i>Parameters</i>	<i>Mass (lb/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 <sub>5</sub>	313	475	25	40	50
Total Suspended Solids	188	282	15	23	30
Ammonia as N					
(5-1 to 10-30)	31		2.5		5.0
(11-1 to 4-30)	94		7.5		15.0
Phosphorus as P					
(4-1 to 10-31) (years 1 and 2)	25		2.0		4.0
(11-1 to 3-31) (years 1 and 2)	Monitor and Report		Monitor and Report		4.0
(4-1 to 10-31) (years 3—5)	12.5		1.0		2.0
(11-1 to 3-31) (years 3—5)	25		2.0		4.0
Fecal Coliform			200/100 ml (Geometric Mean)		1,000/100 ml
Dissolved Oxygen			5.0 (minimum)		
pH (Standard Units)			6.0 (minimum)		9.0
Total Residual Chlorine			0.05		0.15
Total Nitrogen	Monitor and Report		Monitor and Report		

The proposed effluent limits for stormwater Outfalls 002—004 are based on an average rainfall event and are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			Monitor and Report	
COD			Monitor and Report	
Oil and Grease			Monitor and Report	
pH (Standard Units)			Monitor and Report	
Total Suspended Solids			Monitor and Report	
Total Kjeldahl Nitrogen			Monitor and Report	
Phosphorus (as P)			Monitor and Report	
Iron (Dissolved)			Monitor and Report	

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

1. Notification of Designation of Operator.
2. Average Weekly Reporting.
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. Chronic WET Testing.
11. Exemption from Pretreatment Program.
12. Imax Requirements.
13. 2/Month Monitoring Requirements.
14. Requirements Applicable to Stormwater Outfalls.
15. Certified Operator.
16. Fecal Coliform Imax Reporting.
17. Laboratory Certification.

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

**Application No. PA0085171**, Sewage, **Lyons Borough Municipal Authority**, 316 South Kemp Street, Lyon Station, PA 19536-0131. This facility is located in Lyons Borough, **Berks County**.

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

The receiving stream, Sacony Creek, is in Watershed 3-B, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for City of Reading is located on the Maiden Creek, approximately 21 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.20 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	19	28	38
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (5-1 to 10-31)	5	XXX	10
(11-1 to 4-30)	15	XXX	30
Total Lead	0.03	XXX	0.06
Total Residual Chlorine	0.28	XXX	0.93
Total Phosphorus	Monitor	XXX	XXX
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Average		
(10-1 to 4-30)	2,000/100 ml as a Geometric Average		

*Lake Ontelaunee TMDL Requirements*

	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Annual</i>
Total Suspended Solids	XXX	Report	13,698
Total Phosphorus	XXX	Report	456.6

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

The EPA waiver is not in effect.

**Application No. PA0084492**, Sewage, **Larry R. and Janet A. Strohecker, Carl E. and Mary E. Strohecker**, 615-A Dunkle School Road, Halifax, PA 17032. This facility is located in Halifax Township, **Dauphin County**.

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

The receiving stream, UNT Susquehanna River, is in Watershed 6-C, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Dauphin Consolidated Water Company is located on the Susquehanna River, approximately 15 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.062 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Total Residual Chlorine	0.06	0.21
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.

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

**PA0002941-A1**, Industrial Waste, SIC 4911, **Allegheny Energy Supply Company, LLC**, 800 Cabin Hill Drive, Greensburg, PA 15601. This application is for amendment of an NPDES permit to discharge treated process water, stormwater, leachate, untreated cooling water and stormwater from Hatfield's Ferry Power Station in Monongahela Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, of Monongahela River (Outfalls 006, 014 and 015), UNT Little Whiteley Creek (Outfalls 016 and 017), and a UNT Monongahela River (Outfalls 018—020) all classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Carmichael Municipal Water Authority, located in Carmichael, PA, 3.5 miles below the discharge point.

*Internal Outfall 206: existing discharge, flow of 0.85 mgd.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	
Barium			Monitor and Report		
Cadmium			Monitor and Report		
Nickel			Monitor and Report		
Selenium			Monitor and Report		
Thallium			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

*Internal Outfall 306: new discharge, design flow of 0.475 mgd.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	
Aluminum			Monitor and Report		
Arsenic			Monitor and Report		
Barium			322	644	
Beryllium			0.003	0.006	
Boron			Monitor and Report		
Cadmium			0.036	0.072	
Chromium III			Monitor and Report		
Chlorides			Monitor and Report		
Copper			0.1	0.2	
Iron, total			Monitor and Report		
Iron, dissolved			Monitor and Report		
Lead			0.1	0.2	
Manganese			Monitor and Report		
Mercury			0.002	0.004	
Nickel			7.0	14.0	

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Selenium			0.67	1.34	
Silver			0.05	0.1	
Thallium			0.23	0.46	
Zinc			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Outfall 006: existing discharge, flow of 1.34 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Barium			Monitor and Report		
Cadmium			Monitor and Report		
Nickel			Monitor and Report		
Selenium			Monitor and Report		
Thallium			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Outfall 014: new discharge, flow of 0.158 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Iron			Monitor and Report		
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
Boron			Monitor and Report		
Selenium			Monitor and Report		
Thallium			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Outfall 015: new discharge, varied flow

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Iron			Monitor and Report		
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
Oil and Grease			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Outfalls 016—020: varied flow

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
These discharges shall consist solely of uncontaminated stormwater runoff.					

The EPA waiver is not in effect.

**PA0098876**, Industrial Waste, SIC 7991, **YMCA of Pittsburgh, South Hills YMCA**, 51 McMurray Road, Upper St. Clair, PA 15241. This application is for renewal of an NPDES permit to discharge groundwater in Upper St. Clair Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, McLaughlin Run, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the West View Borough Municipal Water Authority, located at West View, 20 miles below the discharge point.

*Outfall 001:* existing discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
This outfall shall contain groundwater from dewatering of wells during swimming pool maintenance.					

The EPA waiver is in effect.

**PA0025674**, Sewage, **Franklin Township Municipal Sanitary Authority**, 3001 Meadowbrook Road, Murrysville, PA 15668. This application is for renewal of an NPDES permit to discharge treated sewage from Meadowbrook Sewage Treatment Plant in Municipality of Murrysville, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Turtle Creek, which are classified as a TSF 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 PA American Water Company.

*Outfall 001:* existing discharge, design flow of 4.9 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>				
(5-1 to 10-31)	10	15		20
(11-1 to 4-30)	20	30		40
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0	3.0		4.0
(11-1 to 4-30)	3.4	5.1		6.8
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	.03			.1
Dissolved Oxygen	not less than 6.0 mg/l			
Cadmium				
1st month—37th month	Monitor and Report			
37th month—expiration	0.0005		0.0013	
Copper				
1st month—37th month	Monitor and Report			
37th month—expiration	0.0175		0.0438	
pH	not less than 6.0 nor greater than 9.0			

Other Condition: A toxics reduction evaluation for cadmium and copper is required for Outfall 001.

The EPA waiver is not in effect.

**PA0217816**, Sewage, **Regina Lambie Nazimek**, P. O. Box 896, Connellsville, PA 15425. This application is for renewal of an NPDES permit to discharge treated sewage from Sunny Dale Gardens Mobile Home Park STP in East Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Jacobs 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 Westmoreland County Municipal Authority, McKeesport Plant, on the Youghiogheny River.

*Outfall 001:* existing discharge, design flow of 0.026 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(10-1 to 4-30)	9.0			18.0
Fecal Coliform				

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(11-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.36			0.85
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0217743**, Sewage, **Summit Hospitality Group Services, Inc., Days Inn at Donegal**, Route 31, Donegal, PA 15628. This application is for renewal of an NPDES permit to discharge treated sewage from Days Inn at Donegal Sewage Treatment Plant in Donegal Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Minnow Run, 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 Westmoreland County Municipal Authority—Indian Creek Reservoir.

*Outfall 001*: existing discharge, design flow of 0.0051 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	4.5			9.0
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	0.04			0.09
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.

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

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

**WQM Permit No. 2104402, Amendment 07-1**, Sewerage, **Silver Spring Township Authority**, 6475 Carlisle Pike, Mechanicsburg, PA 17055. This proposed facility is located in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: Upgrades/Expansion to the Golden Triangle Pump Station.

**WQM Permit No. 2808401**, Sewerage, **Hamilton Township Municipal Authority**, 1270 Crottletstown Road, Chambersburg, PA 17201. This proposed facility is located in Hamilton Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking approval for the construction of a 645 single-family housing development adjacent to the Whiskey Run Subdivision and Majestic Ridge Golf Course.

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

**WQM Permit No. 0277205-A1**, Industrial Waste, **US Steel Corporation**, P. O. Box 878, MS 160, Dravosburg, PA 15034. This existing facility is located in West Mifflin Borough, **Allegheny County**.

Description of Proposed Action/Activity: Application for replacement of plant vacuum filter press with a belt press.

**WQM Permit No. WQG016158**, Sewerage, **Lois A. Decker**, 118 Harvison Court, No. 2, Irwin, PA 15642. This proposed facility is located in Penn Township, **Westmoreland County**.

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

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

**WQM Permit No. 1008201**, Industrial Waste, **Seneca Landfill, Inc.**, P. O. Box 1080, Mars, PA 16046. This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: Seneca is submitting this Water Quality Management Permit Application in support of planned upgrades to the leachate treatment plant to increase the treatment capacity. By eliminating bottlenecks created by some of the treatment system components and adding some new equipment, Seneca will be able to process up to 129,600 gpd.

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#### IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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#### V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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#### VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011508001	Pohlig Builders, Inc. 274 Lancaster Avenue Suite 100 Malvern, PA 19355-3255	Chester	Willistown Township	Ridley Creek HQ-TSF
PAI011508002	Stony Run Supply, Inc. 291 Stony Run Road Spring City, PA 19475	Chester	East Vincent Township	Stony Run HQ-TSF
PAI011508003	Larry Fondrin 1233 Yellow Springs Road Malvern, PA 19355	Chester	Tredyffrin Township	Valley Creek EV
PAI011508004	Heritage Building Group, Inc. 2500 York Road Jamison, PA 18929	Chester	South Coventry Township	French Creek EV

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

*Susquehanna County Conservation District: County Office Building, 31 Public Avenue, Montrose, PA 18801, (570) 278-4600.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025808001	Turn Key Operations, LLC 10 Durham Court Middletown, NY 10940	Susquehanna	New Milford Township	Salt Lick Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032108001	Cumberland County Patrick Slattery One Courthouse Square Carlisle, PA 17013	Cumberland	Middlesex Township	Letort Spring Run HQ-CWF

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

*Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041408001	Tom McGeoy North-Lands, Inc. Woods at Sand Ridge 15 Pontiac Drive Medford, NJ 08055	Centre	Marion and Walker Townships	Little Fishing Creek HQ-CWF
PAI041408002	N. Warren Miller Spring-Benner-Walker Joint Authority 170 Irish Hollow Road Bellefonte, PA 16823	Centre	Benner Township	Buffalo Run HQ-CWF

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

*Conservation District: Elk County Conservation District, Elk County Courthouse Annex, 300 Center Street, P. O. Box 448, Ridgway, PA 15853, (814) 776-5373.*



<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062408001	Lowe's Companies, Inc. 1605 Curtis Bridge Road Wilkesboro, NC 28697	Elk	Fox Township	UNT Elk Creek CWF
<i>Conservation District: Lawrence County Conservation District, Lawrence County Government Center, 430 Court Street, New Castle, PA 16101, (724) 652-4512.</i>				
<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063708001	Mahoning Township 4538 West Street P. O. Box pp Hillsville, PA 16132	Lawrence	Mahoning Township	Mahoning River and UNT, UNT Shenango River WWF

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

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

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

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

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

<b>Application No. 4808501</b> , Public Water Supply.
Applicant <b>Nestle Waters North America, Inc.</b> Washington Township <b>Northampton County</b>
Responsible Official Eric Andreus Nestle Waters North America, Inc. 405 Nestle Way Breinigsville, PA
Type of Facility Bottling Plant: Permitted Source: Frontier Spring No. 2 (borehole B-1)
Consulting Engineer Edward E. Davis, P. E. Forino Company, LP 555 Mountain Home Road Sinking Spring, PA
Application Received Date January 11, 2008
Description of Action An increase in the instantaneous pumping rate of borehole B-1 from 280 gpm to 325 gpm.

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

<b>Permit No. 3407504</b> , Public Water Supply.
Applicant <b>W. E. Schlegel, Inc.</b>
Municipality Delaware Township
County <b>Juniata</b>
Responsible Official W. E. Schlegel, Inc., Vice President R. D. 1 Box 181 Thomstown, PA 17094
Type of Facility Public Water Supply
Consulting Engineer Stephen R. Morse, P. E. Skelly and Loy, Inc. 2601 North Front Street Harrisburg, PA 17110-1185
Application Received: December 21, 2007

Description of Action Permit application for cartridge filtration, chlorine disinfection and an additional contact tank.

**Permit No. 3607518**, Public Water Supply.

Applicant **JoAnn Realty Associates, Ltd.**

Municipality Salisbury Township

County **Lancaster**

Responsible Official JoAnn Realty Associates, Ltd.  
Chief Financial Officer  
875 Brackbill Road  
Gap, PA 17527

Type of Facility Public Water Supply

Consulting Engineer Daniel S. Hershey  
ELA Group, Inc.  
743 South Broad Street  
Lititz, PA 17543

Application Received: December 24, 2007

Description of Action Construction of a new community water system known as Huston Run with two wells, disinfection, storage tank and pump station.

**Permit No. 0608501**, Public Water Supply.

Applicant **Pennsylvania American Water**

Municipality Ruscombmanor Township

County **Berks**

Responsible Official Pennsylvania American Water  
800 West Hersheypark Drive  
Hershey, PA 17033

Type of Facility Public Water Supply

Consulting Engineer Steven E. Riley, P. E.  
Entech Engineering, Inc.  
P. O. Box 32  
Reading, PA 19603

Application Received: January 3, 2008

Description of Action Addition of well source GO-3. Along with the new well source the booster station pumps will be replaced with larger units, new chemical feed equipment is to be installed and pH adjustment is being changed from soda ash to caustic soda.

**Permit No. 0108501**, Public Water Supply.

Applicant **The York Water Company**

Municipality Oxford Township

County **Adams**

Responsible Official The York Water Company  
Vice President—Engineering  
130 East Market Street  
P. O. Box 15089  
York, PA 17405-7089

Type of Facility Public Water Supply

Consulting Engineer Mark S. Snyder, P. E.  
The York Water Company  
130 East Market Street  
P. O. Box 15089  
York, PA 17405-7089

Application Received: January 14, 2008

Description of Action Oxford Booster Pump Station

**Permit No. 2808501**, Public Water Supply.

Applicant **Guilford Water Authority**

Municipality Guilford Township

County **Franklin**

Responsible Official Guilford Water Authority,  
Manager  
115 Spring Valley Road  
Chambersburg, PA 17201

Type of Facility Public Water Supply

Consulting Engineer Diana Young, P. E.  
Buchart-Horn, Inc.  
P. O. Box 15040  
York, PA 17405-7040

Application Received: January 16, 2008

Description of Action New Pond Bank Wells Nos. 1 and 2.

#### MINOR AMENDMENT

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

**Application No. 4592506MA, Minor Amendment,**  
Public Water Supply.

Applicant **Pennsylvania American Water**

Hamilton Township  
**Monroe County**

Responsible Official Paul Zielinski  
Pennsylvania American Water  
800 West Hersheypark Drive  
Hershey, PA 17033

Type of Facility PWS

Consulting Engineer Scott Thomas, P. E.  
Pennsylvania American Water  
852 Wesley Drive  
Mechanicsburg, PA 17055

Application Received: January 11, 2008  
Date

Description of Action Applicant proposes the rehabilitation of Stony Garden Filter No. 2

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to

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

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

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

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

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Rite Aid Store 2451**, City of Philadelphia, **Philadelphia County**. Kenneth Yoder, P. G., 213 Market Street, 6th Floor, Harrisburg, PA 17101 on behalf of Robert Lerner, Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17001 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with release of motor oil. The future use of the site will remain as a retail pharmacy store.

**Gorman Property**, Northampton Township, **Bucks County**. Michael Gonshor, Roux Associates, Inc., 1222 Forest Parkway, Suite 190, West Dept, NJ 08066 on behalf of Eileen Gorman, 39 North Drive, Holland, PA

18966 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with release of other organics. The future use of the site is to remain residential. A summary of the Notice to Remediate was reported to have been published in *The Bucks County Couriers Times* on January 4.

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

**Former Kemp Foods Facility**, City of Lancaster, **Lancaster County**. B & B Diversified Enterprises, Inc., P. O. Box 188, Gwynedd, PA 19436, on behalf of HP Hood, LLC, 6 Kimball Lane, Lynnfield, MA 01940, submitted a Notice of Intent to Remediate groundwater contaminated by historical releases of petroleum products and PCBs. The property is and will remain a commercial facility. The applicant is seeking to remediate to the Site-Specific Standard.

**Former Myers Great Value Market**, Dillsburg Borough, **York County**. EPSYS, Corporation, 1414 North Cameron Street, Harrisburg, PA 17103, on behalf of Parula Properties, LLC, 100 South 7th Street, Akron, PA 17501, submitted a revised Notice of Intent to Remediate site soils and groundwater contaminated by leaded gasoline from underground storage tanks. The site is a former food market and it is anticipated that future use will be commercial, although residential use has not been excluded.

## 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

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**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.**

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*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.*

**54-313-087: First Quality Nonwovens, Inc.** (101 Green Mountain Road, Humboldt Industrial Park, Hazleton, PA 18202) for installation of a polypropylene extrusion operation at their facility in East Union Township, **Schuylkill County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**63-00110G: World Kitchen, LLC** (100 8th Street, Charleroi, PA 15022) for rebricking Tank 11 at Charleroi Plant in Charleroi Borough, **Washington County**.

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

**16-152A: Pengrove Building Systems, Inc.** (One Mauro Avenue, Knox, PA 16232) to install two spray paint booths at their facility in Knox Borough, **Clarion County**.

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**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.**

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

**15-0031B: Henry Co.** (336 Cold Stream Road, Kimberton, PA) for installation of a mixer with a Fabric Filter as a control, in East Pikeland Township, **Chester County**. This facility is a Major for VOC. Emissions from these sources are 0.05 ton of PM. The Plan approval will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**09-0102C: Clean Earth of Southeast Pennsylvania, Inc.** (7 Steel Road East, Morrisville, PA 19067) for installation of an outdoor, diesel driven screen at a soil remediation facility in Falls Township, **Bucks County**. This facility is a non-Title V facility. NOx emissions from the diesel engine associated with the screen will be less than 2.0 tpy. Emissions of all other criteria pollutants from the diesel engine will be less than 1.0 tpy. VOC emissions from the combined engine and screen will be less than 2.7 tpy. HAP emissions from the combined engine and screen will be less than 3.3 tpy. The Plan Approval will contain recordkeeping and further operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**09-0203: AE Polysilicon Corp.** (150 Roebing Road, Fairless Hills, PA 19030) for construction of a new facility to produce ultra-high purity silicon from metallurgical grade silicon in Falls Township, **Bucks County**. The proposed facility has the potential to produce 29.9 tons of PM per year, 9.96 tons NOx per year, 1.16 tons of VOCs per year and less than 1 ton of hydrochloric acid per year.

**15-0037D: Oberthur Card Systems, Inc.** (523 James Hance Court, Exton, PA) for installation of an SPS Rehmus Screen Press at their existing facility in West Whiteland Township, **Chester County**. The potential increase of VOC emissions from this new press is 6.61 tpy. In addition, the Plan Approval will establish a Plantwide Applicability Limit of 47.895 tpy of VOCs. The Plan Approval will contain recordkeeping and operating conditions designed to keep the facility operating within all applicable air quality requirements.

**09-0122B: Arkema, Inc.** (100 PA Route 413, Bristol, PA 19007) for optimization of the Spray Dryer Process at their facility in Bristol Township, **Bucks County**. This facility is a Major facility for VOC. VOC Emissions increase from this source is less than 6 tpy. The Plan approval will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.*

**39-309-072: Lafarge North America** (5160 Main Street, Whitehall, PA 18052) for replacement/installation of an air cleaning device (fabric collector) for the H1-H4 homogenizing silos at their Whitehall Plant in Whitehall Township, **Lehigh County**. The PM emissions from the fabric collector will not exceed the BAT standard of 0.015 grain/dscf and will result in a maximum PM emission rate of 2.8 tpy. The Plan Approval and Operating Permit will contain emission restrictions, work practice standards and monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 39-00011. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

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

**21-05052A: Valk Manufacturing Co.** (66 East Main Street, New Kingstown, PA 17072-0428) for a snow plow and blade manufacturing operation in Silver Spring

Township, **Cumberland County**. This plan approval includes two paint booths with High Volume Low Pressure spray guns. The paint booths will be equipped with dry filters to control PM emissions. The operation of the paint booths at this facility will result in emissions of approximately 15 tpy of VOC's and 1 tpy of HAP's. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**31-05018A: Texas Eastern Transmission, LP—Enstriken Compressor Station** (2601 Market Place, Suite 400, Harrisburg, PA 17110) for modification to synthetic minor operating permit No. 31-05018 to remove a redundant continuous emissions monitoring requirement in the existing permit for the facility, in Todd Township, **Huntingdon County**. The source is controlled with parametric monitoring, recordkeeping and reporting. The plan approval will be incorporated into the existing operating permit at a later date.

**36-05096A: Pennsy Supply, Inc.—d/b/a McMinn's Asphalt** (P. O. Box 3331, Harrisburg, PA 17105) for use of on-specification waste derived liquid fuel in Paradise Township, **Lancaster County**. The asphalt plant is subject to New Source Performance Standard, 40 CFR 60, Subpart I. Emissions of VOC, NOx and SOx are estimated to be 12, 40 and 30 tpy, respectively. The plan approval and subsequent State-only operating permit administrative amendment will include restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**36-05099B: Pennsy Supply, Inc.—d/b/a McMinn's Asphalt** (P. O. Box 3331, Harrisburg, PA 17105) for use of on-specification waste derived liquid fuel in East Hempfield Township, **Lancaster County**. The asphalt plant is subject to New Source Performance Standard, 40 CFR 60, Subpart I. Emissions of VOC, NOx and SOx are estimated to be 14, 45 and 33 tpy, respectively. The plan approval and subsequent State-only operating permit administrative amendment will include restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**36-05097A: Pennsy Supply, Inc.—d/b/a McMinn's Asphalt** (P. O. Box 3331, Harrisburg, PA 17105) for the use of on-specification waste derived liquid fuel in Fulton Township, **Lancaster County**. The asphalt plant is subject to New Source Performance Standard, 40 CFR 60, Subpart I. Emissions of VOC, NOx and SOx are estimated to be 11, 35 and 26 tpy, respectively. The plan approval and subsequent State-only operating permit administrative amendment will include restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**33-178A: Triangle Suspension System, Inc.** (1 Meter Street, Punxsutawney, PA 15767) to authorize the applicant to install two dip tanks, as described in the applicant's application of November 20, 2007, in the Borough of Punxsutawney, **Jefferson County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the Borough of Punxsutawney, Jefferson County. This plan

approval will authorize the applicant to install two dip tanks, as described in the applicant's application of November 20, 2007. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

The VOC emissions from the dip coating operation will be restricted to 12.2 tpy based on a 12-month rolling total. The permittee is required to comply with the surface coating regulations in 25 Pa. Code § 129.52. The facility will keep a record of the VOC emissions from the source each month.

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, for an appointment.

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. 33-178A.
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 a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

## OPERATING PERMITS

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

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.*

**41-00003: PPL Martins Creek, LLC** (2 North Ninth Street, Allentown, PA 18101) for renewal of a Title V Operating Permit for operation of an electric generating facility (Williamsport Combustion Turbine) in the City of Williamsport, **Lycoming County**.

The facility incorporates two 269 mmBtu/hr No. 2 fuel oil-fired combustion turbines and associated 100,000 gallon above ground No. 2 fuel oil storage tank.

The facility has the potential to emit up to 766.5 tons of NOx, 609.9 tons of SOx, 14.14 tons of PM/PM10, 3.9 tons of CO and .48 ton of VOCs per year.

The Department of Environmental Protection (Department) proposes to renew Title V Operating Permit 41-00003. The Department intends to incorporate into this renewal all conditions currently contained in Title V Operating Permit 41-00003 with these exceptions, changes and additions:

1. A condition specifying a No. 2 fuel oil sulfur content limit from 25 Pa. Code § 123.22 has been removed from the permit as no source existing at the facility is subject to 25 Pa. Code § 123.22.

2. Conditions requiring an annual inspection of the facility for the presence of visible air contaminants, visible fugitive air contaminants and malodorous air contaminants, and the maintenance of records of these inspections, have been removed from the permit as this facility does not contain the types of sources that are likely to produce visible fugitive air contaminants or malodorous air contaminants and an annual inspection is of little benefit in determining whether ongoing compliance with the applicable visible air contaminant emission limitations is occurring.

3. A condition requiring the maintenance of such records as may be necessary to comply with the requirements of 25 Pa. Code § 135.21, pertaining to emission statements, has been modified to also include 25 Pa. Code § 135.3, pertaining to annual emission inventory reports.

4. A condition requiring malfunctions to be reported to the Department has been modified to exclude the reporting of malfunctions which do not result in, or potentially result in, air contaminant emissions in excess of an applicable air contaminant emission limitation and/or do not result in, or potentially result in, noncompliance with any operating permit condition.

5. A condition specifying the deadline for the submission of an annual compliance certification report has been added to the permit.

6. Conditions requiring the maintenance of records of the monthly capacity factor for the facility's two combustion turbines has been removed from the permit as the requirement is redundant of conditions requiring the maintenance of records of the number of hours each turbine operates per month and the amount of fuel each turbine uses per month.

7. Conditions requiring the reporting of the "supporting calculations" used to verify compliance with the turbines' capacity factor limitations and SO<sub>x</sub>, NO<sub>x</sub> and PM emission limitations have been removed from the permit as it is not possible to verify compliance with the NO<sub>x</sub> and PM emission limitations with "calculations" and compliance with the capacity factor limitations and SO<sub>x</sub> emission limitations can be determined using the turbines' operating hour and fuel sulfur content records which the permittee is required to report to the Department.

8. Conditions prohibiting the storage of VOCs with a vapor pressure greater than 1.5 psia in the facility's 100,000 gallon No. 2 fuel oil storage tank, and requiring the maintenance of records of the vapor pressure of the material stored in the respective tank, have been modified to prohibit the storage of anything other than No. 2 fuel oil in the respective tank and require the maintenance of records of the identity of the material stored in the tank.

**18-00003: PPL Martins Creek, LLC** (2 North Ninth Street, Allentown, PA 18101) for the renewal of a Title V Operating Permit for the operation of an electric generating facility (Lock Haven Combustion Turbine) in Bald Eagle Township, **Clinton County**.

The facility consists of a single 282 mmBtu/hr No. 2 fuel oil-fired combustion turbine and associated 100,000 gallon above ground No. 2 fuel oil storage tank.

The facility has the potential to emit up to 425 tons of NO<sub>x</sub>, 315 tons of SO<sub>x</sub>, 7.4 tons of PM/PM<sub>10</sub>, 2.04 tons of CO and .25 ton of VOCs per year.

The Department of Environmental Protection (Department) proposes to renew Title V Operating Permit 18-00003. The Department intends to incorporate into this renewal all conditions currently contained in Title V Operating Permit 18-00003 with these exceptions, changes and additions:

1. Conditions requiring an annual inspection of the facility for the presence of visible air contaminants, visible fugitive air contaminants and malodorous air contaminants, and the maintenance of records of these inspections, have been removed from the permit as this facility does not contain the types of sources that are likely to produce visible fugitive air contaminants or malodorous air contaminants and an annual inspection is of little benefit in determining whether ongoing compliance with the applicable visible air contaminant emission limitations is occurring.

2. A condition requiring the maintenance of such records as may be necessary to comply with the requirements of 25 Pa. Code § 135.21, pertaining to emission statements, has been modified to also include 25 Pa. Code § 135.3, pertaining to annual emission inventory reports.

3. A condition requiring malfunctions to be reported to the Department has been modified to exclude the reporting of malfunctions which do not result in, or potentially result in, air contaminant emissions in excess of an applicable air contaminant emission limitation and/or do not result in, or potentially result in, noncompliance with any operating permit condition.

4. A condition specifying the deadline for the submission of an annual compliance certification report has been added to the permit.

5. A condition requiring the maintenance of records of the monthly capacity factor for the facility's combustion turbine has been removed from the permit as the requirement is redundant of conditions requiring the maintenance of records of the number of hours the turbine operates per month and the amount of fuel the turbine uses per month.

6. A condition requiring the reporting of the "supporting calculations" used to verify compliance with the turbine capacity factor limitation and SO<sub>x</sub>, NO<sub>x</sub> and PM emission limitations has been removed from the permit as it is not possible to verify compliance with the NO<sub>x</sub> and PM emission limitations with "calculations" and compliance with the capacity factor limitation and SO<sub>x</sub> emission limitation can be determined using the turbine operating hour and fuel sulfur content records which the permittee is required to report to the Department.

7. Conditions prohibiting the storage of VOCs with a vapor pressure greater than 1.5 psia in the facility's 100,000 gallon No. 2 fuel oil storage tank, and requiring the maintenance of records of the vapor pressure of the material stored in the respective tank, have been modified to prohibit the storage of anything other than No. 2

fuel oil in the respective tank and require the maintenance of records of the identity of the material stored in the tank.

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

**63-00642: Equitrans, LP** (225 North Shore Drive, Pittsburgh, PA 15212) for the Hartson Compressor Station which is a Title V facility and is primarily used for storage and distribution of natural gas in Finleyville, **Washington County**. The facility's major sources include three internal combustion engines which emit quantities of potential NOx emissions greater than 100 tpy.

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

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

**23-00069: The Trustee of the University of PA—Glenolden** (500 South Ridgeway Avenue, Glenolden, PA 19036-2307) for a renewal Non-Title V Facility, State-only, Natural Minor Permit in Glenolden Borough, **Delaware County**. The Trustee of the University of PA/Glenolden is a commercial physical research facility. The sources of emissions include boilers and a generator. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**23-00072: Action Supply Co., Inc.** (1401 Calcon Hook Road, Sharon Hill, PA 19079) for renewal of a State-only, Natural Minor Operating Permit in Darby Township, **Delaware County**. The facility operates three ready-mix concrete plants and a recycling plant with two crushers and a screener. The facility is a minor source of PM emissions. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**09-00085: Tate & Lyle Ingredients Americas, Inc.** (East Post Road, Morrisville, PA 19067) for renewal of a State-only, Natural Minor Operating Permit in Morrisville Borough, **Bucks County**. The facility's primary sources include two 10.5 mmBtu/hr boilers which use natural gas as a primary fuel source. Emissions from these sources do not exceed any Title V threshold. The permit will include monitoring, recordkeeping and reporting requirements to address all applicable air quality requirements.

**09-00112: Superior Woodcraft, Inc.** (160 North Hamilton Road, Doylestown, PA 18901) for renewal of a State-only Operating Permit in Doylestown Borough, **Bucks County**. The initial permit was issued on August 8, 2002. Superior Woodcraft, Inc. manufactures high quality wood cabinets at this facility. There are three coating booths and a staining operation that have the potential to emit 23 tons of VOCs and 10 tons of a single HAP and 25 tons of a combination of HAPs. The facility averages 8.03 tons of VOC emissions per year, and the estimated emissions of HAPs are 5.3 tpy. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

**06-03097: Kore Mart, Limited** (7 Hill Drive, P. O. Box 175, Hamburg, PA 19526) for operation of their sand mold manufacturing facility in Hamburg Borough, **Berks County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**22-03037: Consolidated Scrap Resources, Inc.** (1616 North Cameron Street, P. O. Box 1761, Harrisburg, PA 17105) for operation of their metal scrap shredder and cyclone in the City of Harrisburg, **Dauphin County**. This is a renewal of their State-only operating permit issued in 2003.

**22-03053: Conagra Flour Milling Co.** (99 2nd Street, Highspire, PA 17034) for operation of a flour mill in Highspire Borough, **Dauphin County**. This is a renewal of the State-only operating permit issued in 2003.

**22-05054: Eldorado Properties Corp.—Highspire Terminal** (P. O. Box 2621, Harrisburg, PA 17105-2621) for a synthetic minor operating permit in Lower Swatara Township, **Dauphin County**. The facility's major sources of emissions include petroleum product storage and loading operations, which primarily emit VOC. This permit is in lieu of the Title V permit No. 22-05025 with reduced emissions as a result of modification to the operations, and to stay below the MACT applicability. The synthetic minor operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**41-00074: Webb Communications, Inc.** (One Maynard Street, Williamsport, PA 17701) for operation of a printing facility in the City of Williamsport, **Lycoming County**.

The facility incorporates six heatset web offset lithographic printing presses, a .2 mmBtu/hr natural gas-fired water heater and a .5 mmBtu/hr natural gas/No. 2 fuel oil-fired boiler. The VOC and VHAP emissions from the six printing presses are controlled by a regenerative thermal oxidizer.

The facility has the potential to emit up to 18.25 tons of VOCs, 3.47 tons of VHAPs, 2.67 tons of NOx, 6.13 tons of PM/PM10, 2.06 tons of CO and 1.12 tons of SOx per year.

The Department of Environmental Protection (Department) intends to issue an operating permit for this facility. The Department intends to incorporate into this operating permit all conditions currently contained in Plan Approval 41-320-002, issued on October 3, 2006, as amended by the plan approval modifications approved on October 30, 2006, May 7, 2007 and December 22, 2007, except for these changes and additions:

1. A condition requiring malfunctions to be reported to the Department has been modified to exclude the reporting of malfunctions which do not result in, or potentially

result in, air contaminant emissions in excess of an applicable air contaminant emission limitation and/or do not result in, or potentially result in, noncompliance with any operating permit condition.

2. A .2 mmBtu/hr natural gas-fired water heater and a .5 mmBtu/hr natural gas/No. 2 fuel oil-fired boiler have been included in the permit along with the applicable 25 Pa. Code § 123.22 SOx emission limitation and No. 2 fuel oil sulfur content limitation and conditions restricting the fuel fired in the water heater to natural gas and that fired in the boiler to natural gas and virgin No. 2 fuel oil to which no reclaimed/reprocessed oil, waste oil or other waste material has been added.

3. The applicable 25 Pa. Code § 123.21 SOx emission limitation for the printing presses and associated regenerative thermal oxidizer has been included in the permit.

4. A condition has been placed in the permit requiring the performance of VOC destruction efficiency stack testing to be performed on the regenerative thermal oxidizer between June 1, 2011, and May 31, 2012.

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

**30-00148: Dana Mining Co. of PA, LLC** (308 Dents Run Road, Morgantown, WV 26501) for operation of a coal preparation plant known as the 4-West Deep Mine Coal Preparation Plant in Dunkard Township, **Greene County**.

Under 25 Pa. Code § 127.424, the Department of Environmental Protection intends to issue a State-only Operating Permit (SOOP) to Dana Mining Company of Pennsylvania, LLC to allow operation of a coal preparation plant known as the 4-West Deep Mine Coal Preparation Plant located in Dunkard Township, Greene County. Conditions will be placed in the SOOP to limit throughput, require water sprays on the process, require enclosures/covers on the process, require road sweeping, require road watering and require a truck tire wash in order to limit the quantity of air contaminants emitted to 90.8 tpy of PM and 23.7 tpy of PM10 per year.

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

**10-00234: Karns City Area School District** (1446 Kittanning Pike, Karns City, PA 16041) for operation of the facility's air contamination sources consisting of a two tri-fuel boilers rated at 5.20 mmBtu/hr and an emergency generator in Fairview Township, **Butler County**.

**27-00019: Department of Corrections—SCI at Forest** (HC2, Box 18, Marienville, PA 16239) to re-issue this Natural Minor Operating Permit. The facility's primary emissions are from the four boilers used to provide comfort heat and hot water to the facility in Jenks Township, **Forest County**.

**33-00016: NAC Carbon Products, Inc.** (Elk Run Avenue, Punxsutawney, PA 15767) to re-issue a Natural Minor Operating Permit. The facility's primary sources of emissions are the carbon baking kilns and associated equipment in the Borough of Punxsutawney, **Jefferson County**.

## 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 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). Mining activity permits issued in response to 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 an application is available for inspection at the district mining office indicated before an 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 certification.

Written comments, objections or requests for informal conferences on applications 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 district mining office indicated before an 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—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the 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 must contain the name, address and telephone number of 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 wishes to have the conference conducted in the locality of the proposed mining activities.

### *Coal Applications Received*

**Effluent Limits**—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:



<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) 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 (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**Permit Number 04971301 and NPDES Permit No. PA0214779, Rosebud Mining Company,** (301 Market Street, Kittanning, PA 16201), to renew the permit for the Beaver Valley Mine in Greene Township and Shippingport Borough, **Beaver County** and related NPDES permit. No additional discharges. Application received December 24, 2007.

**Permit Number 26961601 and NPDES Permit No. PA0214779, Matt Canestrone Contracting, Inc.,** (P. O. Box 234, Belle Vernon, PA 15012-0234), to revise the permit for the LaBelle Site in Luzerne Township, **Fayette County** to construct a haul road, utilize fly ash for structural fill, and change the land use for 8.2 acres from forestland to industrial/commercial. Surface Acres Proposed 8.2. No additional discharges. Application received November 16, 2007.

**Permit Number 26970702 and NPDES Permit No. PA0215112, Matt Canestrone Contracting, Inc.,** (P. O. Box 234, Belle Vernon, PA 15012-0234), to renew the permit the LaBelle Site in Luzerne Township, **Fayette County** and related NPDES permit. No additional discharges. Application received December 12, 2007.

**Permit Number 63831302 and NPDES Permit No. PA0213608, Eighty Four Mining Company,** (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Mine No. 84 in North Bethlehem, Amwell and South Strabane Townships, **Washington County** to add underground permit and subsidence control plan acres for development mining. Underground Acres Proposed 30.0, Subsidence Control Plan Acres Proposed 642.0. No additional discharges. Application received December 28, 2007.

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

**32810135 and NPDES No. PA0607606. M. B. Energy, Inc.,** 175 McKnight Road, Blairsville, PA 15717, transfer of an existing bituminous surface mine from Northern Cambria Fuel Company, 175 McKnight Road, Blairsville, PA 15717, located in West Wheatfield Township, **Indiana County**, affecting 15.8 acres. Receiving streams: UNT Black Lick Creek and Roaring Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 7, 2008.

**32820134 and NPDES No. PA0606154. M. B. Energy, Inc.,** 175 McKnight Road, Blairsville, PA 15717, transfer of an existing bituminous surface mine from The Arcadia Company, Inc., 175 McKnight Road, Blairsville, PA 15717, located in Banks, Montgomery and Canoe Townships, **Indiana County**, affecting 1,166 acres. Receiving streams: UNT to Little Mahoning Creek, Little Mahoning Creek and UNT to Cush Creek classified for the following uses: HQ-CWF and CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 7, 2008.

**11020103 and NPDES No. PA0249335. Gator Coal, LP,** P. O. Box 418, Elderton, PA 15736, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Susquehanna Township, **Cambria County**, affecting 324.5 acres. Receiving streams: Douglas Run, Peg Run, West Branch of Susquehanna River classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 16, 2008.

**56940105 and NPDES No. PA0212890. Action Mining, Inc.,** 1117 Shaw Mines Road, Meyersdale, PA 15552, revision of an existing bituminous surface and limestone removal mine to change the land use in Elk Lick Township, **Somerset County**, affecting 108 acres. Receiving streams: UNTs to and Casselman River classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 17, 2008.

**32070102 and NPDES No. PA0262331. Thomas J. Smith, Inc.,** 2340 Smith Road, Shelocta, PA 15774, revision of an existing bituminous surface and auger mine to change land use to add 5.0 coal acres by surface mining methods on the lands of Daniel Kovalcik and 2.4 auger mining acres. To modify the final land usage on the lands of Daniel Kovalcik from present forestland to pastureland or land occasionally cut for hay. To request a variance to conduct mining and support activities up to within 25 feet of UNT No. 5 to Toms Run, in Burrell Township, **Indiana County**, affecting 183.3 acres. Receiving streams: UNTs to Toms Run and Toms Run to Conemaugh River and UNTs to Weirs Run to Blacklick Creek to Conemaugh River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 17, 2008.

**56030104 and NPDES No. PA0249459. Elk Lick Energy, Inc.,** P. O. Box 240, Friedens, PA 15541, revision of an existing bituminous surface and coal preparation/processing facility mine to change land use from forestland to unmanaged natural habitat in Jenner Township, **Somerset County**, affecting 171.9 acres. Receiving

streams: Two Mile Run to Quemahoning Reservoir classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority. Application received January 18, 2008.

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

**35910102R3. Silverbrook Anthracite, Inc.**, (1 Market Street, Laflin, PA 18702), renewal of an existing anthracite surface mine operation in Archbald Borough, **Lackawanna County** affecting 1,000.3 acres, receiving stream: none. Application received January 25, 2008.

*Coal Applications Returned*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**Permit Number 30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in Morris Township, **Washington County** to install Prosperity Portal, Archer Run Slope, nine boreholes and add three NPDES discharge points. Surface Acres Proposed 218.9. Receiving stream: Archer Run, classified for the following use: TSF. Application received July 21, 2005. Permit returned January 24, 2008

**Permit Number 30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit and related NPDES permit for the Enlow Fork Mine in Morris Township, **Washington County** to add surface permit area for fresh water supply system at Prosperity Portal and Archer Run Slope, Surface Acres Proposed 282.8. Receiving Streams: UNT to Short Creek, classified for the following use: TSF. Application received August 24, 2005. Permit returned January 24, 2008.

**Permit Number 56841328 and NPDES Permit No. PA0041785, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Mine 78 in Adams and Richland Townships, **Cambria County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 4,789.0, Subsidence Control Plan Acres Proposed 4,789.0. No additional discharges. Application received August 2, 2007.

*Noncoal Applications Received*

*Effluent Limits*—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

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

\* The parameter is applicable at all times.

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

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

**Permit No. 4273SM6A2 and NPDES Permit No. PA0212555. Grannas Brothers Stone & Asphalt Company, Inc.**, P. O. Box 488, Hollidaysburg, PA 16648, renewal of NPDES Permit, Frankstown Township, **Blair County**. Receiving streams: UNTs to Brush Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 16, 2008.

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

**16970307. Glenn O. Hawbaker, Inc.** (1952 Waddle Road, State College, PA 16803). Renewal of NPDES Permit No. PA0227609, Beaver, Richland and Licking Townships, **Clarion County**. Receiving streams: UNT to Turkey Run, classified for the following uses: HW CWF. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received January 22, 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 and NPDES Permit for discharge of treated mine drainage (replacing SMP No. 7975SM1) in Hilltown Township, **Bucks County** affecting 60.7 acres, receiving streams: UNT to Morris Run, classified for the following use: TSF. Application received January 18, 2008.

**36080301 and NPDES Permit No. PA0224651. Donegal Rock Products, LLC** (P. O. Box 10, Rheems, PA 17570), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage (replacing SMP No. 6276SM6) in West Donegal Township, **Lancaster County** affecting 88.0 acres, receiving streams: UNT to Donegal Creek, classified for the following use: Donegal Creek. Application received January 22, 2008.

**8274SM6T and NPDES Permit No. PA0595349. Pennsy Supply, Inc.**, (1001 Paxton Street, Harrisburg, PA 17105), transfer of an existing quarry operation from Binkley & Ober, Inc. in East Hempfield Township, **Lancaster County**, affecting 241.0 acres, receiving streams: UNT to Little Conestoga Creek. Application received January 24, 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 Depart-

ment of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E51-227. VTE Philadelphia, LP**, 1481 47th Street, Brooklyn, NY 11219, City of Philadelphia, **Philadelphia County**, ACOE Philadelphia District.

To redevelop and maintain Pier 35 1/2 North, along the Delaware River (WWF) to accommodate a proposed high rise residential development (a.k.a. Trump Tower). Work will include the following activities:

1. To install and maintain approximately 121 16-inch piles and 39 6-foot 6-inch steel caissons through the existing fill and underlying submerged lands of the Commonwealth. Work will also include associated decking within the previous footprint of Pier 35 1/2 North.

2. To construct and maintain a public access walkway, measuring 12 feet long with an observation deck approximately 52 feet by 32 feet (1,644 square feet).

This project is located approximately 200 feet northwest of the intersection Fairmount Avenue and Christopher Columbus Boulevard (a.k.a. Delaware Avenue) (Camden, PA USGS Quadrangle N: 15.7 inches; W: 1.6 inches).

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E48-377. Department of Veteran and Military Affairs, Bureau of Facilities & Engineering, Building 0-47**, Fort Indiantown Gap, Annville, PA 17003-5002, in Forks Township, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in the 100-year floodplain of a tributary to Bushkill Creek (HQ-CWF) for the purpose of constructing a Field Maintenance Shop associated with a proposed Readiness Center for the Stryker Brigade Combat Team (Easton, PA-NJ Quadrangle N: 20.6 inches; W: 14.6 inches).

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

**E06-629. The Herman Development Company, John M. Herman**, 3701 Perkiomen Avenue, Reading, PA 19606, Bethel Township, **Berks County**, ACOE Philadelphia Region.

To construct a 1,000,000.0-square-foot warehouse facility impacting 0.223 acre of PEM wetlands, and 0.43 acre of PEM/PSS wetlands. To compensate for wetland impacts, the applicant proposes to construct and maintain 0.66 acre of replacement wetlands onsite. The project is located on the South Side of I-78, between exits 15 (Grimes) and 16 (Midway) (Bethel, PA Quadrangles N: 19.52 inches; W: 0.15 inch, Latitude: 40° 28' 57"; Longitude: 76° 15' 04") in Bethel Township, Berks County.

**E67-837. Louis Appell, Jr.**, 140 East Market Street, York, PA 17401, York Township, **York County**, ACOE Baltimore District.

To restore and maintain approximately 1,600.0 linear feet of a UNT to Tyler Run (WWF) (York, PA Quadrangle N: 9.74 inches; W: 11.18 inches, Latitude: 39° 55' 43.00"; Longitude: 76° 42' 17.13") through the construction and/or installation of: 1) 0.22 acre of wetland creation; 2) 22 rock cross vanes; 3) 15 J-hook vanes; 4) 360.0 linear feet of rock toe protection; and 5) 550.0 linear feet of new/relocated stream channel for the purpose of restoring the channel reach to stabilize the channel and improve aquatic habitat. The project is located between Powder Mill Road and Business Interstate in York Township, York County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E17-439. Clearfield Creek Watershed Association**, 216 Bedlin Hollow Road, Ashville, PA 16613. Morgan Run No. 8 Acid Mine Drainage Treatment Project in Decatur Township, **Clearfield County**, ACOE Baltimore District (Wallaceton, PA Quadrangle Latitude: 40° 54' 5.04"; Longitude: 78° 21' 40.43").

The applicant proposes to construct, operate and maintain a passive treatment acid mine drainage abatement system resulting in 0.007-acre of permanent impact to wetlands associated to a UNT to Morgan Run (CWF) and 100-feet of permanent stream to the same UNT. The proposed permanent wetland impact results in construction of treated water outfall structures. Stream impacts result from 50-feet of channel being diverted into the

treatment system for alkaline addition, and 50-feet of stream impact associated with constructing two access road crossings. The project is located along the northern right-of-way of SR 2012 approximately 3,500-feet downstream stream of the point where Morgan Run crosses beneath SR 2012. The Morgan Run No. 8 Acid Mine Drainage Project permanently impacts 0.007-acre of wetland for which the Department of Environmental Protection has deemed as a de minimis impact and mitigation shall not be required.

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

**E65-918. DeCesare Corporation**, 4241 William Penn Highway, Suite 300, Murrysville, PA 15668. To maintain existing fill in a floodway in Murrysville, **Westmoreland County**, Pittsburgh ACOE District (Murrysville, PA Quadrangle N: 11.5 inches; W: 1.5 inches, Latitude: 40° 26' 14.9"; Longitude: 79° 38' 12"). The applicant proposes to maintain the existing fill in the floodway of Steels Run (HQ-CWF) for the purpose of constructing a residential housing development.

**E65-919. Department of Transportation**, District 12-0, 825 North Gallatin Avenue, Uniontown, PA 15401-2105. To replace a bridge over Loyalhanna Creek in Unity Township and the City of Latrobe, **Westmoreland County**, Pittsburgh ACOE District (Derry, PA Quadrangle N: 76 inches; W: 17 inches, Latitude: 39° 44' 22"; Longitude: 79° 54' 12"). The applicant proposes to remove the existing SR 982, approximately 40 ft. wide, two span, centered pier, steel through truss bridge having a total length of approximately 250 ft. and having an under clearance of 11.5 ft; to construct and maintain at the existing location approximately 50 ft. total width, two span centered pier, replacement pre-stressed concrete box beam bridge having a total length of approximately 282 ft. and having minimum underclearance of 13.75 ft. over the Loyalhanna Creek (WWF); associated fill to raise the approach road elevations; and fill 0.1 acre of PEM wetlands. In addition, install a temporary crossing; and construct and maintain associated replacement

stormwater outfalls to the Loyalhanna Creek (WWF). The bridge improvement project is located approximately 1,300 ft. north of the intersection of SR 982 with SR 30 and between Unity Township and the City of Latrobe.

**E65-921. Shag Bark Grove Real Estate, LP**, 258 McDermott Road, Trafford, PA 15085. To construct a culvert in the Municipality of Murrysville, **Westmoreland County**, Pittsburgh ACOE District (Murrysville, PA Quadrangle: N: 15.7 inches; W: 2.8 inches, Latitude: 40° 27' 45"; Longitude: 79° 38' 45"). The applicant proposes to construct and maintain a culvert structure consisting of two 75 ft. long 19 ft. by 6.61 ft. corrugated metal pipe arches with natural channel bed in Haymakers Run (HQ-CWF) under a proposed access road to the proposed Shag Bark Residential Development.

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

**E62-415. Sheffield Land & Timber Company**, P. O. Box 54, Sheffield, PA 16347. Gas Pipeline, in Sheffield Township, **Warren County**, ACOE Pittsburgh District (Sheffield, PA Quadrangle N: 47.7057°; W: 79.01974°).

The applicant proposes to replace approximately 1.65 miles of existing 8-inch diameter steel gas line with 10-inch diameter plastic natural gas pipeline starting at a point approximately 2,000 feet north of the intersection of SR 6 and Tollgate Road on the east side of Tollgate Road and continuing south, southeast to an endpoint across SR 666 and the West Branch of Tionesta Creek involving: 1) to construct and maintain five wetland crossings by horizontal directional boring having lengths of 250 feet (PSS), 20 feet (exceptional value, PEM), 180 feet (exceptional value, PSS), 70 feet (exceptional value, PEM) and 50 feet (exceptional value, PEM) respectively; and 2) to construct and maintain stream crossings of Deer Lick Run, Two Mile Creek, West Branch Tionesta Creek and a UNT to West Branch Tionesta Creek by directional boring. Deer Lick Run and Two Mile Run are perennial streams classified as HQ-CWF and West Branch Tionesta Creek and the UNT are perennial streams classified as CWF.

## STORAGE TANKS

### SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

**The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.**

<i>SSIP Application No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
08001	Bionol Clearfield, LLC 99 Longwater Circle Norwell, MA 02061 Attn: Samuel G. McConnell	Clearfield	Clearfield Borough	13 ASTs storing regulated substances	3,707,600 gallons total

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**ACTIONS**


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**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.

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**I. NPDES Renewal Permit Actions**


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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0010987	Tobyhanna Army Depot 11 Hap Arnold Boulevard AM SEL-TY-RK-E Tobyhanna, PA 18466-5086	Coolbaugh Township Monroe County	Hummeler Run 2A	Y
PA0061182	Big Boulder Corporation P. O. Box 707 Blakeslee, PA 18610-0707	Kidder Township Carbon County	UNT to Tunkhannock Creek 2A	Y
PA0063096	Seiders Hill, Inc. P. O. Box 359 Pottsville, PA 17901	North Manheim Township Schuylkill County	West Branch Schuylkill River CWF Watershed 3A	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0055131 (Minor Sewage)	Lehigh Valley Zoo— County of Lehigh Lehigh County Government Center 17 South Seventh Street Allentown, PA 18101-1614	North Whitehall Township Lehigh County	Jordan Creek 2C	Y
PA0036439 (Minor Sewage)	Commonwealth of Pennsylvania Department of Public Welfare White Haven Center 827 Oley Valley Road White Haven, PA 18661	Foster Township Luzerne County	Linesville Creek 02A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0081868 (Sew)	Fairview Township Authority 599 Lewisberry Road New Cumberland, PA 17070-2349	York County Fairview Township	Susquehanna River 7-E	N
PA0022209 (Sew)	Municipal Authority of Borough of Bedford 244 West Penn Street Bedford, PA 15522	Bedford County Bedford Township	Raystown Branch Juniata River 11-C	N
PA0026808 (Sew)	Springettsbury Township 3501 North Sherman Street York, PA 17402	York County Springettsbury Township	Codorus Creek 7-H	N
PA0026263 (Sew)	York City Sewer Authority c/o Stacey R. MacNeal Katherman, Heim & Perry 345 East Market Street York, PA 17403	York County Manchester Township	Codorus Creek 7-H	N
PA0083305 (IW)	Tyco Electronics Corporation—Brodbecks Facility P. O. Box 3608 Harrisburg, PA 17105-3608	York County Codorus Township	UNT Krebs Valley Run 7-H	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0228516	Clearfield County Economic Development Corporation 250 Technology Drive Suite 1 Clearfield, PA 16830	Clearfield County Covington Township	UNT to Sandy Creek SWP 8C	Y
PA0228575 IW	Pennsylvania—American Water Company 105 Sodom Road Milton, PA 17847	Centre County Rush Township	Trout Run and UNT of Trout Run (Minnie Run) 8D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0024856	Taylor Township Sewer Authority P. O. Box 489 West Pittsburg, PA 16160-0489	Taylor Township Lawrence County	Beaver River 20-B	Y
PA0222151	Chemtura Corporation 199 Benson Road Middlebury, CT 06749	City of Bradford McKean County	Tunungwant Creek 16-C	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0037133	Fish and Boat Commission 1735 Shiloh Road State College, PA 16801-8495	Fairview Township Erie County	UNT to Trout Run 15-TR	Y
PA0020257	Borough of Grove City Grove City Borough STP P. O. Box 110 123 Main Street Grove City, PA 16127-0110	Grove City Borough Mercer County	Wolf Creek 20-C	N
PA0005584	Owens-Brockway Glass Container, Inc. 3831 Route 219 Brockport, PA 15823	Snyder Township Jefferson County	Little Toby Creek 17-A	Y

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

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

**NPDES Permit No. PA0050342**, Sewage, **Upper Pottsgrove Township**, 1409 Farmington Avenue, Pottstown, PA 19464. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal of NPDES permit to discharge treated sewage from Regal Oaks STP into Sprogels Run in Watershed 3D.

**NPDES Permit No. PA0052078**, Sewage, **Municipal Authority of the Borough of Elverson**, 101 South Chestnut Street, P. O. Box 266, Elverson, PA 19520-0266. This proposed facility is located in Elverson Borough, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the STP to a UNT to East Branch Conestoga River in Watershed 7J.

**NPDES Permit No. PA0042021**, Sewage, **Milford-Trumbauersville Area Sewer Authority**, 1825 Rosenberger Road, P. O. Box 126, Spinnerstown, PA 18968. This proposed facility is located in Milford Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated from the WWTP into Unami Creek in Watershed 3E—Perkiomen.

**NPDES Permit No. PA0050831**, Sewage, **HPC Associates**, 167 Meadowbrook Road, Huntingdon Valley, PA 19006. This proposed facility is located in Abington Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the STP into Huntingdon Valley Creek in Watershed 3J.

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

**NPDES Permit No. PA-0060518**, Sewage, **Hallstead Great Bend Joint Sewer Authority**, Spring Street, P. O. Box 747, Great Bend, PA 18821-0747. This proposed facility is located in Great Bend Borough, **Susquehanna County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit to increase discharge from 0.350 mgd to 0.500 mgd.

**NPDES Permit No. PAS122203**, Industrial Stormwater, **Nestle Waters North America**, 305 Nestle Way, Breinigsville, PA 18031. This proposed facility is located in Upper Macungie Township, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of NPDES Industrial Stormwater Permit.

**NPDES Permit No. PAS122202**, Industrial Stormwater, **Nestle Waters North America**, 405 Nestle Way, Breinigsville, PA 18031. This proposed facility is located in Upper Macungie Township, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of NPDES Industrial Stormwater Permit.

**NPDES Permit No. PAS212218**, Industrial Stormwater, **Oldcastle APG Northeast, Inc.**, Easton Block, 800 Uhler Road, Easton, PA 18040. This facility is located in Forks Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of new NPDES Industrial Stormwater Permit.

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

**NPDES Permit No. PA0026735**, Sewage, **Swatara Township Authority**, 599 Eisenhower Boulevard, Harrisburg, PA 17111-2397. This proposed facility is located in Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization for discharge to Swatara Creek in Watershed 7-D.

**NPDES Permit No. PA0026484**, Sewage, **Derry Township Municipal Authority**, 670 Clearwater Road, Hershey, PA 17033-2453. This proposed facility is located in Derry Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to Swatara Creek in Watershed 7-D.

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

**PA0229148**, CAFO, SIC 0213, **Smiling Porker Farms**, 676 Granger Road, Morris, PA 16938. This existing facility is located in Pine Township, **Lycoming County**.

Description of Proposed Activity: Smiling Porker Farms is an existing finishing swine farm, totaling 537.5 Animal Equivalent Units.

The water body nearest to this facility is Hughes Run in the Pine Creek Watershed (SWP-09A) which has a designated use of HQ-CWF.

Except for the chronic or catastrophic rainfall events defined as over 25-year/24-hour rain storms, the CAFO permit is a nondischarge NPDES permit. Where applicable compliance with 40 CFR Federal effluent limitation guidelines is required. The permit requires no other numeric effluent limitations. Compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with State narrative water quality standards.

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

1. Compliance with the farm's Nutrient Management Plan.
2. Compliance with the farm's Preparedness, Prevention and Contingency Plan.
3. Compliance with the farm's Erosion and Sedimentation Control Plan for plowing and tilling.
4. Erosion and Sedimentation Control Plan requirements for stormwater during construction activities.
5. Animal mortality handling and disposing requirements.
6. Certification requirements for manure storage facilities.
7. Requirements for storage of feed and other raw materials.
8. Best Management Practices requirements.

The EPA waiver will not be in effect.

**PA0027324**, Sewerage SIC, 4952, **Shamokin Coal Township Joint Authority**, R. D. 2, Box 35, Shamokin, PA 17872-9603. This existing facility is located in Ralpho Township, **Northumberland County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater.

The receiving stream, Shamokin Creek, Coal, Carbon, Furnance and Quaker Runs, is in the State Water Plan Watershed 6B and classified for: CWF. The nearest downstream public water supply intake for Pennsylvania Water Company is located on the Susquehanna River is 60 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 7.0 mgd.

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

#### Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameters</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	Report
Nitrate-Nitrate as N	Report	Report	Report	Report
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen			Report	12,7852*
Net Total Phosphorus			Report	17,047*

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

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.



Combined Sewer Overflow Outfalls: 002, 003, 003A, 004, 004A, 005, 005A, 006, 006A, 007—055, 055A, 056—073 and 077.

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

1. Operation and Implementation of a Pretreatment Program.
2. Management and Control of Combined Sewer Overflows.
3. Requirements Applicable to Stormwater Outfall.

**PA0008443**, Industrial Waste SIC, 4911, **PPL Montour, LLC**, Two North Ninth Street, Allentown, PA 18101-1179. This existing facility is located in Derry and Deleware Townships, **Montour and Northumberland Counties**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial waste, cooling tower blow down, boiler blow down and stormwaters.

The receiving stream, Chillisquaque Creek and West Branch Susquehanna River, is in the State Water Plan Watershed 10D and classified for: WWF. The nearest downstream public water supply intake for PA American Water Company is located on West Branch Susquehanna River is 4 miles below the point of discharge.

The proposed effluent limits for Outfall 050 based on a design flow of 7.87 mgd.

Parameter	Mass Units lbs/day			Concentration (mg/l)		
	Average Monthly	Maximum Daily	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			6.0			9.0
TSS				30	100	125
Oil and Grease				15	20	30
Temperature				Report	Report	
Total Chlorine				0.08		0.25
Total PCBs				Non Detect		
Total Aluminum				0.56	1.1	1.4
Total Iron				1.7	3.4	4.3
Clam-trol-1				Non Detect		
Clam-trol-2				Non Detect		
Kjeldahl-N				Report		
Nitrite/Nitrate-N				Report		
Total Nitrogen-N				Report		

The proposed effluent limits for Outfall 052 based on a design flow of 0.61 mgd.

Parameter	Mass Units lbs/day			Concentration (mg/l)		
	Average Monthly	Maximum Daily	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			6.0			9.0
TSS				30	100	125
Oil and Grease				15	20	30
Total PCBs				Non Detect		
Total Aluminum				1.1	2.2	2.8
Total Iron				Report	Report	
Arsenic				Report	Report	
Boron				Report	Report	
Calcium				Report	Report	
Lithium				Report	Report	
Magnesium				Report	Report	
Strontium				Report	Report	
Sulfates				Report	Report	
Specific Conductivity				Report	Report	

The proposed effluent limits for Outfall 053 based on a design flow of 0.3 mgd.

Parameter	Mass Units lbs/day			Concentration (mg/l)		
	Average Monthly	Maximum Daily	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			6.0			9.0
TSS				10	20	30
Oil and Grease				15	20	30
Total Iron				5.0	7.5	10
Total Cadmium				0.24	0.37	
Total Mercury				0.027	0.043	
Total Selenium				3.4	5.3	
Chlorides				Report		
Chromium VI				Report		

<i>Parameter</i>	<i>Mass Units lbs/day</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Antimony				Report		
Total Lead				Report		
Total Silver				Report		
Total Thallium				Report		
Kjeldahl-N				Report		
Nitrite/Nitrate-N				Report		
Total Nitrogen-N				Report		

The proposed effluent limits for Outfall 150 based on a design flow of N/A mgd.

<i>Parameter</i>	<i>Mass Units lbs/day</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Chromium				0.2	0.2	
Total Zinc				1.0	1.0	

The proposed effluent limits for Outfall 151 based on a design flow of N/A mgd.

<i>Parameter</i>	<i>Mass Units lbs/day</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Free Available Chlorine					0.2	0.5
Total Chromium				0.2	0.2	
Total Zinc				1.0	1.0	

The proposed effluent limits for Outfall 152 based on a design flow of N/A mgd.

<i>Parameter</i>	<i>Mass Units lbs/day</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Free Available Chlorine					0.2	0.5
Total Chromium				0.2	0.2	
Total Zinc				1.0	1.0	

The proposed effluent limits for Outfall 153 based on a design flow of 0.02 mgd.

<i>Parameter</i>	<i>Mass Units lbs/day</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH			6.0			9.0
Fecal Coliforms (5-1 to 9-30)				200 Geometric Mean		
(10-1 to 4-30)				2,000 Geometric Mean		
5 Day CBOD				25		50
TSS				30		60
Total Chlorine				Report		
<i>Parameter</i>	<i>Annual Load Pound</i>			<i>Concentration (mg/l)</i>		
	<i>Monthly</i>	<i>Annual</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Ammonia-N	Report	Report		Report		
Kjeldahl-N	Report			Report		
Nitrite/Nitrate-N	Report			Report		
Total Nitrogen-N	Report	Report		Report		
Total Phosphorus	Report	Report		Report		

**PA0020486**, Sewerage, SIC 4952, **Borough of Bellefonte**, 236 West Lamb Street, Bellefonte, PA 16823. This existing facility is located in Spring Township, **Centre County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater.

The receiving stream, Spring Creek, is in the State Water Plan Watershed 9C and classified for: HQ-CWF. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the West Branch Susquehanna River is 86 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 3.22 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Mass (lbs)</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
CBOD <sub>5</sub>	25	40		50		
TSS	30	45		60		
Ammonia-N						
(5-1 to 10-31)	3	4.5		6		
(11-1 to 4-30)	9	13.5		18		
Disolved Phosphorus-P	1	1.5		2.0		
Total Residual Chlorine	0.62 (De-chlorinate)			2.0 (0.05)		
Fecal Coliforms						
(5-1 to 9-30)	200 col/100 ml as a Geometric Mean					
(10-1 to 4-30)	2,000 col/100 ml as a Geometric Mean					
pH	Within the range of 6.0 to 9.0					

#### Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	Report**
Nitrate-Nitrate as N	Report	Report	Report	Report**
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen			Report	58,812*
Net Total Phosphorus			Report	7,842*

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

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

#### Outfall 002 Stormwater Best Management Practices

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

1. Operation and Implementation of a Pretreatment Program.
2. Requirements Applicable to Stormwater Outfalls.

**PA0008575**, Industrial Waste, SIC 3315, **Wirerope Works Inc.**, 100 Maynard Street, Williamsport, PA 17701. This existing facility is located in City of Williamsport, **Lycoming County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial wastewater and stormwater.

The receiving stream, Storm Sewer To West Branch Susquehanna River, is in the State Water Plan Watershed 10B and classified for: WWF. The nearest downstream public water supply intake for PA American Water Company is located on West Branch Susquehanna River is 30 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.05 mgd.

<i>Parameter</i>	<i>Mass Units lbs/day</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH			6.0			9.0
Oil and Grease				15	30	30
TSS				31	60	75
Total Lead				0.43	0.69	1.29
Total Zinc				1.48	2.61	4.44

The proposed effluent limits for Outfalls 002 and 003 based on a design flow of N/A mgd.

COD	Report
5 Day CBOD	Report
Oil and Grease	Report
pH	Report
Total Chromium	Report
Total Copper	Report
Total Cadmium	Report
Total Lead	Report
Total Zinc	Report
Total Arsenic	Report
Dissolved Iron	Report

**PA0026557**, Sewerage, SIC 4952, **Sunbury Municipal Authority**, 462 South Fourth Street, Sunbury, PA 17801. This existing facility is located in City of Sunbury, **Northumberland County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater.

The receiving stream, Susquehanna River, is in the State Water Plan Watershed 6B and classified for: WWF. The nearest downstream public water supply intake for Pennsylvania Water Company is located on the Susquehanna River is 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 4.2 mgd.

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

#### Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	Report
Nitrate-Nitrate as N	Report	Report	Report	Report
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen			Report	76,711*
Net Total Phosphorus			Report	10,228*

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

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

#### Outfall 002—005, 005A, 006, 007—Combined Sewer Overflows—85% Capture and Treatment

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

1. Operation and Implementation of a Pretreatment Program.
2. Management and Control of Combined Sewer Overflows.
3. Requirements Applicable to Stormwater Outfalls.

**PA0020699**, Sewerage, 4952, **Montgomery Water and Sewer Authority**, 35 South Main Street, Montgomery, PA 17752-0125. The existing facility is located in the Montgomery Borough, **Lycoming County**.

Description of Proposed Activity: The applicant is approved for renewal of their NPDES permit for the Montgomery Borough Wastewater Treatment Plant.

The receiving stream, West Branch of Susquehanna River, is in the State Water Plan Watershed 10C and is classified for: WWF. The nearest downstream public water supply intake is approximately 10 miles downstream.

The effluent limits for Outfall 001 are based on a design flow of 0.85 mgd and are as follows:

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

Chesapeake Bay Tributary Strategy Nutrient Requirements:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report**
Kjeldahl-N	Report	Report	
Nitrate-Nitrate as N	Report	Report	
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen		Report	15,525*
Net Total Phosphorus		Report	2,070*

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

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

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

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

**NPDES Permit No. PA022135**, Sewage, **Vision Quest National Ltd.**, P. O. Box 168, Franklin, PA 16323. This proposed facility is located in Sandy Creek Township, **Venango County**.

Description of Proposed Action/Activity: New permit for an existing discharge of treated sewage.

**NPDES Permit No. PA0240052**, Sewage, **Renea Bailey**, 22980 Old Plank Road, Venango, PA 16440. This proposed facility is located in Venango Township, **Crawford County**.

Description of Proposed Action/Activity: This is a Single Residence Sewage Treatment Plant discharging to French Creek, 16-A.

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

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

**WQM Permit No. 5807402**, Sewerage, **Hallstead-Great Bend Joint Sewer Authority**, Spring Street, P. O. Box 747, Great Bend, PA 18821-0747. This proposed facility is located in Great Bend Borough, **Susquehanna County**.

Description of Proposed Action: Issuance of Water Quality Management Permit for improvements to the sewage treatment plant and upgrades to pump stations No. 1 and No. 2 and a sewer extension at Harmony Village.

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

**WQM Permit No. 1707404**, Sewerage, SIC 4952, **Bradford Township**, 2289 Barrett Road, Suite B, Woodland, PA 16881. This proposed facility is located in Bradford Township, **Clearfield County**.

Description of Proposed Action/Activity: A permit has been issued for several generalized designs for Small Flow Treatment Facilities (SFTF) in Bradford Township, Clearfield County. The generalized SFTF designs will be utilized in projects within the township where construction of a SFTF is required. Each generalized design will be in accordance with the Department of Environmental Protection's Small Flow Treatment Facilities Manual. For each SFTF proposed, a separate Water Quality Management Permit Amendment will be required.

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

**WQM Permit No. WQG018600**, Sewerage, **Charles McCabe**, 19 Parker Farms Road, Wallington, CT 06492-2962. This proposed facility is located in Perry Township, **Lawrence County**.

Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018587**, Sewerage, **Melvin Musulin**, 121 Schar Road, Evans City, PA 16033. This proposed facility is located in Forward Township, **Butler County**.

Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

**WQM Permit No. 2007403**, Sewerage, **Renea Bailey**, 22980 Old Plank Road, Venango, PA 16440. This proposed facility is located in Venango Township, **Crawford County**.

Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018599**, Sewerage, **Walter Dittmer**, 219 Cooper Road, Slippery Rock, PA 16057. This proposed facility is located in Worth Township, **Butler County**.

Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

#### **IV. NPDES Stormwater Discharges from MS4 Permit Actions**

#### **V. NPDES Waiver Stormwater Discharges from MS4 Actions**

#### **VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506058	The Hankin Group 707 Eagleview Boulevard Exton, PA 19341	Chester	Wallace Township	Brandywine Creek HQ-TSF-MF
PAI011507022	Summit Realty Advisors, LLC 8 Devonshires Court Blue Bell, PA 19422	Chester	East Whiteland Township	Valley Creek EV
PAI014607001	Westrum Urban Construction, LLC 370 Commerce Drive Fort Washington, PA 19034	Montgomery	Ambler Borough	Wissahickon Creek TSF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023907005	Upper Macungie Township 8330 Schantz Road Breinigsville, PA 18031	Lehigh	Upper Macungie Township	Hassen Creek HQ-CWF; MF Iron Run HQ-CWF; MF, TSF
PAI024007001	Aqua Pennsylvania, Inc. 700 West Sproul Road Springfield, PA 19064	Luzerne	Kingston Township	Toby Creek TSF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033607003	JPM Keller, LLC P. O. Box 291 Lititz, PA 17543	Lancaster	Elizabeth Township	UNT Furnace Run HQ

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

*Fayette County Conservation District, 10 Nickman Plaza, Lemont Furnace, PA 15456, (724) 438-4497.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI052606005	Hidden Lakes Property Owners Association 1530 Tyrone Road Morgantown, WV 26508	Fayette	Wharton Township	Deadmans Run HQ/CWF

*Greene County Conservation District: 93 East High Street, Room 215, Waynesburg, PA 15370, (724) 852-5278.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI0530050021	Allegheny Energy Supply Company, LLC 800 Cabin Hill Drive Greensburg, PA 15601-1689	Greene	Cumberland and Monongahela Townships	Little Whitely Creek WWF and Monongahela River WWF

## **VII. Approvals to Use NPDES and/or Other General Permits**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### **List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

#### *General Permit Type—PAG-02*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bristol Township Bucks County	PAG20009040601	Green Lane Properties, LLC 2201 Green Lane Levittown, PA 19057	Mill Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG20009070831	Centennial School District 4333 Centennial Road Warminster, PA 18974-5455	Tributary East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAR10D620R	Heritage Building Group, Inc. 2500 York Road Jamison, PA 18929	Geedes Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bedminster Township Bucks County	PAG2000907133	Appletree Investors, LP 6263 Keller's Church Road Pipersville, PA 18947	Tributary Tohickon Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000907087	Ivyland Industrial Partners, LP 55 Country Club Drive Downingtown, PA 19335	Little Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG2000907138	Childrens Developmental Program 501 West Broad Street Quakertown, PA 18951	Morgan Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Bucks County	PAG2000907118	Stanley and Susan Sherrard 69 Meginnes Road Kintnersville, PA 18930	Haycock and Dimples Creeks to Tohickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bedminster Township Bucks County	PAG2000907119	Scientific Instrument Services 1027 Old York Road Ringoes, NJ 06551	Cabin Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015107042	FNC Realty Corporation 2222 New Hyde Park Road New York, NY 11042	Pennypack Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Scott Township Lackawanna County	PAG2003508001	George Roberts Department of Transportation District 4-0 55 Keystone Industrial Park Dunmore, PA 18512	Tributary to South Branch Tunkhannock Creek CWF	Lackawanna County Conservation District (570) 281-9495
East Stroudsburg Borough Monroe County	PAG2004507003	East Stroudsburg Borough Attn: James S. Phillips 24 Analomink Street East Stroudsburg, PA 18301	Tributary to Brodhead Creek TSF	Monroe County Conservation District (570) 629-3060
Lower Windsor Township York County	PAG2006707085	Alfred Stewart 1033 Water Street Wrightsville, PA 17368	Canadochly Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Carroll Township York County	PAG2006707035	Mark Hilson 555 Chestnut Grove Road Dillsburg, PA 17019	Stoney Run CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
East Pennsboro Township Cumberland County	PAG2002107047	Shawn Farr Capital Area Intermediate Unit 55 Miller Street Summerdale, PA 17093-0489	UNT to Susquehanna River WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAG2002107048	Jake Schoellkopf Sovran Self Storage 6467 Main Street Buffalo, NY 14221	Trindle Spring Run CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812



<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Letterkenny Township Franklin County	PAG2002807037	Clifford Weedman United States Army Corps of Engineers Baltimore District 105 Howard Street Room 9600M Baltimore, MD 21201	Conodoquient Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAG2002803001R	Sycamore Meadows Sheldon Starr 798 Starr Avenue Chambersburg, PA 17201	Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Clearfield County Sandy Township	PAG2001707018	Department of Transportation District 2-0 1924 Daisy Street Extension Clearfield, PA 16830	LaBorde Branch of Sandy Lick Creek CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clinton County City of Lock Haven	PAG2001807003	Lock Haven University 401 North Fairview Street Lock Haven, PA 17745	Lusk Run CWF West Branch Susquehanna River CWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798
Columbia County Town of Bloomsburg	PAG2001907014	Eric Milner Bloomsburg University Buckingham Maintenance Center 400 East Second Street Bloomsburg, PA 17815	Fishing Creek CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
Union County Buffalo Township	PAG2006007004	John Griffith Ridge View Development 51 Walnut Street Mifflinburg, PA 17847	Buffalo Creek CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Union County East Buffalo Township	PAG2006007005	Edward Baker Lewisburg Ford 2265 Old Turnpike Road Lewisburg, PA 17837	UNT to Limestone Run WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Union County Buffalo Township	PAG2006008001	Morris Niesely 3840 Grand Valley Road Mifflinburg, PA 17844	Buffalo Creek CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Fayette County North Union Township	PAG2002608003	William Brent Texas Eastern Transmission, LP 890 Winter Street Suite 300 Waltham, MA 02451	UNT to Redstone Creek WWF	Fayette County CD (724) 438-4497
Greene County Franklin Township	PAG2003008001	Equitrans, LP 175 Industry Road Waynesburg, PA 15370	UNT to South Fork of Ten Mile Creek and Grimes Run WWF	Greene County CD (724) 852-5278

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Somerset County Somerset Township	PAG2005607009	Wheeler Brothers, Inc. 384 Drum Avenue Somerset, PA 15501	UNTB to East Branch of Coxes Creek TSF	Somerset County CD (814) 445-4652
Somerset County Windber Borough	PAG2005607012	GeMar Limited Partnership 1705 Hillside Avenue Windber, PA 15963	Paint Creek CWF	Somerset County CD (814) 445-4652
Washington County West Brownsville Borough	PAG2006308006	Croftcheck Family, LLP P. O. Box 433 Allison, PA 15413	UNT to Monongahela River WWF	Washington County CD (724) 228-6774
Erie County City of Erie	PAG2002507017	Hamot Bayview Medical Office Hamot Medical Center 201 State Street Erie, PA 16550	Lake Erie CWF	Erie Conservation District (814) 825-6403
Erie County Summit Township	PAG2002507021	Countryside Subdivision Maleno Developers, Inc. 230 West Grandview Boulevard Suite 1 Erie, PA 16506	UNT Mill Creek WWF; MF Walnut Creek CWF; MF	Erie Conservation District (814) 825-6403
Erie County Fairview Township	PAG2002508001	Tri-state Business Institute Euliano Family Limited Partnership 5757 West Ridge Road Erie, PA 16506	UNT to Lake Erie CWF	Erie Conservation District (814) 825-6403
Mercer County Jamestown Borough	PAG2004308001	Dana E. Frankenburg Hudson Companies 2450 Shenango Valley Freeway Hermitage, PA 16148	UNT to Shenango River WWF	Mercer Conservation District (724) 662-2242
Warren County Pine Grove Township	PAG2006207002	Pine Grove Center Phase II Warren General Hospital 2 Crescent Park Estates Warren, PA 16365	UNT Conewango Creek CWF	Warren Conservation District (814) 563-3117
<i>General Permit Type—PAG-3</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Sugarloaf Township Columbia County	PAR204829	Benton Foundry, Inc. 5297 SR 487 Benton, PA 17814	Hess Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Bradford Township Clearfield County	PAR224853	Walker Lumber Company, Inc. P. O. Box 60 Woodland, PA 16881-0060	Roaring and Forcey Runs WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Elizabeth Borough Allegheny County	PAR116132	Gardner Denver Nash, LLC 9 Trefoil Drive Trumbull, CT 06611	Monongahela River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Fairview Township Erie County	PAR218316	Concrete Services Corporation P. O. Box 930 Fairview, PA 16415	UNT to Lake Erie	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Greenwood Township Crawford County	PAR208335	Arro Forge, Inc. P. O. Box 1293 Meadville, PA 16335	UNT to Conneaut Outlet	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Limerick Township Montgomery County	PAG040083	Marc and Elizabeth Lattanzi 26 Collins Lane Schwenksville, PA 19473	UNT to Mine Run Creek Watershed 3-E	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Newtown Township Delaware County	PAG040082	David A. Thomas 3877 Gradyville Road Newtown Square, PA 19073	UNT of Crum Creek Watershed 3G	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Upper Frankford and Lower Frankford Townships Cumberland County	PAG043856	Russell Wilson 579 Grahams Wood Road Carlisle, PA 17013	UNT Condoquinet Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Perry Township Lawrence County	PAG049406	Charles McCabe 19 Parker Farms Road Wallingford, CT 06492-2962	UNT to Camp Run 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Forward Township Butler County	PAG049388	Melvin Musulin 121 Schar Road Evans City, PA 16033	UNT to Breakneck Creek 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG048904	James C. Domingo 18400 Woodland Trail Saegertown, PA 16433	UNT to Brookhouse Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Worth Township Butler County	PAG049403	Walter Dittmer 219 Cooper Road Slippery Rock, PA 16057	UNT to Muddy Creek 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8 (SSN)*

<i>Facility County/Municipality</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name</i>	<i>Contact Office &amp; Phone No.</i>
Black Creek Township Indiana County	Synagro 3239 Route 981 New Alexandria, PA 15670	Gaston Farm	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-10*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Burrell Township Indiana County	PAG106115	Texas Eastern Transmissions, LP 890 Winter Street Suite 300 Waltham, MA 02451	UNT to Blacklick Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
North Union Township Fayette County	PAG106116	Texas Eastern Transmissions, LP 890 Winter Street Suite 300 Waltham, MA 02451	UNT to Redstone Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

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

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

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

## SAFE DRINKING WATER

### Actions taken under the Pennsylvania Safe Drinking Water Act

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

#### Permit No. 3907507, Public Water Supply.

Applicant	<b>Southern Lehigh School District Lower Milford Elementary School</b> 5775 Main Street Center Valley, PA 18034 Lower Milford Township
County	<b>Lehigh</b>
Type of Facility	PWS
Consulting Engineer	George Ruby, P. E. Ruby Engineering 3605 Island Club Drive #9 North Port, FL 34288
Permit to Construct Issued	January 22, 2008

#### Permit No. 4007508, Public Water Supply.

Applicant	<b>United Water Pennsylvania, Inc.</b> 4211 East Park Circle Harrisburg, PA 17111 Dallas Township
County	<b>Luzerne</b>
Type of Facility	PWS
Consulting Engineer	Thomas R. Schink, P. E. United Water Pennsylvania, Inc. 4211 East Park Circle Harrisburg, PA 17111

Permit to Construct Issued January 14, 2008  
**Permit No. 166w014-MA, Minor Amendment, Public Water Supply.**

Applicant **Mehoopany Township Municipal Authority**  
 R. R. 2, Box 50  
 Main Street  
 Mehoopany, PA  
 Mehoopany Township

County **Wyoming**  
 Type of Facility PWS (STORAGE TANK: NORTH)

Consulting Engineer Alfred Benesch & Co.  
 400 One Norwegian Plaza  
 P. O. Box 1090  
 Pottsville, PA 17901

Permit to Construct Issued January 15, 2008  
**Permit No. 2400140, Operations Permit, Public Water Supply.**

Applicant **Sand Springs Water Company, Inc.**  
 4511 Falmer Drive  
 Bethlehem, PA 18020  
 Butler Township

County **Luzerne**  
 Type of Facility PWS

Consulting Engineer William Schumacher, P. E.  
 Schumacher Engineering, Inc.  
 55 North Conahan Drive  
 P. O. Box 654  
 Hazleton, PA 18201

Permit to Operate Issued January 17, 2008

**Permit No. 2450063, Operations Permit, Public Water Supply.**

Applicant **Pennsylvania American Water**  
 800 West Hersheypark Drive  
 Hershey, PA 17033  
 Coolbaugh Township

County **Monroe**  
 Type of Facility PWS

Consulting Engineer William J. Malos, P. E.  
 Pennsylvania American Water  
 100 North Pennsylvania Avenue  
 Wilkes-Barre, PA 18701

Permit to Operate Issued December 10, 2007

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

**Permit No. 0607505, Public Water Supply.**

Applicant **Wernersville Municipal Authority**  
 South Heidelberg Township  
 County **Berks**

Type of Facility Construction of new treatment building at Well No. 5 to provide disinfection for Well Nos. 5 and 6.

Consulting Engineer John P. Spitko, P. E.  
 Spotts Stevens and McCoy, Inc.  
 1047 North Park Road  
 Reading, PA 19610-0307

Permit to Construct Issued January 17, 2008

**Permit No. 6707513 MA, Minor Amendment, Public Water Supply.**

Applicant **Wrightsville Borough Municipal Authority**

Municipality Hellam Township  
 County **York**

Type of Facility Wrightsville Crossing .500 mg Storage Tank.

Consulting Engineer John F. Leen IV, P. E.  
 C S Davidson, Inc.  
 38 North Duke Street  
 York, PA 17401

Permit to Construct Issued January 17, 2008

**Permit No. 2107510 MA, Minor Amendment, Public Water Supply.**

Applicant **Pennsylvania American Water**

Municipality Silver Spring Township  
 County **Cumberland**

Type of Facility Bulk caustic storage tank replacement.

Consulting Engineer Scott M. Thomas, P. E.  
 Pennsylvania American Water Company  
 800 West Hersheypark Drive  
 Hershey, PA 17033

Permit to Construct Issued January 17, 2008

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

**Permit No. M.A.—5994502—Construction, Public Water Supply.**

Applicant **Mansfield University**  
 Township or Borough Mansfield Borough  
 County **Tioga**

Responsible Official Richard Nelson  
 Mansfield University  
 Brooks Maintenance Building  
 115 Sherwood Street  
 Mansfield, PA 16933

Type of Facility Public Water Supply—Construction

Consulting Engineer Robert Bruce, P. E.  
Penn State Facilities  
Engineering Institute  
Marion Place  
Suite 414  
135 East Nittany Avenue  
State College, PA 16801

Permit Issued Date January 28, 2008

Description of Action Authorizes installation of sodium permanganate facilities for organics oxidation.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Butler Township	P. O. Box 339 Biglerville, PA 17307	Adams County

*Plan Description:* The development proposed the installation of a small flow treatment facility to serve one single-family residence. The facility is proposing a dry stream discharge that allegedly flows into a UNT of the Oppossum Creek. The name of the project is Steven Sheets and the project code number is A3-01909-185-3s. The plan was disapproved because the provisions of Chapter 71, § 71.64(c)(2) and (3) have not been met.

### 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>
West Manheim Township	c/o Nancy C. Smith, Secretary 31 Fairview Drive Hanover, PA 17331	York County

*Plan Description:* Joshua Hill/Lippy Farm/Woodhaven Development, C3-67964-176-3: The Department of Environmental Protection (Department) has completed a review of the previously referenced Official Plan Revision for a 136 lot single-family residential subdivision on 203.7 acres with total proposed sewage flows of 32,100 gpd tributary to a private onsite wastewater treatment plant with a discharge to the West Branch of the Codorus Creek. The treatment plant will be sized for 100,000 gpd in order to serve future development and possible Township existing needs areas. The proposed development is located on the northeastern corner of the Baltimore Pike (SR 0094) and Musselman Road in West Manheim Township, York County. The plan was disapproved because it fails to provide certification from the Department's Water Planning Office concerning nutrient offsets and credits that will be used to address the Chesapeake Bay Strategy Initiative and it fails to discuss the proposed wastewater treatment plant technology, which will affect the need for such nutrient credits and offsets. The planning submission also lacks a letter of intent from a seller of certified nutrient credits. Furthermore, the October 16, 2007, agreement addressing operation and maintenance issues between the developer and the municipality fails to mention these Bay Strategy items. The plan also mentions the possibility of serving future developments and existing needs areas within the Township, but fails to include detailed information about such an extension of public sewers. Last, the planning submission fails to provide a detailed cost analysis for the identified long-term method of sewage disposal and does not include proper financial assurances.

*Plan Location:* On the southeast side of SR 531 (Old Carlisle Road), 4/10 of a mile north of the intersection with T-539 (Bull Valley Road) in Butler Township, Adams County.

### HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

#### Public Notice of Proposed Consent Decree Gilbertsville PCE Site, Douglass Township, Montgomery County, PA

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) has entered into a Consent Order and Agreement with John Chun Ng, for reimbursement of certain response costs incurred to remediate hazardous substances released and threatened to be released at the Gilbertsville PCE Site in Bucks County, PA (the site).

This site is located in close proximity to the intersection of Routes 100 and 73 in Douglass Township, Montgomery County, PA. John Chun Ng is the owner of a portion of the site on Philadelphia Avenue. The site consists of a residential area impacted by a plume of groundwater contamination. Tetrachloroethene, also known as PCE is the contaminant of concern affecting the site. The Philadelphia Avenue property is the source of the contamination affecting the site area. A historic spill of dry cleaning fluid occurred on the Philadelphia Avenue property prior to John Chun Ng's ownership.

John Chun Ng is a responsible party under section 701 of HSCA, (35 P. S. § 6018.701). It is in the public interest for the Department to resolve its claim against John Chun Ng. The Department and John Chun Ng have negotiated in good faith and he has agreed to reimburse the Department for certain response costs in the amount of \$4,500. John Chun Ng shall receive contribution protection from claims related his ownership of a portion of the site.

This notice is provided under section 1113 of HSCA, (35 P. S. § 6020.1113), which states that, "settlement shall become final upon the filing of the Department's response to significant written comments." The Consent Order and Agreement, which contains the specific terms of the agreement is available for public review and comment. The agreement can be examined from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, located at 2 East Main Street in Norristown, PA by contacting either Natalie Huff at (484) 250-5722 or Gina M. Thomas, Esquire at (484) 250-5930. Natalie Huff and Gina M. Thomas may also be contacted electronically at nhuff@state.pa.us and githomas@state.pa.us, respectively. A public comment period on the Consent Order and Agreement will extend for 60 days from today's date. Persons may submit written comments regarding the agreement within 60 days from today's date, by submitting them to Nathalie Huff at the previous address.

**Public Notice of Proposed Consent Order and Agreement Zeiglerville TCE Site, Lower Frederick Township, Montgomery County, PA**

The Department of Environmental Protection (Department), under the authority of the Pennsylvania Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1113) has entered into a Consent Order and Agreement with Alfred E. Manning Living Trust (Manning Trust) and Village by the Pond, LP (Village Pond), for reimbursement of certain response costs incurred to remediate hazardous substances released and threatened to be released at the Zeiglerville TCE Site (the Site). This Site consists of an area of groundwater contamination which emanates from a property located at 1200 North Gravel Pike in Zeiglerville, PA. The Department has performed response actions at the Site, including the installation of a public waterline to provide potable water to impacted residences.

The Manning Trust owns the property which is the source of the contamination and Village Pond owns the property which is adjacent to the source area. Alfred Manning is the trustee of the Manning Trust and is a general partner of Village Pond. The Manning Trust and Village Pond did not conduct or permit the generation, transportation, storage, treatment or disposal of hazardous substances on the source area properties and did not contribute to the release or threatened release of hazardous substances at the Site.

The Department has determined that it is in the public interest to resolve its claim against Manning Trust and Village Pond. Thus, the Department has entered into a settlement with the Manning Trust and Village Pond and these owners shall reimburse the Department in the amount of \$4,000. The Manning Trust and Village Pond shall receive contribution protection from claims related to their ownership of the source area of the contamination.

This notice is provided under section 1113 of HSCA, (35 P. S. § 6020.1113), which states that, "settlement shall become final upon the filing of the Department's response to the significant written comments." The Consent Order and Agreement, which contains the specific terms of the agreement is available for public review and comment. The agreement can be examined from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, located at 2 East Main Street, Norristown, PA 19401, by contacting either Dustin Armstrong (484) 250-5723 or Gina M. Thomas, Esquire at (484) 250-5930. Dustin Armstrong and Gina M. Thomas may also be contacted electronically at darmstrong@state.pa.us and githomas@state.pa.us, respectively. The public comment period on the Consent Order and Agreement will extend for 60 days from today's date. Persons may submit written comments regarding the agreement within 60 days from today's date, by submitting them to Dustin Armstrong at the previous address.

**Notice of Settlement Under HSCA and CERCLA**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. sections 9601—9675) has entered into a Prospective Purchaser Agreement (Agreement) with Eagle Lawrence Associates, LP, 314 Fairview Road, Narberth, PA 19072, regarding the Havertown PCP Site.

The Havertown PCP Site is a National Priority List Site under CERCLA which is located along Eagle Road in Havertown, PA approximately 1 mile north of Route 3 (West Chester Pike). The Site consists of soils and groundwater contamination associated with the former operation of a wood processing facility. Significant groundwater contamination at the Site has migrated under Eagle Road and beneath the former location of the Philadelphia Gum Corporation (Philadelphia Gum Property) where it enters a storm sewer draining into Naylors Run, a water of this Commonwealth. In addition to other remedial action, the USEPA, in conjunction with the Department, has implemented a groundwater treatment system for contaminated groundwater at the Site.

Eagle Lawrence Associates, LP has acquired a portion of the Havertown PCP Site consisting of 2.85 acres located on the corner of Eagle and Lawrence Roads in Havertown and intends to redevelop the site for commercial purposes. Eagle Lawrence Associates, LP has asserted, and the Department has no information to indicate otherwise, that, other than potential liability associated with its purchase of this property, Eagle Lawrence Associates LP neither caused, contributed to, nor is otherwise liable for any contamination at the Havertown PCP Site. Under the terms of the Agreement with the Department, Eagle Lawrence Associates, LP agrees: (1) to contribute \$25,000 towards the Department's response costs for the Havertown PCP Site; (2) not to exacerbate any existing contamination at the Site; and (3) to provide access and right of entry to the Department for future performance of any potential response actions related to the Havertown PCP Site in exchange for a covenant not to sue and contribution protection from the Commonwealth.

This notice is provided under section 1113 of HSCA, (35 P. S. § 6020.1113). The Agreement may be examined from 8 a.m. to 4 p.m. at the Department's Offices at 2 East Main Street, Norristown, PA 19401 by contacting either George Horvat at (484) 250-5717 or Anderson Lee Hartzell at (484) 250-5866. A public comment period on the Agreement will extend for a period of 60 days from the date of publication of this Notice. Interested persons may submit written comments regarding the PPA to the Department by submitting them to George Horvat at the previous address.

**LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

**UNDER ACT 2, 1995**

**PREAMBLE 2**

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation

performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Girard Academy Music Program**, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger, Kleinfelder East, Inc., 800 East Washington Street, West Chester, PA 19380 on behalf of Francis Locke, School District of Philadelphia, PA 19103 has submitted a Final Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Gorman Property**, Northampton Township, **Bucks County**, Michael Gonshor, Roux Associates, Inc., 1222 Forest Parkway, Suite 190, West Deptford, NJ 08066 on behalf of Eileen Gorman, 39 North Drive, Holland, PA 18966 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with other organics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Rendeh, LP Property**, Horsham Township, **Bucks County**. Sean Damon, Langan Engineering & Environmental Services, Inc., P. O. Box 1569, Doylestown, PA 18901 on behalf of Carl Hedner Rendeh, LP, 489 Creek Road, Doylestown, PA 18901 has submitted a Final Report concerning remediation of site groundwater contaminated with other organics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Montgomeryville Material Processing Center**, Montgomery Township, **Montgomery County**. Sean Damon, Langan Engineering & Environmental Services, Inc., on behalf of Karen Anthony, Nappen & Associates, 171 Corporate Drive, Montgomeryville, PA 18936 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**(Revised) Holland Shopping Center**, Northampton Township, **Bucks County**. Jeffrey T. Bauer, Whitestone Associates, Inc., 1120 Welsh Road, Suite 100, North Wales, PA 19454, Keith T. D'Ambrosio, P. E., Whitestone Associates, Inc., 1120 Welsh Road, Suite 100, North Wales, PA 19454 on behalf of Matthew Winters, WaWa, Inc., Red Roof Office, 260 Baltimore Pike, WaWa PA 19063 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**BRT, Inc.**, East Whiteland Township, **Chester County**. Gilbert Marshall, Marshall Geosciences, Inc., 170 East First Avenue, Collegeville, PA 19426 on behalf of Rich Graybeal, BRT, Inc., 813 North Octorara Trail Road, Parkesburg, PA 19365 has submitted a 90-day Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**(Resubmitted) Eastern Prestressed Concrete Site**, Hatfield Township, **Montgomery County**. Craig Herr, RT Environmental Services Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Ryan Conner, PREI Hatfield Associates, LP, 1001 East Hector Road, Conshohocken, PA 19428 has submitted a Remedial Investigation Report concerning remediation of site groundwater contaminated with unleaded gasoline, diesel fuel and No. 2 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

**Former Leach-Covington Property**, Tunkhannock Township, **Monroe County**. Richard D. Trimpi, CHMM, P. G., Trimpi Associates, Inc., 1635 Old Plains Road, Pennsylvania, PA 18073 has submitted a Final Report (on behalf of his client, Argyle Watterston, Option One Mortgage Corporation, 6531 Irvine Center Drive, Irvine, CA 92618) concerning the remediation of soils and groundwater found to have been impacted by No. 2 fuel oil as the result of an accidental release. The report was submitted to document attainment of the Residential Statewide Health Standard. The intended future use of the site will be residential. A public notice regarding the submittal of the Final Report was published in the *Pocono Record* on January 8, 2008.

**Former Poseidon Pools**, Wright Township, **Luzerne County**. Charlotte Spak, Quad Three Group, Inc., Glenmaura Professional Center, Suite 105, 72 Glenmaura Boulevard, Moosic, PA 18507 has submitted a Final Report (on behalf of her client, The Greater Wilkes-Barre Industrial Fund, Inc., 2 Public Square, Wilkes-Barre, PA 18702), concerning soil contamination related to releases and spillage from former underground storage tanks and aboveground storage tanks containing various petroleum related products used in former site operations. The report was submitted to document attainment of the Statewide Health Standard for soils. The future use of the property will remain nonresidential.

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

**David Logue Property**, Oneida Township, **Huntingdon County**. Groundwater & Environmental Services, Inc., 6 Sheraton Drive, Suite 2, Altoona, PA 16601, on behalf of David T. Logue, 8176 Gorusch Road, Huntingdon, PA 16652, submitted a final report concern-



ing remediation of site soils and groundwater contaminated with leaded gasoline. The report is intended to document remediation of the site to the Statewide Health Standard.

**Former Grace Mine Facility/Bryne Eyre**, New Morgan Borough, **Berks County**. Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, on behalf of Morgantown Properties, 502 Gordon Drive, Exton, PA 19341, submitted a risk assessment, remedial investigation and final report concerning remediation of site soils and groundwater contaminated with petroleum compounds and metals. The reports are intended to document remediation of the site to a combination of the Site-Specific and Statewide Health Standards.

**BRT, Inc., Accidental Gasoline Release**, East Lampeter Township, **Lancaster County**. Marshall Geoscience, Inc., 170 East First Avenue, Collegeville, PA 19426, on behalf of Wawa, Inc., 260 West Baltimore Pike, Media, PA 19063-5620 and BRT, Inc., 813 North Octorara Trail, Parkesburg, PA 19365, submitted a final report concerning remediation of surface water contaminated with gasoline. The report is intended to document remediation of the site to the Statewide Health Standard and was submitted within 90 days of the release which occurred on October 26, 2007.

**Harman Stove Company**, Jackson Township, **Dauphin County**. GeoServices, Ltd., 1525 Cedar Cliff Drive, Camp Hill, PA 17011, on behalf of Harman Stove Company, 352 Mountain House Road, Halifax, PA 17032, submitted a final report concerning remediation of site soils contaminated with paint waste and xylene from a ruptured drum. The report is intended to document remediation of the site to the Nonresidential Statewide Health Standard.

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

**Alpine Plaza**, Wysox Township, **Bradford County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801 on behalf of William and Joan Woloshyn, R. R. 2, Box 72A-1, Wysox, PA 18854 has submitted a Final Report concerning remediation of site groundwater contaminated with solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Dominion Transmission Inc., Harrison Compressor Station**, Harrison Township, **Potter County**. Dominion Resource Services, Inc., 501 Martindale Street, Suite 400, DL Clark Building, Pittsburgh, PA 15212-5817 has submitted a Final Report concerning remediation of site soil contaminated with ethylene glycol. The report is intended to document remediation of the site to meet the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania*

*Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**John Barry Elementary School (Former)**, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger Klenfelder East Inc., 800 East Washington Street, West Chester, PA 19380 on behalf of Francie Locke, School District of Philadelphia, 440 North Broad, Philadelphia, PA 19130 has submitted a Final Report concerning the remediation of site soil contaminated with organic. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 14, 2008.

**Swede Square Shopping Center**, East Norriton Township, **Montgomery County**. James M. Connor, URS Corporation, 2325 Maryland Road, Willow Grove, PA 19090, on behalf of Genuardi's Market, LP, Attn: Skip Genuardi, 470 Norristown Road, Suite 300, Blue Bell, PA 19422 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents and other organic. The Final

report demonstrated attainment of the Site-Specific Standards and was approved by the Department of Environmental Protection on April 26, 2006.

**Kemblesville Elementary School**, Franklin Township, **Chester County**, Clorece Kulp, DelVal Soil & Environmental Consultants, Inc., 4040 Skyron Drive, Suite A-1, Doylestown, PA 18902 on behalf of Donna Archer, Avon Grove Foundation, 110 East State Road, West Grove, PA 19390 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 13, 2008.

**Nicolet Industries Site**, Ambler Borough, **Montgomery County**, Darryl Borrell, Manko, Gold, Katcher & Fox, LLP, 401 City Line Avenue, Suite 500, Bala Cynwld, PA 19004 on behalf of Arnold Frumin, AMA/American Marketing Association, Inc., 57 Old Post No. 2 Road, Greenwich, CT, 06830 has submitted a Cleanup Plan concerning the remediation of site soil and groundwater contaminated with Pah's. The Cleanup Plan was approved by the Department of Environmental Protection on January 8, 2008.

**121 Main Street**, Souderton Borough, **Montgomery County**. Daniel Caprio, Patriot Environmental Management, LLC, P. O. Box 629 (21 Unionville Road), Douglasville, PA 19518 on behalf of Mark Henry, RVPILTD, Big House Partners, LLC, 32 East Reliance Road, Souderton, PA 18964 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 11, 2008.

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

**Altadis USA—McAdoo Facility**, Banks Township, **Carbon County**. Liberty Environmental, Inc., 10 North Fifth Street, Suite 800, Reading, PA 19601 submitted a Final Report package (on behalf of their client, Altadis, USA, 1000 Tresckow Road, McAdoo, PA 18237), concerning the remediation of soils found to have been impacted by No. 6 fuel oil as a result of an accidental release. The report demonstrated attainment of the Statewide Health Standard and was approved on January 16, 2008. The report was originally submitted within 90 days of the release.

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

**Carst Fuel Oil Co./Nathan Bittner Property (formerly Lois Verbose Property)**, Steelton Borough, **Dauphin County**. URS Corporation, 4507 North Front Street, Suite 200, Harrisburg, PA 17110, on behalf of Nathan Bittner, 3125 Walnut Street, Harrisburg, PA 17109 and the former Carst Fuel Oil Company, Inc., c/o Cathy Carst, 412 Bristol Drive, Harrisburg, 17109, submitted a final report concerning remediation of site soils contaminated with No. 2 fuel oil. The final report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on January 23, 2008.

**Southwest Corner 2nd and Washington Streets**, Reading City, **Berks County**. Synergy Environmental, Inc., 155 Railroad Plaza, Royersford, PA 19468, on behalf of City of Reading Redevelopment Authority, 815 Washington Street, Reading, PA 19601, submitted a combined remedial investigation and final report concerning remediation of site soils contaminated with arsenic and lead. The combined report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on January 24, 2008.

**Former Tyco Electronics (AMP) Terminix Property**, Swatara Township, **Dauphin County**. Science Applications International Corporation, 6310 Allentown Boulevard, Harrisburg, PA 17112, on behalf of Tyco Electronics Corporation, P. O. Box 3608, MS 140-42, Harrisburg, PA 17105-3608, submitted a combined remedial investigation and final report concerning the remediation of site groundwater contaminated with chlorinated solvents. The combined report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on January 25, 2008.

**Good Residence**, West Cornwall Township, **Lebanon County**. Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Clifford Good, 300 Horseshoe Pike, Lebanon, PA 17042-8905 and Response Environmental, Inc. representing Senn Freight Lines, 912 Spring Circle, Mechanicsburg, PA 17055, submitted a final report concerning remediation of site soils contaminated with diesel fuel from a truck accident. The report had been submitted within 90 days of the release. The final report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on January 28, 2008.

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

**Northumberland National Bank Property**, Northumberland Borough, **Northumberland County**, Pennsylvania Tectonics, 826 Main Street, Peckville, PA 18452 on behalf of Northumberland National Bank, P. O. Box 271, Northumberland, PA 17857 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 8, 2008.

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

**Kane Gas—Mt. Jewett (P-88)**, Hamlin Township, **McKean County**. PPL Services Corporation, Two North Ninth Street, GENTW17, Allentown, PA 18101-1179 has submitted a Final Report concerning the remediation of site soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 18, 2008.

**Norton Check (P-16)**, Annin Township, **McKean County**. PPL Services Corporation, Two North Ninth Street, GENTW17, Allentown, PA 18101-1179 has submitted a Final Report concerning the remediation of site soils contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 18, 2008.

**Heineman & Strait Check (P-84)**, Norwich Township **McKean County**. PPL Services Corporation, Two North Ninth Street, GENTW17, Allentown, PA 18101-1179 has submitted a Final Report concerning the remediation of site soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 18, 2008.

**Eldred Check (P-94)**, Eldred Township, **McKean County**. PPL Services Corporation, Two North Ninth Street, GENTW17, Allentown, PA 18101-1179 has submitted a Final Report concerning the remediation of site soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 18, 2008.

**Kane Gas—Hazelhurst (P-86)**, Hamlin Township, **McKean County**. PPL Services Corporation, Two North Ninth Street, GENTW17, Allentown, PA 18101-1179 has submitted a Final Report concerning the remediation of site soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 18, 2008.

**Trinity Industries Soil**, City of Butler, **Butler County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of the Community Development Corporation of Butler County, 112 Woody Drive, Butler, PA 16001 has submitted a Cleanup Plan—Revision No. 3 concerning the remediation of site soil contaminated with arsenic, iron, barium, lead, thallium, benzo(a)pyrene, antimony, methylene chloride, nickel, aroclor 1260, aroclor 1248 and pentachlorophenol. The Cleanup Plan—Revision No. 3 was approved by the Department of Environmental Protection on January 25, 2008.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. PAD003043353. Merck & Co., Inc.**, 100 Avenue C, Riverside, PA 17868, located in Riverside Borough, **Northumberland County**. Permit modification application for the change of ownership and transfer of the RCRA HSWA permit. This modification for the transfer from Merck & Co., Inc. to Cherokee Pharmaceuticals, LLC was approved by the Williamsport Regional Office on January 18, 2008.

Persons interested in reviewing the permit should contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users should contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

**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.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit ID No. WMGR109SW002. Fossil Free Fuel, LLC**, 223 Braddock Avenue, Braddock, PA 15104. Operation of a residual waste general permit for beneficial use and processing in Braddock Borough, **Allegheny County**. Permit issued in the Regional Office on January 23, 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.**

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**GP11-11-00516: Fiberblade, LLC—Gamesa** (400 Gamesa Drive, Fairless Hills, PA 19030) on January 28, 2008, to operate four diesel fuel-fired generators, two 300 kW Cummins generators, Model DQAF 60 HZ and two 800 kW Agrekko generators, model no. DCA-800SSK, PA 15931 for their facility in Cambria Township, **Cambria County**. Authorization to operate under this GP will expire on June 30, 2008.

**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.**

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

**ER-06-03049: Fleetwood Industries** (225 Peach Street, Leesport, PA 19533) on January 16, 2008, to bank credits from the closure of their facility in St. Lawrence Borough, **Berks County**.

**21-05002A: PPG Industries, Inc.** (400 Park Drive, Carlisle, PA 17013-9721) on January 23, 2008, for use of a VOC-containing cutting fluid lubricant for glass cutting at the Works No. 6 plant in South Middleton Township, **Cumberland County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**63-00549A: Waste Management, Inc.** (448 Lincoln Highway, Fairless Hills, PA 19030) on January 23, 2008, to authorize construction of six 1,148 Bhp Caterpillar 3516 IC engines at the Arden Landfill, in Chartiers Township, **Washington County**. The engines will comprise a Recycling Gas to Energy Plant and will use gas normally burned in a flare to produce up to 4.8 Mw of power.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**09-0188: Gamesa Wind PA, LLC** (400 Gamesa Drive, Fairless Hills, PA 19030) on January 22, 2008, to operate a new wind generator in Falls Township, **Bucks County**.

**46-0161B: Reading Materials, Inc.** (2052 Lucon Road, P. O. Box 1467, Skippack, PA 19474) on January 22, 2008, to operate a hot asphalt plant in Lower Pottsgrove Township, **Montgomery County**.

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

**53-399-008: PA Pellets, LLC** (705 South Main Street, Coudersport, PA 16915) on January 22, 2008, to operate a wood-fired rotary wood chip dryer and associated air cleaning device (a multicloner collector), two pellet mills, a hammermill and associated air cleaning device (a fabric collector), a pellet cooler and associated air cleaning device (a cyclone collector), two dried wood chip storage bins and one wood pellet storage bin on a temporary basis until May 21, 2008, in Ulysses Borough, **Potter County**. The plan approval has been extended.

**49-302-062: Sun-Re Cheese Corp.** (178 Lenker Avenue, Sunbury, PA 17801) on January 24, 2008, to operate an anaerobic digestion system and associated biogas flare on a temporary basis until May 23, 2008, in the City of Sunbury, **Northumberland County**. The plan approval has been extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**32-00040B: Reliant Energy** (121 Champion Way, Suite 200, Canonsburg, PA 15317) on January 24, 2008, for continued operation of repowering project in East Wheatfield Township, **Indiana County**. This plan approval has been extended.

**04-00709B: Colona Transfer, LP** (P. O. Box 311, Portersville, PA 16051) on January 24, 2008, for barge loading and unloading at Colona Dock No. 2 in Monaca Borough, **Beaver County**. This plan approval has been extension.

**65-302-071: Koppers** (436 Seventh Avenue, Pittsburgh, PA 15219) on January 24, 2008, so various issues regarding the sources can be resolved at Monessen Coke Works in Monessen, **Westmoreland County**. This is a plan approval has been extended.

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

**25-1006A: Lake Erie Biofuels, LLC** (1001 State Street, Erie, PA 16501-1814) on January 31, 2008, to construct a biodiesel production plant in City of Erie, **Erie County**. This is a State-only facility.

**25-1006B: Lake Erie Biofuels, LLC** (1540 East Lake Road, Erie, PA 16511) on January 31, 2008, to allow various fuels to be fired in the Process Boilers installed under GP-1 in Erie City, **Erie County**.

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

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**38-05019: AES Ironwood, LLC** (305 Prescott Road, Lebanon, PA 17042-9178) on January 23, 2008, to operate a turbine electric generating facility in South Lebanon Township, **Lebanon County**.

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

**43-00314: Vec Technology, Inc.** (639 Keystone Road, Greenville, PA 16125) on January 23, 2008, to re-issue a Title V Permit to operate a boat manufacturing facility in Greenville Borough, **Mercer County**. The facility's major emission sources include closed and open gel-coat operations associated with the production of the fiberglass reinforced boats and accessories. The facility is a major facility due to its potential to emit Styrene. The significant sources are included in the permit: 1) Closed mold gel coat; 2) Closed mold; 3) Open mold gel-coat; 4) Open mold; 5) Adhesive, solvents and miscellaneous; and 6) Miscellaneous natural gas usage. The CAM Rule 40 CFR Part 64 does not apply to this facility because the facility does not use control equipment to reduce the facility's potential to emit below the applicable permit thresholds. The facility is subject to 40 CFR Part 63, Subpart WWW—National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production and Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.

**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.**

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

**25-00092: Noram Seating, Inc.** (18 South Market Street, Union City, PA 16438) on January 23, 2008, to re-issue the Natural Minor Operating Permit to operate the hardwood chair manufacturing facility in the Borough of Union City, **Erie County**. The facility's primary sources of emissions are: a 1.7 mmBtu/hr wood-fired boiler, chair tumbler, four paint booths and miscellaneous wood working operations.

**61-00190: Oil City Area School District** (10 Lynch Boulevard, Oil City, PA 16301) on January 23, 2008, to re-issue a Natural Minor Permit to operate two natural gas boilers, two hot water heaters and one natural gas electric generator located in Oil City, **Venango County**. The facility is natural minor because the emissions of pollutants are less than Title V threshold.

**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.**

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

**S04-013: Baum Printing Co.** (9985 Gantry Road, Philadelphia, PA 19115) on January 18, 2008, administratively amended to change facility name and to include Plan Approval 06197 in the City of Philadelphia, **Philadelphia County**. The Synthetic Minor Operating Permit was originally issued on November 1, 2004.

**V06-013: Exelon Generating Co.—Delaware Station** (1325 North Beach Street, Philadelphia, PA 19125) on January 22, 2008, administratively amended to change contact information in the City of Philadelphia, **Philadelphia County**. The Title V Operating Permit was originally issued on July 11, 2007.

**V06-005: Exelon Generation Co.—Richmond Generating Station** (3901 North Delaware Avenue, Philadelphia, PA 19137) on January 22, 2008, administratively amended to change contact information. The Title V Operating Permit was originally issued on August 1, 2006.

**V06-014: Exelon Generating Company, Schuylkill Station** (2800 Christian Street, Philadelphia, PA 19146) on January 22, 2008, administratively amended to change contact information. The Title V Operating Permit was originally issued on July 3, 2007.

**V05-001: Exelon Generation Co.—Southwark Generating Station** (2501 South Delaware Avenue, Philadelphia, PA 19148) on January 22, 2008, administratively amended to change contact information. The Title V Operating Permit was originally issued on December 16, 2005.

## 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); and the Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**Permit Number 03991301 and NPDES Permit No. PA0235407, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Logansport Mine in Bethel Township, **Armstrong County** and related NPDES permit to construct coal storage yard and rail load-out facility. Receiving stream, UNT "A" to Allegheny River, classified for the following use: WWF. Application received January 9, 2006. Permit issued January 24, 2008.

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

**03070102 and NPDES Permit No. PA0251151. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Permit issued for commencement, operation and reclamation of a bituminous surface/auger mining site located in Washington Township, **Armstrong County**, affecting 413.0 acres. Receiving streams: UNTs of Limestone Run to Allegheny River. Application received May 15, 2007. Permit issued January 23, 2008.

**65980105 and NPDES Permit No. PA0202363. Gary Gioia Coal Company** (319 Karen Drive, Elizabeth, PA 15037). Permit renewal issued for continued operation and reclamation of a bituminous surface mining site located in Rostraver Township, **Westmoreland County**, affecting 28.8 acres. Receiving streams: UNT to the Monongahela River. Application received June 26, 2007. Renewal permit issued January 25, 2008.

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

**43910102 and NPDES Permit No. PA0208311. Ambrosia Coal & Construction Company** (P. O. Box 442, Edinburg, PA 16116) Renewal of an existing bituminous strip and auger operation in Mill Creek Township, **Mercer County** affecting 350.0 acres. Receiving streams: Three UNTs to Little Sandy Creek. Application received February 5, 2007. Permit issued January 23, 2008.

**37870102 and NPDES Permit No. PA0107948. Ambrosia Coal & Construction Company** (P. O. Box 442, Edinburg, PA 16116) Renewal of an existing bituminous strip and clay removal operation in North Beaver Township, **Lawrence County** affecting 46.0 acres. This renewal is for reclamation only. Receiving streams: UNT to Beaver River. Application received June 21, 2007. Permit issued January 23, 2008.

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

**54010201R. WPS Westwood Generation, LLC**, (1716 Lawrence Drive, DePere, WI 54115), renewal of an existing coal refuse reprocessing operation in Hegins and Frailey Townships, **Schuylkill County** affecting 73.6 acres, receiving stream: none. Application received January 18, 2008.

### Noncoal Permits Actions

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

**Permit No. 28900301 and NPDES Permit No. PA0595861. David H. Martin Excavating, Inc.**, 4961 Cumberland Highway, Chambersburg, PA 17202-9655, renewal of NPDES Permit, Greene Township, **Franklin County**. Receiving streams: Mountain Run classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 26, 2007. Permit Issued January 22, 2008.

**Permit No. 7575SM1 and NPDES Permit No. PA0594296, Hempt Brothers, Inc.**, 205 Creek Road, P. O. Box 278, Camp Hill, PA 17001-0278, renewal of NPDES Permit, Silver Spring Township, **Cumberland County**. Receiving stream: UNT Hogestown Run, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is PA American Water Company West—Conodoguinet Creek.

NPDES renewal application received August 27, 2007. Permit issued January 23, 2008.

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

**64070823. Como Construction Co.,** (P. O. Box 35, Lake Como, PA 18437-0035), commencement, operation and restoration of a quarry operation in Preston Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received October 1, 2007. Permit issued January 23, 2008.

**64070824. David Barnes,** (12999 State Highway 8, Masonville, New York 13804), commencement, operation and restoration of a quarry operation in Scott Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received October 9, 2007. Permit issued January 23, 2008.

**58070862. Norman N. Norton,** (R. R. 2, Box 135C, New Milford, PA 18834), commencement, operation and restoration of a quarry operation in Harford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received October 23, 2007. Permit issued January 23, 2008.

**58070866. Larry Donald Rood,** (P. O. Box 53, Gibson, PA 18820), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received November 2, 2007. Permit issued January 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.*

**21084101. J. Roys, Inc.,** P. O. Box 125, Bowmansville, PA 17507-0125, blasting activity permit issued for commercial development in South Middleton Township, **Cumberland County**. Blasting activity permit end date is January 15, 2008. Permit issued January 18, 2008.

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

**06084102. Austin Powder Company,** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Reading Hospital Post Acute Care Facility in Spring and Heidelberg Townships and Denver Borough, **Berks County** with an expiration date of January 11, 2009. Permit issued January 22, 2008.

**45084101. Explosive Services, Inc.,** (7 Pine Street, Bethany, PA 18431), construction blasting for Winona Lakes in Middle Smithfield Township, **Monroe County** with an expiration date of February 28, 2009. Permit issued January 22, 2008.

**52084101. Explosive Services, Inc.,** (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Mt. Lake Estates in Lackawaxen and Lehman Townships, **Pike County** with an expiration date of January 31, 2009. Permit issued January 22, 2008.

**52084102. Holbert Explosives, Inc.,** (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for a driveway on Old Milford Road in Lehman Township, **Pike County** with an expiration date of January 1, 2009. Permit issued January 22, 2008.

**67084101. M & J Explosives, Inc.,** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Martin Metals Shop in Washington Township, **York County** with an expiration date of January 31, 2009. Permit issued January 22, 2008.

**15084101. Austin Powder Company,** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Uptown Worthington Project in East Whiteland Township, **Chester County** with an expiration date of January 25, 2009. Permit issued January 24, 2008.

**36084111. Gerlach's Drilling & Blasting,** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Bent Creek Development in East Hempfield and Manheim Townships, **Lancaster County** with an expiration date of January 31, 2009. Permit issued January 24, 2008.

**36084112. Gerlach's Drilling & Blasting,** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Metzler Farm in Conestoga Township, **Lancaster County** with an expiration date of January 31, 2009. Permit issued January 24, 2008.

**40084101. Hayduk Enterprises, Inc.,** (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Fairmount Township shale pit in Fairmount Township, **Luzerne County** with an expiration date of January 31, 2009. Permit issued January 24, 2008.

**40084102. Hayduk Enterprises, Inc.,** (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Eagle Rock Resort in Black Creek, Hazle and North Union Townships, **Luzerne and Schuylkill Counties** with an expiration date of January 31, 2009. Permit issued January 24, 2008.

**46084102. American Rock Mechanics, Inc.,** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for The Village at Valley Forge in Upper Merion Township, **Montgomery County** with an expiration date of June 30, 2009. Permit issued January 24, 2008.

**45084102. Explosive Services, Inc.,** (7 Pine Street, Bethany, PA 18431), construction blasting for Smithfield Township Facility on Red Fox Road in Smithfield Township, **Monroe County** with an expiration date of January 22, 2008. Permit issued January 25, 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**

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

**E15-721. Department of Transportation, Engineering District 6-0**, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, Tredyffrin Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain the following water obstructions and encroachments associated with the proposed SR 1012, Section C01—Gulph Road Bridge Replacement over Trout Creek, which will impact a total of 275 linear feet of stream channel. The site is located along Gulph Road just northwest of the intersection of Richards and Gulph Roads.

Work will consist of:

1. Removal of an existing deteriorated stone arch bridge, spanning 28 linear feet and having a minimum clearance of 8.38 feet, over Trout Creek (WWF) and to construct and maintain a prestressed concrete box beam bridge, having a total width of approximately 32.50 feet and a span of 68.5 feet having a minimum clearance of 8.17 feet, at the same location and approximately the same horizontal alignment (Valley Forge, PA Quadrangle N: 16.7 inches; W: 6.6 inches).

2. Streambank stabilization approximately 100 linear feet, both upstream and downstream of the proposed bridge replacement, both sides of stream channel (Valley Forge, PA Quadrangle N: 16.7 inches; W: 6.6 inches).

3. Installation of two rock vane weirs in the stream channel (Valley Forge, PA Quadrangle N: 16.7 inches; W: 6.6 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. 1341(a)).

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

**E01-265: DRAMKA, Inc.**, 1 Barnhart Drive, Hanover, PA 17331, Straban Township, **Adams County**, United States ACOE Baltimore District.

To construct and maintain a road crossing impacting 0.29 acre of PEM wetlands and including seven 106-foot long, 12-inch diameter CMP's, a 12-inch water line, an 8-inch sanitary sewer line, a 27-inch stormwater line and conduits for gas, electric, phone and cable all in associated wetlands to a UNT to Rock Creek (WWF) and to place fill material within the floodway of a UNT to Rock Creek (WWF) located east of Old Harrisburg Road and north of Shealer Road (Gettysburg, PA Quadrangle: Latitude: 39° 51' 22"; Longitude: 77° 12' 46", N: 19.3 inches; W: 12.3 inches) in Straban Township, **Adams County**.

The permittee is required to provide 0.29 acre of replacement wetland. The permittee has proposed 0.36 acre of replacement wetland onsite adjacent to the remaining PFO wetland.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E49-298. Muncy Machine and Tool Company**, P. O. Box 205, Muncy, PA 17756. Muncy Machine and Tool wetland encroachment in Lewis Township, **Northumberland County**, Baltimore ACOE District (Milton, PA Quadrangle N: 21.3 inches; W: 6.6 inches).

To place and maintain fill in 0.23 acre of emergent and 0.21 acre of forested wetland at 5820 Susquehanna Trail, Turbotville, Northumberland County, for the purposes of the Muncy Machine and Tool Company, Inc. business expansion. Mitigation for the project will be done by means of a \$10,000 contribution to the Wildlife for Everyone Endowment Foundation to create at least 0.65 acre of wetland in the West Branch Susquehanna River floodplain (41° 3' 53"; 76° 51' 38").

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

**E20-562, D&L Energy, Inc.**, 2761 Salt Springs Road, Youngstown, OH 44509. Shartle Road to First Church of God Pipeline in West Mead Township, **Crawford County**, ACOE Pittsburgh District (Blooming Valley, PA Quadrangle N: 5.0 inches; W: 14.9 inches).

The applicant proposes to construct a 5,935-foot long steel natural gas pipeline approximately 0.4 mile SE of the intersection of SR 77 and Leslie Road involving: 1) to construct and maintain crossings of three wetlands by trenching having lengths of 19 feet (Wetland A—PEM-1 crossing), 645 feet (Wetland B—PFO—12 crossings) and 755 feet (Wetland C—PEM—5 crossings) and 2) to construct a maintain stream crossing of a UNT to Mill Run. Mill Run is a perennial stream classified as a WWF.

**E20-563, Midway Civic Club**, P. O. Box 101, Conneaut Lake, PA 16316. Midway Civic Club Culvert Extension, in Sadsbury Township, **Crawford County**, ACOE Pittsburgh District (Conneaut Lake, PA Quadrangle 41° 37' 14"; W: 80° 17' 47").

The applicant proposes to remove an existing pedestrian bridge and to construct and maintain a 28-foot long, 4-foot diameter aluminized corrugated steel pipe extension of an existing 4-foot diameter CMP stream enclosure within an existing concrete lined channel of a UNT to Conneaut Lake at the foot of Lakeview Avenue and to modify the existing gravel driveway and the adjacent floodway to construct and maintain a cellular confinement system gravel driveway and turf reinforced matting lined overflow/stormwater swale. The UNT to Conneaut Lake is a perennial stream classified as a HQ-WWF. The project proposes to directly impact approximately 40 feet of stream.

**E25-698, Summit Township Water Authority**, 8290 Old French Road, Erie, PA 16509. Mitchell Well Field/Waterline Crossing UNT LeBeouf Creek Amendment, in Waterford Township, **Erie County**, ACOE Pittsburgh District (Waterford, PA Quadrangle N: 21.0 inches; W: 15.8 inches).

The applicant proposes to amend Permit E25-698 to install a well field consisting of 3,300 linear feet of 12-inch diameter ductile iron waterline, two municipal drinking water supply wells and a chlorine/meter building (Waterford, PA Quadrangle N: 21.0 inches; W: 15.8 inches) in Waterford Township, Erie County approximately 1.2 mile north of the intersection SR 97 and Himrod Road involving: 1) to remove the existing bridge and to construct and maintain a prefabricated steel bridge having a clear span of 53 feet and an underclearance of approximately 9.0 feet; 2) to construct and maintain two municipal drinking water supply wells within PEM wetlands; 3) to temporarily impact approximately 0.17 acre of wetlands for installation of two wells within the wetland and the wetland crossing of the associated waterline; 4) to install and maintain a ductile iron 12-inch diameter waterline across LeBoeuf Creek; 5) to construct and maintain an access road to the wells impacting 0.076 acre of PEM wetlands; 6) to construct 0.076 acre of PEM wetlands onsite and; 7) to construct and maintain approximately 2,300 linear feet of 12-inch diameter ductile iron waterline involving the crossing of a UNT LeBoeuf Creek (Waterford, PA Quadrangle N: 20.75 inches; W: 0.10 inch) approximately 0.2 mile north of the intersection of SR 97 and Moore Road.

The applicant proposes to following amendment to Permit E25-698 to install a well field consisting of 3,300 linear feet of 12-inch diameter ductile iron waterline, two municipal drinking water supply wells and a chlorine/meter building (Waterford, PA Quadrangle N: 21.0 inches; W: 15.8 inches) in Waterford Township, Erie County approximately 1.2 mile north of the intersection SR 97 and Himrod Road involving: 1) to remove the existing bridge and to construct and maintain a prefabricated steel bridge having a clear span of 53 feet and an underclearance of approximately 9.0 feet; 2) to construct and maintain two municipal drinking water supply wells within PEM wetlands; 3) to temporarily impact approximately 0.17 acre of wetlands for installation of two wells within the wetland and the wetland crossing of the associated waterline; 4) to install and maintain a ductile

iron 12-inch diameter waterline across LeBoeuf Creek; 5) to construct and maintain an access road to the wells impacting 0.076 acre of PEM wetlands; 6) to construct 0.076 acre of PEM wetlands onsite; and 7) to construct and maintain approximately 2,300 linear feet of 12-inch diameter ductile iron waterline involving the crossing of a UNT LeBoeuf Creek (Waterford, PA Quadrangle N: 20.75 inches; W: 0.10 inch) having a length of approximately 0.2 mile north of the intersection of SR 97 and Moore Road.

LeBoeuf Creek and the UNT LeBoeuf Creek are perennial streams classified as a TSF. The project proposes to impact approximately 50 linear feet of stream and to temporarily impact approximately 0.17 acre of PEM wetlands and to permanently impact 0.076 acre of PEM wetlands.

**E62-411, Columbus Township Authority**, P. O. Box 274, Columbus, PA 16405. Highway 426 Sewerline, in Columbus Township, **Warren County**, ACOE Pittsburgh District (Columbus, PA Quadrangle N: 7.3 inches; W: 16.3 inches).

The applicant proposes to construct and maintain a sewer line extension having a length of approximately 3,300 feet and consisting of 8-inch PVC plastic gravity pipeline and 3-inch forcemain extending from the existing sewer line at the City of Corry, Erie County/Columbus Township, Warren County border through an area in Columbus Township adjacent to SR 426 to the village of Colza involving: 1) six open cut pipeline crossings of PEM wetlands having a total length of approximately 203 feet; 2) two pipeline crossings of wetlands by boring having total length of 95 feet; 3) a open cut pipeline crossing of Winton Creek; and 4) construction of a pump station within the floodway of Winton Creek permanently impacting 0.007 acre (de minimis) of PEM wetlands. Winton Creek is a perennial stream classified as a CWF. The project proposes to permanently impact approximately 0.007 acre (de minimis) of PEM wetland and to temporarily impact approximately 0.1 acre of PEM wetlands and approximately 30 linear feet of stream.

#### ENVIRONMENTAL ASSESSMENTS

*Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.*

**EA1109-001, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation**, Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Barr Township, **Cambria County**, Baltimore ACOE District.

The applicant proposes to construct a mine drainage treatment facility, which includes removal of refuse on site and on the adjacent stream bank. The project will include the backfilling of (1) 0.84 acre of PEM/SS/FO wetlands for treatment plant construction; (2) construction of an outfall and (3) removal of refuse and stabilization of 620 linear feet of stream bank along the West Branch Susquehanna River. A 0.86 acre replacement wetland will be constructed onsite (Barnesboro Quadrangle N: 0.75 inch; W: 3 inches).

#### WATER QUALITY CERTIFICATIONS

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19428.*

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(a)).

Except as otherwise noted, the Department certifies that the construction and operation herein 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.

Any person aggrieved by this action may appeal, under Section 4 of the Environmental Hearing Board Act, (35 P. S. section 7514) and the Administrative Agency Law (2 Pa.C.S. Chapter 5A) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board (Board) within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of 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 decisional law.

**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(a)). (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)**

*Permits Issued and Actions on 401 Certifications:*

**Final Actions Pursuant To Section 401 of the Federal Water Pollution Control Act**

Certification Request Initiated By:

Department of the Navy  
NAVFAC MID-ANTIC  
44921 South Broad Street  
Philadelphia, PA 19112

This project involves the discharge of supernatant from the Fort Mifflin dredge disposal area resulting from the dredging of the Philadelphia Navy Yard Pier Four. Approximately 130,000 cubic yards of sediment will be removed and placed in the disposal area located at the confluence of the Schuylkill and Delaware Rivers. Sediments will settle out in the basin and the supernatant will be returned to the Delaware Estuary. The following effluent limits in mg/l apply:

<i>Parameter</i>	<i>Average Monthly Limit (mg/l)</i>	<i>Maximum Daily Limit (mg/l)</i>	<i>Instantaneous Maximum Limit (mg/l)</i>	<i>Monitoring Frequency</i>
Flow Cell C (mgd)	Monitor and Report	Monitor and Report		Daily
Total Suspended Solids	3,000		4,500	Daily
pH	6 to 9 units at all times			Daily
Cadmium, Total	0.0036	0.0054		1/Week
Copper, Total	0.015	0.023		1/Week
Mercury, Total	0.0008	0.0012		1/Week
Thallium, Total	0.003	0.0045		1/Week
PCBs, Total	Not Detectable Using EPA Method 608 (GC/ECD)			1/Week
PCBs—209 Congeners	Monitor and Report Using EPA Method 1668A			2/Month

*Final Action on Request:* Certification granted.

**STORAGE TANKS**

**SITE-SPECIFIC INSTALLATION PERMITS**

**The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.**

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
08-02-028	Pittsburgh Terminals Corporation P. O. Box 2621 Harrisburg, PA 17105-2621 Attn: Stephen Carten	Allegheny	Neville Township	4 ASTs storing Petroleum Products	14,508,000 gallons total

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## SPECIAL NOTICES

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

**Request for Comment and Notice of Public Meeting  
For the Proposed Total Maximum Daily Load  
(TMDL) for the Watershed of Patterson Creek in  
Armstrong County**

The Department of Environmental Protection (Department) will accept comments on the proposed TMDL developed for the watershed of Patterson Creek in Armstrong County. The TMDL was established in accordance with the requirements of section 303(d) of The Clean Water Act. Streams within this watershed were listed in Pennsylvania's 2006 Integrated Water Quality Monitoring and Assessment Report as being impaired due to sedimentation resulting from agricultural activities.

There currently are no State or Federal in-stream numerical water quality criteria for sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of sediment in the watershed of Patterson Creek. Sediment loadings were allocated among all land use categories present in the watershed. Data used in establishing this TMDL were generated using a water quality analysis model designed by the Pennsylvania State University.

The data and all supporting documentation used to develop the proposed TMDL are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (PA Keyword: TMDL). To request a copy of this TMDL, contact Joe Boylan at [jboylan@state.pa.us](mailto:jboylan@state.pa.us), or 400 Waterfront Drive, Pittsburgh, PA 15222.

The Department will consider all comments in developing the final TMDL, which will be submitted to EPA for approval. Written comments will be accepted at the previous address and must be received by April 4, 2008. A public meeting to discuss the technical merits of the TMDL will be held on March 4, 2008 at 6 p.m. at the Armsdale Administration Building, 1st Floor, Room 103, 124 Armsdale Road, Kittanning, PA 16201.

*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 Scrubgrass Creek Watershed in  
Venango and Butler Counties**

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on a proposed TMDL for the Scrubgrass Creek Watershed in Venango and Butler Counties. The meeting will be held on February 26, 2008, beginning at 9 a.m. at the Knox District Mining Office in Knox, PA. The proposed TMDL was developed in accordance with the requirements of the Clean Water Act, Section 303(d). Thirty-nine segments in the Scrubgrass Creek Watershed

have been identified as impaired on the 1996, 1998, 2000, 2002, 2004 and 2006 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
51243	Scrubgrass Creeek	11.7
51270	UNT Scrubgrass Creek	1.6
51271	UNT Scrubgrass Creek	1.3
51272	UNT Scrubgrass Creek	4.5
51273	UNT Scrubgrass Creek	1.2
51274	UNT Scrubgrass Creek	0.5
51275	UNT Scrubgrass Creek	1.7
51276	UNT Scrubgrass Creek	0.7
51277	UNT Scrubgrass Creek	1.5
51278	UNT Scrubgrass Creek	1.5
51279	UNT Scrubgrass Creek	1.2
51280	UNT Scrubgrass Creek	0.7
51281	UNT Scrubgrass Creek	1.5
51282	UNT Scrubgrass Creek	1.6
51283	UNT Scrubgrass Creek	0.5
51284	UNT Scrubgrass Creek	0.6
51290	UNT Scrubgrass Creek	0.5
51291	UNT Scrubgrass Creek	0.4
51292	UNT Scrubgrass Creek	2.1
51293	UNT Scrubgrass Creek	1.6
51294	UNT Scrubgrass Creek	0.5
51295	UNT Scrubgrass Creek	1.4
51296	UNT Scrubgrass Creek	0.4
51297	UNT Scrubgrass Creek	0.5
51298	UNT Scrubgrass Creek	0.5
51299	UNT Scrubgrass Creek	0.7
51301	UNT Scrubgrass Creek	1.1
51244	Bullion Run	0.7
51248	UNT Bullion Run	0.6
51249	UNT Bullion Run	1.1
51250	UNT Bullion Run	0.4
51285	Gilmore Run	3.1
51286	UNT Gilmore Run	0.5
51287	UNT Gilmore Run	0.4
51288	UNT Gilmore Run	0.5
51289	UNT Gilmore Run	0.8
51257	Trout Run	1.7
51258	UNT Trout Run	0.32
51260	UNT Trout Run	0.29

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	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and to the mid 20th centuries. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations which are 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 the past 5 years.

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 Mining Office can also be obtained by contacting this address.

The proposed TMDL for the Scrubgrass Creek Watershed can be accessed through the Department's web site at [www.dep.state.pa.us](http://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 April 9, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Monday, February 25, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 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.

**Request for Comment and Notice of Public Meeting  
For the Proposed Total Maximum Daily Loads  
(TMDLs) for the Leatherwood Creek and Town Run  
Watersheds in Clarion County**

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on proposed TMDLs for the Leatherwood Creek and Town Run Watersheds in Clarion County. The meetings will be held on February 26, 2008, beginning at 11 a.m. at the Knox District Mining Office in Knox, PA. The proposed TMDLs were developed in accordance with the requirements of the Clean Water Act, Section 303(d). Four stream segments in the Leatherwood Creek Watershed

and eight stream segments in the Town Run Watershed have been identified as impaired on the 1996, 1998, 2000, 2002 and 2004 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following tables:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
48138	Leatherwood Creek	4.4
48165	West Fork Leatherwood Creek	3.1
48171	UNT West Fork	0.6
48172	UNT West Fork	0.7

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
48226	Town Run	3.2
48232	UNT Town Run	3.5
48234	UNT Town Run	0.51
48236	UNT Town Run	0.84
48237	UNT Town Run	0.41
48242	UNT Town Run	0.39
48244	UNT Town Run	0.51
48245	UNT Town Run	0.43

The proposed plans provide calculations of a 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	N/A

The primary pollutant source for the watersheds are abandoned mine workings. These watersheds were mined for coal in the early to the mid 20th centuries and surface coal mining continues on a small scale today. 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.

These TMDLs were 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 TMDLs.

These TMDLs set allowable loading rates for metals and acidity at specified points in the watersheds. The basis of information used in the establishment of these TMDLs is field data collected over the past 2 years.

The data and all supporting information used to develop the proposed TMDLs are available from the Department. To request a copy of the proposed TMDLs 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 Mining Office can also be obtained by contacting this address.

The proposed TMDLs for the Leatherwood Creek and Town Run Watersheds can be accessed through the Department's web site [www.dep.state.pa.us](http://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 April 9, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Monday, February 25, 2008. The Department will consider all comments in developing the final TMDLs, which will be submitted to the EPA for approval.

Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 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.

**Request for Comment and Notice of Public Meeting  
For the Proposed Total Maximum Daily Load  
(TMDL) for the Welch Run Watershed in Jefferson  
County**

The Department of Environmental Protection (Department) is holding a public meeting to discuss and accept comments on a proposed TMDL for the Welch Run Watershed in Jefferson County. The meeting will be held on February 26, 2008, beginning at 1 p.m. at the Knox District Mining Office in Knox, PA. The proposed TMDL was developed in accordance with the requirements of the Clean Water Act, Section 303(d). Five stream segments in the Welch Run Watershed have been identified as impaired on the 1996, 1998, 2000, 2002 and 2004 Pennsylvania 303(d) lists due to depressed pH and high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
48486	Welch Run	3.37
48487	UNT Welch Run	0.63
48488	UNT Welch Run	0.66
48489	UNT Welch Run	0.51
48490	UNT Welch Run	0.73

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 vaule (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	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and to the mid 20th centuries. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations which are 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 the past 3 years.

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 [ehferle@state.pa.us](mailto:ehferle@state.pa.us). Directions to the Knox District Mining Office can also be obtained by contacting this address.

The proposed TMDL for the Welch Run Watershed can be accessed through the Department's web site [www.dep.state.pa.us](http://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 April 9, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Monday, February 25, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 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. 08-221. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Technical Guidance"). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2008.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Final Technical Guidance:*

DEP ID: 257-4000-001. Title: Storage Tank Product Delivery Prohibition. Description: This guidance document describes the circumstances under which the Department may impose storage tank product delivery prohibitions in conjunction with the Department's authority to suspend, revoke or deny an operating permit, as authorized by the Storage Tank and Spill Prevention Act (35 P. S. §§ 6021.101—6021.2104) and 25 Pa. Code Chapter 245 (relating to administration of the storage tank and spill prevention program). The document also identifies the procedures the Department will use to notify the tank owner/operator and product distributors that such a delivery prohibition is in effect. Delivery prohibition includes the prohibition of delivery, deposit or acceptance of product into a storage tank that has been determined to be ineligible for receiving product. Notice of the draft technical guidance document was published in the 37 Pa.B. 6078 (November 11, 2007), with provision for a 30-day public comment period that concluded on December 10, 2007. The Department did not receive public comments on the draft technical guidance during the comment period. Contact: Charles Swokel, Department of Environmental Protection, Bureau of Waste Management, Division of Storage Tanks, Rachel Carson State Office Building, P. O. Box 8763, Harrisburg, PA 17105-8763, (717) 772-5806, cswokel@state.pa.us. Effective Date: February 9, 2008.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 08-222. Filed for public inspection February 8, 2008, 9:00 a.m.]

### **General NPDES Permit for Petroleum Product Contaminated Groundwater Remediation Systems (PAG-05); Public Notice of Availability**

The Department of Environmental Protection (Department) is reissuing its National Pollutant Discharge Elimination System (NPDES) General Permit for Petroleum Product Contaminated Groundwater Remediation Systems (PAG-05). The General Permit, issued under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.101) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20) is reissued for 5 years. The current General Permit, which expired on December 12, 2007, has remained in force pending publication of this notice. The General Permit will continue to not be applicable to discharges into waters designated as "special protection" under 25 Pa. Code Chapter 93 (relating to water quality standards). The discharges are required to be covered through individual permits.

The PAG-05 General Permit is intended for use by eligible dischargers of treated water from petroleum product contaminated groundwater remediation systems into waters of this Commonwealth. Among other requirements, the authorization is subject to effluent limitations, terms, conditions, monitoring and reporting.

Notice requesting public comments on the issuance of PAG-05 was published at 37 Pa.B. 5570 (October 13, 2007). During the public comment period, the Department received one comment on the proposed General Permit, which is addressed in the comment and response document that accompanies the general permit package.

In the final permit, the monitoring frequency for oil and grease has been changed from once a year to once every 6 months, while the monitoring frequency for dissolved iron and total suspended solids has been changed to twice per month to comply with the average monthly monitoring requirement.

The final General Permit package, including the comment and response document, is available by contacting the Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Water Management, Rachel Carson State Office Building, P. O. Box 8774, 11th Floor, Harrisburg, PA 17105-8774, (717) 787-8184, e-mail: gmaduka@state.pa.us. The General Permit is also available on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "NPDES Permits;" choose "General Permits"). Persons with a disability may contact the Department by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 08-223. Filed for public inspection February 8, 2008, 9:00 a.m.]

### **Municipal and Residual Waste Composting; General Permit Number WMGR025; Notice of Issuance**

Under the regulatory authority of 25 Pa. Code § 287.611 (relating to authorization for general permit) of the residual waste regulations and the statutory authority of the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Department of Environmental Protection (Department) has re-issued General Permit WMGR025 for the composting and beneficial use of various categories of residual and municipal waste. General Permit WMGR025 was originally issued on April 26, 1996, and expired on April 26, 2006. This permit has been revised and is being reissued at this time.

General Permit WMGR025 authorizes the composting and beneficial use of the following categories of source-separated organic municipal and residual wastes: agricultural waste other than mortalities, food processing waste, preconsumer and postconsumer food residuals, yard waste, land clearing and grubbing material, untreated wood waste, gypsum wallboard, paper, cardboard, waxed cardboard, virgin paper mill sludge and spent mushroom substrate. The beneficial uses of the finished compost approved in this permit are for use, marketing or distribution as a soil conditioner, soil amendment, fertilizer, mulch or for erosion control. The finished compost is not considered a waste when it has satisfied the conditions of this general permit.

Notice requesting public comment on the draft general permit was published at 37 Pa.B. 474 (January 27, 2007). During the 60-day public comment period that concluded on March 28, 2007, the Department received comments from 14 commentators. The Department prepared a Comment and Response document, which summarizes the

comments received and the changes that were made to the final general permit. The Comment and Response document is available from the Department in addition to the final general permit package.

Persons interested in obtaining more information or obtaining copies of the general permit may contact the Bureau of Waste Management, Division of Municipal and Residual Waste, General Permits/Beneficial Use Section, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472 or by phone at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service at (800) 654-5984. The General Permit, including the Comment and Response Document, is also accessible on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Residual Waste;" then choose "General Permits;" then "List of Residual Waste Beneficial Use General Permits").

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 08-224. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Public Notice of Availability; Proposed Revisions to General NPDES Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (PAG-06)

The Department of Environmental Protection (Department) by this notice is proposing to revise its National Pollutant Discharge Elimination System (NPDES) General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (PAG-06) for reissuance for another 5 years. This General Permit is issued under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.101) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20). The current General Permit is scheduled to expire on February 22, 2008, and will continue to be in force until formal revision of PAG-06 is completed and announced in the *Pennsylvania Bulletin*, including provision for public review and comment of the proposed revisions to PAG-06. The General Permit will continue to not be applicable to discharges into waters designated as "special protection" under 25 Pa. Code Chapter 93 (relating to water quality standards). The discharges are required to be covered through an individual permit.

The Department invites public comments on the proposed revisions to PAG-06. Comments must be submitted by March 10, 2008. If there is significant public interest or if requested, the comment period may be extended at the discretion of the Department for an additional 15-day period. Only comments received during the specified comment period will be considered in the final and revised General Permit. If more significant issues of public interest are raised, the Department may schedule a public meeting or hearing. Written comments should be submitted to John Wetherell at the following address. Comments will also be accepted by e-mail to [jwetherell@state.pa.us](mailto:jwetherell@state.pa.us). Comments will not be accepted by facsimile or voice mail.

The proposed General Permit package is available by contacting the Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Water Management, Rachel Carson State Office Building, P. O. Box 8774, 11th Floor, Harrisburg,

PA 17105-8774, (717) 787-8184, e-mail [jwetherell@state.pa.us](mailto:jwetherell@state.pa.us). The proposed General Permit package is also available on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (choose "Public Participation;" then scroll down to "Proposals Currently Open for Comment").

Persons with a disability may contact the Department by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Following the specified comment period, the Department will review all submitted comments, prepare a comment and response document and the final documents package for this General Permit. Availability of the final permit documents will be announced in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 08-225. Filed for public inspection February 8, 2008, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Abington Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Abington Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto:paexcept@health.state.pa.us).

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-226. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application of Carlisle Outpatient Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Carlisle Outpatient Surgery Center has requested an exception to the requirements of 28 Pa. Code § 553.31(a) (relating to administrative responsibilities).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-227. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application of Crozer Chester Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Crozer Chester Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 7.2.A1 (relating to maximum patient room capacity).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 08-228. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application for Exception to 28 Pa. Code § 123.25(2)

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 requirement of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards):

Lower Bucks Hospital  
St. Luke's Quarkertown Hospital  
Bryn Mawr Hospital

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

These facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-229. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application of Geisinger South Wilkes-Barre Campus for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Geisinger South Wilkes-Barre Campus has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.7—2.4.1.2(2) (relating to post-anesthesia recovery room minimum requirements for area and clearance), 3.7—2.4.2.1(1) (relating to Phase II recovery general), 3.7—2.4.2.2 (relating to Phase II recovery space requirements) and 3.7—2.3.1.2 (relating to Class B operating rooms).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 08-230. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application of Jefferson Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Jefferson Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-231. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application of Magee Womens Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Magee Womens Hospital has requested an exception to the requirements of 28 Pa. Code §§ 101.172 (relating to patient limits) and 137.11 (relating to facilities and equipment).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-232. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application of Sacred Heart Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sacred Heart Hospital has requested an exception to the requirements of 28 Pa. Code § 138.15 (relating to high-risk cardiac catheterizations).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-233. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application of Select Specialty Hospital—Pittsburgh for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital has requested an exception to the requirements of 28 Pa. Code § 107.32 (relating to meetings and attendance).



The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-234. Filed for public inspection February 8, 2008, 9:00 a.m.]

### **Long-Term Care Nursing Facilities; Request for Exception**

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.10(d) and 205.36(h) (relating to doors; and bathing facilities).

Moravian Manor  
300 West Lemon Street  
Lititz, PA 17543  
FAC ID 135202

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.26(e) (relating to laundry).

Misericordia Convalescent Home  
998 South Russell Street  
York, PA 17402  
FAC ID 133302

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care

Facilities at the address or phone numbers listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 08-235. Filed for public inspection February 8, 2008, 9:00 a.m.]

## **DEPARTMENT OF LABOR AND INDUSTRY**

### **Public Comment on the Proposed Federal Fiscal Year 2009 Combined Agency State Plan Attachments**

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, as amended in the Workforce Investment Act of 1998, announces a period of public comment on its proposed Federal Fiscal Year (FFY) 2009 Combined Agency State Plan Attachments. The FFY 2009 begins on October 1, 2008, and ends on September 30, 2009.

The purpose of this period of comment is to provide individuals, advocates and other interested parties and/or organizations the opportunity to present their views and recommendations regarding Vocational Rehabilitation (VR) services for persons with disabilities. In this Commonwealth, these services are provided by OVR through a network of 21 local District Offices and the Hiram G. Andrews Center (HGAC).

OVR is required, under law to develop and implement a Combined Agency State Plan (State Plan), which must be reviewed and, as necessary, revised annually when there are changes to its VR program. These revisions take the form of updates to existing Attachments. The Plan currently in effect is for FFY 2008 and is a compliance document on file with the Commissioner, Rehabilitation Services Administration, United States Department of Education. It is the blueprint for the provision of VR services to persons with disabilities living in this Commonwealth.

This period of public comment allows interested parties an opportunity to provide input regarding the Commonwealth's public VR program. Specifically, comment is being solicited regarding the following State Plan Attachments: input and recommendations of the Pennsylvania Rehabilitation Council; comprehensive system of personnel development; annual estimate of individuals to be served and costs of services; OVR's goals and priorities; Order of Selection; distribution of Supported Employment funds; and Innovation and Expansion activities. In addition to the Vocational Rehabilitation State Plan, the agency's Bureau of Blindness and Visual Services will accept public comment on the Business Enterprise Program, Specialized Services for Children and Adults and Independent Living Services for Older Persons Who are Blind, which are unique to their funding.

Following is the pertinent information for the upcoming public meetings. All meeting sites are accessible and interpreters for people who are deaf or hard of hearing will be present at each public meeting. For additional

information, reasonable accommodation requests or alternative format requests, call the OVR district office conducting the public meeting they wish to attend. If an individual or organization's representative is unable to attend a public meeting, but wishes to provide testimony, written comments may be mailed to the appropriate OVR district office serving the area in which the individual/organization member resides. Written comments must be received by 5 p.m., Monday, April 30, 2008.

Persons/organizations wishing to obtain a copy of the proposed FFY 2009 Combined Agency State Plan Attachments or other information should telephone the contact person listed for the appropriate district office serving their geographic area.

Copies of the current FFY 2008 and the proposed FFY 2009 Combined Agency State Plan Attachments, will be available on the OVR web site, [www.dli.state.pa.us](http://www.dli.state.pa.us), by using "Disability Services" as the PA Keyword.

### OVR District Office

Allentown BVRs District Office  
(Carbon, Lehigh, Monroe and Northampton Counties)  
45 North Fourth Street, Allentown, PA 18102  
(800) 922-9536 (Voice) (888) 377-9207 (TTY)  
Date: March 26, 2008, Time: 2 p.m.—4 p.m.  
Contact Person: Richard Walters

Altoona BBVS District Office  
(Bedford, Blair, Cambria, Centre, Clinton, Columbia, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Snyder, Somerset and Union Counties)  
Fourth Floor Conference Room  
1130 12th Avenue, Altoona, PA 16601  
(866) 695-7673 (Voice) (866) 320-7956 (TTY)  
Date: April 1, 2008, Time: 10 a.m.—12 p.m.  
Contact Person: Ann Strollo

Altoona BVRs District Office  
(Bedford, Blair, Centre, Fulton, and Huntingdon Counties)  
Fourth Floor Conference Room  
1130 12th Avenue, Altoona, PA 16601  
(800) 442-6343 (Voice) (866) 320-7955 (TTY)  
Date: March 28, 2008, Time: 1 p.m.—3 p.m.  
Contact Person: Pamela Montgomery

DuBois BVRs District Office  
(Cameron, Clearfield, Elk, Jefferson and McKean Counties)  
199 Beaver Drive, DuBois, PA 15801  
(800) 922-4017 (Voice/TTY)  
Date: March 26, 2008, Time: 11 a.m.—12:30 p.m.  
Contact Person: Catherine Farr

Erie BBVS District Office  
(Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, Warren and Counties)  
Meeting Held At:  
Perkins Family Restaurant  
18276 Conneaut Lake Road, Meadville, PA 16335  
(814) 336-6000 (Restaurant)  
Erie BBVS D.O.: (866) 521-5073 (Voice)  
(888) 884-5513 (TTY)  
Date: March 27, 2008, Time: 10 a.m.—12 p.m.  
Contact Person: Dawn Sokol

Erie BVRs District Office  
(Clarion, Crawford, Erie, Forest, Mercer, Venango and Warren Counties)  
Conference Room  
3200 Lovell Place, Erie, PA 16503  
(800) 541-0721 (Voice) (888) 217-1710 (TTY)  
Date: April 17, 2008, Time: 1:30 p.m.—3:30 p.m.  
Contact Person: Bruce Best

Harrisburg BBVS District Office  
(Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties)  
Forum Place  
8th Floor Conference Room  
555 Walnut Street, Harrisburg, PA 17101  
(866) 375-8264 (Voice) (888) 575-9420 (TTY)  
Date: April 2, 2008, Time: 11 a.m.—2 p.m.  
Contact Person: Adrian Kent

Harrisburg BVRs District Office  
(Cumberland, Dauphin, Juniata, Lebanon, Mifflin and Perry Counties)  
Forum Place  
8th Floor Conference Room  
555 Walnut Street, Harrisburg, PA 17101  
(800) 442-6352 (Voice) (877) 497-6545 (TTY)  
Date: April 3, 2008, Time: Noon—3 p.m.  
Contact Person: Chuck Cavalovitch or Belinda Crobak

Johnstown BVRs District Office  
(Cambria, Indiana, Somerset and Westmoreland Counties)  
HGAC Seminar Theater  
727 Goucher Street, Section 10, Johnstown, PA 15905  
(800) 762-4223 (Voice) (866) 862-6891 (TTY)  
Date: April 2, 2008, Time: 3 p.m.—5 p.m.  
Contact Person: John Brown

New Castle BVRs District Office  
(Armstrong, Beaver, Butler and Lawrence Counties)  
Conference Room  
100 Margaret Street, New Castle, PA 16101  
(800) 442-6379 (Voice) (888) 870-4476 (TTY)  
Date: April 2, 2008, Time: 10 a.m.—12 p.m.  
Contact Person: Gary Gay or Luann Digenaro

Norristown BVRs District Office  
(Bucks, Chester, Delaware and Montgomery Counties)  
1875 New Hope Street, Norristown, PA 19401  
(800) 221-1042 (Voice) (888) 616-0470 (TTY)  
Date: April 8, 2008, Time: 3 p.m.—5 p.m.  
Contact Person: Michael Wakefield or Cheryl Calabrese

Philadelphia BBVS District Office  
(Bucks, Chester, Delaware, Montgomery and Philadelphia Counties)  
Meeting Held At:  
Associated Services for the Blind  
919 Walnut Street, Philadelphia, PA 19107  
(215) 627-0600 (ASB)  
Philadelphia BBVS D.O.: (866) 631-3892 (Voice)  
(888) 870-4473 (TTY)  
Date: April 10, 2008, Time: 1 p.m.—3 p.m.  
Contact Person: Merlyne Harvey

Philadelphia BVRs District Office  
(Philadelphia County)  
5th Floor Conference Room  
444 North Third Street, Philadelphia, PA 19123  
(800) 442-6381 (Voice) (800) 772-9031 (TTY)  
Date: April 10, 2008, Time: 2 p.m.—4 p.m.  
Contact Person: Rose Higby

Pittsburgh BBVS District Office  
(Allegheny, Armstrong, Beaver, Butler, Fayette, Greene,  
Indiana, Washington and Westmoreland Counties)  
1075 Kossman Building  
400 Stanwix Street, Pittsburgh, PA 15222  
(866) 412-4072 (Voice) (877) 255-5082 (TTY)  
Date: March 26, 2008, Time: 10 a.m.—12 p.m.  
Contact Person: Deb Armbruster

Pittsburgh BVRs District Office  
(Allegheny County)  
Meeting Held At:  
The Human Services Building  
The Liberty Room  
One Smithfield Street, Pittsburgh, PA 15222  
Pittsburgh BVRs D.O.: (800) 442-6371 (Voice)  
(888) 870-4474 (TTY)  
Date: April 11, 2008, Time: 1:30 p.m.—3:30 p.m.  
Contact Person: Gary Donatelli

Reading BVRs District Office  
(Berks and Schuylkill Counties)  
1090 Commons Boulevard, Reading, PA 19605  
(800) 442-0949 (Voice) (877) 475-7326 (TTY)  
Date: March 27, 2008, Time: 1 p.m.—3 p.m.  
Contact Person: Betty Brown

Washington BVRs District Office  
(Fayette, Greene and Washington Counties)  
201 West Wheeling Street, Washington, PA 15301  
(800) 442-6367 (Voice/TTY)  
Date: March 24, 2008, Time: 11:30 a.m.—12:30 p.m.  
Contact Person: Mary Lou Danko

Washington BVRs District Office  
(Fayette, Greene and Washington Counties)  
Meeting Held At:  
Fayette County Community Action  
Building B  
137 North Beeson Boulevard, Uniontown, PA 15401  
(724) 437-6050 Ext. 224 (Fayette County Community  
Action Building)  
Washington BVRs D.O.: (800) 442-6367 (Voice/TTY)  
Date: March 25, 2008, Time: 11:30 a.m.—12:30 p.m.  
Contact Person: Mary Lou Danko

Wilkes-Barre BBVS District Office  
(Berks, Bradford, Carbon, Lackawanna, Lehigh, Luzerne,  
Monroe, Northampton, Pike, Schuylkill, Sullivan,  
Susquehanna, Tioga, Wayne and Wyoming Counties)  
Association for the Blind and Visually Impaired  
845 Wyoming Street, Allentown, PA 18103  
Date: April 9, 2008, Time: 4:30 p.m.—5:30 p.m.  
and  
Wilkes-Barre District Office BBVS  
300G Laird Street, Wilkes-Barre, PA 18702  
Date: April 10, 2008, Time: 4:30 p.m.—5:30 p.m.  
(866) 227-4163 (Voice) or (570) 826-2361 (888) 651-6117  
(TTY)  
Contact Person: Carol Siskovich

Wilkes-Barre BVRs District Office  
(Bradford, Columbia, Lackawanna, Luzerne, Pike,  
Sullivan, Susquehanna, Wayne and Wyoming Counties)  
Wilkes-Barre OVR  
300G Laird Street, Wilkes-Barre, PA 18702  
(800) 634-2060 (Voice) (888) 651-6117 (TTY)  
Date: April 2, 2008, Time: 1 p.m.—2 p.m.  
Contact Person: Jan Snyder

Williamsport BVRs District Office  
(Clinton, Lycoming, Montour, Northumberland, Potter,  
Snyder, Tioga and Union Counties)  
Conference Room, The Grit Building  
Suite 102, 208 West Third Street, Williamsport, PA 17701  
(800) 442-6359 (Voice) (800) 706-0884 (TTY)  
Date: March 27, 2008, Time: 11 p.m.—1 p.m.  
Contact Person: Susan Swartz

York BVRs District Office  
(Adams, Franklin, Lancaster and York Counties)  
2550 Kingston Road, Suite 101, York, PA 17402  
(800) 762-6306 (Voice) (866) 466-1404 (TTY)  
Date: April 9, 2008, Time: 2 p.m.—5 p.m.  
Contact Person: R. Barry Brandt

SANDI VITO,  
*Acting Secretary*

[Pa.B. Doc. No. 08-236. Filed for public inspection February 8, 2008, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by Bear Development of 2024 Woodstown Highway, Hollsopple, PA, seeking to lease right-of-way located in Conemaugh Township, Somerset County, PA, adjacent to the intersection of SR 0601 and T428 (Hostetler Road), containing 0.35 acre and is to be used for paved access to a proposed retail store.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Thomas A. Prestash, P. E., District Executive, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648.

Questions regarding this application or the proposed use may be directed to Sherry Nelson, District Property Manager, 1620 North Juniata Street, Hollidaysburg, PA 16648-1080, (814) 696-7215.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 08-237. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice

that an application to lease highway right-of-way has been submitted to the Department by Daniel R. Lawruk and Joseph A. Grappone, c/o 210 West Plank Road, Altoona, PA, seeking to lease right-of-way located in Allegheny Township, Blair County, PA, adjacent to SR 1001 containing 0.068 acre or 2,972 square feet and is to be used for parking for a proposed retail store and/or restaurant.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Thomas A. Prestash, P. E., District Executive, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648.

Questions regarding this application or the proposed use may be directed to Sherry Nelson, District Property Manager, 1620 North Juniata Street, Hollidaysburg, PA 16648-1080, (814) 696-7215.

ALLEN D. BIEHLER, P. E.,  
Secretary

[Pa.B. Doc. No. 08-238. Filed for public inspection February 8, 2008, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Exide Technologies, Inc. v. DEP; EHB Doc. No. 2008-030-L**

Exide Technologies, Inc. has appealed the renewal by the Department of Environmental Protection of an NPDES permit to Exide Technologies, Inc. for a facility in Muhlenberg Township, Berks County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
Acting Chairperson

[Pa.B. Doc. No. 08-239. Filed for public inspection February 8, 2008, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## 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. § 745.5b).

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.

Reg. No.	Agency/Title	Close of the Public Comment Period	IRRC Comments Issued
7-416	Environmental Quality Board Consumer Products 37 Pa.B. 5117 (September 15, 2007)	12/26/07	1/25/08

**Environmental Quality Board  
Regulation #7-416 (IRRC #2636)  
Consumer Products  
January 25, 2008**

We submit for your consideration the following comments on the proposed rulemaking published in the September 15, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

**1. General—Implementation procedures; Economic impact; Reasonableness; Feasibility.**

*Uniform regulations throughout the Ozone Transport Region*

In the Preamble, the EQB states:

This proposed rulemaking is consistent with regulatory initiatives that will be undertaken in other jurisdictions in the Ozone Transport Region to address regional transport of ozone precursor emissions.

Commentators commend the EQB for the promulgation of a regulation that is consistent with other regulations being implemented throughout the Ozone Transport Region. We agree that this will minimize the impact of the regulation on businesses and competition. However, the EQB is not in control of the actions taken in the other Ozone Transport Region jurisdictions. If other jurisdictions were to implement different regulations or do their regulations on a different timetable, Pennsylvania businesses and consumers could be disadvantaged. Therefore, in the final-form submittal of this regulation, the EQB should explain the following:

- The status of the implementation in other Ozone Transport Region jurisdictions;
- A comparison of the content of the regulations promulgated by other Ozone Transport Region jurisdictions with the Commonwealth's final-form regulation; and
- How Pennsylvania's final-form regulation minimizes the economic impact on the Commonwealth businesses and consumers.

The EQB's responses will be used in our consideration of whether the final-form regulation is in the public interest.

*Effective Date of January 1, 2009*

As of the date of these comments, the regulation requires compliance in less than a year. The EQB should explain how the effective date of January 1, 2009, is reasonable and feasible for businesses and consumers.

**2. Section 130.202. Definitions.—Reasonableness; Clarity.**

*Exemptions*

The definition of "Construction, panel and floor covering adhesive" exempts products that "weigh more than 1 pound and consist of more than 16 fluid ounces, less packaging." There are similar exemptions in the definitions of "Contact adhesive" and "General purpose adhesive." Why did the EQB place no limit on the VOC content of large containers of these products, but then place the limits in Section 130.211 on the identical product in a smaller container? The EQB should explain why these exemptions are reasonable and will not adversely affect the stated goal to reduce VOCs emitted from consumer products.

*Deodorant body spray*

Paragraphs (i) and (ii) of this definition refer to a "product with 20% or less fragrance." It is not clear how to apply the 20% figure. For example, the "Table of Standards" in Section 130.211 uses "percent VOC **by weight**." (Emphasis added.) The regulation should specify what the 20% figure is related to, such as weight or volume.

**3. Section 130.452. Exemption.—Reasonableness; Economic impact.**

The Consumer Specialty Products Association believes that, as written, the regulation may have the unintended effect of limiting the environmental benefits of the regulation. The commentator suggests adding the phrase "used for emission credits" to this section so that the first sentence of this section in the final regulation would end: "... provided that all ACP products **used for emission credits** within the CARB ACP agreement are contained in § 130.211." (Emphasis added.) The EQB should consider including this phrase in the final-form regulation.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 08-240. Filed for public inspection February 8, 2008, 9:00 a.m.]

**Notice of Filing of Final Rulemaking**

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

This schedule is tentative. Contact the Commission at (717) 783-5417 or check our web site at [www.irrc.state.pa.us](http://www.irrc.state.pa.us) for updates.

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
125-72	Pennsylvania Gaming Control Board General Provisions; and Applications	1/24/08	3/6/08

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 08-241. Filed for public inspection February 8, 2008, 9:00 a.m.]

**INSURANCE DEPARTMENT**

**Qualified Annuity Contractors for Awarded Periodic Medical Professional Liability Payments**

Under section 509(b)(6) of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.509(b)(6)), the Insurance Commissioner hereby lists insurers designated by the Insurance Department as qualified to participate in the funding of periodic payment judgments:

<i>NAIC #</i>	<i>Insurer Qualified to Issue Annuity Contracts Under Mcare Act</i>
60607	American International Life Assurance Company of New York
62898	Aviva Life Insurance Company
93432	C.M. Life Insurance Company
70025	Genworth Life Insurance Company
88072	Hartford Life Insurance Company
65935	Massachusetts Mutual Life Insurance Company
87726	Metlife Insurance Company of Connecticut
65978	Metropolitan Life Insurance Company
70416	MML Bay State Life Insurance Company
66281	Monumental Life Insurance Company
66915	New York Life Insurance Company
61271	Principal Life Insurance Company
68241	The Prudential Insurance Company of America

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-242. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Samuel Araoye; file no. 07-66-44515; Liberty Mutual Fire Insurance Company; Doc. No. PH07-12-007; March 13, 2008, 10 a.m.

Appeal of Cynthia Carroll-Miles; file no. 07-215-45416; Liberty Mutual Fire Insurance Company; Doc. No. PH08-01-023; March 12, 2008, 2:30 p.m.

Appeal of Hanna Monblatt; file no. 07-183-45531; Erie Insurance Exchange; Doc. No. P07-12-008; March 13, 2008, 9 a.m.

Appeal of Scott P. Piffath; file no. 07-214-42990; AAA Mid-Atlantic Insurance Company; Doc. No. PH08-01-006; March 12, 2008, 1 p.m.

Appeal of Kevin and Bernice Wallace; file no. 07-214-45702; Captiol Insurance Company; Doc. No. PH07-12-02; March 12, 2008, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Kathryn Culbertson, Agency Coordinator at (717) 705-4194.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-243. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Robert Skyler, c/o Sid Sklar; file no. 04-303-71868; Allstate Insurance Company; doc. no. PH07-12-016; March 13, 2008, 1 p.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously referenced administrative hearing, and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Kathryn Culbertson, Agency Coordinator at (717) 705-4194.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-244. Filed for public inspection February 8, 2008, 9:00 a.m.]

## MILK MARKETING BOARD

### Hearing and Presubmission Schedule for All Milk Marketing Areas; Over-Order Premium

Under the Milk Marketing Law (31 P. S. § 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on March 7, 2008, commencing at 9:30 a.m. in Room 309 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning the costs of dairy farm inputs such as feed, fuel and fertilizer, producer milk prices and the effects of the input costs and producer prices on the level and duration of the Class I over-order premium. The Board will not consider any evidence regarding recombinant bovine growth hormone or marketing conditions associated with the use or nonuse of recombinant bovine growth hormone.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on February 13, 2008, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on February 13, 2008, notification of their desire to be included as a party. Parties may indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable. Notices of appearance filed electronically should be directed to [deberly@state.pa.us](mailto:deberly@state.pa.us).

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on February 15, 2008, the petitioner shall file with the Board, in person or by mail, one original and eight copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the petitioner, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on February 29, 2008, each responding party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on March 5, 2008, parties shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

The Board may exclude witnesses or exhibits of a party that fails to comply with the requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on February 21, 2008.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,  
*Secretary*

[Pa.B. Doc. No. 08-245. Filed for public inspection February 8, 2008, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by February 25, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

### **Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.**

**A-2008-2014096. George Larry Clegg** (R. R. 1, Box 362, Thompsettown, Juniata County, PA 17094)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Juniata County, to points in Pennsylvania, and return.

**A-2008-2019581. Premier Limo, Inc.** (40 Maple Avenue, Williamsport, Lycoming County, PA 17701), a corporation of the Commonwealth—persons, in limousine service, from points in the Counties of Lycoming, Union, Snyder, Clinton, Centre, Tioga, Sullivan, Northumberland and Columbia, to points in Pennsylvania, and return. *Attorney:* Anthony J. Grieco, 125 East Third Street, Williamsport, PA 17701.

**A-2008-2019704. GJT Enterprises, Inc., t/a Limos R Us** (2515 Route 6, Suite 6, Hawley, Wayne County, PA 18428)—in Group and Party service, in vehicles seating 11 to 15 passengers, including the driver, between points in Lackawanna, Luzerne, Monroe, Pike and Wayne Counties. *Attorney:* Joseph R. Rydzewski, 2573 Route 6, Hawley, PA 18428.

**A-2008-2019746. GJT Enterprises, Inc., t/a Limos R Us** (2515 Route 6, Suite 6, Hawley, Wayne County, PA 18428)—in call or demand service, in the Counties of Lackawanna, Luzerne, Monroe, Pike and Wayne. *Attorney:* Joseph R. Rydzewski, 2573 Route 6, Hawley, PA 18428.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-2008-2013855. Clarence L. Hess** (693 Truce Road, Quarryville, Lancaster County, PA 17566)—persons in paratransit service, between points in the County of Lancaster, and from points in said County, to points in Pennsylvania, and return; which is to be a transfer of all the right authorized under the certificate issued at A-00120440 to Michael B. and Dawn M. Phillips, subject to the same limitations and conditions.

**A-2008-2016303. Barclay Transport, Inc.** (203 Midland Road, Springfield, Delaware County, PA 19064), a corporation of the Commonwealth—persons in airport transfer service, from points in Delaware County, to the Philadelphia International Airport, located in the City and County of Philadelphia and the Township of Tincum, Delaware County; subject to the following conditions: (a) that no right, power or privilege is granted to perform transportation to or from the Townships of Radnor, Marple and Haverford, Delaware County; (b) that no right power or privilege is granted to perform transportation to or from the Boroughs of Yeadon, East Lansdowne, Lansdowne, Darby, Aldan, Collingdale, Sharon Hill, Glenolden, Norwood, Folcroft, Morton, the Township of Darby and those portions of the Townships of Upper Darby, Springfield, Tincum and Ridley, and that portion of the Boroughs of Norwood and Clifton Heights, all in Delaware County, bounded as follows: All that territory east of the following boundaries: Beginning from the intersection of Township Line Road, and Lansdowne Avenue, Upper Darby, extending south along the center line of Lansdowne Avenue to its intersection with Garrett Road, also in Upper Darby, thence extending west along the center line of Garrett Road to its intersection with Burmont Road, also in Upper Darby, thence extending south along the center line of Burmont Road to its intersection with Baltimore Pike, Clifton Heights, thence

extending west along the center line of Baltimore Pike to its intersection with Kedron Avenue, Springfield, thence extending south along the center line of Kedron Avenue to its intersection with MacDade Boulevard, Ridley Township, thence extending east along the center line of McDade Boulevard to its intersection with Winona Avenue, Ridley Township, thence extending south along the center line of Winona Avenue in a straight line to the Delaware River; thence extending south along the Delaware to the western boundaries of Delaware County; which is to be a transfer of all the right authorized under the certificate issued at A-00111094 to Charles Barclay, t/d/b/a Charles Barclay Airport Transfer Service, subject to the same limitations and conditions. *Attorney:* Frances J. Cannon, 7053 Terminal Square, Upper Darby, PA 19082.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-246. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Telecommunications

**A-2008-2019813. Ironton Telephone Company and RCN Telecom Services, Inc.** Joint petition of Ironton Telephone Company and RCN Telecom Services, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Ironton Telephone Company and RCN Telecom Services, Inc., by its counsel, filed on January 4, 2008, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Ironton Telephone Company and RCN Telecom Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-247. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Telecommunications

**A-2008-2019779. The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania and Citynet Pennsylvania, LLC.** Joint petition of The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania and Citynet Pennsylvania, LLC for approval of a master interconnection and collocation agreement under section 252(e) of the Telecommunications Act of 1996.



The United Telephone Company of Pennsylvania d/b/a Embarq and Citynet Pennsylvania, LLC, by its counsel, filed on December 6, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master interconnection and collocation agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Embarq and Citynet Pennsylvania, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-248. Filed for public inspection February 8, 2008, 9:00 a.m.]

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### Telecommunications

**A-2008-2019789. The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania and Ernest Communications, Inc.** Joint petition of The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania and Ernest Communications, Inc. for approval of a master resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania and Ernest Communications, Inc., by its counsel, filed on December 20, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania and Ernest Communications, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-249. Filed for public inspection February 8, 2008, 9:00 a.m.]

### Telecommunications

**A-2008-2019672. Verizon North, Inc. and First Communications, LLC.** Joint petition of Verizon North, Inc. and First Communications, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and First Communications, LLC, by its counsel, filed on December 12, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and First Communications, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

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### Telecommunications Services

**A-2008-2019729. Palmerton Telephone Company and RCN Telecommunications Services, Inc.** Joint petition of Palmerton Telephone Company and RCN Telecommunications Services, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Palmerton Telephone Company and RCN Telecommunications Services, Inc., by its counsel, filed on December 17, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Palmerton Telephone Company and RCN Telecommunications Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

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