

PENNSYLVANIA BULLETIN

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Agencies in this issue

The General Assembly

The Courts

Delaware River Basin Commission

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Department of Community and Economic
Development

Department of Environmental Protection

Department of Health

Department of Labor and Industry

Environmental Hearing Board

Executive Board

Independent Regulatory Review Commission

Insurance Department

Liquor Control Board

Pennsylvania Gaming Control Board

Pennsylvania Public Utility Commission

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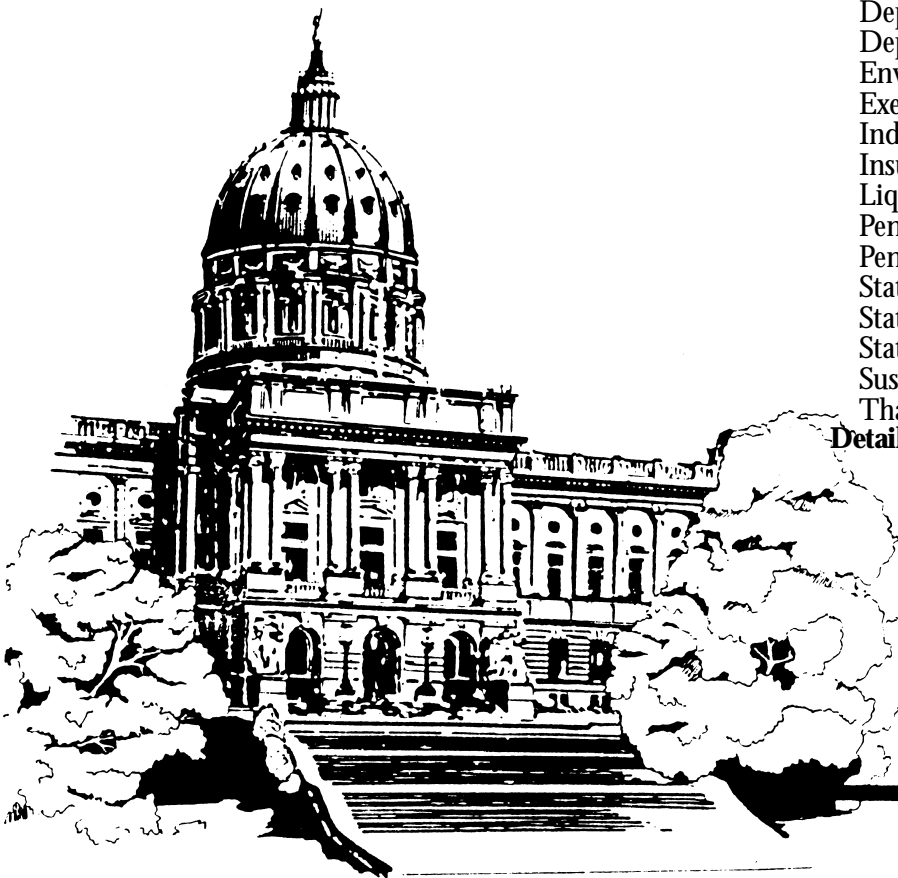
State Conservation Commission

State Employees' Retirement Board

Susquehanna River Basin Commission

Thaddeus Stevens College of Technology

Detailed list of contents appears inside.



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

No. 413, April 2009

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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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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2009.

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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 Holiday Inn Express Hotel and Suites, 225 Singh Drive, Cranberry, PA 16319:

Wednesday May 20, 2009	Lunch/Policy Committee Information Meeting	12 p.m.—5 p.m.
Thursday May 21, 2009	Commission Meeting	(9 a.m.—11:30 a.m.)

MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 09-729. Filed for public inspection April 24, 2009, 9:00 a.m.]

THE COURTS

Title 255—LOCAL COURT RULES

BEAVER COUNTY

Domestic Relations Filing and Service Fee Schedule; Domestic Relations Section; No. 10921; Misc. 2009

Administrative Order

Pursuant to the authority granted at 23 Pa.C.S.A. § 4351(a) and Rule 239 of the Pennsylvania Rules of Civil Procedure (hereinafter Pa.R.C.P.), fees, as hereinafter identified, shall be imposed upon the following classes of cases and enforcement and collection by the Domestic Relations Section of this Court:

A. Child Support Alone and/or Child Support Together With Spousal Support, Alimony Pendente Lite or Alimony (Title IV-D Collection)

1. As required by Rule 1910.4 of Pa.R.C.P., an action for support shall commence by filing a Complaint with the Domestic Relations Section, and no filing fee shall be required in advance from the plaintiff/obligee.

2. If, following a Domestic Relations office conference or a de novo hearing before the Court the plaintiff/obligee prevails, the defendant/obligor shall be assessed a filing fee in the amount of \$20.00 and a monthly service charge to service the case in the amount of \$3.50 per month for each month there is any amount due and owing under the Order.

3. The filing fee provided in Paragraph 2 above shall be assessed and collected by the Domestic Relations Section in all cases in which a new complaint is filed or a Petition for Modification is filed after the effective date of this Order.

4. The service fees provided in Paragraph 2 above shall be assessed and collected in all cases hereunder after the effective date of this Order.

B. Spousal Support Without a Child Support Obligation, Alimony Pendente Lite and Alimony (Non Title IV-D Collection)

1. Because spousal support is not a Title IV-D case and because payment of Alimony Pendente Lite and Alimony are controlled by separate Order of the Court in compliance with the Divorce Code, if said Orders are to be enforced by the Domestic Relations Section of this Court, through PACSES, each case will be assessed an annual filing/service fee of \$120.00. Said fee must be paid by the obligee.

2. The annual filing/service fee shall be payable upon filing the Spousal Support Order or Alimony Court Order with the Domestic Relations Section and on June 1st of each year thereafter as long as the Domestic Relations Section is requested to service the collection.

This Order shall be effective on May 15, 2009, or thirty (30) days after publication in the *Pennsylvania Bulletin* and publication on the Pennsylvania Judiciary's Web Application Portal, whichever shall occur later.

In accordance with Pa.R.C.P. No. 239, the Court Administrator of Beaver County shall file or distribute copies of this Administrative Order as follows:

1. Seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts;

2. Two (2) certified copies and a computer diskette containing the text of the Administrative Order shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. One (1) certified copy shall be filed with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania;

4. One (1) copy shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Beaver County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of the Administrative Order;

5. One (1) copy shall be kept in the Law Library of Beaver County.

In addition, the Court Administrator of Beaver County shall cause the foregoing Administrative Order to be published on the web site of the Administrative Office of Pennsylvania Courts at <http://www.courts.state.pa.us/judicial-council/local-rules/index.htm> and on the Beaver County web site.

By the Court

HONORABLE JOHN D. MCBRIDE,
President Judge

[Pa.B. Doc. No. 09-730. Filed for public inspection April 24, 2009, 9:00 a.m.]

BEAVER COUNTY

Offender Supervision Fee; Criminal Division; No. AD-19-2009

Administrative Order

Pursuant to the authority granted at 18 P. S. § 11.1102, the Offender Supervision Fee is fixed at \$60.00 per month imposed upon any offender placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment. This increase from \$50.00 per month to \$60.00 per month shall be effective on May 15, 2009, or thirty (30) days after publication in the *Pennsylvania Bulletin* and publication on the Pennsylvania Judiciary's web application portal, whichever shall occur later, and shall be assessed by the Clerk of Courts against all such offenders after that date. Offenders whose disposition and/or sentence orders were entered of record prior to that date shall continue to be assessed an Offender Supervision Fee of \$50.00 per month.

In accordance with Pa.R.C.P. No. 105, the Court Administrator of Beaver County shall file or distribute copies of this Administrative Order as follows:

1. One (1) certified copy shall be filed with the Administrative Office of Pennsylvania Courts;

2. Two (2) certified paper copies and a computer diskette that complies with the requirements of 1 Pa. Code

§ 13.11(b) shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. One (1) certified copy shall be filed with the Criminal Procedural Rules Committee of the Supreme Court of Pennsylvania;

4. One (1) copy shall be kept continuously available for public inspection and copying in the Office of the Clerk of Courts of Beaver County. Upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Courts shall furnish to any person a copy of the Administrative Order;

5. One (1) copy shall be kept in the Law Library of Beaver County.

In addition, the Court Administrator of Beaver County shall cause the foregoing Administrative Order to be published on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx> and on the Beaver County web site.

By the Court

HONORABLE JOHN D. MCBRIDE,
President Judge

[Pa.B. Doc. No. 09-731. Filed for public inspection April 24, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 89]

Medicare Supplement Insurance Minimum Standards

The Insurance Department (Department) amends Chapter 89, Subchapter K (relating to Medicare Supplement Insurance Minimum Standards) to read as set forth in Annex A. Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) provide the Insurance Commissioner (Commissioner) with the authority and duty to promulgate regulations governing the enforcement of the laws regarding insurance. The amendments include changes to Medicare Supplement Insurance (Medigap) plans and benefits established by Federal law. Specifically, the amendments include changes mandated by the Medicare Improvements for Patients and Providers Act of 2008. (Pub. L. No. 100-275, 122 Stat. 2494) (MIPPA) and the Genetic Information Nondiscrimination Act of 2008. (Pub. L. No. 110-233, 122 Stat. 881) (GINA).

Notice of the proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law (CDL) (45 P. S. § 1204(3)). Under section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary. The changes indicated to Subchapter K are Federally-mandated under MIPAA and GINA, which established strict deadlines for state adoption of these revisions. To continue to regulate the Medigap market, the Commonwealth must adopt the revisions required by GINA by July 1, 2009, and the revisions required by MIPPA by September 24, 2009. Medigap plans must conform to the new requirements by the effective dates, regardless of the Commonwealth's action. However, if the revisions to this subchapter are not adopted by the respective deadlines, the Commonwealth will be considered out of compliance with Federal requirements, and Centers for Medicaid and Medicare Services would regulate Medigap business instead of the Department.

To comply with Federal statutory minimum requirements for Medigap policies, the Commissioner finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are impracticable, unnecessary and not contrary to the public interest and that the proposed rulemaking may be properly omitted under section 204(3) of the CDL.

Purpose

Subchapter K was initially promulgated to establish minimum standards for Medigap insurance policies. Standardization of policies was Federally required under the Omnibus Budget Reconciliation Act of 1990. The Department currently seeks to amend Subchapter K to meet the new Federal mandates for Medigap policies as required by MIPAA and GINA, as reflected in amendments to the National Association of Insurance Commissioners (NAIC) model regulation adopted by the NAIC September 24, 2008. Currently there are 17 different standardized Medigap plans in force. After the modernization revisions

are implemented, there will be 11 plans available, including two new plans designed to give beneficiaries new options for higher beneficiary cost-sharing with a lower premium. Additionally, all Medigap plans will conform to the requirements set forth in GINA.

These amendments will protect the rights of this Commonwealth's consumers by allowing the Commonwealth to retain its authority to regulate Medigap policies.

Explanation of Regulatory Requirements

Section 89.772 (relating to definitions) has been modified to add definitions for 1990 Standardized Medicare supplement benefit plan, 2010 Standardized Medicare supplement benefit plan, and Prestandardized Medicare supplement benefit plan.

Section 89.774 (relating to exclusions and limitations) has been modified to update cross-references to provisions that must be amended under MIPAA.

Section 89.775 (relating to minimum benefit standards for policies or certificates issued for delivery prior to July 30, 1992) is retained for transitional purposes and has been amended to update cross-references and to add a reference to "copayment" or "coinsurance" to mirror the new language in §§ 89.776 and 89.776a (relating to benefits standards for policies or certificates issued or delivered on or after July 30, 1992, and prior to June 1, 2010; and benefit standards for policies or certificates issued or delivered on or after June 1, 2010).

Section 89.776 is retained for transitional purposes. This section has been amended to add a reference to "copayment" or "coinsurance," mirroring the language in §§ 89.775 and 89.776a, and to specify requirements for offers and subsequent exchanges involving 1990 Standardized Medicare supplement benefit plan for 2010 Standardized Medicare supplement benefit plans.

Section 89.776a has been added to specify the standards for all modernized 2010 Standardized policies effective on or after June 1, 2010, including the standards for both basic (core) and additional benefits for benefit Plans A—D, F, F with high deductible, G, M and N.

Section 89.777 (relating to standard Medicare supplement benefit plans for 1990 Standardized Medicare supplement benefit plan policies or certificates issued on or after July 30, 1992 and prior to June 1, 2010) is retained for transitional purposes, and has been amended to update cross-references and to conform with the *Pennsylvania Code & Bulletin Style Manual*.

Section 89.777b (relating to Standard Medicare supplement benefit plans for 2010 Standardized Medicare supplement benefit plan policies or certificates issued or delivered on or after June 1, 2010) has been added to specify standards for policies effective on or after June 1, 2010. Specifically, this provision: contains a full description of the benefits contained in Plans K and L; specifies that if a carrier wishes to offer any plan in addition to Plan A, the carrier must also offer Plan C or Plan F; sets forth the make up of plans D and G; adds requirements for plans M and N; adds language describing new or innovative benefits; and deletes reference to prescription drug benefits while reinforcing the principle that these benefits should not impact the goal of simplification and should not be used to change or reduce benefits in any standardized plan.

Section 89.783 (relating to required disclosure provisions) has been amended to update cross-references and to conform with the *Pennsylvania Code & Bulletin Style Manual*.

Section 89.784 (relating to requirements for application forms and replacement coverage) has been amended in accordance with the NAIC model to clarify requirements for delivery of copies of an application, policy, certificate and notice to an applicant. This section was also reformatted to better conform to the format requirements of Chapter 2 of the *Pennsylvania Code & Bulletin Style Manual*.

Section 89.791 (relating to prohibition against use of genetic information and requests for genetic testing) has been added to conform to the requirements established by GINA.

Fiscal Impact

The Department can review revised filings in the course of normal business and anticipates that it will experience minimal or no increase in cost in its review.

The insurance industry will likely not incur additional costs associated with complying with the new Federal requirements.

Effectiveness/Sunset Date

The rulemaking will become effective upon final adoption and publication in the *Pennsylvania Bulletin* as final-form rulemaking. Although the amendments are effective upon publication, the GINA requirements are applicable to all Medicare supplement policies with policy years beginning on or after May 21, 2009. The benefit standards established by MIPAA apply to all policies or certificates issued or delivered on or after June 1, 2010. The Department continues to monitor the effectiveness of the regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Questions regarding the final-omitted rulemaking should be addressed to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. Questions may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, the Department submitted a copy of the regulations with the proposed rulemaking omitted on February 27, 2009, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In accordance with section 5(c) of the Regulatory Review Act, the amendments were deemed approved by the Senate Banking and Insurance Committee and by the House Insurance Committee on April 1, 2009. The Attorney General approved the amendments on March 25, 2009. IRRC met on April 2, 2009, and approved the amendments.

Findings

The Insurance Commissioner finds that:

(1) There is good cause to amend Chapter 89, Subchapter K, effective upon publication with the pro-

posed rulemaking omitted. Deferral of the effective date of the amendments is impracticable or contrary to the public interest. These effective dates will best serve the public interest by ensuring the Commonwealth's compliance with the new Federal requirements and retention of enforcement authority over all aspects of Medicare supplement policies.

(2) There is good cause to forego public notice of the intention to amend Chapter 89, Subchapter K, because notice of the amendments under the circumstances is unnecessary, impractical and not contrary to the public interest (45 P. S. § 1204(3)) for the following reasons:

(i) The changes mandated by Federal law will go into effect regardless of the Commonwealth's regulatory action;

(ii) Public comment cannot change the fact that issuers must comply with Federal requirements, nor can public comment have any impact upon the content of the new Federal mandates.

(iii) If the amendments are not implemented by the deadlines established by the Federal law, regulatory oversight will be assumed by the Federal government. This would negatively impact this Commonwealth's consumers due to a shortage in Federal enforcement staffing. Accordingly, it would be more difficult for Commonwealth consumers to have complaints concerning the new requirements addressed by the Federal government in a timely manner.

Order

The Commissioner, acting under the authority in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929, orders that:

(1) The regulations of the Department, 31 Pa. Code Chapter 89, are amended by amending §§ 89.772, 89.774—89.777, 89.783 and 89.784; and by adding §§ 89.776a, 89.777b and 89.791 to read as set forth in Annex A.

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

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

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

JOEL SCOTT ARIO,
Insurance Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2064 (April 18, 2009).)

Fiscal Note: 11-242. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 89. APPROVAL OF LIFE, ACCIDENT AND HEALTH INSURANCE

Subchapter K. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

§ 89.772. Definitions.

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

1990 Standardized Medicare supplement benefit plan—

(i) A group or individual policy of Medicare supplement insurance issued on or after July 20, 1992, and prior to June 1, 2010.

(ii) The term includes Medicare supplement insurance policies and certificates renewed on or after July 20, 1992, which are not replaced by the issuer at the request of the insured.

*2010 Standardized Medicare supplement benefit plan—*A group or individual policy of Medicare supplement insurance issued on or after June 1, 2010.

Applicant—

(i) In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits.

(ii) In the case of a group Medicare supplement policy, the proposed certificateholder.

*Bankruptcy—*The condition under which a Medicare Advantage organization plan that is not an issuer has filed, or has had filed against it, a petition or other action seeking a declaration of bankruptcy under the provisions of the United States Bankruptcy Code (11 U.S.C.) and has ceased doing business in this Commonwealth.

*Certificate—*A certificate delivered or issued for delivery in this Commonwealth under a group Medicare supplement policy.

*Certificate form—*The form on which the certificate is delivered or issued for delivery by the issuer.

*Commissioner—*The Insurance Commissioner of the Commonwealth.

*Continuous period of creditable coverage—*The period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

*Creditable coverage—*The definition contained in the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936), as adopted by the Commonwealth under the Pennsylvania Health Care Insurance Portability Act (40 P. S. §§ 1302.1—1302.7), is incorporated herein by reference.

*Employee welfare benefit plan—*A plan, fund or program of employee benefits as defined in section 3 of the Employee Retirement Income Security Act or ERISA (29 U.S.C.A. § 1002).

*HHS Secretary—*The Secretary of the United States Department of Health and Human Services.

*Insolvency—*The condition under which an issuer, licensed to transact business in this Commonwealth by the Commissioner, has had a final order of liquidation entered against it, or a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

*Issuer—*The term includes insurance companies, fraternal benefit societies and nonprofit corporations subject to 40 Pa.C.S. Chapters 61 and 63 (relating to hospital plan corporations; and professional health services plan corporations) and other entities delivering or issuing for delivery Medicare supplement policies or certificates in this Commonwealth.

*Medicare—*The program established by the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 (42 U.S.C.A. §§ 1395—1395b-4) as then constituted or later amended.

*Medicare Advantage plan—*A plan of coverage for health benefits under Medicare Part C as defined in

section 1859(b)(1) of the Social Security Act (42 U.S.C.A. § 1395w-28(b)(1)) and includes:

(i) Coordinated care plans which provide health care services, including health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations and preferred provider organization plans.

(ii) Medicare medical savings account plans coupled with a contribution into a Medicare Advantage plan medical savings account.

(iii) Medicare Advantage private fee-for-service plans.

Medicare supplement policy—

(i) A group or individual policy of insurance or a subscriber contract other than a policy issued under a contract under section 1876 of the Social Security Act (42 U.S.C.A. § 1395mm) or a policy issued under a demonstration project specified in section 1882(g)(1), of the Social Security Act (42 U.S.C.A. § 1395ss(g)(1)), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.

(ii) The term does not include Medicare Advantage plans established under Medicare Part C, Outpatient Prescription Drug Plans established under Medicare Part D, or any Health Care Prepayment Plan (HCPP) that provides benefits under an agreement under section 1833(a)(1)(A) of the Social Security Act (42 U.S.C.A. § 1395l(a)(1)(A)).

*Policy form—*The form on which the policy is delivered or issued for delivery by the issuer.

*Prestandardized Medicare supplement benefit plan—*A group or individual policy of Medicare supplement insurance issued prior to July 30, 1992.

*Producer—*An insurance producer as defined by the Article VI-A of The Insurance Department Act of 1921 (40 P. S. §§ 310.1—310.99a), known as the Producer Licensing Modernization Act.

§ 89.774. Exclusions and limitations.

(a) Except for permitted preexisting condition clauses as described in §§ 89.775(1)(i), 89.776(1)(i) and 89.776a(1)(i) (relating to minimum benefit standards for policies or certificates issued for delivery prior to July 30, 1992; benefit standards for policies or certificates issued or delivered on or after July 30, 1992 and prior to June 1, 2010; and benefit standards for policies or certificates issued or delivered on or after June 1, 2010), a policy or certificate may not be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(b) A Medicare supplement policy or certificate may not use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(c) A Medicare supplement policy or certificate in force in this Commonwealth may not contain benefits which duplicate benefits provided by Medicare.

(d) The following applies to issuance and renewal limitations of Medicare supplement policies:

(1) Subject to §§ 89.775(1)(iv), (v) and (vii) and 89.776(1)(iv) and (v) (relating to minimum benefit standards for policies or certificates issued for delivery prior to July 30, 1992; and benefits standards for policies or certificates

issued or delivered on or after July 30, 1992, and prior to June 1, 2010), a Medicare supplement policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006, shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

(2) A Medicare supplement policy with benefits for outpatient prescription drugs may not be issued after December 31, 2005.

(3) After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs may not be renewed after the policyholder enrolls in Medicare Part D unless the following conditions apply:

(i) The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan.

(ii) Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable.

§ 89.775. Minimum benefit standards for policies or certificates issued for delivery prior to July 30, 1992.

The following standards apply to Prestandardized Medicare supplement benefit plans. A policy or certificate may not be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are consistent with this subchapter.

(1) *General standards.* The following standards apply to Medicare supplement policies and certificates and are in addition to the other requirements of this subchapter:

(i) *Exclusion/limitation of benefits.* A Medicare supplement policy or certificate may not exclude or limit benefits for losses incurred more than 6 months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

(ii) *Indemnification of sickness and accidents.* A Medicare supplement policy or certificate may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(iii) *Cost sharing amounts under Medicare.* A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with changes in the applicable Medicare deductible amount, copayment, and coinsurance percentage factors. Premiums may be modified to correspond with these changes.

(iv) *Termination of coverage.* A noncancellable, guaranteed renewable or noncancellable and guaranteed renewable Medicare supplement policy may not:

(A) Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(B) Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

(v) *Restrictions on termination of policies and certificates.*

(A) Except as authorized by the Commissioner, an issuer may neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(B) If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in clause (D), the issuer shall offer certificateholders an individual Medicare supplement policy. The issuer shall offer the certificateholder at least the following choices:

(I) An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy.

(II) An individual Medicare supplement policy which provides only benefits that are required to meet the minimum standards as defined in § 89.776a(2) (relating to benefit standards for policies or certificates issued or delivered on or after June 1, 2010).

(C) If membership in a group is terminated, the issuer shall do one of the following:

(I) Offer the certificateholder conversion opportunities that are described in clause (B).

(II) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(D) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy will not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(vi) Termination of a Medicare supplement policy or certificate shall be without prejudice to a continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(vii) If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the act of December 8, 2003 (Pub. L. No. 108-173, 117 Stat. 2066), the modified policy shall be deemed to satisfy the guaranteed renewal requirement of this subsection.

(viii) If a hospital plan corporation or a professional health services plan corporation issues a subscriber contract which does not include the required benefits, the contract shall be issued in conjunction with another contract, including at least the remainder of the benefits in this subchapter, to qualify as Medicare supplement insurance. In the alternative, two or more corporations may act jointly and issue a single contract which contains the required benefits.

(2) *Minimum benefit standards.* The following represent minimum benefit standards:

(i) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period.

(ii) Coverage for all or none of the Medicare Part A inpatient hospital deductible amount. If the insurer desires, in consideration of a reduced premium, to offer a contract without coverage for the initial deductible under Part A, it may do so only if the insured is given the option of purchasing the contract from that insurer with coverage for all of the Part A deductible.

(iii) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during the use of Medicare's lifetime hospital inpatient reserve days.

(iv) Upon exhaustion of Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 90% of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days.

(v) Coverage under Medicare Part A for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under Federal regulations, unless replaced in accordance with Federal regulations or already paid for under Part B.

(vi) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible.

(vii) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under Federal regulations, unless replaced in accordance with Federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

(viii) If a hospital plan corporation or a professional health service plan corporation issues a subscriber contract which does not include the required benefits, the contract shall be issued in conjunction with another contract, including at least the remainder of the benefits in this subchapter, to qualify as Medicare supplement insurance. In the alternative, two or more corporations may act jointly and issue a single contract which contains the required benefits.

§ 89.776. Benefits standards for policies or certificates issued or delivered on or after July 30, 1992, and prior to June 1, 2010.

The following standards apply to 1990 Standardized Medicare supplement benefit plans. A policy or certificate may not be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) *General standards.* The following standards apply to Medicare supplement policies and certificates and are in addition to other requirements of this subchapter:

(i) *Exclusions and limitations.* A Medicare supplement policy or certificate may not exclude or limit benefits for losses incurred more than 6 months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which

medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

(ii) *Indemnification of sickness and accidents.* A Medicare supplement policy or certificate may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(iii) *Cost sharing amounts under Medicare.* A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with changes in the applicable Medicare deductible, copayment or coinsurance percentage factors. Premiums may be modified to correspond with these changes.

(iv) *Termination of coverage.* A Medicare supplement policy or certificate may not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(v) *Cancellation or nonrenewal of policy.* Each Medicare supplement policy shall be guaranteed renewable.

(A) The issuer may not cancel or nonrenew the policy solely on the ground of health status of the individual.

(B) The issuer may not cancel or nonrenew the policy for a reason other than nonpayment of premium or material misrepresentation.

(C) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under clause (E), the issuer shall offer certificateholders an individual Medicare supplement policy which, at the option of the certificateholder, does one of the following:

(I) Provides for continuation of the benefits contained in the group policy.

(II) Provides for benefits that otherwise meet the requirements of this section.

(D) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall do one of the following:

(I) Offer the certificateholder the conversion opportunity described in clause (C).

(II) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(E) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to persons covered under the old group policy on its date of termination. Coverage under the new policy may not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(F) If a Medicare supplement policy eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, the act of December 8, 2003 (Pub. L. No. 108-173, 117 Stat. 2066), the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this paragraph.

(vi) *Extension of benefits.* Termination of a Medicare supplement policy or certificate shall be without prejudice to a continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be

conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(vii) *Suspension by policyholder.*

(A) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed 24 months) in which the policyholder or certificateholder has applied for and is determined to be entitled to Medical Assistance under Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—1396u), but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to this assistance.

(B) If a suspension occurs and if the policyholder or certificateholder loses entitlement to Medical Assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of the entitlement) as of the termination of the entitlement if the policyholder or certificateholder provides notice of loss of the entitlement within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of the entitlement.

(C) Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) of the Social Security Act (42 U.S.C.A. § 426(b)) and is covered under a group health plan (as defined in section 1862(b)(1)(A)(v) of the Social Security Act (42 U.S.C.A. § 1395y(b)(1)(A)(v))). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

(D) Reinstatement of these coverages as described in clauses (B) and (C):

(I) May not provide for a waiting period with respect to treatment of preexisting conditions.

(II) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of the suspension. If the suspended Medicare supplement policy provided coverage for outpatient prescription drugs, reinstatement of the policy for Medicare Part D enrollees shall be without coverage for outpatient prescription drugs and shall otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension.

(III) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder if the coverage had not been suspended.

(viii) If an issuer makes a written offer to a Medicare supplement policyholder or certificateholder of one or more of its plans to exchange, during a specified period, a 1990 Standardized Medicare supplement benefit plan with a 2010 Standardized Medicare supplement benefit plan, the offer and subsequent exchange shall comply with the following requirements:

(A) The issuer need not provide justification to the Commissioner if the insured replaces the 1990 Standardized Medicare supplement benefit plan policy or certificate with an issue age rated 2010 Standardized Medicare supplement benefit plan policy or certificate at the insured's original issue age and duration. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of the offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by the issuer must be filed with and approved by the Commissioner in accordance with the filing requirements and procedures required by the Commissioner.

(B) The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage.

(C) The issuer may not apply new preexisting condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 Standardized Medicare supplement benefit plan policy or certificate of the insured, but may apply pre-existing condition limitations of no more than 6 months to any added benefits contained in the new 2010 Standardized Medicare supplement benefit plan policy or certificate not contained in the exchanged policy.

(D) The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except if the offer or issue would be in violation of State or Federal law.

(2) *Standards for basic (core) benefits common to benefit Plans A—J.* Every issuer shall make available a policy or certificate, including only the following basic core package of benefits to each prospective insured. An issuer shall also offer a policy or certificate to prospective insureds meeting the Plan B benefit plan. An issuer may make available to prospective insureds Medicare Supplement Insurance Benefit Plans C, D, E, F, G, H, I and J as listed in § 89.777(e) (relating to standard Medicare supplement benefit plans). The core packages are as follows:

(i) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period.

(ii) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used.

(iii) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance.

(iv) Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under Federal regulations), unless replaced in accordance with Federal regulations.

(v) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a

prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(3) *Standards for additional benefits.* The following additional benefits shall be included in Medicare Supplement Benefit Plans B, C, D, E, F, G, H, I and J only as provided by § 89.777.

(i) *Medicare Part A deductible.* Coverage for the Medicare Part A inpatient hospital deductible amount per benefit period.

(ii) *Skilled nursing facility care.* Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(iii) *Medicare Part B deductible.* Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(iv) *Eighty percent of the Medicare Part B excess charges.* Coverage for 80% of the difference between the actual Medicare Part B charges as billed, not to exceed a charge limitation established by the Medicare Program or State law, including the Health Care Practitioner Medicare Fee Control Act (35 P. S. §§ 449.31—449.36), and the Medicare-approved Part B charge.

(v) *Medicare Part B excess charges.* One hundred percent of the Medicare Part B excess charges: coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed a charge limitation established by the Medicare Program, State law, including, but not limited to, the Health Care Practitioner Medicare Fee Control Act and the Medicare-approved Part B charge.

(vi) *Basic outpatient prescription drug benefit.* Coverage for 50% of outpatient prescription drug charges, after a \$250 calendar year deductible, to a maximum of \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

(vii) *Extended outpatient prescription drug benefit.* Coverage for 50% of outpatient prescription drug charges, after a \$250 calendar year deductible to a maximum of \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

(viii) *Medically necessary emergency care in a foreign country.* Coverage to the extent not covered by Medicare for 80% of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, "emergency care" means care needed immediately because of an injury or an illness of sudden and unexpected onset.

(ix) *Preventive medical care benefit.* Reimbursement shall be for the actual charges up to 100% of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology

(AMA CPT) codes, to a maximum of \$120 annually under this benefit. This benefit may not include payment for a procedure covered by Medicare. Coverage for the preventive health services not covered by Medicare is as follows:

(A) An annual clinical preventive medical history and physical examination that may include tests and services described in clause (B) and patient education to address preventive health care measures.

(B) Preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

(x) *At-home recovery benefit.* Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

(A) For purposes of this benefit, the following definitions apply:

(I) *Activities of daily living*—The term includes bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered and changing bandages or other dressings.

(II) *Care provider*—A qualified or licensed home health aid or homemaker, personal care aid or nurse provided through a licensed home health care agency or referred by a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(III) *Home*—A place used by the insured as a place of residence, if the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility may not be considered the insured's place of residence.

(IV) *At-home recovery visit*—The period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except that each consecutive 4 hours in a 24-hour period of services provided by a care provider is one visit.

(B) Coverage requirements and limitations are as follows:

(I) At-home recovery services provided shall be primarily services which assist in activities of daily living.

(II) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(III) Coverage is limited to:

(-a-) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits may not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment.

(-b-) The actual charges for each visit up to a maximum reimbursement of \$40 per visit.

(-c-) One thousand six hundred dollars per calendar year.

(-d-) Seven visits in 1 week.

(-e-) Care furnished on a visiting basis in the insured's home.

(-f-) Services provided by a care provider as defined in this section.

(-g-) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(-h-) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than 8 weeks after the service date of the last Medicare approved home health care visit.

(C) Coverage is excluded for:

(I) Home care visits paid for by Medicare or other government programs.

(II) Care provided by family members, unpaid volunteers or providers who are not care providers.

(4) *Standards for Plans K and L.*

(i) Standardized Medicare supplement benefit Plan K shall consist of the following:

(A) Coverage of 100% of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period.

(B) Coverage of 100% of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period.

(C) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of the 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance.

(D) Medicare Part A Deductible: Coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in clause (J).

(E) Skilled nursing facility care: Coverage for 50% of the coinsurance amount for each day used from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in clause (J).

(F) Hospice care: Coverage for 50% of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in clause (J).

(G) Coverage for 50%, under Medicare Part A or B, of the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under Federal regulations) unless replaced in accordance with Federal regulations until the out-of-pocket limitation is met as described in clause (J).

(H) Except for coverage provided in clause (I), coverage for 50% of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in clause (J).

(I) Coverage of 100% of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible.

(J) Coverage of 100% of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and

B of \$4,000 in 2006, indexed each year by the appropriate inflation adjustment specified by the HHS Secretary.

(ii) Standardized Medicare supplement benefit Plan L shall consist of the following:

(A) The benefits described in subparagraph (i)(A), (B), (C) and (I).

(B) The benefits described in subparagraph (i)(D), (E), (F), (G) and (H), but substituting 75% for 50%.

(C) The benefit described in subparagraph (i)(J) but substituting \$2,000 for \$4,000.

§ 89.776a. Benefit standards for policies or certificates issued or delivered on or after June 1, 2010.

The following standards apply to 2010 Standardized Medicare supplement benefit plans. An issuer may not offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. A policy or certificate may not be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) *General standards.* The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(i) *Exclusions or limitations.* A Medicare supplement policy or certificate may not exclude or limit benefits for losses incurred more than 6 months after the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

(ii) *Indemnification of sickness and accidents.* A Medicare supplement policy or certificate may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(iii) *Cost sharing amounts under Medicare.* A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment or coinsurance amounts. Premiums may be modified to correspond with these changes.

(iv) *Termination of coverage.* A Medicare supplement policy or certificate may not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(v) *Cancellation or nonrenewal of policy.* Each Medicare supplement policy is guaranteed renewable.

(A) The issuer may not cancel or nonrenew the policy solely on the ground of health status of the individual.

(B) The issuer may not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(C) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under clause (E), the issuer shall offer certificateholders an individual Medicare supplement policy which, at the option of the certificateholder, does one of the following:

(I) Provides for continuation of the benefits contained in the group policy.

(II) Provides for benefits that otherwise meet the requirements of this section.

(D) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall do one of the following:

(I) Offer the certificate holder the conversion opportunity described in clause (C).

(II) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(E) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy may not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(vi) *Extension of benefits.* Termination of a Medicare supplement policy or certificate is without prejudice to any continuous loss which began while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(vii) *Suspension by policyholder.*

(A) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed 24 months) in which the policyholder or certificateholder has applied for and is determined to be entitled to Medical Assistance under Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—1396u), but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to this assistance.

(B) If a suspension occurs and if the policyholder or certificateholder loses entitlement to Medical Assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within 90 days after the date of loss and pays the premium attributable to the period, effective as of the date of the termination of entitlement.

(C) Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) of the Social Security Act (42 U.S.C.A. § 426(b)) and is covered under a group health plan (as defined in section 1862(b)(1)(A)(v) of the Social Security Act (42 U.S.C.A. § 1395y(b)(1)(A)(v))). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

(D) Reinstitution of coverages as described in clauses (B) and (C):

(I) May not provide for any waiting period with respect to treatment of preexisting conditions.

(II) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension.

(III) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder if the coverage had not been suspended.

(2) *Standards for basic (core) benefits common to benefit Plans A—D, F, F with high deductible, G, M and N.* Every issuer shall make available a policy or certificate, including only the following basic (core) package of benefits to each prospective insured. An issuer shall also offer a policy or certificate to prospective insureds meeting the Plan B benefit plan. An issuer may also make available to prospective insureds any Medicare Supplement Insurance Benefit Plan in addition to the basic core package, but not instead of it. The core packages are as follows:

(i) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from day 61 through day 90 in any Medicare benefit period.

(ii) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used.

(iii) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance.

(iv) Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under Federal regulations, unless replaced in accordance with Federal regulations.

(v) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(vi) Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

(3) *Standards for additional benefits.* The following additional benefits shall be included in Medicare supplement benefit Plans B—D, F, F with High Deductible, G, M and N as provided by § 89.777b (relating to Standard Medicare supplement benefit plans for 2010 Standardized Medicare supplement benefit plan policies or certificates issued or delivered on or after June 1, 2010).

(i) *Medicare Part A deductible.* Coverage for 100% of the Medicare Part A inpatient hospital deductible amount per benefit period.

(ii) *Medicare Part A deductible.* Coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period.

(iii) *Skilled nursing facility care.* Coverage for the actual billed charges up to the coinsurance amount from day 21 through day 100 in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(iv) *Medicare Part B deductible.* Coverage for 100% of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(v) *Medicare Part B excess charges.* Coverage for 100% of the difference between the Medicare Part B charges billed, not to exceed a charge limitation established by the Medicare program or state law including the Health Care Practitioner Medicare Fee Control Act (35 P. S. §§ 449.31—449.36), and the Medicare-approved Part B charge.

(vi) *Medically necessary emergency care in a foreign country.* Coverage to the extent not covered by Medicare for 80% of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250 and a lifetime maximum benefit of \$50,000. For purposes of this benefit, “emergency care” means care needed immediately because of an injury or an illness of sudden and unexpected onset.

§ 89.777. Standard Medicare supplement benefit plans for 1990 Standardized Medicare supplement benefit plan policies or certificates issued or delivered on or after July 30, 1992, and prior to June 1, 2010.

(a) An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic core benefits, as defined in § 89.776(2) (relating to benefits standards for policies or certificates issued for delivery on or after July 30, 1992, and prior to June 1, 2010). An issuer shall also offer a policy or certificate to prospective insureds meeting the Plan B benefit plan.

(b) Groups, packages or combinations of Medicare supplement benefits other than those listed in this section may not be offered for sale in this Commonwealth except as may be permitted in subsection (f) and § 89.777a (relating to Medicare select policies and certificates).

(c) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit Plans A—L listed in this section and conform to the definitions in § 89.773 (relating to policy definitions and terms). Each benefit shall be structured in accordance with the format in § 89.776(2) and (3) or (4) and list the benefits in the order shown in this section. For purposes of this section, “structure, language and format” means style, arrangement and overall content of a benefit.

(d) An issuer may use, in addition to the benefit plan designations required in subsection (c), other designations to the extent permitted by law.

(e) The make up of benefit plans shall be as follows:

(1) Standardized Medicare supplement benefit Plan A shall be limited to the basic (core) benefits common to all benefit plans, as defined in § 89.776(2).

(2) Standardized Medicare supplement benefit Plan B shall include only the following: the core benefit as

defined in § 89.776(2), plus the Medicare Part A Deductible as defined in § 89.776(3)(i).

(3) Standardized Medicare supplement benefit Plan C shall include only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i)—(iii) and (viii).

(4) Standardized Medicare supplement benefit Plan D shall include only the following: the core benefit (as defined in § 89.776(2)), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and the at-home recovery benefit as defined in § 89.776(3)(i), (ii), (viii) and (x).

(5) Standardized Medicare supplement benefit Plan E shall include only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and preventive medical care as defined in § 89.776(3)(i), (ii), (viii) and (ix).

(6) Standardized Medicare supplement benefit Plan F shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i)—(iii), (v) and (viii).

(7) Standardized Medicare supplement benefit high deductible Plan F shall include only the following: 100% of covered expenses following the payment of the annual high deductible Plan F deductible. The covered expenses include the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i)—(iii), (v) and (viii) respectively. The annual high deductible Plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan F policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan F deductible shall be \$1,500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the HHS Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

(8) Standardized Medicare supplemental benefit Plan G shall include only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, 80% of the Medicare Part B excess charges, medically necessary emergency care in a foreign country and the at-home recovery benefit as defined in § 89.776(3)(i), (ii), (iv), (viii) and (x).

(9) Standardized Medicare supplement benefit Plan H shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i), (ii), (vi) and (viii). The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

(10) Standardized Medicare supplement benefit Plan I shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country and at-home recovery benefit as defined in § 89.776(3)(i), (ii), (v), (vi), (viii) and (x). The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

(11) Standardized Medicare supplement benefit Plan J shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care and at-home recovery benefit as defined in § 89.776(3)(i)—(iii), (v) and (vii)—(x). The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

(12) Standardized Medicare supplement benefit high deductible Plan J shall consist of only the following: 100% of covered expenses following the payment of the annual high deductible Plan J deductible. The covered expenses include the core benefit as defined in § 89.776(2) plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in § 89.776(3)(i)—(iii), (v) and (vii)—(x) respectively. The annual high deductible Plan J deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan J policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be \$1,500 for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the HHS Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10. The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

(13) Standardized Medicare Supplement benefit Plan K shall consist of only those benefits described in § 89.776(4)(i).

(14) Standardized Medicare Supplement benefit Plan L shall consist of only those benefits described in § 89.776(4)(ii).

(f) New or innovative benefits must conform to this subsection. An issuer may, with the prior approval of the Commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies. After December 31, 2005, the innovative benefit may not include an outpatient prescription drug program.

§ 89.777b. Standard Medicare supplement benefit plans for 2010 Standardized Medicare supplement benefit plan policies or certificates issued or delivered on or after June 1, 2010.

(a) *Applicability.* The following standards apply to 2010 Standardized Medicare supplement benefit plan policies or certificates. A policy or certificate may not be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued before June 1, 2010, remain subject to the requirements of § 89.777 (relating to Standard Medicare supplement benefit plans for 1990 Standardized Medicare supplement benefit plan policies or certificates issued or delivered on or after July 30, 1992 and prior to June 1, 2010).

(b) *Basic (core) and additional benefits.*

(1) An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in § 89.776a(2) (relating to benefit standards for policies or certificates issued or delivered on or after June 1, 2010). An issuer shall also offer a policy or certificate to prospective insureds meeting the Plan B benefit plan.

(2) If an issuer makes available any of the additional benefits described in § 89.776a(3), or offers standardized benefit Plans K or L (as described in subsections (f)(8) and (9)), the issuer shall make available to each prospective policyholder and certificate holder, in addition to a policy form or certificate form with only the basic (core) benefits as described in paragraph (1) a policy form or certificate form containing either standardized benefit Plan C as described in subsection (f)(3) or standardized benefit Plan F (as described in subsection (f)(5)).

(c) No groups, packages or combinations of Medicare supplement benefits other than those listed in this section may be offered for sale in this Commonwealth, except as may be permitted in subsection (g) and § 89.777a (relating to Medicare select policies and certificates).

(d) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this section and conform to the definitions in § 89.773 (relating to policy definitions and terms). Each benefit shall be structured in accordance with the format in § 89.776a(2) and (3) and list the benefits in the order shown in this section. For purposes of this subsection, "structure, language, and format" means style, arrangement and overall content of a benefit.

(e) An issuer may use, in addition to the benefit plan designations required in subsection (d), other designations to the extent permitted by law.

(f) The make up of 2010 Standardized Medicare supplement benefit plans shall be as follows:

(1) Standardized Medicare supplement benefit Plan A shall be limited to the basic (core) benefits as defined in § 89.776a(2).

(2) Standardized Medicare supplement benefit Plan B shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible as defined in § 89.776a(3)(i).

(3) Standardized Medicare supplement benefit Plan C shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of

the Medicare Part B deductible and medically necessary emergency care in a foreign country as defined in § 89.776a(3)(i), (iii), (iv) and (vi).

(4) Standardized Medicare supplement benefit Plan D shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible, skilled nursing facility care and medically necessary emergency care in a foreign county as defined in § 89.776a(3)(i), (iii) and (vi).

(5) Standardized Medicare supplement Plan F shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B deductible, 100% of the Medicare Part B excess charges and medically necessary emergency care in a foreign country as defined in § 89.776a(3)(i), (iii) and (iv)—(vi).

(6) Standardized Medicare supplement high deductible Plan F shall include only the following: 100% of covered expenses following the payment of the annual high deductible Plan F deductible. The covered expenses include the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign county as defined in § 89.776a(3)(i), (iii) and (iv)—(vi). The annual high deductible Plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan F policy, and shall be in addition to any other specific benefit deductibles. The basis of the deductible shall be \$1,500 and shall be adjusted annually from 1999 by the HHS Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

(7) Standardized Medicare supplement benefit Plan G shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign county as defined in § 89.776a(3)(i), (iii), (v) and (vi).

(8) Standardized Medicare supplement Plan K shall include only the following:

(i) *Part A hospital coinsurance, day 61 through day 90.* Coverage of 100% of the Part A hospital coinsurance amount for each day used from day 61 through day 90 in any Medicare benefit period.

(ii) *Part A hospital coinsurance, day 91 through day 150.* Coverage of 100% of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from day 91 through day 150 in any Medicare benefit period.

(iii) *Part A hospitalization after 150 days.* On exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance.

(iv) *Medicare Part A deductible.* Coverage for 50% of the Medicare Part A inpatient hospital deductible amount

per benefit period until the out-of-pocket limitation is met as described in subparagraph (x).

(v) *Skilled nursing facility care.* Coverage for 50% of the coinsurance amount for each day used from day 21 through the day 100 in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subparagraph (x).

(vi) *Hospice care.* Coverage for 50% of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subparagraph (x).

(vii) *Blood.* Coverage for 50% under Medicare Part A or B, of the reasonable cost of the first three pints of blood or equivalent quantities of packed red blood cells, as defined under Federal regulations, unless replaced in accordance with Federal regulations until the out-of-pocket limitation is met as described in subparagraph (x).

(viii) *Part B cost sharing.* Except for coverage provided in subparagraph (ix), coverage for 50% of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in clause (J).

(ix) *Part B preventive services.* Coverage of 100% of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible.

(x) *Cost sharing after out-of-pocket limits.* Coverage of 100% of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4,000 in 2006, indexed each year by the appropriate inflation adjustment specified by the HHS Secretary.

(9) Standardized Medicare supplement Plan L shall consist of the following:

(i) The benefits described in paragraph (8)(i), (ii), (iii) and (ix).

(ii) The benefit described in paragraph (8)(iv), (v), (vi), (vii) and (viii), but substituting 75% for 50%.

(iii) The benefit described in paragraph (8)(x), but substituting \$2,000 for \$4,000.

(10) Standardized Medicare supplement Plan M shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 50% of the Medicare Part A deductible, skilled nursing facility care and medically necessary emergency care in a foreign country as defined in § 89.776a(3)(ii), (iii) and (vi).

(11) Standardized Medicare supplement Plan N shall include only the following: the basic (core) benefit as defined in § 89.776a(2), plus 100% of the Medicare Part A deductible, skilled nursing facility care and medically necessary emergency care in a foreign country as defined in § 89.776a(3)(i), (iii) and (vi), with co-payments in the following amounts:

(i) The lesser of \$20 or the Medicare Part B coinsurance or co-payment for each covered health care provider office visit, including visits to medical specialists.

(ii) The lesser of \$50 or the Medicare Part B coinsurance or co-payment for each covered emergency room visit, except that the co-payment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

(g) *New or innovative benefits.* New or innovative benefits must conform to this subsection. An issuer may, with the prior approval of the Commissioner, offer policies or certificates with new or innovative benefits in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include only benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies. New or innovative benefits may not include an outpatient prescription drug benefit. New or innovative benefits may not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

§ 89.783. Required disclosure provisions.

(a) *General rules.*

(1) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of this provision shall be consistent with the type of contract issued. This provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

(2) Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, riders or endorsements added to a Medicare supplement policy after the date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, a rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. When a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

(3) Medicare supplement policies or certificates may not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or similar words.

(4) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, these limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(5) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificateholder has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied. The notice shall contain a company mailing address to which the policyholder or certificateholder should direct the return policy or certificate. Upon receipt of a request for a refund, the company shall promptly refund the total premium amount paid

directly to the policyholder or certificateholder. When an insurer asks questions in the application concerning the medical history of an individual applying for "coverage," a notice shall be given to the individual urging them to verify the accuracy and completeness of the medical history information on the application and warning them that erroneous or incomplete application data could jeopardize their claim.

(6) Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to a person eligible for Medicare, shall provide to these applicants a *Guide to Health Insurance for People with Medicare* in the form developed jointly by the National Association of Insurance Commissioners and Centers for Medicare & Medicaid Services (CMS) and in a type size no smaller than 12-point type. Delivery of the *Guide* shall be made whether or not these policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this subchapter. Except in the case of direct response issuers, delivery of the *Guide* shall be made to the applicant at the time of application and acknowledgment of receipt of the *Guide* shall be obtained by the issuers. Direct response issuers shall deliver the *Guide* to the applicant upon request but not later than at the time the policy is delivered.

(7) For the purposes of this section, "form" means the language, format, type size, type proportional spacing, bold character and line spacing.

(b) *Notice requirements.*

(1) As soon as practicable, but no later than 30 days prior to the annual effective date of Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the Commissioner. The notice shall:

(i) Include a description of revisions to the Medicare Program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate.

(ii) Inform each policyholder or certificateholder as to when a premium adjustment is to be made due to changes in Medicare.

(2) The notice of benefit modifications and premium adjustments shall be in outline form and in clear and simple terms to facilitate comprehension.

(3) These notices may not contain or be accompanied by solicitation.

(4) Once the Department has approved the form, a "Notice of Change" may be used to modify the deductible and co-payment amounts to reflect Medicare changes without submitting the notice for additional approval. Once the Department has approved the form, only format changes are required to be submitted for review.

(c) *MMA notice requirements.* Issuers shall comply with any notice requirements of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the act of December 8, 2003 (Pub. L. No. 108-173, 117 Stat. 2066).

(d) *Outline of coverage requirements for Medicare supplement policies.*

(1) Issuers shall provide an outline of coverage to applicants at the time the application is presented to the prospective applicant and, except for direct response

policies, shall obtain an acknowledgement of receipt of the outline from the applicant.

(2) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12 point type, immediately above the company name:

“NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.”

(3) The outline of coverage provided to applicants under this section consists of four parts: a cover page, premium information, disclosure pages and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format required in this paragraph in no less than 12 point type. All plans shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

(4) Once the Department has approved the format, an “Outline of Coverage” may be modified to reflect Medicare changes to rates, deductible and co-payment requirements without submitting the Outline of Coverage for review. Only those forms containing a format change are required to be submitted for review.

(5) The following items shall be included in the outline of coverage in the order required in this paragraph:

PREMIUM INFORMATION
(Boldface Type)

We (insert issuer’s name) can only raise your premium if we raise the premium for all policies like yours in this Commonwealth. (If the premium is based on the increasing age of the insured, include information specifying when premiums will change.)

DISCLOSURES
(Boldface Type)

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010, have different benefits and premiums. Plans E, H, I and J are no longer available for sale. (This paragraph may not appear after June 1, 2011).

READ YOUR POLICY VERY CAREFULLY
(Boldface Type)

This is only an outline describing your policy’s most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY
(Boldface Type)

If you find that you are not satisfied with your policy, you may return it to (insert issuer’s address). If you send

the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT
(Boldface Type)

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE
(Boldface Type)

This policy may not fully cover all of your medical costs. (for producers:) Neither (insert company’s name) nor its producers are connected with Medicare.

(for direct response:) (insert company’s name) is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult *Medicare and You* for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT
(Boldface Type)

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

(Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts as provided in paragraph (6). No more than four plans may be shown on one chart. An issuer may use additional benefit plan designations on these charts pursuant to § 89.777b(e)).

(Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Commissioner.)

(6) The cover page and the accompanying charts for Plan A to Plan L of the Outlines of Coverage are available upon request from the Department in printed and electronic formats. In addition, notice will be published, in the *Pennsylvania Bulletin*, of the availability of the amended outlines when revisions are made available to the Department by the United States Department of Health and Human Services as published in the *Federal Register*. The Outlines of Coverages will be made available on the Department’s web site at <http://www.ins.state.pa.us>.

(e) *Notice regarding policies or certificates which are not Medicare supplement policies.*

(1) An accident and sickness insurance policy or certificate, other than a Medicare supplement policy; a policy issued under a contract under section 1876 of the Social Security Act (42 U.S.C.A. § 1395mm), disability income policy; or other policy identified in § 89.771(b) (relating to applicability and scope) issued for delivery in this Commonwealth to persons eligible for Medicare, shall notify the insured under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall be printed or attached to the first page of the

outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds.

The notice shall be at least 12 point type and shall contain the following language:

“THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CONTRACT). If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company.”

(2) Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in subsection (e)(1) shall disclose the extent to which the policy duplicates Medicare. The disclosure statement shall be provided in the form required by the Department as set forth in the Medicare Supplement forms relating to Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare as a part of, or together with, the application for the policy or certificate.

(f) *Availability of forms.* Applicable forms relating to Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare, Refund Calculations and Reporting of Duplicate Medicare Policies for Medicare Supplement Chapter 89 are available upon request from the Department in printed and electronic formats. In addition, notice will be published, in the *Pennsylvania Bulletin*, of the availability of amended Medicare Supplement forms when revisions are made. These Medicare Supplement forms will be made available on the Department's web site at <http://www.insurance.state.pa.us>.

§ 89.784. Requirements for application forms and replacement coverage.

Application forms shall include the following requirements and questions designed to elicit information as to whether, as of the date of application, the applicant currently has Medicare supplement, Medicare Advantage, Medicaid coverage, or another health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer containing these questions and statements may be used. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

(1) *Statements.*

(i) You do not need more than one Medicare supplement policy.

(ii) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(iii) You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

(iv) If, after purchasing this policy, you become eligible for Medicaid, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your suspended Medicare supplement policy or, if the Medicare supplement

policy is no longer available, a substantially equivalent policy will be reinstated if requested within 90 days of losing Medicaid eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of suspension.

(v) If you are eligible for, and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of suspension.

(vi) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB).

(2) *Questions.* If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application. PLEASE ANSWER ALL QUESTIONS.

Please mark Yes or NO below with an “X”

To the best of your knowledge,

(i) Did you turn age 65 in the last 6 months?

YES ____ NO ____

(ii) Did you enroll in Medicare Part B in the last 6 months?

YES ____ NO ____

(iii) If yes, what is the effective date? _____

(iv) Are you covered for medical assistance through the state Medicaid program?

YES ____ NO ____

(A) NOTE TO APPLICANT: If you are participating in a “Spend-Down Program” and have not met your “Share of Cost,” please answer NO to this question.

(B) If yes,

(1) Will Medicaid pay your premiums for this Medicare supplement policy?

YES ____ NO ____

(2) Do you receive any benefits from Medicaid OTHER THAN payments towards your Medicare Part B premium?

YES ____ NO ____

(v) If you had any from any Medicare plan other than the original Medicare within the last 63 days (for example, a Medicare Advantage plan, or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

START ____ / ____ / ____ END ____ / ____ / ____

(vi) If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

YES ____ NO ____

(vii) Was this your first time in this type of Medicare plan?

YES ____ NO ____

(viii) Did you drop a Medicare supplement policy to enrollment in the Medicare Plan?

YES ____ NO ____

(ix) Do you have another Medicare supplement policy in force?

YES ____ NO ____

(A) If so, with what company and what plan do you have (optional for Direct Mailers)?

(B) If so, do you intend to replace your current Medicare supplement policy with this policy?

YES ____ NO ____

(x) Have you had coverage under any other health insurance within the past 63 days? (For example, an employer, union, or individual plan)

YES ____ NO ____

(A) If so, with what company and what kind of policy?

(B) What are your dates of coverage under the policy (If you are still covered under the other policy, leave "END" blank.)?

START ____ / ____ / ____ END ____ / ____ / ____

(3) Producers shall list on the application form the following health insurance policies they have sold to the applicant:

- (i) Policies sold which are still in force.
- (ii) Policies sold in the past 5 years which are no longer in force.

(4) Notice.

(i) If a sale involves replacement of Medicare supplement coverage, an issuer, other than a direct response issuer, or its agent shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent shall be provided to the applicant and an additional signed copy shall be retained

by the issuer, except where the coverage is sold without an agent. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(ii) The notice for an issuer shall be provided in substantially the following form in at least 12 point type.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE OR MEDICARE ADVANTAGE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to terminate existing Medicare supplement or Medicare Advantage and replace it with a policy to be issued by (Company Name) Insurance Company. Your new policy will provide thirty (30) days within which you may decide without cost whether you desire to keep the policy.

You should review this coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement or Medicare Advantage coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, PRODUCER (OR OTHER REPRESENTATIVE):

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement or, if applicable, Medicare Advantage coverage because you intend to terminate your existing Medicare supplement coverage or leave your Medicare Advantage plan. The replacement policy is being purchased for the following reason(s) (check one):

- ____ Additional benefits.
- ____ No change in benefits, but lower premium.
- ____ Fewer benefits and lower premiums.
- ____ My plan has outpatient prescription drug coverage and I am enrolling in Part D.
- ____ Disenrollment from a Medicare Advantage plan. Please explain reason for disenrollment (optional only for Direct Mailers.)

____ Other. (please specify)

(Signature of producer or other representative)*

(Typed Name and Address of issuer, producer or other representative)

(Applicant's Signature)

(Date)

* Signature not required for direct response sales.

(iii) *Additional statements.* The notice shall include the following statements, except that clauses (A) and (B), applicable to preexisting conditions, may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation:

(A) If the issuer of the Medicare supplement policy being applied for does not, or is otherwise prohibited from imposing preexisting condition limitations, please skip to statement 2 below. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(B) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(C) If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

(D) Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

§ 89.791. Prohibition against use of genetic information and requests for genetic testing.

(a) This section applies to all Medicare supplement policies with policy years beginning on or after May 21, 2009.

(b) For purposes of this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Issuer—The issuer of a Medicare supplement policy or certificate as defined in § 89.772. This term includes a third party administrator, or other person acting for or on behalf of the issuer.

Family member—A first-degree, second-degree, third-degree or fourth-degree relative of an individual.

Genetic counseling—Obtaining, interpreting, or assessing genetic information.

Genetic information—Except for the sex or age of an individual, information regarding:

(i) Genetic tests of an individual or individual's family member.

(ii) The manifestation of a disease or disorder in an individual's family member.

(iv) An individual's request for, or receipt of, genetic services.

(v) Participation in clinical research involving genetic services by an individual or an individual's family member.

(vi) When an individual or family member is a pregnant woman, any reference to information of any fetus carried by the woman.

(vii) Information of any embryo legally held by an individual or family member utilizing reproductive technology.

Genetic services—A genetic test, genetic counseling or genetic education.

Genetic test—An analysis of human DNA, RNA, chromosomes, proteins or metabolites, that detect genotypes, mutations or chromosomal changes. The term does not include an analysis of proteins or metabolites that does not detect genotypes, mutations or chromosomal changes or an analysis of proteins or metabolites directly related to a manifested disease, disorder, or pathological condition that may reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

(c) An issuer of a Medicare supplement policy or certificate may not:

(1) Use an individual's genetic information to deny or condition the issuance or effectiveness of a policy or certificate to that individual, including the imposition of an exclusion of benefits based on a preexisting condition.

(2) Use an individual's genetic information to discriminate in the pricing of the policy or certificate, including the adjustment of premium rates.

(3) Request or require an individual or an individual's family member to undergo a genetic test, except the issuer may:

(i) Obtain and use the results of a genetic test in making a determination regarding payment, as defined for the purposes of applying regulations promulgated under Title XI Part C of the Social Security Act (42 U.S.C.A. §§ 1320d—1320d-9) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C.A. § 1320d-2 note 2), consistent with paragraphs (1) and (2) if the issuer requests only the minimum amount of information necessary to accomplish the intended purpose.

(ii) Request, but not require, an individual or individual's family member to undergo a genetic test if the following conditions are met:

(A) The request is made under research that complies with 45 CFR Part 46 (relating to protection of human subjects), or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

(B) The issuer clearly indicates to the individual, or the legal guardian of a minor child, to whom the request is made, that compliance with the request is voluntary and that noncompliance will have no effect on enrollment status or premium or contribution amounts.

(C) The issuer does not use genetic information collected or acquired under this clause for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

(D) The issuer notifies the HHS Secretary in writing that the issuer is conducting activities under the exception provided for under this subsection, including a description of the activities conducted.

(E) The issuer complies with other conditions as the HHS Secretary may, by regulation, require for activities conducted under this subparagraph.

(4) Request, require, or purchase genetic information for underwriting purposes to:

(i) Determine enrollment, eligibility or continued eligibility for benefits under a policy.

(ii) Compute premium contribution amounts under a policy.

(iii) Apply any preexisting condition exclusion under a policy.

(iv) Conduct any activity related to the creation, renewal or replacement of a contract of health insurance or health benefits.

(5) Request, require or purchase an individual's genetic information prior to that individual's enrollment under the policy in connection with enrollment. If an issuer obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning an individual, the request, requirement, or purchase is not a violation of this paragraph if the request, requirement or purpose does not violate paragraph (4).

(d) Nothing in subsection (c)(1) or (2) shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from:

(1) Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant.

(2) Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under a group policy; provided that the manifestation of a disease or disorder in one individual may not also be used as genetic information about other group members and to further increase the premium for the group.

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Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Nursing Education Programs; Provisional Approval; Removal from Approved List; Examination Pass Rates

The State Board of Nursing (Board) adopts amendments to Chapter 21 (relating to State Board of Nursing) regarding approval of nursing education programs for professional nurses (RNs) and practical nurses (LPNs), to read as set forth in Annex A. These amendments will establish a new pass-fail rate for approved registered nursing and licensed practical nurse programs in this Commonwealth. Beginning 1 year after the amendments are promulgated, nursing education programs will remain on full approval status if at least 75% of the programs graduates pass the National licensure examination. Beginning 2 years after the amendments are promulgated, nursing education programs would remain on full approval status if at least 80% of the programs graduates

pass the National licensure examination. These provide for oversight and assistance to those programs whose pass rates fall below acceptable standards.

Notice of proposed rulemaking was published at 38 Pa.B. 344 (January 19, 2008). Publication was followed by a 30-day public comment period during which the Board received numerous comments from stakeholders. On February 13, 2008, the House Professional Licensure Committee (HPLC) submitted its comments. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. The Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking on March 20, 2008.

Statutory Authority

These final-form regulations are authorized under section 6.1 of the Professional Nursing Law (RN act) (63 P. S. § 216.1), which requires the Board to establish standards for the operation and approval of nursing education programs and for the preparation of RNs. Section 9 of the Practical Nurse Law (LPN act) (63 P. S. § 659) authorizes the Board to approve all schools and institutions that educate LPNs. The Board is further authorized to establish rules and regulations for the practice of professional nursing and the administration of the RN act under section 2.1(k) of the RN act (63 P. S. § 212.1(k)) and for the practice of LPNs and the administration of the LPN act under section 17.6 of the LPN act (63 P. S. § 667.6).

Summary of Comments and Responses to Proposed Rulemaking

Comments from Stakeholders

The Board received comments from several nursing education programs. Butler County Community College (Butler) agreed with the proposal to increase the licensure passing rate requirements for nursing education programs. However, Butler suggested that the Board could support nursing education by identifying the appropriate faculty to student ratios for clinical courses. Butler suggested that this requirement would assist program administrators when requesting additional faculty positions. Second, Butler suggested that a program that admits students annually in the fall semester would be including students from two different cohorts in their annual report, which is based on an examination year October 1 through September 30.

The Board has consistently declined to establish a minimum faculty to student ratio for clinical courses because it believes that each program is in the best position to make determinations regarding the effectiveness of its student to faculty ratio based on the program's instructors, the acuity of the patient population in a clinical program and the nature of the program's student body. While establishing the student to faculty ratio by regulation might assist some schools in successfully lobbying their administration for additional faculty positions, other schools might be placed in a position of justifying current faculty assignments and decrease faculty. The Board believes that the best way to ensure an effective student to faculty ratio is to allow each nursing education program to set its ratio consistent with meeting educational objectives.

The Board cannot dictate when program graduates sit for the licensure examination. Therefore, no matter what dates the Board might set for the examination year, it is possible that individuals from more than one cohort from a particular nursing education program may sit for any given administration of the examination. The Board

obtains examination results from the National Council of State Boards of Nursing, which are provided quarterly. The Board chose the October 1 through September 30, examination year to capture the majority of each program's cohorts.

The Clearfield Campus of Lock Haven University (Lock Haven) wrote in support of the increase to 70%, but commented that the additional increase to 80% 2 years following the first increase would not provide nursing education programs ample time to implement and evaluate strategies and their effectiveness. For at least 10 years, the Board has written to all programs with pass rates between 60.1% and 80% and notified these programs that the Board has been planning to raise the minimum pass rate. Included with this notice, the Board provided suggestions for self-assessment and correction and offered assistance from its education advisors. The Board believes that it has given nursing education programs sufficient notice of its intention to increase the minimum pass rate and that the programs will be able to implement and evaluate strategies and their effectiveness.

Lock Haven also commented that the proposal would force nursing programs to "implement stringent admission criteria, decrease enrollment, increase GPA requirements, increase grading scales and utilize standardized exams as a means to weed out students prior to graduation" and suggested that these changes "could affect the numbers of potential registered nurses in the Commonwealth, and have a direct impact on the nursing shortage." The Board disagrees with Lock Haven's conclusion. There are many reasons why a nursing education program's graduates cannot pass the licensure examination. Rather than decreasing enrollment, a program could evaluate its status related to having an adequate number of qualified faculty, a well-defined faculty development plan, and a sound curriculum plan as evidenced through program outcomes in its systematic evaluation plan.

The Board's proposal to increase the minimum pass rate will positively impact the number of potential registered nurses in this Commonwealth. If at least 70%, and, after 2 years, at least 80%, of the graduates of every nursing program in this Commonwealth pass the licensure examination, enabling them to become licensed nurses practicing in this Commonwealth, there will be more nurses than if only 60% of the graduates of the programs pass the licensure examination and become licensed nurses practicing in this Commonwealth.

The Board received two comments from Thomas Jefferson University (TJU). The Dean of the School of Nursing expressed support for the increase in the minimum pass rates for program graduates as essential to ensuring the quality of nursing education programs in this Commonwealth and assuring the safety of the public and the integrity of the nursing profession. The Dean requested that the Board consider establishing regulations to require an individual who was unsuccessful after twice taking the licensure examination to meet additional educational requirements prior to repeating the examination and to require graduates to sit for the examination within 3 years of completing their nursing education. The Board will take up these recommendations at its meetings and consider regulations in these areas.

The Assistant Dean of the School of Nursing sent the second letter from TJU. This letter also expressed support for the Board's proposal to raise the minimum passing standard. The writer proposed that the Board amend its rulemaking to add another type of approval. The writer

suggested that a program that is on provisional approval status and is not improving after 2 years should be placed on probationary approval status for another period of time prior to the program being removed from the approved list. The Board does not agree that adding another step in the process would improve schools' compliance with the regulations.

Comments From Other Interested Parties

The Executive Director of the Pennsylvania Association of County Affiliated Homes (PACAH) wrote in support of the regulation raising the pass rates to around the National average, noting that this Commonwealth had been behind most states in regards to this issue. PACAH suggested that the Board place additional restrictions on nursing education programs to ensure that the programs contain the essential elements/instructional processes to support their students. As part of the process of granting initial approval to nursing education programs, the Board performs a detailed review of the program's curriculum, faculty, resources and clinical sites. The Board's assessment of these areas is ongoing through the annual and triennial reports that programs are required to file with the Board.

PACAH expressed concern about the impact on students if a program is removed from the approved list, and asked for more information about transitioning students to another program. The Board's educational advisors monitor all nursing education programs on provisional status. However, it is the responsibility of the controlling institution to provide for the completion of the program for students currently enrolled either by placing the students in an approved program or continuing the enrolled classes until completion.

The Pennsylvania State Nurses Association (PSNA) wrote to support increasing the pass rates over the 2-year period and downgrading programs to provisional approval status if their pass rate falls below 80%. PSNA noted that the revision would align the Commonwealth with other states that mandate higher standards and will motivate programs that hover near marginal levels to improve. PSNA also wrote in support of the procedures developed by the Board for removal of a program from the approved list.

PSNA asked that the Board further investigate whether individuals who successfully take the licensure examination on the first try are safer practitioners than those who pass on their second attempt. The Board has never collected data to correlate the efficacy of practitioners and the number of times practitioners took the licensure examination nor is the Board aware of any research that even suggests a correlation between safe practice and number of times an individual examined. Nevertheless, it is not clear to the Board that any relation that might be revealed would indicate the quality of particular nursing education programs. To the Board's knowledge, all states consider only first time test takers when evaluating the success of their nursing education programs.

The Hospital and Healthsystem Association of Pennsylvania (HAP) wrote in support of increasing the accountability of nursing education programs for achieving increased pass rate standards, but expressed concern that the regulations might have the unintended effect of negatively impacting the supply of nurses in this Commonwealth. The Board believes that the increased pass rate standard will increase the number of nurses licensed in this Commonwealth. By way of illustration, the Board compared the number of nurses eligible for licensure from

programs with pass rates below 80% during the October 1, 2006, through September 30, 2007, period to the number of nurses eligible for licensure if those programs met the 80% pass rate. During this period of time, 1,962 students from nursing programs with a pass rate below 80% took the examination and 1,422 passed the examination. If, during this same period of time, 1,962 students from nursing programs with a pass rate of 80% took the examination, 1,570 would have passed, resulting in an increase of 148 new nurses who could be licensed in this Commonwealth.

HAP suggested that the Board amend its rulemaking to provide a 3-year phase in of the 80% standard to give programs more time to meet the upgraded standards. HAP opined that "it generally takes considerable effort—often over several years time—to assess what . . . issues [have resulted in low pass rates], develop plans for correction, implement changes, and monitor those changes to evaluate effectiveness." As noted previously, the Board has, for at least 10 years, notified all programs with pass rates between 60.1% and 80% of the Board's intention to raise the minimum pass rate. Also, it has requested that the programs assess the factors contributing to the low pass rate and address those factors. The Board does not believe that programs need more time to implement changes; rather, by virtue of the new regulation, programs that do not assess shortcomings and implement changes will be faced with the consequence of being placed on provisional approval status. Once on provisional status, the programs will be subject to a timetable for assessing the programs' weaknesses and improving the program so that at least 80% of program graduates are prepared to pass the licensure examination and begin their careers as nurses.

HAP also suggested that the Board determine a program's pass rate based on a 3-year average. The vast majority of states evaluate programs based on annual NCLEX performance. Several states consider NCLEX performance of program graduates over more than 1 year.

Delaware Board of Nursing, which uses an 80% pass rate standard, places a program on provisional approval status if pass rates are below 80% for 2 consecutive years. Looking at examination results for this Commonwealth's programs for the examination year October 1, 2005, through September 30, 2006, 16 programs failed to achieve a minimum 80% pass rate and would be subject to provisional approval status. Using Delaware's standards, that is, schools below the 80% minimum in the 2005-2006 year and still below the 80% minimum in the October 1, 2006, through September 30, 2007, examination year, 15 programs would be subject to provisional approval status.

Georgia Board of Nursing also uses 80% as the minimum pass rate standard. If a program fails to meet the 80% standard in any given year, the Board will consider a 4-year average of the program's pass rates. Applying Georgia's standard to this Commonwealth, 16 programs failed to achieve the minimum 80% standard in the 2005-2006 examination year. Seventeen programs failed to achieve the minimum 80% standard when all 4 years of examination score data, from 2003-2004 through 2006-2007, were considered.

North Carolina Board of Nursing uses 95% of the National pass rate as its minimum pass rate standard, but uses a 3-year average to determine a program's pass rate. Using North Carolina's system, 21 programs would fall below the minimum pass rate in the 2005-2006 examination year, as compared to 16 that would fall

below the proposed Pennsylvania standard in the same year. In addition, using the 3-year average, over 16 programs would be subject to provisional approval status in the 2005-2006 examination year under the North Carolina Standard.

Maryland Board of Nursing uses 90% as the minimum pass rate standard. Applying Maryland's rules in this Commonwealth during the 2005-2006 examination year, 47 programs would have been placed on "warning status" and given only 1 year to improve performance. Using the model proposed by the Board, only 16 programs would have been placed on provisional status and given 2 years to improve performance.

In short, the Board is aware that there are different approaches by the states to calculate and evaluate pass standards as one method of evaluating the effectiveness of the state's nursing education programs. Remediation programs also vary from state to state. The Board considered other states' regulatory schemes. The Board is satisfied that its proposal, which emphasizes early intervention with programs experiencing difficulty and the emphasis on a plan to ensure improvement so that programs can be returned to full approval status, will be an effective method to improve the quality of nursing education programs in this Commonwealth.

Regarding HAP's comments about the licensure examination and test plan, the Board is confident that the examination, which is used in by every Board of Nursing in the United States, has not placed graduates of Pennsylvania nursing programs in a negative position in comparison with their colleagues in other states. Changes to the test plan and passing standard occur through a rigorous scientific methodology in accordance with psychometric principles at most once every 3 years. The 2005 RN Practice Analysis conducted by the National Council of State Boards of Nursing demonstrated that the RNs surveyed "worked an average of 3.64 months as RNs" and not the 6 to 12 months asserted. In addition, approximately one-third of this Commonwealth's programs experienced an increase in their pass rate in the October 2006-September 2007 reporting period as compared to the prior reporting period. Of this Commonwealth's programs whose pass rates declined in the October 2006-September 2007 reporting period, approximately one-third experienced a decline in their pass rate of less than 2 percentage points.

HAP next questioned whether the Board would have sufficient resources to monitor and assist programs on provisional approval status. The Board is committed to having appropriate resources available for monitoring all nursing education programs with the intent to assure regulatory compliance and overall program quality provided in the education of nurses in this Commonwealth.

HAP next recommended that the Board use the pass rate only as a first-level screening tool to determine whether any nursing education program should be placed on provisional status, and that the Board "fully consider other data" before placing a program on provisional status. Specifically, HAP suggested that the Board consider the pass rate of program graduates who tested in another state. When a candidate applies for licensure by examination, the candidates must provide on the application the Program Code assigned by NCSBN to the nursing education program. This program code identifies the program the candidate graduate from and their results are reported to that respective program. The

Board already considers the test results reported to each program, which includes program graduates who tested in another state.

HAP also suggested the Board consider whether the examination year test results included a mixing of cohort groups. The Board is not clear why this is a concern, considering HAP's suggestion to average 3 years of pass rates, which would clearly involve mixing cohort groups. The Board does not have a method to track individual cohorts from programs, nor does the Board require individuals to test at any particular time. The Board does not believe that having examination year results include students from several cohorts decreases the validity of the pass rate data. HAP next suggested that the Board consider the diversity of the program's student population. The Board is not clear how HAP foresees a regulatory scheme to address any relationship that might exist between the diversity of a program's student population and NCLEX performance.

Next, HAP suggested that the Board recalculate the pass rate of programs by considering second-time pass rate success due to generational differences and approaches to the examination. First, the Board has no way to correlate the age of the test takers with their scores. Second, the NCLEX has been a computer based examination for 14 years. The Board knows of no basis for HAP's suggestion that some students view the first time taking of the NCLEX as a practice examination. The cost of the examination is around \$200; the Board has not received reports that students view it as a "practice" examination.

HAP then suggested that the Board should consider the number of students that sat for the examination. The Board is aware that if only a small number of students sit for the examination, even a small number of failures will affect the pass rate. However, percentage-based assessment inherently treats large and small programs with equality. The Board's education advisors consider the size of the graduating class and the program's historic pass rate performance when working with a program to improve performance.

Finally, HAP suggested that the Board consider the retention rates of the programs. HAP stated that some schools have implemented periodic testing throughout the program to "weed out students before graduation to ensure that the school attains the NCLEX pass rate standards." Students pay tuition to the program with the intention of gaining an education that will permit them to successfully pass the NCLEX, obtain licensure and work in their chosen profession. The Board does not agree with HAP's implication that a program should continue to take tuition payments from students in a nursing education program when the program has every indication that the student will not be able to pass the licensure examination and practice the profession. In fact, the Board believes that a program that does so is doing a disservice to the student, who should either be given the tools to succeed in the program or encouraged to choose another course of study that will enable the student to find employment upon graduation. By increasing the minimum pass rate standard, the Board is requiring nursing education programs to be more responsible and accountable to their students by providing a high quality educational program that will ultimately lead graduates to the practice of the profession.

Next, HAP suggested that there may be serious unintended consequences of the Board's proposal, including having nursing programs institute more stringent admission criteria resulting in the acceptance of fewer nursing

students, particularly fewer minority students, into the programs; limiting the pool of applicants for admission by excluding those that don't perform as well on standardized tests such as the SAT; limiting the number of diverse students because demographically, certain populations of students don't perform well on standardized tests; and encouraging schools to "weed out" students before graduation. HAP suggested that these unintended consequences would exacerbate the current nursing shortage. The Board disagrees with HAP's predictions. It is the responsibility of the school to determine its admissions criteria. Programs should provide sound, ongoing evaluation for students' progression through the program to ensure that graduates will be prepared to enter the workforce.

HAP also suggested exploring the implementation of a monitoring program that could be used to assist at-risk programs. For at least the past 10 years, the Board has been notifying programs that the Board has identified as at-risk and offering suggestions and assistance to these programs in identifying and correcting factors that might have led to substandard pass rates. A monitoring program has been in place for many years.

HAP next suggested that the requirement that nursing programs apprise applicants and students whenever the program's approval status changes would place an operational burden on schools. The Board believes that programs must be responsible for and accountable to their students. Moreover, the Board believes that prospective students and current students should be aware of the approval status of programs they are intending to enroll in or in which they are currently enrolled. The Board purposefully left to the programs the means by which this notification would be made to give programs flexibility. At the request of IRRC, the Board will clarify the means of notification. The Board does not believe that the requirement places an undue burden on nursing education programs.

Finally, HAP proposed that programs be given 3 years to correct deficiencies. The Board stands by its proposal that programs be required to correct deficiencies in 2 years, and has allowed that an extension of time may be granted if a program is showing progress toward correction.

HPLC Comments

The HPLC submitted nine comments to the Board. HPLC asked if a program that had been removed from the approved list could reapply to be placed on the approved list and the procedure the program would follow. A program that has been removed from the approved list would be treated the same as any other program that does not have Board approval, that is, as if a new program were being established under § 21.51 (relating to establishment). If approved, the program would be placed on initial approval status, as set forth in § 21.33 (relating to types of approval).

The HPLC noted that the Board used the numeral "2" in §§ 21.33a(g) and 21.162a(g) (relating to types of approval). The Board's usage appears to be consistent with § 4.11 of the *Pennsylvania Code & Bulletin Style Manual*. The Board is confident that if its usage is erroneous, the editors of the *Pennsylvania Code* will make an appropriate correction.

The HPLC suggested that the informal process to correct deficiencies should be separated from the formal process for removal in §§ 21.33a and 21.162a. The Board has deleted the last part of subsections (a), (d) and (e) from these subsections, which seem to mingle the infor-

mal process and the process when a program is on provisional approval with the removal process. As the entire section relates to failure to comply with standards, the last part of subsections (a), (d) and (e) is more properly placed in its own subsection. The Board has created a new subsection (k) for the provision.

The HPLC noted that Wilson College had commented on the proposal during the predraft comment period and requested that certain restrictions, such as only daytime programming, be placed on schools on provisional approval status. The Board noted in the preamble to proposed rulemaking that the Board already imposes restrictions as appropriate. The HPLC asked what other restrictions the Board might impose and how they might improve pass rates. The Board has imposed a variety of restrictions, such as requiring a program to institute a program of student testing to identify deficiencies in the curriculum, collecting data to correlate preadmission GPA and student performance, raising the GPA admission standard and instituting tutoring programs for at-risk students. Identifying deficiencies in the curriculum allows a program to make targeted improvements in teaching methodology or personnel, or both, correlating preadmission GPA to student performance allows a program to determine if remedial programs for students will improve NCLEX performance.

The HPLC next asked for examples of the additional reports that may be required of a program on provisional approval status under §§ 21.33a(e) and 21.162a(e). Different reports may be required depending on the status of the program's self-assessment of the underlying causes for failing to meet the regulations and the educational advisor's identified deficiencies. Reports might include detail from the program's systematic evaluation plan, such as curriculum plans, admission and progression policies and competency determination tools.

The HPLC noted that §§ 21.33a(g) and 21.162a(g) provide for a 2-year period for a program to become compliant with the Board's regulations. HPLC asked whether the Board had considered a period of time for correction of deficiencies. The Board has used the terms come into compliance or become compliant and correct deficiencies interchangeably. The same time period applies. The Board has rewritten these subsections for clarity.

The HPLC's next comment related to a draft copy of the rulemaking that was corrected by the *Pennsylvania Code* and *Bulletin* editors prior to publication as proposed rulemaking.

The HPLC asked at what specific points in time a program could appeal the Board's decision that a program has a deficiency. Specifically, the HPLC asked if there could be an appeal before formal action was taken and whether the restrictions in §§ 21.33a(g) and 21.162a(g) were appealable. Finally, the HPLC asked the Board to enumerate the appeals process in the regulation. Sections 21.33a(j) and 21.162a(j) provide that a program may appeal the decision to place the program on provisional status in accordance with 1 Pa. Code § 35.20 (relating to appeals from actions of the staff). This section of the General Rules of Administrative Practice and Procedure (GRAPP) applies to appeals from actions taken by administrative agency staff, such as actions of the Board's nursing education advisors. The section allows a party to appeal the action of staff within 10 days after service of notice of the action by the staff. The appeal would be filed with the Board. The GRAPP contemplate the appeal of all staff action; therefore, the Board believes that a program

could appeal any restriction placed on the program by Board staff. These sections have been expanded to further explicate the appeal process provided by the GRAPP.

Finally, the HPLC asked why the proposal did not require notice to current students of the changes in approval status or provide students the opportunity to transfer to another program with full approval status. Sections 21.33(b) and 21.162(b) require a program to notify applicants and students whenever the program's approval status changes. The provisions assume that the students know the status of the program upon enrollment. The Board does not have any authority to "provide students the opportunity to transfer to another program." Students, as consumers of educational services, are free to apply to other programs and, if accepted, transfer, at any time.

IRRC Comments

IRRC first addressed the clarity of §§ 21.31(d) and 21.162(c), noting that the word "approval" was confusing. The Board's nursing education advisors are authorized to move a program from initial approval status to full approval status. In addition, the Board's nursing education advisors conduct the compliance review and monitor the performance and improvement plan processes on behalf of the Board. Only the Board may grant initial approval status to a program or remove a program from the approved list. Based on comments received, the Board has amended this section to include, as a function solely of the Board, the authority to extend the 2-year maximum period for the correction of deficiencies. These sections have been rewritten for clarity. In addition, a typographical error was detected by IRRC and corrected.

IRRC next suggested that the Board provide a time period for the notice programs are required to give to applicants and students under §§ 21.33(b) and 21.162(b). The Board will add a 30-day time period for the notice. In addition, the Board will add direction concerning the methods of acceptable notice, as requested by IRRC.

IRRC suggested that §§ 21.33a(a) and 21.162a(a) specifically provide that the Board provide written notice to the program describing the reported deficiencies. The Board had anticipated that written notice would be provided and has added this provision. IRRC also asked, regarding the notice provision in subsections (b), whether this was a different notice than that in subsection (c). Depending on the circumstances, the education advisors may provide one notice or separate notices. In some cases, multiple notices may be provided. The process is intended to remain informal to permit the programs to address concerns without a formal, public proceeding. To this end, the Board seeks to encourage a collegial flow of information between the program director and the educational advisors.

IRRC asked the Board what criteria or factors the Board would consider in making the determination to place a program on provisional approval status. Section 21.33(a)(3), and its counterpart for LPN programs, § 21.162(a)(3), provide that the Board may exercise its discretion to place a program on provisional approval status if the program does not meet the standards of the subchapter. The standards set forth in the subchapter are the criteria or factors that the Board considers. The Board also considers the steps a program takes to return to compliance.

IRRC asked whether the provisions of subsections (c) and (g) were in conflict. The Board has amended subsec-

tion (g) to clarify that only the Board, and not the education advisors, may extend the correction period beyond 2 years.

IRRC requested that the Board provide that its education advisors will provide written notice and requests in subsections (d) and (e). The Board anticipated that these requests would be in writing and has added the requested provisions.

Many of the questions raised by IRRC under its question number 4 have been addressed in response to other commentators' concerns. IRRC also asked if the Board had any information on how many programs will be able to reach the 80% standard in 2 years, and what kind of changes would be required to meet the standard. As noted previously, programs with a pass rate between 60.1% and 80% have been receiving communication and assistance from the Board for the past 10 to 12 years. In answering IRRC's question, the Board considered the pass rates for the Commonwealth's nursing education programs for the examination years 2003-2004, 2004-2005, 2005-2006 and 2006-2007.

Exam Year	PN	PN	RN	RN
	programs below 75%	programs 75.1— 79.9%	programs below 75%	programs 75.1— 79.9%
2003-2004	2	3	12	13
2004-2005	0	2	6	9
2005-2006	2	2	7	9
2006-2007	4	2	19	11

Of the RN programs with pass rates below 80% for the 2003-2004 examination year, 15 programs increased their pass rate to over 80% in the 2004-2005 examination year, an additional five increased their pass rate to over 80% by the 2005-2006 examination year, and all but one of the programs was in compliance with the 80% pass rate by the 2006-2007 examination year. Based on this historic data, it appears that virtually all RN programs will be able to reach the 80% standard within 2 years.

Of the LPN programs with pass rates below 80% over the 4 examination years considered, only one was unable to improve its pass rate to above 80% within 1 examination year; that program improved its pass rate to over 90% in the second year after initiating corrective measures. Based on this historic data, it appears that all LPN programs will be able to reach the 80% standard within 2 years.

Only three programs have had pass rates below 80% for 4 consecutive examination years. These programs include two baccalaureate degree programs (with rates of 60%—74.42%—74.24%—74.58% for a total of 183 students sitting for examination over the 4 year period, and 50%—76.92%—47.37%—47.52% for a total of 61 students sitting for examination over the four year period), and one diploma program (with rates of 75%—64.29%—64%—63.16% for a total of 101 students sitting for examination over the 4 year period). The Board anticipates that the second BSN program and the diploma program will need to make significant improvements across their programs to meet the 80% standard. Because programs have never been subject to the 80% pass rate or a timetable for coming into compliance with the new pass rate, it is impossible to anticipate whether all three of these programs would be able to reach the goal.

IRRC next noted that HAP recommended two additional approaches to meeting the 80% standard; first, phasing in the standard over a 3-year period and second, using a 3-year average to calculate the pass rate. As

noted previously, the Board has notified programs for 10 years that a change would be coming to increase pass rates. The Board does not believe that programs need another year of notice that pass rate standards are increasing. The Board fully discussed the 3-year average suggestion in its response to HAP's comments. It is also interesting to note that two of the three programs identified previously would be placed on provisional approval status after 1 year under HAP's recommendation, and that all three of the programs would be placed on provisional approval status after 2 years under HAP's recommendation. The Board does not anticipate that its approach will be grossly over inclusive.

IRRC commented that it agreed with other commentators who had suggested that the Board consider examining the success rate of second time test takers and, if there were a question about the nexus between the program and a second time test taker's success, the Board could require that applicants report and document additional course work. The Board's statutory authority is to approve, and disapprove, nursing education programs. Even if the Board reviewed and analyzed information about the study habits of applicants for reexamination, it is not clear that the Board could distinguish what made an applicant successful or unsuccessful on reexamination. Moreover, it is important to note that all states base the determination of an educational program's effectiveness on the pass rate of first time test takers.

Regarding removal from the approved list, IRRC, following up on a question from HPLC, asked if in the past any programs had been removed from the approved list and later inquired about submitting an application for reinstatement. The Board has never removed a program from the approved list. Should a program be removed, it could reapply for initial approval by the Board.

IRRC next questioned the responsibility of the controlling institution to students set forth in §§ 21.34(b) and 21.166(b). This provision requires the controlling institutions to maintain support from the program until currently enrolled students have graduated or been placed in other programs. The provisions that make the controlling institution responsible for students in the institution's program are found in § 21.41(c) (relating to notification; completion of program; records) for professional nursing education programs and in § 21.173(c) (relating to discontinuance or interruption of a program of a practical nursing education programs).

Finally, IRRC suggested that the Board include in its regulation a reference to section 6.2(a) of the RN Law (63 P. S. § 216.2(a)). Section 6.2(a) of the RN Law provides that a students who obtained part of the nursing education from a program that was removed from the proposed list shall be granted credit for that course work by another program into which the student transfers. The Board has referenced this section of the RN Law in § 21.34(d). The LPN Act does not include a parallel provision for practical nursing students because practical nursing programs take less than a year to complete.

Fiscal Impact and Paperwork Requirements

The final-form regulations will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form regulations will impose only minimal additional paperwork requirements upon the Board, and none upon any political subdivisions. Nursing education programs may incur additional costs in conforming to the regulations.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 9, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 344 to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on March 18, 2009, the final-form rulemaking was deemed approved by the HPLC. On March 18, 2009, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 19, 2009, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

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

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published at 38 Pa.B. 344.

(4) These amendments to the regulations of the Board are necessary and appropriate for the regulation of the practice of RNs and LPNs in this Commonwealth.

Order

The Board therefore orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.1, 21.31, 21.33, 21.34, 21.141, 21.162; by adding §§ 21.33a, 21.33b, 21.162a, 21.162b and 21.166; and by deleting § 21.26 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

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

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

(d) The regulations shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

ANN L. O'SULLIVAN, Ph.D., FAAN, CRNP,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 1770 (April 4, 2009).)

Fiscal Note: Fiscal Note 16A-5123 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.1. Definitions.

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

* * * * *

Examination year—The period beginning on October 1st of a year through September 30th of the following year.

* * * * *

LICENSES

§ 21.26. (Reserved).

APPROVAL OF NURSING EDUCATION PROGRAMS

§ 21.31. Surveys; list of approved nursing education programs.

(a) Survey visits are made of basic nursing programs conducted in hospitals, colleges or universities of exchange visitor programs and of cooperating agencies. In this section, "cooperating agency" means an educational institution or health care delivery system which cooperates with the controlling institution. The survey report is presented to the Board and a written report of recommendations or requirements, or both, is sent to the school, college or university.

(b) Classified lists of approved schools of nursing and of exchange visitor programs are compiled and published annually and are made available for distribution.

(c) A list of approved cooperating agencies that provide educational programs for schools of nursing is compiled and published annually and is made available for distribution.

(d) For purposes of activities relating to the approval and status of nursing education programs, the term "Board" used in this subchapter may mean the Board's educational advisors appointed under section 2.1(i) of the act (63 P. S. § 212.2(i)). Only the Board may, by a majority vote, confer initial approval status on a proposed nursing education program, extend the maximum 2-year period for correction of deficiencies or remove a program from the approved list.

§ 21.33. Types of approval.

(a) The Board grants the following types of approval to nursing education programs:

(1) *Initial.* The Board may grant initial approval to a new nursing education program, with evidence that the standards of this subchapter are being met, for a period of time necessary to evaluate the results of the licensing examination taken by the first cohort of graduates. A program will not be placed on full approval status until it

has graduated its first class and the class has achieved an acceptable rate of passing the National licensure examination, as set forth in § 21.33b (relating to minimum rate for graduates of nursing education programs to pass the National licensure examination). A program on initial approval status that fails to achieve an acceptable rate of passing the National licensure examination upon graduation of its first class will be placed on provisional approval status.

(2) *Full.* The Board will place on full approval a nursing education program which attains and maintains the standards of this subchapter.

(3) *Provisional.* The Board may place on provisional approval a nursing education program not meeting the standards of this subchapter. A nursing education program on full approval status will be placed on provisional approval status if the program fails to meet the provisions of § 21.33b.

(b) A nursing education program shall notify applicants for admission of the program's approval status and, within 30 days of a change of status, shall notify applicants and students by electronic mail or first class mail that the program's approval status has changed. The program shall provide the Board with a copy of the notice sent to applicants and students. A program shall provide additional notice to applicants and students at the direction of the Board.

§ 21.33a. Failure to comply with standards.

(a) If the Board receives information suggesting that a nursing education program has not maintained the standards of this subchapter, the Board will validate the information and will notify the program, in writing, of the alleged deficiency. The Board may request information from the program or conduct an announced or unannounced site visit before notifying the program of the alleged deficiency. The Board may informally resolve any deficiency.

(b) The Board will notify a program, in writing, that the program will be placed on provisional approval status.

(c) The Board will notify a program on provisional approval status, in writing, of the deficiencies and the amount of time that will be allowed for correction of the deficiencies that resulted in the program's placement on provisional approval status. The Board may extend the time period for correction of deficiencies at its discretion if the program is making demonstrable progress toward the correction of deficiencies. If additional deficiencies are identified, the existing provisional period may be extended at the discretion of the Board.

(d) The Board may place restrictions on a nursing education program on provisional approval status as deemed necessary by the Board to bring the program into compliance with this subchapter and will notify the program, in writing, of the restrictions.

(e) The Board may require that a nursing education program on provisional approval status prepare and submit additional reports and will notify the program, in writing, of the reports required.

(f) The Board may make announced or unannounced site visits to a nursing education program on provisional approval status.

(g) A period of 2 years will be the maximum time period allowed for the correction of deficiencies that returns the program to compliance with the regulations. A program may petition the Board for extension of the

maximum period and the Board may, by majority vote, extend the period for good cause demonstrated by the program.

(h) If the standards of this subchapter are met within the designated time, the nursing education program will be removed from provisional approval status. The Board will notify the program in writing of this action.

(i) If the standards of this subchapter are not met within the designated time, the nursing education program will be removed from the approved list as provided in § 21.34 (relating to removal from approved list).

(j) Within 10 days of service of a request under subsection (a) or (e) or notice of the imposition of a restriction under subsection (d), a nursing education program may appeal the action of the staff as provided in 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

(k) The failure of a program to cooperate with the Board by failing to provide requested information or reports, by refusing or limiting a site visit, or by refusing to adhere to restrictions mandated by the Board will be considered a violation of the standards for nursing education programs and may result in immediate referral of the program to the prosecution division to consider formal action to remove the program from the approved list as provided in § 21.34.

§ 21.33b. Minimum rate for graduates of nursing education programs to pass the National licensure examination.

A nursing education program shall prepare its graduates to pass the National licensure examination at a rate at least equal to the minimum rate set by the Board. The minimum rate for graduates to pass the National licensure examination are as follows:

(1) A nursing education program shall achieve and maintain a minimum pass rate of 60% or more of its first-time examinees during an examination year.

(2) Beginning on October 1, 2009, a nursing education program shall achieve and maintain a minimum pass rate of 70% or more of its first-time examinees during an examination year.

(3) Beginning on October 1, 2010, a nursing education program shall achieve and maintain a minimum pass rate of 80% or more of its first-time examinees during an examination year.

§ 21.34. Removal from approved list.

(a) The Board may remove a nursing education program from the approved list in accordance with the following procedures if the program fails to meet and maintain minimum standards, including the minimum passing rates on the National licensure examination, as established by this subchapter.

(1) The Board will give a nursing education program notice of its intent to remove the program from the approved list.

(2) The notice of intent to remove a program from the approved list will set forth the alleged violations of the standards for nursing education programs.

(3) A program served with notice of intent to remove will be given 45 days in which to file a written answer to the notice.

(4) The nursing education program will be provided an opportunity to appear at a hearing to demonstrate why approval should not be withdrawn.

(5) The nursing education program and the Commonwealth will be provided an opportunity to file post-hearing briefs.

(6) The Board will issue a written decision which will set forth findings of fact and conclusions of law.

(7) The Board's written decision is a final decision of a governmental agency subject to review under 2 Pa.C.S. § 702 (relating to appeals).

(b) If a nursing education program is removed from the approved list, the controlling institution shall provide for the completion of the program for students currently enrolled by placing the students in an approved program.

(c) If a nursing education program is removed from the approved list, the controlling institution shall make provision for permanent retention of student and graduate records in conformance with §§ 21.123 and 21.125 (relating to access and use of records; and custody of records).

(d) If a nursing education program is removed from the approved list, the program shall give students notice of the protection granted under section 6.2(a) of the act (63 P. S. § 216.2(a)).

**Subchapter B. PRACTICAL NURSES
GENERAL PROVISIONS**

§ 21.141. Definitions.

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

* * * * *

Examination year—The period beginning on October 1st of a year through September 30th of the following year.

* * * * *

APPROVAL OF PRACTICAL NURSING PROGRAMS

§ 21.162. Types of approval.

(a) The Board grants the following types of approval to nursing education programs:

(1) *Initial*. The Board may grant initial approval to a new nursing education program, with evidence that the standards of this subchapter are being met, for a period of time necessary to evaluate the results of the licensing examination by the first cohort of graduates. A program will not be placed on full approval status until it has graduated its first class and the class has achieved an acceptable rate of passing the National licensure examination, as set forth in § 21.162b (relating to minimum rate for graduates of nursing education programs to pass the national licensure examination). A program on initial approval status that fails to achieve an acceptable rate of passing the National licensure examination upon graduation of its first class will be placed on provisional approval status.

(2) *Full*. The Board will place those nursing education programs on full approval status which attain and maintain the standards of this subchapter.

(3) *Provisional*. The Board may place on provisional approval a nursing education program not meeting the standards of this subchapter. A nursing education program on full approval status will be placed on provisional approval status if the program fails to meet the provisions of § 21.162b.

(b) A nursing education program shall notify applicants for admission of the program's approval status and,

within 30 days of a change of status, shall notify applicants and students by electronic mail or first class mail that the program's approval status has changed. The program shall provide the Board a copy of the notice sent to applicants and students. A program shall provide additional notice to applicants and students at the direction of the Board.

(c) For purposes of activities relating to the approval and status of nursing education programs, the term "Board" as used in this subchapter may mean the Board's educational advisors appointed under section 2.1(i) of the act (63 P. S. § 212.2(i)). Only the Board may, by a majority vote of a quorum, confer initial approval status on a proposed nursing education program, extend the maximum 2-year period for correction of deficiencies or remove a program from the approved list.

§ 21.162a. Failure to comply with standards.

(a) If the Board receives information suggesting that a nursing education program has not maintained the standards of this subchapter, the Board will validate the information and notify the program, in writing, of the alleged deficiency. The Board may request information from the program or conduct an announced or unannounced site visit before notifying the program of the alleged deficiency. The Board may informally resolve any deficiency.

(b) The Board will notify a program, in writing, that the program will be placed on provisional approval status.

(c) If the Board places a nursing education program on provisional approval status, the Board will notify the program, in writing, of the deficiencies and the amount of time that will be allowed for correction of the deficiencies that resulted in the program's placement on provisional approval status. The Board may extend the time period for correction of deficiencies at its discretion if the program is making demonstrable progress toward the correction of deficiencies. If additional deficiencies are identified, the existing provisional period may be extended at the discretion of the Board.

(d) The Board may place restrictions on a nursing education program on provisional approval status as deemed necessary by the Board to bring the program into compliance with this subchapter and will notify the program, in writing, of the restrictions.

(e) The Board may require that a nursing education program on provisional approval status prepare and submit additional reports and will notify the program, in writing, of the reports required.

(f) The Board may make announced or unannounced site visits to a nursing education program on provisional approval status.

(g) A period of 2 years will be the maximum time period allowed for the correction of deficiencies that returns the program to compliance with the Board's regulations. A program may petition the Board for extension of the maximum period and the Board may, by majority vote, extend the period for good cause demonstrated by the program.

(h) If the standards of this subchapter are met within the designated time, the nursing education program will be removed from provisional approval status. The Board will notify the program in writing of this action.

(i) If the standards of this subchapter are not met within the designated time, the nursing education pro-

gram will be removed from the approved list as provided in § 21.166 (relating to removal from approved list).

(j) Within 10 days of service of a request under subsection (a) or (e) or notice of the imposition of a restriction under subsection (d), a nursing education program may appeal the action of the staff as provided in 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

(k) The failure of a program to cooperate with the Board by failing to provide requested information or reports, by refusing or limiting a site visit, or by refusing to adhere to restrictions mandated by the Board will be considered a violation of the standards for nursing education programs and may result in immediate referral of the program to the prosecution division to consider formal action to remove the program from the approved list as provided in § 21.166 (relating to removal from approved list).

§ 21.162b. Minimum rate for graduates of nursing education programs to pass the National licensure examination.

A nursing education program shall prepare its graduates to pass the National licensure examination at a rate at least equal to the minimum rate set by the Board. The minimum rate for graduates to pass the National licensure examination are as follows:

(1) A nursing education program shall achieve and maintain a minimum pass rate of 60% or more of its first-time examinees during an examination year.

(2) Beginning on October 1, 2009, a nursing education program shall achieve and maintain a minimum pass rate of 70% or more of its first-time examinees during an examination year.

(3) Beginning on October 1, 2010, a nursing education program shall achieve and maintain a minimum pass rate of 80% or more of its first-time examinees during an examination year.

§ 21.166. Removal from approved list.

(a) The Board may remove a nursing education program from the approved list in accordance with the

following procedures if the program fails to meet and maintain minimum standards, including the minimum passing rates on the National licensure examination, as established by this subchapter.

(1) The Board will give a nursing education program notice of its intent to remove the program from the approved list.

(2) The notice of intent to remove a program from the approved list will set forth the alleged violations of the standards for nursing education programs.

(3) A program served with notice of intent to remove will be given 45 days in which to file a written answer to the notice.

(4) The nursing education program will be provided an opportunity to appear at a hearing to demonstrate why approval should not be withdrawn.

(5) The nursing education program and the Commonwealth will be provided an opportunity to file posthearing briefs.

(6) The Board will issue a written decision which will set forth findings of fact and conclusions of law.

(7) The Board's written decision will be a final decision of a governmental agency subject to review under 2 Pa.C.S. § 702 (relating to appeals).

(b) If a nursing education program is removed from the approved list, the controlling institution shall provide for the completion of the program for students currently enrolled by placing the students in an approved program.

(c) If a nursing education program is removed from the approved list, the controlling institution shall make provision for permanent retention of student and graduate records in conformity with §§ 21.233 and 21.234 (relating to custody of records; and access and use of records).

[Pa.B. Doc. No. 09-733. Filed for public inspection April 24, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401a, 439a AND 465a]

Key Employees and Complimentary Services or Items

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1103, 1207(3) and (5) and 1322 (relating to definitions; regulatory authority of board; and slot machine accounting controls and audits), proposes to amend Chapters 401a, 439a and 465a to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The proposed rulemaking amends the definitions of “complimentary service” and “key employee” in § 401a.31 (relating to definitions) and makes revisions to § 465a.7 (relating to complimentary services or items).

Explanation of Amendments to Chapters 401a, 439a and 465a

In § 401a.3 (relating to definitions), the definition of “complimentary service” has been amended to clarify that it does not include points awarded to patrons who are members of a slot machine licensee’s player rewards program or credits for free slots play. In many gaming jurisdictions, complementaries and credits for free slots play are treated the same when calculating taxes due to the gaming jurisdiction. In this Commonwealth, credits for free slots play (which may be given directly to an individual or received by an individual in exchange for points earned in a player rewards program) may be deducted from the total of cash or cash equivalent wagers when calculating gross terminal revenue. However, the value of complementaries may not. The amended definition is being proposed to reflect this distinction.

Also in § 401a.3, the definition of “key employee” has been amended to improve its clarity and to add a number of new positions to the positions currently required to obtain a key employee license. More specifically, based on the experience gained from reviewing the operations of the seven operating licensed facilities, the Board has expanded the list of department heads in subparagraph (ii) to include additional titles of individuals whose job descriptions give them the authority to make discretionary decisions regarding slot machine operations. While the Board had initially required the Director of Food and Beverage and the Director of Facility Operations to also be licensed as key employees, the Board now believes that these positions do not have a significant role in the regulation of slot operations and do not require licensure as a key employee. Accordingly, those titles are not included in the list in subparagraph (ii).

In subparagraph (iii), the Board is also requiring that shift managers for the five most critical departments related to the regulation of slot operations be licensed as key employees. Because licensed facilities operate 24 hours a day and 7 days per week, shift managers must fulfill the responsibilities of the department head when the department head is not at the facility. Therefore it is appropriate that these individuals also be licensed as key employees.

Finally, a new subparagraph (vi) has been added which will require individuals, who are authorized to issue credits for free slots play which exceeds \$50 or player reward points worth more than \$50 to any individual patron within any consecutive 5-day period, to be licensed as key employees. This additional oversight is necessary because the issuance of significant amounts of credits for free slots play directly affects gross terminal revenue.

In § 439a.8 (relating to junket arrival reports), subsection (c)(2) is proposed to be amended to replace “complimentary” with “complimentary.”

In § 465a.7 (relating to complimentary services or items), subsection (a) has been amended to require the internal controls related to authorization and issuance of complimentary services or items to be approved by the Board. Board reviews of the internal controls developed by slot machine licensees to date have found that these internal controls are not adequate. Therefore, slot machine licensees will be required to submit their internal controls related to complementaries to the Board for review in the same manner that other internal controls are.

Additionally, the general language in subsection (a) concerning the specific employees to whom these internal controls will apply has been deleted and replaced with a new, more detailed provision in subsection (b)(3) that requires the slot machine licensee to develop a matrix which shows what employees (by job title) are authorized to issue complementaries and exactly what complementaries they may issue. Similarly, the general audit requirement in subsection (b)(4) has been revised to specifically require the slot machine licensee’s internal audit department to audit the issuance of complimentary services and items. These changes will make it clear which employees are authorized to issue complementaries and strengthen the effectiveness of the oversight of the issuance of complementaries. Finally, subsection (e) has been amended to require the report required under subsection (e) to be submitted to the Bureau of Licensing rather than the Bureau of Investigations and Enforcement.

Affected Parties

Slot machine licensees will experience some increased costs associated with additional employees required to be licensed as key employees as opposed to being permitted as gaming employees. Slot machine licensees will also experience some costs related to revisions to their internal controls for complimentary services and items.

Fiscal Impact

Commonwealth

There will be some costs to the Board related to review of additional key employee applications and the review of the internal controls for complementaries. The costs related to the review of the applications will be recovered from the applicants and the review of the internal controls for complementaries will be conducted by existing staff. Therefore, the Board will not experience any significant cost increases as a result of this rulemaking.

Political Subdivisions

This proposed rulemaking will have no fiscal impact on political subdivisions of this Commonwealth.

Private Sector

Slot machine licensees are expected to experience increased costs associated with additional employees required to be licensed as key employees. It is estimated that the total number of employees affected at each facility will range between 7 to 10 employees which will result in an annual cost of approximately \$17,500 to \$40,000 per year per licensed facility. Slot machine licensees will also experience some costs related to revisions to their internal controls for complimentary services and items but these are not anticipated to be significant.

General Public

This proposed rulemaking will have no fiscal impact on the general public.

Paperwork Requirements

This proposed rulemaking will require 7 to 10 employees per licensed facility to fill out the more detailed key employee license applications.

Effective Date

The proposed rulemaking will become effective 30 days after final-form publication of the amendments in the *Pennsylvania Bulletin*. The delay in the effective date is being done to give affected employees adequate time to file key employee applications and receive a temporary key employee credential if needed.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-102.

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 15, 2009, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's web site at www.pgcb.state.pa.us.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-102. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401a. PRELIMINARY PROVISIONS

§ 401a.3. Definitions.

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

* * * * *

Complimentary service—

* * * * *

(iii) **The term does not include points that are awarded to patrons of a licensed facility that are members of the licensed facility's player rewards program or credits for free slot play.**

* * * * *

Key employee—An individual who is:

(i) **The general manager and assistant manager of the licensed facility and any employee who supervises the operations of the department or division heads listed in subparagraph (ii) or to whom these department or division heads report.**

(ii) **Employed in a [director or] department or division head capacity and who is empowered to make discretionary decisions that regulate slot machine operations in this Commonwealth[, including the general manager and assistant manager of the licensed facility, director of slot operations, director of cage operations, director of surveillance, director of marketing, director of management information systems, director of security, director of human resources, comptroller and any employee who supervises the operations of these departments or to whom these]. This includes the following department [directors] or [department] division heads [report.]:**

- (A) Slot Operations.
- (B) Cage Operations.
- (C) Count Room Operations.
- (D) Surveillance.
- (E) Security.
- (F) Management Information Systems.
- (G) Marketing.
- (H) Human Resources.
- (I) Purchasing.
- (J) Controller.
- (K) Finance.
- (L) Revenue Manager.

(M) Internal Audit.

(N) Compliance.

(O) Legal Affairs.

(iii) Employed as a shift manager or other individual who is authorized to act on behalf of the department or division head and who is empowered to make discretionary decisions that regulate slot machine operations in one of the following departments or divisions:

(A) Slot Operations.

(B) Cage Operations.

(C) Count Room Operations.

(D) Surveillance.

(E) Security.

[(ii)](iv) Employed by a slot machine licensee, manufacturer licensee, or supplier licensee, whose duties affect or require contact with slot machines, slot monitoring systems, casino management systems, player tracking systems and wide-area progressive systems for use or play in this Commonwealth, whether or not the individual is assigned to gaming operations in this Commonwealth.

[(iii)](v) A sales representative seeking to sell slot machines and associated equipment for use in this Commonwealth on behalf of a licensed manufacturer, manufacturer designee or supplier.

(vi) Employed by a slot machine licensee and is authorized to issue or approve credits for free slots play exceeding \$50 to an individual patron during any consecutive 5-day period or player reward points which have a value of more than \$50 to an individual patron during any consecutive 5-day period.

[(iv)](vii) Employed in other positions which the Board will determine based on detailed analyses of the employee's duties or the job descriptions.

* * * * *

Subpart B. LICENSING, PERMITTING CERTIFICATION AND REGISTRATION

CHAPTER 439a. JUNKET ENTERPRISES

§ 439a.8. Junket arrival reports.

* * * * *

(c) Junket arrival reports shall be prepared by a slot machine licensee in compliance with the following:

* * * * *

(2) A junket arrival report involving [complementary] complimentary services that does not involve [complementary] complimentary accommodations shall be filed by 5 p.m. of the next business day following arrival. A junket arrival which occurs after 12 a.m. but before the end of the gaming day shall be deemed to have occurred on the preceding calendar day.

* * * * *

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.7. Complimentary services or items.

(a) A slot machine licensee shall develop, maintain and apply adequate internal controls over the authorization

and issuance of complimentary services or items as defined in § 401a.3 (relating to definitions). The slot machine licensee shall [maintain a written record of the internal controls under this section and the specific employees to whom they apply. Slot machine licensees are not required to obtain Board approval of the internal controls under this section] submit internal controls for complimentary services and items to the Board for approval under § 465a.2 (relating to internal control systems and audit protocols).

(b) The internal controls must include the following:

* * * * *

(3) A matrix of job titles authorized to issue complimentary services or items and what complimentary services and items each job title is authorized to issue.

(4) The [provisions employed to insure the auditing] procedures to be followed by the slot machine licensee's internal audit department to audit the issuance of complimentary services or items.

(c) Complimentary services or items shall be recorded as follows:

(1) A complimentary service or item provided directly to a patron in the normal course of a slot machine licensee's business shall be recorded at an amount based upon the full retail price normally charged for the service or item by the slot machine licensee.

* * * * *

(3) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party not affiliated with the slot machine licensee shall be recorded at an amount based upon the actual cost to the slot machine licensee of having the third party provide the service or item.

(4) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party who is affiliated with the slot machine licensee shall be recorded by the slot machine licensee in accordance with this section as if the affiliated third party were the slot machine licensee.

* * * * *

(e) A slot machine licensee shall submit to [BIE] the Bureau of Licensing a report listing each person who, under subsection (d), received \$10,000 or more in complimentary cash and noncash gifts within a consecutive 5-day period ending during the preceding month. The report shall be filed by the last day of the month following the month in which the complimentary cash and noncash gifts were issued and include the total amount of complimentary cash or noncash gifts provided to each person broken down into categories for food and beverage, hotel accommodations, travel and other services.

[Pa.B. Doc. No. 09-734. Filed for public inspection April 24, 2009, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Community and Economic Development

The Executive Board approved a reorganization of the Department of Community and Economic Development effective April 1, 2009.

The organization chart at 39 Pa.B. 2117 (April 25, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-735. Filed for public inspection April 24, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Pennsylvania Emergency Management Agency

The Executive Board approved a reorganization of the Emergency Management Agency effective April 1, 2009.

The organization chart at 39 Pa.B. 2118 (April 25, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-736. Filed for public inspection April 24, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Pennsylvania State Police

The Executive Board approved a reorganization of the Pennsylvania State Police effective April 1, 2009.

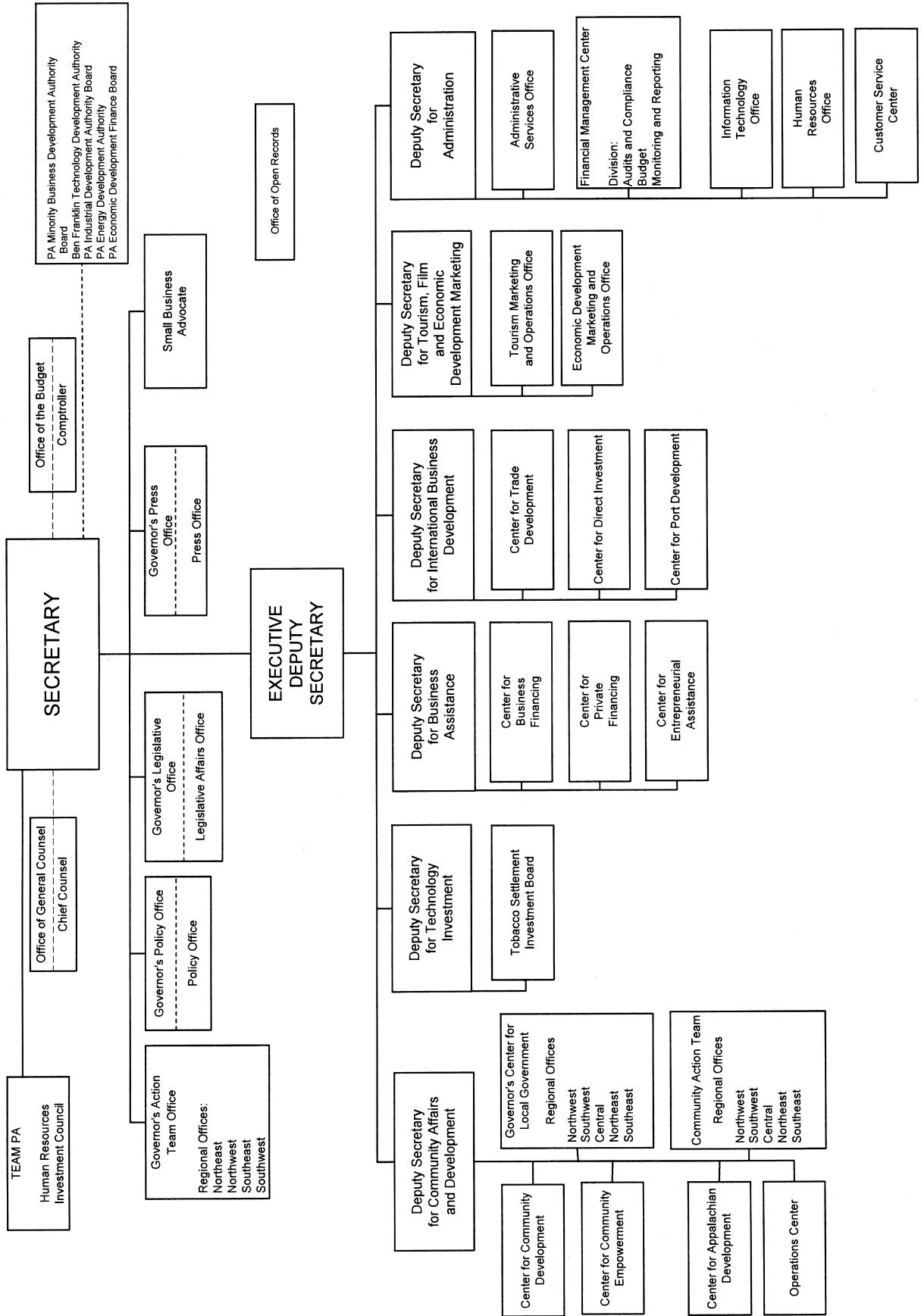
The organization chart at 39 Pa.B. 2119 (April 25, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

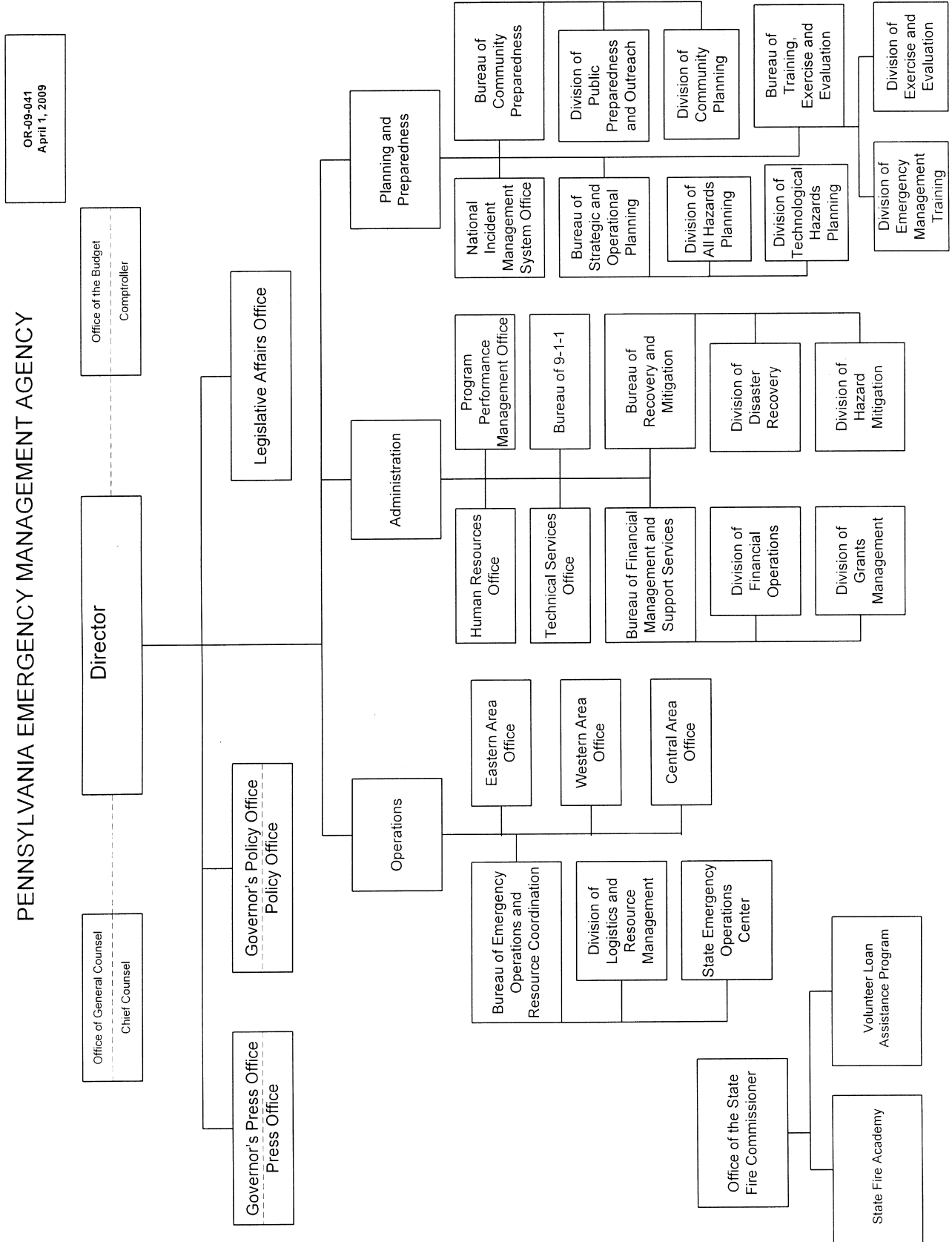
[Pa.B. Doc. No. 09-737. Filed for public inspection April 24, 2009, 9:00 a.m.]

OR-09-040
April 1, 2009

COMMUNITY AND ECONOMIC DEVELOPMENT



PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY



OR-09-041
April 1, 2009

NOTICES

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, May 6, 2009. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ.

The conference among the commissioners and staff will begin at 10:30 a.m. and will consist of a presentation on the Christina Basin Targeted Initiative Watershed Grant Final Report and a presentation on the Special Area Management Plan for the Upper Wissahickon Creek Watershed. Conference session topics are subject to change. Accordingly, parties interested in attending should consult the Commission's web site, drbc.net, closer to the meeting date.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed as follows:

1. *Aqua Pennsylvania, Inc. D-81-61 CP-4*. An application for approval of a groundwater withdrawal project to renew the allocation included in Docket D-81-61 CP-3 and consolidate all other docket approvals for the Fawn Lakes, Woodloch Springs and Masthope water systems, retaining the existing withdrawal from all wells of 18.38 million gallons per 30 days (mg/30 days). Docket D-81-61 CP-4 will consolidate allocations approved in Dockets D-81-61 CP-3, D-87-96 Renewal, and D-89-57 CP Renewal. The projects are located in the Catskill Formation in the Westcolang Creek Watershed in Lackawaxen Township, Pike County, PA, within the drainage area of the section of the nontidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.

2. *Matamoras Municipal Authority D-81-78 CP-8*. An application for approval of an expansion of the public water supply service area of the Matamoras Municipal Authority. The applicant seeks no increase in its groundwater withdrawal allocation and will continue to supply up to 19.5 mg/30 days for public water supply. The project is located in the Delaware River Watershed in the Borough of Matamoras, Pike County, PA. The site is located within the drainage area of the section of the nontidal Delaware River known as the Middle Delaware, which is designated as Special Protection Waters.

3. *New Jersey American Water Company D-90-108 CP-3*. An application for renewal of a groundwater withdrawal project to continue the combined withdrawal of 1,851.14 mg/30 days to supply the applicant's public water supply system from 65 existing wells screened in the Potomac/Raritan/Magothy, Mt. Laurel/Wenonah, and Englishtown aquifers. The applicant wishes to consolidate within a single Commission docket approval several interconnected private systems that it has acquired. The project wells are located in multiple watersheds in the western portions of Burlington and Camden Counties. Included in the application is a request for the approval

of three new wells to replace three existing wells (Old Orchard Wells Nos. 36 and 37 and Haddon Heights Well No. 30) that have experienced declining yields over time. The 65 wells are located in the municipalities of Cherry Hill, Somerdale, Haddon Heights, Runnemeade, Barrington, Gloucester, Magnolia, Laurel Springs, Voorhees, Camden City and Gibbsboro in Camden County and the municipalities of Cinnaminson, Delran, Beverly and Edgewater Park in Burlington County, NJ. A Notice of Application Received (NAR) was issued for this project on February 10, 2009. This second NAR reflects a change in the total number of wells and the number of wells being replaced.

4. *Buckingham Township D-2003-13 CP-5*. An application for approval of a groundwater withdrawal project to supply up to 9.63 mg/30 days of water to the applicant's public water supply distribution system from new wells Nos. F-8 in the Limeport Formation (limestone) and F-9 in the Leithsville Formation (dolomite). The applicant proposes to retain the existing total allocation of 42 mg/30 days for all system wells. Well No. F-9 will be on stand-by and used during emergency periods only. The project will allow the docket holder to add flexibility and redundancy and to relieve stress on its Furlong distribution system. The project is located in the Neshaminy, Pine Run, Mill Creek, Lahaska Creek, Watson Creek and Robin Run Watersheds in Buckingham Township, Bucks County, PA, within in the Southeastern Pennsylvania Ground Water Protected Area.

5. *Caesars d/b/a Cove Haven, Inc. D-2006-19-2*. An application for approval to continue discharging 0.084 mgd of treated effluent from the Brookdale WWTP. The WWTP is located at River Mile 213-3.9-0.9-11.4-2.85-0.15 (Delaware River—Brodhead Creek—McMichael Creek—Pocono Creek—Scot Run—Brookdale Lake). The WWTP is located on Brookdale Lake, within the drainage area of the section of the nontidal Delaware River known as the Middle Delaware, which is designated as Special Protection Waters with the classification Outstanding Basin Waters. The project is located in Pocono Township, Monroe County, PA.

6. *Lower Frederick Township D-78-41 CP-2*. An application for approval of modification of the Lower Frederick Township Wastewater Treatment Plant (WWTP). The docket holder proposes to replace the current disinfection system (chlorine contact tank) with an ultraviolet light disinfection system and to replace the existing outfall pipe. This project also seeks approval for a 1998 rerate of the WWTP from 0.16 million gallons per day (mgd) to 0.20 mgd, which was not previously approved by the Commission. The WWTP will continue to discharge to the Perkiomen Creek, a tributary of the Schuylkill River. The facility is located in Lower Frederick Township, Montgomery County, PA.

7. *West Grove Borough Authority D-87-24 CP-2*. An application for approval of modifications to the Borough of West Grove's WWTP. The applicant proposes to upgrade the facility's contact aeration basin system, including the installation of a sewage grinder and return activated sludge lines, and the replacement of biological media and aeration diffusers. The facility's annual average flow of 0.250 mgd and hydraulic design capacity of 0.288 mgd will remain unchanged. The WWTP will continue to discharge to the Middle Branch White Clay Creek, a tributary of the Christina River. The facility is located in London Grove Township, Chester County, PA.

8. *Schuylkill County Municipal Authority D-90-49 CP-4*. An application for approval of a docket modification to include an additional well that will transfer approximately 0.6 mg/30 days of groundwater from the Susquehanna River Basin to the Delaware River Basin. The transferred water will be distributed within the project service area and, with the exception of some operational loss, will be returned to the Susquehanna River Basin as wastewater. In periods of increased service area demand, the Authority will transfer as much as 4.56 mg/30 days of groundwater from the Susquehanna Basin into the Delaware Basin, and wastewater exportation will increase to as much as 4.35 mg/30 days. The project is located in Butler, Cass, Foster and New Castle Townships, Schuylkill County, PA. A Notice of Application Received (NAR) was issued for this project on February 10, 2009. This second NAR has been revised to reflect an increase in the amount of wastewater proposed to be exported from the basin.

9. *Pennsylvania American Water Company D-91-14-2*. The purpose of this project is to change the treatment technology at the docket holder's WWTP from a Rotating Biological Contactor (RBC) to a Sequential Batch Reactor (SBR). Additionally, the existing WWTP has a hydraulic design capacity of 0.135 mgd. The docket holder's NPDES permit has effluent limits based upon a 0.275 mgd discharge. The docket holder is seeking the Commission's approval for expansion to 0.275 mgd. The project is located approximately 2,000 feet east of Blue Mountain Lake and approximately 500 feet west of the Smithfield Township line in the Commission's Water Quality Zone 1D at River Mile 213.0—5.3—2.9 (Delaware River—Brodhead Creek—Sambo Creek). Sambo Creek is a tributary of the section of the nontidal Delaware River known as the Middle Delaware, which is designated as Special Protection Waters with the classification Outstanding Basin Waters.

10. *Evesham Municipal Utilities Authority D-91-15 CP-2*. An application to upgrade the Kings Grant wastewater treatment plant to replace treatment process tanks nearing the end of their useful life with a more cost effective and efficient treatment process. No increase in the existing permitted capacity of 0.6 mgd is proposed, and the discharge will continue to be conveyed to infiltration basins in the South Branch Rancocas Creek Watershed. The treatment plant will continue to serve the Kings Grant section of Evesham Township, Burlington County, NJ.

11. *Shoemakersville D-93-74 CP-2*. The purpose of this project is to recognize the increase in capacity of the Shoemakersville WWTP's hydraulic load from 0.60 mgd to 0.75 mgd. Additionally, a TDS determination was submitted, requesting approval of monthly average and instantaneous maximum concentration values of 2,131 mg/l and 3,844 mg/l, respectively. The project is located on the Schuylkill River at River Mile 92.47—92.3, in the Borough of Shoemakersville, Berks County, PA.

12. *Town of Georgetown D-94-37 CP-2*. An application for the renewal of a groundwater withdrawal project and to increase the withdrawal from 24.8 mg/30 days to 43.2 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 1A and 2R in the Columbia and Manokin Formations. The project involves the exportation of water from the Delaware

Basin, and the exportation of 100% of the wastewater generated by in-basin needs. The groundwater withdrawal project is located in the Broadkill-Smyrna Watershed in the Town of Georgetown, Sussex County, DE.

13. *East Penn Manufacturing D-2003-23-2*. An application for approval of a groundwater withdrawal project to supply up to 21.6 mg/30 days of water to the applicant's onsite industrial plant processes and potable supply from new Well No. 10 and to increase the existing withdrawal from all wells from 15 mg/30 days to 20 mg/30 days. The increased allocation is requested in order to meet projected increases in production facility needs and to provide redundancy within the water supply system. The project well is located in the Leithsville Formation in the Moselem Creek Watershed in Richmond Township, Berks County, PA.

14. *West Deptford Energy Station D-2008-27-1*. An application to approve the cooling water withdrawal and industrial wastewater discharge associated with the construction of a new gas fired, 1,500 megawatt combined cycle power generation facility known as the West Deptford Energy Station (WDES). The WDES will withdraw an average of 222.6 mg/30 days and maximum of 287.7 mg/30 days of treated effluent from the Gloucester County Utilities Authority (GCUA) wastewater treatment plant's effluent pipeline as a cooling water source. The WDES will also discharge a monthly average of 2.0 mgd (2.6 mgd daily maximum) of industrial wastewater back to GCUA's existing effluent pipeline (WDES Outfall No. DSN002A) and the two combined effluents will discharge from GCUA's existing outfall (No. DSN001A). The facility is located in West Deptford Township, Gloucester County, NJ.

15. *Clayton Sand Company D-2008-37-1*. An application for approval of an existing ground and surface water withdrawal project to continue to supply up to 215 mg/30 days of water to the applicant's industrial facility from existing Well No. 1 and Intake No. 1. The project is located in the Cohansey Formation in the Rancocas Creek Watershed in Woodland Township, Burlington County, NJ.

The public hearing will be held on a resolution to amend the Commission's fee schedule for the review and renewal of project approvals in accordance with Section 3.8 and Article 10 of the *Delaware River Basin Compact*. A copy of the proposed resolution can be viewed on the Commission's web site, drbc.net. The business meeting also will include adoption of the Minutes of the Commission's March 11, 2009, business meeting; announcements of upcoming Commission advisory committee meetings and other events of general interest; a report on hydrologic conditions in the basin; a report by the Executive Director; a report by the Commission's General Counsel; and consideration by the Commission of resolutions concerning: (a) future updates of the Commission's Water Quality Regulations; (b) election of the Commission Chair, Vice Chair and Second Vice Chair for the year 2009-2010, commencing July 1, 2009; and (c) a adoption of the Fiscal Year (FY) 2010 budget. A public hearing on the proposed FY 2010 budget was held in December of 2008. An opportunity for public dialogue will be provided at the end of the meeting.

Draft dockets scheduled for public hearing on May 6, 2009, can be accessed through the Notice of Commission Meeting and Public Hearing on the Commission's web site, drbc.net, 10 days prior to the meeting date. Additional documents relating to the dockets and other items

may be examined at the Commission's offices. Contact William Muszynski at (609) 883-9500, Ext. 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act of 1929 who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the

Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate their needs.

PAMELA M. BUSH, Esq.,
Secretary

[Pa.B. Doc. No. 09-738. Filed for public inspection April 24, 2009, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending April 14, 2009.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Conservations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-10-2009	From: Continental Bank Plymouth Meeting Montgomery County To: Continental Bank Plymouth Meeting Montgomery County	Plymouth Meeting	Filed

Application for conversion from a Federally-chartered savings bank to a Pennsylvania State-chartered stock savings bank.

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-8-2009	Embassy Bank for the Lehigh Valley Bethlehem Northampton County	Route 248 and Corriere Road Lower Nazareth Township Northampton County	Filed
4-14-2009	NOVA Bank Berwyn Chester County	125 East Elm Street Suite 200 Conshohocken Montgomery County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-6-2009	Fulton Bank Lancaster Lancaster County	To: 9030 Stony Point Parkway Richmond Richmond County, VA From: 8730 Stony Point Parkway Suite 100 Richmond Richmond County, VA	Effective
4-13-2009	Pennsylvania Business Bank Berwyn Chester County	To: 1819 John F. Kennedy Boulevard Philadelphia Philadelphia County	Effective

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
		<i>From:</i> 1635 Market Street Philadelphia Philadelphia County	

SAVINGS INSTITUTIONS**Conversions**

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
4-1-2009	Washington Savings Association Philadelphia Philadelphia County	Philadelphia	Effective

Conversion from a Pennsylvania State-chartered mutual savings association to a Federally-chartered mutual savings bank to be known as "Washington Savings Bank."

CREDIT UNIONS**Change of Principal Place of Business**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
4-8-2009	Utilities Employees Credit Union Sinking Spring Berks County	<i>To:</i> 11 Meridian Boulevard Wyomissing, PA 19610 Berks County <i>From:</i> 2850 Windmill Road Sinking Spring, PA 19608 Berks County	Effective

Articles of Amendment

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
4-9-2009	Spojnia Credit Union Scranton Lackawanna County	Amend Article 5 of the Articles of Incorporation	Filed

Amendment to Article 5 will decrease the required minimum share deposit to \$5.

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-739. Filed for public inspection April 24, 2009, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of May 2009

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of May, 2009, is 5 3/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.30 to which was added 2.50 percentage points for a total of 5.80 that by law is rounded off to the nearest quarter at 5 3/4%.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-740. Filed for public inspection April 24, 2009, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Weatherization Assistance Program's Proposed State Plan

The Department of Community and Economic Development (Department) publishes notice of a public hearing to be held Tuesday, May 5, 2009, from 9:30 a.m. to 12:30 p.m. in Hearing Room 4, Plaza Level, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. The purpose of this hearing is to receive comments on the Weatherization Assistance Program's proposed State Plan to be submitted to the United States Department of Energy for program period 2009-2012, regarding use of American Recovery and Reinvestment Act funding.

A copy of this plan may be obtained by contacting the Department of Community and Economic Development, Center for Community Empowerment, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg PA 17120, (717) 787-1984 or it can be downloaded from the Department's web site at www.newpa.com.

If you wish to provide public testimony, contact Yvonne Adams at (717) 787-1984 for an available time slot.

Written comments may be submitted to Jamesetta Reed, Director, Center for Community Empowerment, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120 until 5 p.m. on May 5, 2009.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, services or other accommodations to participate in the proceedings, contact Yvonne Adams at (717) 787-1984 to discuss how the Department may accommodate their needs.

GEORGE E. CORNELIUS,
Acting Secretary

[Pa.B. Doc. No. 09-741. Filed for public inspection April 24, 2009, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0061786 (Minor Sewage)	Manwalamink Sewer Company Ft. DePuy P. O. Box 48 Shawnee on Delaware, PA 18356-0048	Smithfield Township Monroe County	Broadhead Creek 1E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060232 (Sewage)	United States Army Corps of Engineers Tompkins Recreational Area 710 Ives Run Road Tioga, PA 16946	Lawrence Township Tioga County	Cowanesque River WWF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0222844	Ellwood Industrial Facilities Company 700 Moravia Street New Castle, PA 16101	City of New Castle Lawrence County	Shenango River 20-A	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.

PA0026964, Sewage, SIC 4953, **Lower Perkiomen Valley Regional Sewer Authority**, 5 River Road, Oaks, PA 19456. The facility is located in Upper Providence Township, **Montgomery County**.

Description of Activity: Discharge of treated sewage from Lower Perkiomen Valley Regional Sewer Authority Oaks WWTP into the Schuylkill River in Upper Providence Township, Montgomery County.

The receiving stream, the Schuylkill River, is in the State Water Plan Watershed 3D and is classified for WWF and MF. The nearest downstream public water supply intake for Pennsylvania American—Norristown Water Treatment Plant is approximately 8.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 14.25 mgd:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
CBOD ₅ (5-1 to 10-31)	2,135	3,202	18	27	36
(11-1 to 4-30)	2,668	4,002	22.5	33.7	45

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	3,565	5,348	30	45	60
Ammonia as N					
(5-1 to 10-31)	854		7.2		14.4
(11-1 to 4-30)	960		8.1		16.2
Phosphorus as P			Monitor		
Fecal Coliform (#/100 ml)			200		1,000*
Dissolved Oxygen			Shall not be less than 5.0 mg/l at all times		
pH (Standard Units)			within limits of 6.0 to 9.0 Standard Units at all times		
Total Dissolved Solids			1,000	2,000 Daily Maximum	2,500
Total Residual Chlorine			0.5		1.6
Copper, Total			Monitor		
Lead, Total			Monitor		
Zinc, Total			Monitor		
Silver, Total			Monitor		
Chromium, Hex			Monitor		
Cyanide, Free			Monitor		
Cadmium, Total			Monitor		
Mercury, Total			Monitor		

* Shall not exceed in more than 10% of samples.

The proposed effluent limits for Outfalls 002 and 003 are based on storm event:

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
CBOD ₅			Monitor and Report
Total Suspended Solids			Monitor and Report
COD			Monitor and Report
Oil and Grease			Monitor and Report
Total Phosphorus as P			Monitor and Report
Total Kjeldahl Nitrogen			Monitor and Report
pH (Standard Units)			Monitor and Report
Iron (Dissolved)			Monitor and Report

The EPA waiver is not in effect.

Other Requirements:

1. Notification of Designated Operator.
2. Average Weekly Definition.
3. Remedial Measures.
4. No Stormwater Runoff.
5. Acquiring Necessary Rights.
6. Change in Ownership.
7. Approved Tests Methods.
8. TRC Minimizations.
9. Proper Sludge Disposal.
10. Watershed TMDL/WLA Analysis.
11. WET Test for Next Renewal.
12. Operator Training Requirements.
13. I-Max Requirements.
14. Stormwater Requirements.
15. Pretreatment Program Requirements.
16. Operations and Maintenance Plan.
17. Laboratory Certification.
18. I-Max Requirements for Fecal Coliform.
19. No Polychlorinated Biphenyls (PCB) Discharge.
20. PCBs Monitoring Requirements.

PA0058742, Sewage, SIC 4952, **Warminster Municipal Authority**, P. O. Box 2279, Warminster, PA 18974. This existing facility is located in Warminster Township, **Bucks County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage effluent and stormwater from the Warminster NAWC WWTP.

The receiving stream, a UNT to Little Neshaminy Creek, is in the State Water Plan Watershed 2F and is classified for: WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA, SE Division is located on Neshaminy Creek and is approximately 20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.2 mgd.

<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 ₅	10	15		20
Total Suspended Solids	10	15		20
NH ₃ -N				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	3.0			6.0
Nitrite and Nitrate as N				
(7-1 to 10-31)	9.5			19.0
Phosphorus as P				
(4-1 to 10-31)	0.5			1.0
(11-1 to 3-31)				
(Issuance—Year 2)	Report			Report
(Year 3—Expiration)	1.0			2.0
Aluminum	Report			
Fecal Coliform (col/100 ml)	200			1,000*
Dissolved Oxygen	6.0 minimum			
pH (Standard Units)	6.0 minimum			9.0

* Not to exceed 1,000 col/100 ml in greater than 10% of the samples tested.

The proposed effluent limits for stormwater Outfalls 002 and 003 are based on an average flow of a stormwater event.

<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 ₅			Report	
Chemical Oxygen Demand			Report	
Oil and Grease			Report	
pH (Standard Units)			Report	
Total Suspended Solids			Report	
Total Kjeldahl Nitrogen			Report	
Total Phosphorus			Report	
Iron, Dissolved			Report	
Fecal Coliform (col/100 ml)			Report	

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

1. Notification of Designation of Responsible Operator.
2. Definition of Average Weekly.
3. Remedial Measures if Public Nuisance.
4. No Stormwater to Sewers.
5. Necessary Property Rights.
6. Small Stream Discharge.
7. Specification of Test Method.
8. Change in Ownership.
9. Proper Sludge Disposal.
10. Whole Effluent Toxicity Testing at Renewal.
11. Instantaneous Maximum Limitations.
12. Fecal Coliform Reporting.
13. Operator Training.
14. Operations and Maintenance Plan.
15. Laboratory Certification.
16. Stormwater Requirements.

The EPA waiver is not in effect.

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

Application No. PA 0261246, Sewage, **Harland Miller**, 413 Pinewood Avenue, Hyndman, PA 15545. This facility is located in Londonderry Township, **Bedford County**.

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

The receiving stream, Gladdens Run, is in Watershed 13A, and classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Hancock, MD is located on the Potomac River, approximately more than 50 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0008 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Total Suspended Solids	30	60
NH ₃ -N (5-1 to 10-31)	5.0	10
(11-1 to 4-30)	15.0	30
Total Residual Chlorine	More than .04	
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	

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

The EPA waiver is in effect.

Application No. PA 0083941, Industrial Waste, SIC Code 4953, **Community Refuse Service, Inc.**, 135 Vaughn Road, Shippensburg, PA 17257. This facility is located in Hopewell Township, **Cumberland County**.

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

The receiving stream, Conodoguinet Creek, is in Watershed 7-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Carlisle Borough located on the Conodoguinet Creek, approximately 29.5 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.100 mgd are:

<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>
a-Terpineol	Monitor and Report	Monitor and Report	0.016	0.033	0.040
Benzoic Acid	Monitor and Report	Monitor and Report	0.071	0.120	0.178
CBOD ₅	29	58	35	70	87
Fecal Coliform (5-1 to 9-30)			200		
(10-1 to 4-30)			2,000		
NH ₃ -N (5-1 to 10-31)	5.7	11.6	6.9	14	17
(11-1 to 4-30)	11.6	23	14	28	37
Oil and Grease	Monitor and Report		15		30
p-Cresol	Monitor and Report	Monitor and Report	0.014	0.025	0.035
pH			From 6.0 to 9.0 inclusive		
Phenol	Monitor and Report	Monitor and Report	0.015	0.026	0.038
Total Aluminum	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	
Total Arsenic	Monitor and Report	Monitor and Report	0.050	0.100	0.125
Total Barium	Monitor and Report	Monitor and Report	0.10	0.20	0.25
Total Copper	Monitor and Report	Monitor and Report	0.050	0.100	0.125

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Iron	Monitor and Report	Monitor and Report	2.0	4.0	5.0
Total Phosphorus	1.6	3.3	2.0	4.0	5.0
Total Residual Chlorine			0.5		1.6
Total Suspended Solids	26	53	32	64	80
Total Zinc	Monitor and Report	Monitor and Report	0.11	0.20	0.27
Dissolved Oxygen	Minimum of 5.0 at all times				

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

1. Monitoring of stormwater from Outfalls S01—S11.
2. Restrictions of imported wastewater from municipal leachate and transfer stations, food processing facilities, and nonspecific sources.

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

The EPA waiver is in effect.

Application No. PA 0088790, Industrial Waste, SIC Code 9631, **The York Water Company**, 130 East Market Street, York, PA 17405. This facility is located in York Township, **York County**.

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

The receiving stream, Lake Redman, is in Watershed 7-H, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is The York Water Company located on the south branch of Codorus Creek, approximately 9 miles downstream. The discharge is not expected to affect the water supply.

The proposed interim effluent limits for Outfall 001 based on a design flow of 12 mgd are:

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			Monitor and Report		
Dissolved Oxygen			Monitor and Report		
Temperature, F°			Monitor and Report		
Total Aluminum			Monitor and Report		
Total Copper			Monitor and Report		
Total Lead			Monitor and Report		
Total Zinc			Monitor and Report		

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

The EPA waiver is in effect.

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

PA0233692, Sewage, 4952, **South Creek Township**, P. O. Box 60, Gillett, PA 16925. This proposed facility is located in South Creek Township, **Bradford County**.

Description of Proposed Activity: One centralized treatment facility to serve Fassett and three small flow treatment facilities to correct malfunctioning on lot systems in Gillett.

The receiving stream, South Creek, is in the State Water Plan Watershed 4B and is classified for: CWF. The nearest downstream public water supply intake is considered the New York State border is located on South Creek and is 6 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.025 mgd.

Discharge Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum
CBOD ₅	25	40		50
TSS	30	45		60
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean		
pH		6.0 to 9.0 at all times		

NOTICES

<i>Discharge Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum</i>
NH ₃ (5-1 to 10-31) (11-1 to 4-30)	12			24
TRC	Monitor			Monitor 1.6

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**
Kjeldahl-N	Report		Report	
Nitrate-Nitrate as N	Report		Report	
Total Nitrogen	Report		Report	Report
Total Phosphorus	Report		Report	Report
Net Total Nitrogen			Report	2,450*
Net Total Phosphorus			Report	151*

* 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 upon start up. 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.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary.

The proposed effluent limits for Outfall 002 are based on a design flow of 0.0004 mgd.

<i>Discharge Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	15		20
TSS	10	15		20
Fecal Coliforms		200/100 ml as a Geometric Mean		
pH		6.0 to 9.0 at all times		
TRC	Monitor			Monitor

The proposed effluent limits for Outfall 003 are based on a design flow of 0.002 mgd.

<i>Discharge Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	15		20
TSS	10	15		20
Fecal Coliforms		200/100 ml as a Geometric Mean		
pH		6.0 to 9.0 at all times		
TRC	Monitor			Monitor

The proposed effluent limits for Outfall 004 are based on a design flow of 0.002 mgd.

<i>Discharge Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	15		20
TSS	10	15		20
Fecal Coliforms		200/100 ml as a Geometric Mean		
pH		6.0 to 9.0 at all times		
TRC	Monitor			Monitor

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

Chesapeake Bay Nutrient Requirements

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

Amplified Public Notice for NPDES Permit No. PA0253987, Industrial Waste, Somerset Regional Water Resources, LLC, 888 Stoystown Road, Somerset, PA 15501.

This notice reflects changes from the notice published in the April 11, 2009 *Pennsylvania Bulletin*.

The Draft NPDES Permit effluent limitations were published in the *Pennsylvania Bulletin* with a Daily Maximum effluent limitation of 0.144 mg/l for Acetophenone. The correct limit is 0.114 mg/l.

PA0028711, Sewage, **Peters Township Sanitary Authority**, 3244 Washington Road, McMurray, PA 15317-3153. This application is for renewal of an NPDES permit to discharge treated sewage from Brush Run Sewage Treatment Plant in Peters Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Brush Run, 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 West View Municipal Authority located on the Ohio River.

Outfall 001: existing discharge, design flow of 2.000 mgd.

Parameter	Concentration (mg/l)			Instantaneous Maximum
	Average Monthly	Average Weekly	Maximum Daily	
CBOD ₅				
(5-1 to 10-31)	20.0	30.0		40.0
(11-1 to 4-30)	25.0	37.5		50.0
Suspended Solids	30.0	45.0		60.0
Ammonia Nitrogen				
(5-1 to 10-31)	2.0	3.0		4.0
(11-1 to 4-30)	4.5	6.8		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		0.05		0.16
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

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

PA0028223, Sewage, **Municipal Authority of the City of Corry**, 36 West Main Street, Corry, PA 16407. This existing facility is located in City of Corry, **Erie County**.

Description of existing Activity: Renewal of an existing NPDES permit to discharge treated sewage.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.5 mgd.

Parameters	Loadings		Concentrations		Instantaneous Maximum (mg/l)
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	
Flow (mgd)	XX				
CBOD ₅					
(5-1 to 10-31)	437	642	15	22	30
(11-1 to 4-30)	729	1,167	25	40	50
Total Suspended Solids	876	1,314	30	45	60
NH ₃ -N					
(5-1 to 10-31)	58		2		4
(11-1 to 4-30)	175		6		12
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a Geometric Average			
(10-1 to 4-30)		2,000/100 ml as a Geometric Average			
Total Phosphorus	XX		XX		XX
Total Copper	XX		XX		XX
Total Residual Chlorine			0.4		1.3
Dissolved Oxygen		Minimum of 7.0 mg/l at all times			
pH		6.0 to 9.0 Standard Units at all times			

XX—Monitor and report on monthly DMRs.

CSO Outfalls*	Description	Location		Receiving Stream
002	Avenue A Pump Station	41° 55' 21"	79° 37' 25"	Hare Creek
004	Corry WWTP	41° 55' 32"	79° 37' 44"	Hare Creek
005	Wright and Smith Streets	41° 55' 31"	79° 38' 20"	Hare Creek

* Refer to Special Condition 1, Combined Sewer Overflow Management, in Part C.

<i>Stormwater Outfalls**</i>	<i>Description</i>	<i>Location</i>		<i>Receiving Stream</i>
003	Central portion of WWTP Gravity discharge	41° 55' 35"	79° 37' 40"	Hare Creek
006	Force main discharge from north wet well	41° 55' 35"	79° 37' 37"	Hare Creek
007	Northeast of sludge drying beds	41° 55' 37"	79° 38' 41"	Hare Creek
008	Northwest of sludge drying beds	41° 55' 37"	79° 38' 42"	Hare Creek

** Refer to Special Condition 5, Stormwater outfall requirements, in Part C.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Emlenton Water Company is located on the Allegheny River and is approximately 110 miles below point of discharge.

The receiving stream, Hare Creek, is in Watershed 16-B and classified for: WWF, aquatic life, water supply and recreation.

Special Conditions:

1. CSOs.
2. Effluent Chlorine Optimization and Minimization.
3. WET Testing.
4. CSO-Related bypass authorization.
5. Stormwater outfall requirements (003, 006—008).

The EPA waiver is not in effect.

PA0238571, Sewage, **Robert McDonald and Rhett Walls, Pinehurst Manor Mobile Home Park**, 899 Rockdale Road, Butler, PA 16002-8856. This existing facility is located in Center Township, **Butler County**.

Description of Proposed Activity: New NPDES permit replacing an expired permit.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Beaver Falls Municipal Authority located on the Beaver River and is approximately 49 miles below point of discharge.

The receiving stream, the Stony Run, is in Watershed 20-C and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.014 mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX		
CBOD ₅	25.0		50.0
Total Suspended Solids	30.0		60.0
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Phosphorus as "P"	2.0		4.0
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	
Ultraviolet Light	XX		
Ultraviolet Light Intensity	Monitor and report the average UV meter reading as µw/cm ² for each module bank. Also see Special Condition 1.		
Dissolved Oxygen		minimum of 5.0 mg/l at all times	
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

PA0102288, Industrial Waste, **Rustick, LLC**, 19 Ness Lane, Kane, PA 16735. This proposed facility is located in Sergeant Township, **McKean County**.

Description of Proposed Activity: an existing discharge of treated industrial waste and stormwater.

The receiving waters are a UNT to Little Sicily Run (Outfalls 001—006 and 010), a UNT to Sevenmile Run (Outfall 007), Rocky Run (Outfall 008) and Sicily Run (Outfall 009). The receiving streams are in State Water Plan 17-A and are classified for the following uses: CWF (Sicily, Little Sicily and Rocky Runs) and HQ-CWF (UNT—Sevenmile Run), aquatic life, water supply and recreation. The nearest downstream potable water supply is the PA American Water Company intake, located on the Clarion River, approximately 75 miles below the point of discharge. For the HQ-stream, the nearest downstream potable water supply is considered the discharge point located on the UNT to Sevenmile Run.

Interim Limits

The proposed effluent limits for Outfall 001 based on a design flow of 0.031 mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX	XX			
BOD ₅			37	140	175
TSS			27	88	110
NH ₃ -N			4.9	10	12.5
Oil and Grease			15		30
Zinc	0.023	0.05	0.097	0.19	0.24
a-Terpineol			0.016	0.033	0.041
Benzoic Acid			0.071	0.12	0.18
p-Cresol			0.014	0.025	0.031
Phenol			0.015	0.026	0.032
pH	Within limits of 6.0 to 9.0 Standard Units at all times.				

Final Limits

The proposed effluent limits for Outfall 001 based on a design flow of 0.05 mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX	XX			
BOD ₅			37	140	175
TSS			27	88	110
NH ₃ -N			4.9	10	12.5
Oil and Grease			15		30
Zinc	0.041	0.083	0.099	0.2	0.25
a-Terpineol			0.016	0.033	0.041
Benzoic Acid			0.071	0.12	0.18
p-Cresol			0.014	0.025	0.031
Phenol			0.015	0.026	0.032
pH	Within limits of 6.0 to 9.0 Standard Units at all times.				

Outfalls 002—010 are identified as stormwater only discharges. They will be controlled by Best Management Practices specific to landfill operations.

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. 2109402, Sewerage, **Borough of Mechanicsburg**, 36 West Allen Street, Mechanicsburg, PA 17055. This proposed facility is located in Mechanicsburg Borough, **Cumberland County**.

Description of Proposed Action/Activity: Upgrades to the WWTP to meet standards set forth in Pennsylvania's Chesapeake Bay Tributary Strategy.

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

WQM Permit No. 6309404, Sewerage, **Chartiers Township**, 2 Buccaneer Drive, Houston, PA 15342. This proposed facility is located in Canton and Chartiers Townships, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Route 18 Corridor Sewer System.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1509014	River Station, LP P. O. Box 1496 Exton, PA 19341	Chester	Downingtown Borough East Caln Township	East Branch Brandywine Creek WWF-MF
PAI01 1509015	Telvil Corporation 527 Main Street Harleysville, PA 19428	Chester	East Coventry Township	UNT Pigeon Creek Schuylkill River HQ-TSF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAR10C444(2)-R	Cabela's Ed Eckman 100 Cabela's Drive Hamburg, PA 19526	Berks	Tilden Township	UNT to Schuylkill River WWF
PAI032109003	CHR Corporation Tim Rutter 2295 Susquehanna Trail Suite C York, PA 17404	Cumberland	Monroe Township	Yellow Breeches Creek HQ-CWF
PAI033109001	Department of Transportation Engineering District 9-0 Thomas A. Prestash 1620 North Juniata Street Hollidaysburg, PA 16648	Huntingdon	Morris Township	UNT to Frankstown Branch Juniata River WWF

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

Clearfield County Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-2629.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041709001	Glenn O. Hawbaker, Inc. 1952 Waddle Road State College, PA 16803	Clearfield	Lawrence, Pine and Union Townships	Anderson Creek HQ-CWF Dressler Run HQ-CWF Fork Run HQ-CWF Stone Run HQ-CWF UNT to Lick Run HQ-CWF
PAI041709002	Shannon Land and Mining P. O. Box 368 Bigler, PA 16825	Clearfield	Pike Township	UNT to Little Clearfield Creek HQ-CWF West Branch Susquehanna River WWF

Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041809001	Department Conservation and Natural Resources P. O. Box 8552 Harrisburg, PA 17105	Clinton	Bald Eagle and Grugan Townships	UNT to Holland Run HQ-CWF

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

Allegheny County Conservation District: Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Avenue, Pittsburgh, PA 15208, (412) 241-7645.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050209002	Edgewater Properties, LP 3875 Old William Penn Highway Murrysville, PA 15668	Allegheny	Oakmont Borough	Allegheny River WWF, N

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

Erie County Conservation District: 1927 Wager Road, Erie, PA 16509, (814) 825-6403.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062509003	Former International Paper Site—Dunn Brick Yard Greater Erie Industrial Development Corporation 5240 Knowledge Parkway Erie, PA 16509	Erie	Erie City	West Branch Cemetery Run Lake Erie WWF

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

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

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 1509502, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc.
Township	Schuylkill
County	Chester
Responsible Official	Marc Lucca 762 West Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	PWS
Consulting Engineer	CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112
Application Received Date	February 25, 2009
Description of Action	Upgrading the existing filters at Pickering East Water Treatment Plant.

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

Permit No. 5608507 resubmittal, Public Water Supply.

Applicant	Municipal Authority of the Township of Jenner 2058 Lincoln Highway Boswell, PA 15531
Township or Borough	Jenners Township
Responsible Official	Keith Barnick, Chairperson Municipal Authority of the Township of Jenner 2058 Lincoln Highway Boswell, PA 15531
Type of Facility	Ligonier Laurel Mountain
Consulting Engineer	The EADS Group, Inc. 1126 Eighth Avenue Altoona, PA 16602

Application Received Date October 9, 2008

Description of Action Construction of a well, addition of sodium hypochlorite system, polyphosphate sequestering system, a 2,000 gallon water storage tank and a 30,000 gallon water storage tank.

MINOR AMENDMENT

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

Application No. 2687503T1MA, Minor Amendment.

Applicant **Greater Pittsburgh Council
Boy Scouts of America**
1275 Bedford Avenue
Pittsburgh, PA 15219

Township or Borough Wharton Township

Responsible Official Walter Boger, Head Ranger
Greater Pittsburgh Council
Boy Scouts of America
1275 Bedford Avenue
Pittsburgh, PA 15219

Type of Facility Water system

Consulting Engineer Aquenef
1314 Denniston Street
Pittsburgh, PA 15217

Application Received Date August 15, 2007

Description of Action Installation of a settling tank at the Heritage Reservation.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

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

2020 Building, 2020 Hamilton Street, Allentown City, **Lehigh County**. Alexander Ulmer, Barry Issett & Associates, Inc., P. O. Box 147, Trexlertown, PA 18087-0147 has submitted a Notice of Intent to Remediate (on behalf of his clients Raymond and Thelma Holland, c/o Timothy Fallon, 405 West Linden Street, Allentown, PA 18102-3454), concerning the remediation of soil found to have been impacted by hexavalent chromium within a former process water vault as a result of metal cleaning and painting operations at a former facility located at this property. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

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

Lancaster General Services Property, West Earl Township, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602, on behalf of Lancaster General Services, 607 North Duke Street, Lancaster, PA 17602, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with heating oil released from an aboveground storage tank. The site will be remediated to a combination of the Residential Statewide Health and Site-Specific Standards. The site will be developed as a health care facility for Lancaster General Hospital.

RESIDUAL WASTE GENERAL PERMITS

Application received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Renewal Application Number WMGR040. Safety-Kleen Systems, Inc., 5400 Legacy Drive, Plano, TX 75024-3105. General Permit Number WMGR040 authorizes processing prior to beneficial use of waste oil (including waste oil mixed with hazardous waste regulated under 40 CFR 261.5 incorporated by reference at 25 Pa. Code § 261a.1 and modified at § 261a.5), spent antifreeze and waste oil/water mixtures. The approved processing is limited to the transfer of waste oil, waste oil/water mixtures and spent antifreeze generated from motor vehicles to rail cars for transport ("rail transloading"). The application for renewal of the general permit was deemed administratively complete by Central Office on April 7, 2009.

The renewal application covers the following Safety-Kleen Systems facilities:

WMGR040 Baumer Street, Johnstown, PA 15904

WMGR040A 600 Stewart Road, Wilkes-Barre, PA 18706

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service at (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

DETERMINATION FOR APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Application for determination of applicability received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

General Permit Application No. WMGR028-NWD02A. Glenn O. Hawbaker, Inc., 157 Hawbaker Industrial Boulevard, Grove City, PA 16127, Barkeyville, Venango County. The application is for Determination of Applicability (DOA) for beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants for use as: (i) an aggregate in roadway construction; (ii) a soil additive; (iii) a soil conditioner; or (iv) a component or ingredient in the manufacturing of construction products. The DOA covers three sites named the Barkeyville, Clarion and Turtlepoint Facilities. The

application for determination of applicability was received by the Northwest Regional Office on April 3, 2009.

Comments concerning the application should be directed to Todd Carlson, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335. Persons interested in obtaining more information about the general permit application may contact the Northwest Regional Office at (814) 332-6848. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service at (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No. 301326, Lubriclear of Pittsburgh, LP, Schenley Industrial Park, P. O. Box 62, Schenley, PA 15682. Application for a renewal of a residual waste processing facility permit in Gilpin Township, Armstrong County was received in the Regional Office on April 7, 2009.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department

regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

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

40-309-041: Schott Glass Technologies, Inc. (400 York Avenue, Duryea, PA 18642) for installation of a new baghouse at their facility in Duryea Borough, **Luzerne County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

32-00297F: Creps United Publications (1163 Water Street, Indiana, PA 15701) for installation and operation of a new heatset web offset lithographic printing press, replacing an existing press, at their facility in White Township, **Indiana County**.

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

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

09-0019C: Miller & Son Paving, Inc. (887 Mill Creek Road, Rushland, PA 18956) for consumption of on-specification waste-derived liquid fuel (WDLF) as an additional fuel by the rotary dryer of an existing batch hot mix asphalt (HMA) plant at their facility, in Wrightstown Township, **Bucks County**. The plan approval is for a non-Title V facility. Based on information in the application, the potential emissions for CO, NOx and PM will increase with the consumption of WDLF at the facility. However, the facility will maintain its Synthetic Minor status.

Miller & Son will be required to perform stack testing for the batch HMA plant in order to demonstrate compli-

ance with the requirements of 40 CFR Part 60, Subpart I, and assure the control of emissions consistent with the best available technology. Miller & Son will continue to monitor and maintain records of HMA production on a monthly and 12-month rolling basis to ensure compliance with the HMA production limitation and site-level emission restrictions. The permit will include monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

46-0158B: Colorcon, Inc. (415 Moyer Boulevard, West Point, PA 19486-0024) for modification to an existing Polyvinyl Alcohol Phthalate (PVAP) operation which includes installation of a dryer in Upper Gwynedd Township, **Montgomery County**. VOC emissions will increase 5.51 tons due to the modification to the PVAP operation. The facility will still remain a natural minor. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

36-05065A: Skyline Corp. (99 Horseshoe Road, Leola, PA 17540) for installation of a paint booth in Upper Leacock Township, **Lancaster County**. The paint booth is expected to increase emissions by 5 tpy of VOC and 1 tpy of HAP. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources 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.

08-313-042D: Global Tungsten & Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) for construction of a new Progressive Technologies model HE-100 plasma gun (PMI gun No. 1, Source ID P227) at their facility in North Towanda Township, **Bradford County**. This is a State-only facility.

The Department of Environmental Protection's (Department) review of the information contained in the application submitted by GTP indicates that the PMI gun controlled by the proposed fabric collector and final filter will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the PM emission limitation of 25 Pa. Code § 123.13 and the visible emission limitation of 25 Pa. Code § 123.41. The plan approval, if issued, will subsequently be incorporated into the State-only operating permit by means of an administrative amendment in accordance with 25 Pa. Code § 127.450 at a later date.

Based upon this finding, the Department proposes to issue a plan approval for the construction of the Progressive Technologies model HE-100 plasma gun (PMI gun No. 1, Source ID P227). The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the PM and HAP emissions from the Progressive Technologies model HE-100 plasma gun (PMI gun No. 1, Source ID P227) shall not exceed 0.73 pph and 3.2 tons in any 12-consecutive month period.

2. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the Progressive Technologies model HE-100 plasma gun (PMI gun No. 1, Source ID P227) shall be controlled by the Farr-Tenkay model 30LS fabric collector (ID C227A) and final filter (ID C227B), in series, any time the plasma gun is operating. The fabric collector (ID C227A) and final filter (ID C227B), in series, shall maintain a control efficiency of at least 99.99% for PM.

PMI Gun No. 1 is approved to process the following materials and compounds made from the materials: tungsten, tungsten carbide, chromium, cobalt and nickel.

3. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, there shall be no visible air contaminant emissions observable in the exhaust of the final filter (ID C227B) at any time.

4. The Farr-Tenkay model 30LS fabric collector (ID C227A) and final filter (ID C227B) shall be equipped with instrumentation to continuously monitor pressure drop across the collector and filter and shall be recorded at least once per operating shift.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

62-178C Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) in accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval to: for modification of a plan approval to add a RAP mixing drum after the rotary dryer, RAP crusher, use waste asphalt shingles in the hot mix asphalt and permit three portable plants to crush and screen materials as needed at Glenn O. Hawbaker, Inc. Plant No. 7—Turtlepoint Asphalt in Annin Township, **McKean County**. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

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

AMS 09026: Atlantic Marine—Philadelphia, LLC (5195 South 19th Street, Philadelphia, PA 19112) for reactivation and operation of a ship repair and painting facility in the City of Philadelphia, **Philadelphia County**. The operation will include the installation of a 792,000 Btu/hr natural gas-fired boiler, painting equipment, blasting equipment, containment tarp, dust collector, two 440 horsepower portable diesel compressors and one 250 horsepower diesel washer. Emissions from the facility are limited to the following:

- VOCs shall be less than 25 tons per rolling 12-month period;

- HAPs shall be less than 10 tons per rolling 12-month period of any individual HAP emissions and less than 25 tons per rolling 12-month period for any combination of HAP emissions;

- NOx shall be less than 25 tons per rolling 12-month period;

The plan approval will contain operating, monitoring, testing, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

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

06-05066: Exide Technologies (P. O. Box 13995, Reading, PA 19612-3995) for operation of a secondary lead smelter in the Laureldale Borough and Muhlenberg Township, **Berks County**. The facility is subject to 40 CFR Part 52, Prevention of Significant Deterioration, Part 60, Subpart L, Standards of Performance for New Stationary Sources and Part 63, Subpart X, National Emission Standards for HAPs from Secondary Lead Smelters. This action is a renewal of the Title V operating permit issued in 2000 and an administrative amendment.

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

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

46-00144: USDA Eastern Regional Research Center (600 East Mermaid Lane, Wyndmoor, PA 19038-8551) for operation of four boilers and one emergency generator in Springfield Township, **Montgomery County**. This action is a renewal of the State-only Operating Permit (Synthetic Minor). The original State-only Operating Permit was issued on March 18, 2004. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting designed to keep the facility operating within all applicable air quality requirements.

09-00032: Eureka Stone Quarry, Inc. (P. O. Box 249, Chalfont, PA 18914) for renewal of the State-only Operating Permit for a stone crushing and asphalt plant in Warrington Township, **Bucks County**. The renewal corrects a number of errors made in the original Operating Permit, including but not limited to site inventory, site map and tax i.d. The renewal will include the incorporation of Plan Approval 09-0032 and Request for Determination 490. The renewed Operating Permit does not authorize any increase in air emissions of regulated pollutants above previously approved levels. The facility shall remain a synthetic minor facility. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

40-00090: Bridon American Corp. (280 New Commerce Boulevard, Wilkes-Barre, PA 18773) for operation of a wire fabrication facility in Ashley Borough, **Luzerne County**. This is the renewal of a State-only Operating Permit.

35-00065: Insituform Tech. (11511 Philips Highway, Jacksonville, FL 32256-1639) for operation of a pipe manufacturing facility in Olyphant Borough, **Lackawanna County**. This is an initial issuance of a State-only Operating Permit.

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

21-03029: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) for operation of their Mount Holly Springs Quarry in Dickinson Township, **Cumberland County**. This is a renewal of the State-only operating permit issued in 2004.

36-03024: Astro Machine Works (470 Wenger Drive, Ephrata, PA 17522) for their manufacturing facility in Ephrata Borough, **Lancaster County**. This is a renewal of the State-only operating permit issued in 2003.

36-05074: New Holland Custom Woodwork, LTD (313 Prospect Street, New Holland, PA 17557-0217) for their high quality wood products manufacturing facility in New Holland Borough, **Lancaster County**. This is a renewal of the State-only operating permit issued in 2003.

36-05076: Lancaster General Hospital (555 North Duke Street, Lancaster, PA 17604) for operation of their medical and surgical hospital facility in the City of Lancaster, **Lancaster County**. This is a renewal of the State-only operating permit issued in June 2004.

38-05023: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) for operation of their Prescott Asphalt Plant in South Lebanon Township, **Lebanon County**. This is a renewal of the State-only operating permit issued in 2004.

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

62-00150: Superior Tire and Rubber Corp. (1818 Pennsylvania Avenue, Warren, PA 16365) for re-issuance of a Synthetic Minor Permit to operate a tires and inner tube manufacturing facility in Warren City, **Warren County**. The major emitting sources included: 1) two Boilers; 2) Miscellaneous natural gas usage; 3) two Spray finishing; 4) Burn off oven; and 5) Degreaser Unit. The facility has taken the emission restriction of single HAP less than 9.9 tpy and multiple HAP less than 24.9 tpy. Thus, the facility is synthetic minor.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation-Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions

for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

56663069 and NPDES No. PA012094. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552, revision of an existing bituminous surface and auger mine to reflect property ownership changes since the last renewal, area never affected has been deleted from the permit, and area has been added to the permit for support facilities. The permit area will remain 3,040.0 acres in Elk Lick and Summit Townships, **Somerset County**, affecting 3,040.0 acres. Receiving streams: UNTs to/and Casselman River; UNTs to/and Elk Lick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 6, 2009.

56663069 and NPDES No. PA012094. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Elk Lick and Summit Townships, **Somerset County**, affecting 3,040.0 acres. Receiving streams: UNTs to/and Casselman River; UNTs to/and Elk Lick Creek classified for the

following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 6, 2009.

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

03980106 and NPDES Permit No. PA0202291. Thomas J. Smith, Inc. (2340 Smith Road, Shelocta, PA 15774). Renewal application for reclamation only of a bituminous surface mine, located in South Bend Township, **Armstrong County**, affecting 94.1 acres. Receiving streams: UNT to Lindsay Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received April 8, 2009.

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

33050103 and NPDES Permit No. PA0257991. Cookport Coal Co., Inc. (425 Market Street, Kittanning, PA 16201). Revision to an existing bituminous surface strip and auger operation in Perry Township, **Jefferson County** affecting 63.5 acres. Receiving streams: Nicely Run to Mahoning Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to reconfigure the permit boundary and revise the auger area. Application received April 6, 2009.

Noncoal Applications Received

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

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

* The parameter is applicable at all times.

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

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

40090302 and NPDES Permit No. PA0224782. Pennsy Supply, Inc., (1001 Paxton Street, Harrisburg, PA 17104), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Dorrance Township, **Luzerne County** affecting 316.75 acres, receiving streams: Balliet Run and UNT to Big Wapwallopen Creek, classified for the following uses: HQ-CWF and CWF. Application received March 27, 2009.

7174SM1C6 and NPDES Permit No. PA0009407. Hempt Bros., Inc., (205 Creek Road, Camp Hill, PA 17011), depth correction of an existing quarry operation in Steelton Borough and Swatara Township, **Dauphin County** affecting 213.27 acres, receiving stream: Susquehanna River, classified for the following use: WWF. Application received March 27, 2009.

7974SM2A2C10 and NPDES Permit No. PA0611999. Hanson Aggregates BMC, Inc., (7660 Imperial Way, Allentown, PA 18195), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Nockamixon Township, **Bucks County**, receiving stream: Rapp Creek, classified as EV. Application received April 3, 2009.

8173SM1C11 and NPDES Permit No. PA0594148. Hanson Aggregates PA, Inc., (7660 Imperial Way, Allentown, PA 18195), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in East Caln Township, **Chester County**, receiving stream: East Branch Brandywine Creek, classified for the following uses: CWF and MF. Application received April 3, 2009.

5273SM2C14 and NPDES Permit No. PA0594130. Hanson Aggregates PA, Inc., (7660 Imperial Way, Allentown, PA 18195), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Thornbury and Middletown Townships, **Delaware County**, receiving streams: UNT to Chester Creek and Chester Creek, classified for the following use: TSF. Application received April 3, 2009.

36080301T and NPDES Permit No. PA0224651. Pierson Rheems, LLC, (P. O. Box 430, Woodstown, NJ 08098), transfer of an existing quarry operation from Donegal Rock Products, LLC in West Donegal Township, **Lancaster County** affecting 102.64 acres, receiving stream: UNT to Donegal Creek. Application received April 10, 2009.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1–693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E09-938. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Hatfield Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities associated with County Line Road bridge project:

1) To remove the existing two span bridge and to construct and maintain, in its place, a 111-foot long, 64-foot wide and 8-foot high single span prestressed concrete bridge across the West Branch of Neshaminy Creek (WWF, MF).

2) To remove the existing single span reinforced concrete slab and to construct and maintain, in its place, two 36-inch diameter concrete pipe culverts across the UNT to the West Branch of Neshaminy Creek (WWF, MF).

The project is located in the vicinity of County Line Road (SR 2038) and Trewigtown Road (T-319) in the New Britain Township, Bucks County and Hatfield Township, Montgomery County (Doylestown, PA USGS Quadrangle N: 4.8 inches; W: 16.8 inches).

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E40-698. Daniel J. Reggie, R. R. 3, Box 3568, Harveys Lake, PA 18618, in Harveys Lake Borough, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 516 square foot dock expansion onto an existing 375 square foot dock (890 square foot total), of which will include 23 10-inch diameter wooden piers, three 16-inch diameter concrete sonotubes and a permanent wetland encroachment of 16.7 square feet. The project is located approximately 3.59 miles northwest of the intersection of SR 0415 and SR 0115 (Harveys Lake, PA Quadrangle Latitude: 41° 22' 5.6"; Longitude: 75° 3' 4").

E40-695. PPL Susquehanna Steam Electric Station, 769 Salem Boulevard (NUCSA3), Berwick, PA 18603-6828, in Salem Township, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain 0.2 acre of wetlands in and along the floodway (right bank) of a UNT to Lake Took-A-While (CWF), which will include the lowering of the streambank elevation over a length of 160 LF downstream to restore the original water table depth. The purpose of the project to rehabilitate an existing fill site associated with recent PPL transmission line project (Berwick, PA Quadrangle Latitude: 41° 5' 24"; Longitude: 76° 8' 1").

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

E36-851: Warwick School District, David Zerbe, 301 West Orange Street, Lititz, PA 17543, Lititz Borough, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain an 8.0-foot wide single span pedestrian bridge having a normal span of 18.0-feet, and an underclearance of 2.5-feet across a UNT to Lititz Run (CWF) to provide access between Bonfield Elementary School Campus and recreational fields at a point just east of the intersection of North Oak Street and Rome Road (Lititz, PA Quadrangle 5.8-inches North; 5.0-inches West, Latitude: 40° 09' 22" N; Longitude: 76° 17' 09" W) in Lititz Borough, Lancaster County.

E05-351: Bedford Township Municipal Authority, P. O. Box 371, Bedford, PA 15522, Bedford Township Area II Sanitary Sewer and Water Project, Bedford Township, **Bedford County**, United States Army Corps of Engineers, Baltimore District.

To conduct various activities as follows:

1. To construct and maintain Kaleidoscope Road Pump Station located in the floodplain of Dunning Creek (WWF) (Everett West, PA Quad N: 13.10 inches; W: 16.40 inches, Latitude: 40° 04' 20"; Longitude: 78° 29' 32"), and Rabbit Lane Pump Station located along the floodplain of Dunning Creek (WWF) (Everett West, PA Quad N: 17.30 inches; W: 13.92 inches, Latitude: 40° 05' 43"; Longitude: 78° 28' 28").

2. To construct and maintain Kenametal Pump Station located along in floodplain of a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 5.70 inches; W: 15.40 inches, Latitude: 40° 01' 53"; Longitude: 78° 29' 06").

3. To construct and maintain an 8-inch diameter water line and a 6-inch diameter force main in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 7.40 inches; W: 15.40 inches, Latitude: 40° 02' 28"; Longitude: 78° 29' 05").

4. To construct and maintain an 8-inch diameter water line and a 6-inch diameter force main in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 9.40 inches; W: 14.60 inches, Latitude: 40° 03' 05"; Longitude: 78° 28' 44").

5. To construct and maintain an 8-inch diameter water line and a 2-inch diameter sewer line with a 6-inch casing in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 11.30 inches; W: 13.80 inches, Latitude: 40° 03' 44"; Longitude: 78° 28' 21").

6. To construct and maintain an 8-inch diameter water line and a 6-inch diameter force main in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 11.90 inches; W: 15.06 inches, Latitude: 40° 03' 56"; Longitude: 78° 29' 11").

7. To construct and maintain an 8-inch diameter water line and 6-inch diameter force main in a UNT to Dunning Creek (WWF) and its associated wetland (Everett West, PA Quad N: 12.40 inches; W: 16.20 inches, Latitude: 40° 04' 08"; Longitude: 78° 29' 25").

8. To construct and maintain an 2-inch diameter low pressure sanitary sewer line in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 12.10 inches; W: 16.70 inches, Latitude: 40° 03' 57"; Longitude: 78° 29' 40").

9. To construct and maintain a 2-inch diameter low pressure sanitary sewer line in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 10.10 inches; W: 17.30 inches, Latitude: 40° 03' 20"; Longitude: 78° 28' 52").

10. To construct and maintain an 8-inch diameter water line and a 4-inch diameter force main with a 6-inch diameter pipe casing in a wetland along a UNT to Imlertown Run (TSF) (Everett West, PA Quad N: 16.50 inches; W: 13.70 inches, Latitude: 40° 05' 23"; Longitude: 78° 28' 33").

11. To construct and an 8-inch diameter water line and an 8-inch diameter in a wetland along a UNT to Imlertown Run (TSF) (Everett West, PA Quad N: 17.00 inches; W: 13.30 inches, Latitude: 40° 05' 39"; Longitude: 78° 28' 11").

12. To construct and maintain an 8-inch diameter water line and a 6-inch diameter force main in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 5.90 inches; W: 15.20 inches, Latitude: 40° 01' 58"; Longitude: 78° 29' 02").

13. To construct and maintain a 6-inch diameter man-holes and its associated 10-inch diameter sanitary sewer line in a wetland along a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 4.50 inches; W: 14.70 inches, Latitude: 40° 01' 38"; Longitude: 78° 28' 48").

14. To construct and maintain a 6-inch diameter force main and an 8-inch diameter water line in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 7.50 inches; W: 15.40 inches, Latitude: 40° 02' 28"; Longitude: 78° 29' 05").

15. To construct and maintain a 6-inch diameter force main and an 8-inch diameter water line in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 9.60 inches; W: 14.60 inches, Latitude: 40° 03' 12"; Longitude: 78° 28' 43").

16. To construct and maintain an 8-inch diameter water line with a 16-inch diameter casing and a 2-inch diameter low pressure sanitary sewer line with a 4-inch diameter casing in Dunning Creek (WWF) located 95 feet downstream of Rabbit Lane (T-493) bridge (Everett West, PA Quad N: 10.80 inches; W: 13.90 inches, Latitude: 40° 03' 34"; Longitude: 78° 28' 26").

17. To construct and maintain an 8-inch diameter and a 6-inch diameter force main in a UNT to Dunning Creek (WWF) for the purpose improving the sanitary sewer line (Everett West, PA Quad N: 11.30 inches; W: 13.70 inches, Latitude: 40° 03' 44"; Longitude: 78° 28' 21").

18. To construct and maintain an 8-inch diameter and a 6-inch diameter force main in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 11.90 inches; W: 15.50 inches, Latitude: 40° 03' 56"; Longitude: 78° 29' 10").

19. To construct and maintain an 8-inch diameter and a 6-inch diameter force main in a UNTs to Dunning Creek (WWF) (Everett West, PA Quad N: 12.40 inches; W: 16.30 inches, Latitude: 40° 04' 06"; Longitude: 78° 29' 27").

20. To construct and maintain a 10-inch diameter water line with a 20-inch diameter casing in Dunning Creek (WWF) located 1,900 feet downstream of SR 1014 bridge for (Everett West, PA Quad N: 13.00 inches; W: 15.30 inches, Latitude: 40° 04' 18"; Longitude: 78° 29' 05").

21. To construct and maintain a 10-inch diameter water line and an 8-inch diameter sanitary sewer line in a UNT to Dunning Creek (WWF) and a 6-inch diameter force main in Dunning Creek (WWF) (Everett West, PA Quad N: 13.00 inches; W: 15.70 inches, Latitude: 40° 04' 18"; Longitude: 78° 29' 10").

22. To construct and maintain a 6-inch diameter sanitary sewer line with a 12-inch diameter casing in Dunning Creek (WWF) located 310 feet downstream of SR 1014 bridge (Everett West, PA Quad N: 13.00 inches; W: 16.10 inches, Latitude: 40° 04' 19"; Longitude: 78° 29' 22").

23. To construct and maintain a 10-inch diameter water line and an 8-inch diameter sanitary sewer line in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 13.10 inches; W: 16.90 inches, Latitude: 40° 04' 21"; Longitude: 78° 29' 43").

24. To construct and maintain a 2-inch diameter low pressure sanitary sewer line in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 11.70 inches; W: 16.80 inches, Latitude: 40° 03' 53"; Longitude: 78° 29' 42").

25. To construct and maintain a 2-inch diameter low pressure sanitary sewer line in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 10.60 inches; W: 17.10 inches, Latitude: 40° 03' 30"; Longitude: 78° 29' 50").

26. To construct and maintain a 2-inch diameter low pressure sanitary sewer line in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 10.10 inches; W: 17.20 inches, Latitude: 40° 03' 20"; Longitude: 78° 29' 52").

27. To construct and maintain an 8-inch diameter water line and a 4-inch diameter force main in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 13.90 inches; W: 16.00 inches, Latitude: 40° 04' 35"; Longitude: 78° 29' 20").

28. To construct and maintain an 8-inch diameter water line and a 4-inch diameter force main in UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 15.60 inches; W: 14.70 inches, Latitude: 40° 04' 50"; Longitude: 78° 29' 10").

29. To construct and maintain an 8-inch diameter water line and a 4-inch diameter force main in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 15.10 inches; W: 15.40 inches, Latitude: 40° 05' 01"; Longitude: 78° 29' 03").

30. To construct and maintain an 8-inch diameter water line and a 4-inch diameter force main in a UNT to Dunning Creek (WWF) (Everett West, PA Quad N: 15.80 inches; W: 14.50 inches, Latitude: 40° 05' 14"; Longitude: 78° 28' 42").

31. To construct and maintain an 8-inch diameter water line and a 4-inch diameter force main in a UNT to Imlertown Run (TSF) (Everett West, PA Quad N: 16.30 inches; W: 13.90 inches, Latitude: 40° 05' 23"; Longitude: 78° 28' 27").

32. To construct and maintain an 8-inch diameter water line and a 4-inch diameter force main in a UNT to Imlertown Run (TSF) (Everett West, PA Quad N: 16.60 inches; W: 13.50 inches, Latitude: 40° 05' 31"; Longitude: 78° 28' 15").

33. To construct and maintain a 6-inch diameter water line and a 2-inch diameter low pressure sanitary sewer line in a UNT to Imlertown Run (TSF) (Everett West, PA Quad N: 16.10 inches; W: 13.40 inches, Latitude: 40° 05' 20"; Longitude: 78° 28' 14").

34. To construct and maintain a 15-inch diameter sanitary sewer line in a UNT to Dunning Creek (TSF) (Everett West, PA Quad N: 5.90 inches; W: 15.20 inches, Latitude: 40° 01' 57"; Longitude: 78° 29' 01").

35. To construct and maintain a 6-inch diameter water line and 2-inch diameter low pressure sanitary sewer line with a 6-inch diameter casing in Pleasant Valley Run (CWF) (Everett West, PA Quad N: 5.90 inches; W: 15.20 inches, Latitude: 40° 01' 57"; Longitude: 78° 29' 01").

36. To construct and maintain a 10-inch diameter water line and a 8-inch diameter sanitary sewer line in Dunning Creek (WWF) (Everett West, PA Quad N: 13.00 inches; W: 16.10 inches, Latitude: 40° 04' 19"; Longitude: 78° 29' 22").

For the purpose of providing and improving water and sewage system in Bedford Township, Bedford County.

E22-544: Lower Paxton Township, Brian Luetchford, Friendship Community Center, 5000 Commons Drive, Harrisburg, PA 17112, Lower Paxton Township, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To remove 20.0 feet of existing 24-inch diameter culvert pipe and for the construction and maintenance of 600.0 feet of stream bank grading and stabilization including the installation of 250.0 feet of boulder toe, 130.0 feet of 4-foot high stacked stone wall, four 8-foot wide log terrace structures and four 8-foot wide boulder steps for the purpose of stabilizing a UNT to Paxton Creek (WWF) (Harrisburg East, PA Quadrangle Starting location: 11.23-inches N; 8.29-inches W, Latitude: 40° 18' 42.6" N; Longitude: 76° 48' 34.2" W, Ending location: 11.45-inches N; 8.48-inches W, Latitude: 40° 18' 47" N; Longitude: 76° 48' 39.1" W) in Lower Paxton Township, Dauphin County.

E36-854: PPL Holtwood, LLC, Dennis J. Murphy, VP/COO, 2 North 9th Street, Allentown, PA 18101, Martic Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

PPL Hydroelectric Plant is located on the Susquehanna River (WWF) in Martic Township, Lancaster County. PPL proposes to construct a new powerhouse, install new turbines, construct a new skimmer wall and increase the forebay capacity and reconfigure the project facilities to enhance upstream fish passage through modification of existing facilities and excavations in the tailrace channel (Holtwood, PA Quadrangle N: 14 inches; W: 11.5 inches, Latitude: 39° 49' 37.7" N; Longitude: 76° 19' 50.4" W). The licensed installed capacity at the project would increase from 107.2 MW to a proposed 195.5 MW. To improve MF passage at the project, PPL proposes to: (1) modify the existing fish lift; (2) reroute the discharge of Unit 1 in the existing powerhouse; and (3) excavate the project tailrace (33.49 acres), the forebay (4.63 acres) and Piney Channel (6.68 acres). PPL also proposes to provide minimum flows, perform studies and evaluations of the effectiveness of the fish passage improvements and flow releases, improve existing and construct new recreational facilities, and protect special status plants and wildlife and cultural resources during construction. The project will cumulatively impact 1.24 acres of palustrine emergent and forested wetlands (approximately 0.50 acre of temporary impacts and approximately 0.73 acre of permanent impacts), approximately 7.60 acres of shallow water habitat and approximately 14.60 acres of deep water habitat. To mitigate for impacts associated with the project, PPL proposes to: (1) construct 0.25 acre emergent wetland, 1.96 acres forested wetland and establish 1.57 acres forested riparian buffer, and 1.8 acres upland forest at the RLPS Architect's property located west-southwest of the intersection of Oregon Pike (PA-272) and Valleybrook Drive in Manheim Township, Lancaster County (Lancaster, PA Quadrangle N: 15.96 inches; W: 5.37 inches, Latitude: 40° 05' 16.332" N; Longitude: 76° 17' 18.2004" W) in the floodway of Landis Run (WWF) or, if this project cannot be constructed, to provide a replacement project acceptable to the Department; (2) construct and maintain a 3,200.0-foot stream restoration project in and along Pequea Creek (WWF) (New Holland and Gap,

PA Quadrangles Latitude: 40° 00' 01.1" N; Longitude: 76° 06' 11.1" W) located in Paradise and Leacock Townships, Lancaster County. The project shall include riparian plantings along 5,000.0 feet of Pequea Creek, 3,300.0 feet of streambank fencing providing a minimum of a 25-foot buffer on each side of the Pequea Creek, bank grading, two cattle crossings, one cattle access, four areas of habitat boulder placement, five rock cross vanes, nine J-hooks, three stream bank rock deflectors with logs, five root wads, and four mudsill fish enhancement structures; (3) plant 7.6 acres of an existing agricultural field adjacent to the Susquehanna River with native tree species at a point just north of the intersection of Prescott and River Roads (SR 441) (York Haven, PA Quadrangle Latitude: 40° 06' 35.70" N; Longitude: 76° 41' 18.36" W) in Conoy Township, Lancaster County; (4) remove three dams or if these projects are funded through other sources, provide such replacement projects as are acceptable to the Department: (a) D36-306, Levi Fisher Dam, located on Pequea Creek (HQ-CWF) at a point just west of the intersection of Mount Vernon and Buena Vista Roads (Honey Brook, PA Quadrangle Latitude: 40° 1' 9.12" N; Longitude: 75° 59' 4.56" W) in Salisbury Township, Lancaster County; (b) Smucker Dam located on Groff Run (WWF) at a point just west of the intersection of Tabor Road and Custer Avenue (New Holland, PA Quadrangle Latitude: 40° 4' 9.84" N; Longitude: 76° 5' 8.52" W) in Earl Township, Lancaster County; and (c) Zimmerman Dam located on Conestoga River (WWF) at a point just southwest of the intersection of Cabin Road and Twenty-Eighth Division Highway (SR 322) (Ephrata, PA Quadrangle Latitude: 40° 9' 1.44" N; Longitude: 75° 8' 11.49" W) in Earl Township, Lancaster County; (5) expand the existing Pequea Boat Launch to include the addition of 18 trailer spaces, three car parking spaces, a boat ramp measuring 129.0 feet long and 20.0 feet wide and a 25.0-foot by 20.0-foot ADA accessible fishing platform and dock in and along the Susquehanna River (Conestoga, PA Quadrangle N: 2.5 inches; W: 16.5 inches, Latitude: 39° 53' 17.4" N; Longitude: 76° 22' 0.5" W); (6) extend the two existing boat ramps at the York Furnace Boating Access into the Susquehanna River (Safe Harbor, PA Quadrangle N: 0.75 inch; W: 1.0 inch, Latitude: 39° 52' 20.8" N; Longitude: 76° 22' 48.3" W); (7) construct additional parking along the existing McCall's Ferry Road, which is located in the floodway of the Susquehanna River (Holtwood, PA Quadrangle N: 13.0 inches; W: 12.5 inches, Latitude: 39° 49' 15.6" N; Longitude: 76° 20' 16.5" W), to provide parking for the white water boating community use, which additional parking includes widening McCall's Ferry Road by 27.5 feet for a distance of 137 feet; (8) construct and maintain a bridge over the railroad tracks along the east bank of the Susquehanna River for the purpose of allowing recreational access to a new parking area, measuring 200.0 feet long by 50.0 feet wide, located between the railroad right-of-way and the Holtwood Tailrace (Holtwood, PA Quadrangle N: 13.25 inches; W: 11.0 inches, Latitude: 39° 49' 22.6" N; Longitude: 76° 19' 35.3" W). This parking area would include parking for 18 cars, with three spaces reserved for ADA access. From the parking area an ADA accessible trail would provide access to a 40.0-foot by 10.0-foot fishing platform along the Holtwood Tailrace. The fishing platform would be retrofitted from the abutment to the lower tailrace bridge; and nine provide funding to the Fish and Boat Commission to implement procedures for American shad restoration during construction.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-455. Sayre Area School District, 333 West Lockhart Street, Sayre, PA 18840. Water Obstruction and Encroachment Joint Permit Application, in Litchfield Township, **Bradford County**, United States Army Corps of Engineers, Baltimore District (Litchfield, PA Quadrangle N: 41° 57' 15"; W: 76° 26' 6").

To construct, operate and maintain 5,000 linear feet of stream stabilization consisting of 1,500 linear feet of rock rip-rap toe, 25 rock barbs, seven rock weirs, six single log cross vanes and two log cross vanes within the Satterlee Creek Watershed (CWF). Construction of the stream stabilization project with not impact any jurisdictional wetlands. The project is located 2,500 linear feet upstream and downstream of the SR 1056 and SR 1067 intersection in Litchfield Township, Bradford County.

E18-443. Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 0477 Section A03 Bridge Structure Replacements in Lamar Township, **Clinton County**, United States Army Corps of Engineers, Baltimore District (Mill Hall, PA Quadrangle Latitude: 41° 04' 58"; Longitude: 77° 27' 40").

The applicant proposes to construct, operate and maintain two structures located on SR 0477 along Long Run. The first structure is an existing single span I-beam bridge with a clear span of 35.5 ft and a hydraulic opening of 149.83 ft². It will be replaced with a concrete spread box beam bridge with a clear span of 38.5 ft and a hydraulic opening of 150.21 ft². The second structure is a 5' by 7' corrugated metal arch culvert. The existing culvert has been severely impacted by adjacent fill. It will be replaced with a 4' by 6.3' elliptical concrete pipe. The proposed pipe will be approximately 30 ft long than the existing culvert due to the adjacent fill. Long Run is classified as a HQ-CWF and is Approved Trout Waters. The project will result in de minimis wetland impacts and 60 feet of permanent stream impacts.

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

E02-1608. Allegheny County Department of Public Works, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-2904. To remove existing structure and construct and maintain new bridge in Forward Township in **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Monongahela, PA Quadrangle N: 20.8 inches; W: 5.8 inches, Latitude: 40° 14' 22"; Longitude: 79° 55' 00"). The applicant proposes to remove the existing structure (Pangburn Hollow Bridge No. 5) and to construct and maintain a new bridge consisting of a reinforced concrete culvert having a span of 18.0 feet with an underclearance of 5.0 feet (1.0 foot depressed below the natural stream bed) in and across the channel of Perry Mill Run (WWF) for the purpose of improving highway safety. The project is located on Pangburn Hollow Road, approximately 1.0 mile south from the intersection of Pangburn Hollow and Sadler Roads and will impact approximately 129.0 linear feet of stream channel.

E56-350. Department of Transportation, District 9, 1620 North Juniata Street, Hollidaysburg, PA 16648. To remove two existing bridges and construct a two new bridges in the same alignment in Stoystown Borough and Quemahoning Township, **Somerset County**, United States Army Corps of Engineers, Pittsburgh District (Stoystown, PA Quadrangle N: 10.2 inches; W: 17.7 inches, Latitude: 40° 5' 52"; Longitude: 78° 56' 52"). The applicant proposes to:

1. Remove the existing SR 30 two lane, 44 ft. wide, two span bridge having a total length of 90 ft., and having an underclearance of 18.2 ft.; and construct and maintain on the same alignment a two lane 46 ft. wide, two-span bridge having a total length of 152.5 ft. with an underclearance of 18.26 ft. over Stony Creek (CWF) with a drainage area of 116 square miles. This bridge is located 0.3 mile southeast of Stoystown Borough.

2. Remove the existing SR 30 two lane, 44 ft. wide, two span bridge having a total length of 86 ft., and having an underclearance of 8.8 ft.; and construct and maintain on the same alignment a two lane 53.3 ft. wide, two span bridge having a total length of 87.5 ft. with an underclearance of 8.9 ft. over a UNT to Stony Creek (CWF) with a drainage area of 0.47 square mile. This Bridge is located 0.35 mile southeast of Stoystown Borough (Stoystown, PA Quadrangle N: 10.2 inches; W: 17.7 inches, Latitude: 40° 5' 52"; Longitude: 78° 56' 45").

3. Construct and maintain approximately 145 ft of stream relocation in UNTs to Stony Creek with drainage areas less than 100 acres and associated stormwater outfalls, temporary wetland and stream impacts.

In addition, a total of 0.35 acre of PEM/PSS wetland will be filled and maintained. Temporary causeways for pier construction, 185 ft of temporary stream impacts, and 0.3 acre of temporary wetland impacts are intended to be included in the project. This project is associated with SR 30 reconstruction and improvement work with these encroachments located southeast of Stoystown Borough extending 0.6 mile into Quemahoning Township in Somerset County (beginning from Stoystown, PA Quadrangle N: 5 inches; W: 8.5 inches, Latitude: 40° 39' 08"; Longitude: 80° 03' 18" and ending N: 10.1 inches; W: 18.0 inches, Latitude: 40° 5' 51"; Longitude: 78° 56' 35").

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

E33-235. Open Flow Gas Supply Corporation, 90 Beaver Drive, Suite 110 B, DuBois, PA 15801. Beaver Meadow Run Gas Pipeline Crossings, in Snyder Township, **Jefferson County**, United States Army Corps of Engineers, Pittsburgh District (Carman, Hazen and Munderf, PA Quadrangles N: 41° 15' 3"; W: 78° 52' 50").

The applicant is proposing to construct and maintain a 9,247-foot long natural gas pipeline involving the crossing by means of boring of two channels of Beaver Meadow Run (EV) and the crossing by means of boring of an approximately 400-foot length of exceptional value wetlands adjacent to the floodplain. Beaver Meadow Run is a perennial stream classified as EV.

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 & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
09002	Trader Joe's East, Inc. 117 Kendrick Street Needham, MA 02494 Attn: Bob Denio	Northampton	East Allen Township	3 ASTs storing diesel fuel	36,000 gallons total
09003	Asphalt Paving Systems, Inc. 595 Mill Road Lehigh, PA 18235 Attn: Richard Nunemacher	Carbon	Mahoning Township	6 ASTs storing emulsified asphalt	120,000 gallons total

ACTIONS

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

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

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

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T 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 audiocassette from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063258 (Industrial)	Mahanoy Township Authority Water Treatment Plant 46 North Main Street Mahanoy City, PA 17948	Schuylkill County Mahanoy Township	UNT to North Mahanoy Creek 06B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0033766 (Sew)	North Heidelberg Sewer Company P. O. Box 609 Bernville, PA 19506	Berks County Jefferson Township	Northkill Creek 3-C	Y
PA0086550 (Sew)	Rose and Jeffery A. Siddens 65 Stonewall Lane Alburtis, PA 18011	Berks County Longswamp Township	UNT to Swabia Creek 2-C	Y
PA0010227 (Sew)	F. L. Smidth, Inc. 236 South Cherry Street Manheim, PA 17545	Lancaster County Manheim Borough	Chickies Creek 7-G	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0033251 SN	Total Environmental Solutions, Inc. 906 Beaver Drive DuBois, PA 15801	Clearfield County Sandy Township	Narrows Creek 17C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0026158 Sewage	Mon Valley Sewage Authority P. O. Box 792 Donora, PA 15033	Washington County Carroll Township	Monongahela River	N
PA0219444 Sewage	Borough of Markleysburg 150 Main Street Markleysburg, PA 15459-0025	Fayette County Henry Clay Township	Pinkham Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0004766	Ellwood National Forge Company 1 Front Street Irvine, PA 16329	Brokenstraw Township Warren County	Brokenstraw Creek 16-B	Y
PA0222887	Deb Adams d/b/a Gateway Lodge P. O. Box 125 Route 36 Cooksburg, PA 16217	Barnett Township Jefferson County	UNT to the Clarion River 17-B	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. PA0040321, Industrial Waste, **Thomas and Betts Corporation**, 1501 West Park Avenue, Perkasio, PA 18944. This proposed facility is located in East Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated groundwater from the former facility into a UNT to East Branch Perkiomen Creek in Watershed 3E.

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

PA0114821, Sewage, SIC 4952, **Gregg Township Municipal Authority**, P. O. Box 192, 16736 Route 15, Allenwood, PA 17810. This existing facility is located in the Gregg Township, **Union County**.

Description of Proposed Activity: The applicant seeks to renew and increase the flow of their NPDES permit for the wastewater treatment facility consisting of screening, sequencing batch reactors and chlorine disinfection.

The receiving stream for Outfall 001, the West Branch Susquehanna River, is in the State Water Plan Watershed 10C and is classified for: WWF. The nearest public water supply surface water intake, owned by PA America, is located on the West Branch Susquehanna River in Milton, 7.0 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.26 mgd.

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

Chesapeake Bay Tributary Strategy Nutrient Requirements

Parameter	Concentration (mg/l)		Mass (lbs)	
	Monthly Average	Monthly Load	Monthly Load	Annual Load
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		Report
Net Total Nitrogen		Report		23,013*
Net Total Phosphorus		Report		3,068*

* 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 the Net Total Nitrogen and Net Total Phosphorus effluent limits will begin upon the start up of the upgraded facility. 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, 2010.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2010.

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

1. Chesapeake Bay Nutrient Requirements.

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

NPDES Permit No. PA0000183, Industrial Waste, **Amendment No. 1, General Electric Company**, 2901 East Lake Road, Erie, PA 16531. This proposed facility is located in Lawrence Park Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of an amended NPDES Permit to identify this facility as a 'minor' discharge. The wastewater being discharged consists of miscellaneous wastewater, groundwater and stormwater. SIC Code 3743 (Railroad Equipment).

NPDES Permit No. PA0263478, Sewage, **Edward F. and Lorraine D. Selvoski**, 19 Spud Drive, Scenery Hill, PA 15360. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of an NPDES permit to replace a malfunctioning onlot system within a HQ-CWF.

NPDES Permit No. PA0263494, Sewage, **Michael M. Fodse**, 13238 Phelps Road, Conneaut Lake, PA 16316. This proposed facility is located in Summit Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a New NPDES permit for a new discharge of treated sewage.

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

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

WQM Permit No. 0276461-A2, Sewerage, **Allegheny Valley Joint Sewage Authority**, 2400 Freeport Road, P. O. Box 158, Cheswick, PA 15024. This existing facility is located in Harmar Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of an upgrade to its sewage treatment plant.

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

WQM Permit No. 6208401, Sewerage, **Sugar Creek Area Sewage Authority**, 195 Creek Road, Sugar Grove, PA 16335. This proposed facility is located in Sugar Grove Township, **Warren County**.

Description of Proposed Action/Activity: This phase III project extends from the existing Sugar Grove Area Sewage Authority system in nine separate areas and a tenth area connects onto the Brokenstraw Valley Area Authority system for conveyance into the Youngsville Borough Wastewater Treatment Plant. Within these ten service areas are 137 existing EDUs which will be provided public sewer service through the use of a low pressure sewer system. A total of approximately 80,000 LF of 1 1/2 inch, 2 inch and 3 inch diameter pressure sewer will be constructed along with cleanouts, air and vacuum valves and grinder pumps. Within these service areas are a high number of malfunctioning onlot sewage systems which create health, safety and nuisance problems.

WQM Permit No. 4208405, Sewerage, **Edward F. and Lorraine D. Selvoski**, 19 Spud Drive, Scenery Hill, PA 15360. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018691, Sewerage, **Chase Steinbuhler**, 1258 Stone Springhouse Road, Titusville, PA 16354. This proposed facility is located in Cherrytree Township, **Venango County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

WQM Permit No. 2009401, Sewerage, **Michael M. Fodse**, 13238 Phelps Road, Conneaut Lake, PA 16316. This proposed facility is located in Summit Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018679, Sewerage, **Raymond Pflugh**, 310 Claytonia Road, Slippery Rock, PA 16057. This proposed facility is located in Clay Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

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

WQM Permit No. 0991426, Sewerage, Renewal, **Camp Men-O-Lan**, 1415 Doerr Road, Quakertown, PA 18951. This proposed facility is located in Milford Township, **Bucks County**.

Description of Action/Activity: Renewal of existing wastewater treatment plant and storage lagoon.

WQM Permit No. WQG010027, Sewerage, **Cynthia R. O'Brien**, 1305 North Bailey Road, Coatesville, PA 19320. This proposed facility is located in Caln Township, **Chester County**.

Description of Action/Activity: Construction and operation of a small flow sewage treatment plant.

WQM Permit No. 2309405, Sewerage, **Southern Delaware County Authority**, 101 Beech Street, Boothwyn, PA 19061. This proposed facility is located in Upper Chichester Township, **Delaware County**.

Description of Action/Activity: Upgrade an existing 2.0 mgd pump station pumps and motors, add VFD's and add a new generator.

WQM Permit No. 4609402, Sewerage, **Upper Pottsgrove Township**, 1409 Farmington Avenue, Pottstown, PA 19464. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Action/Activity: Existing flow to Cherry Tree Pump Station diverted through a new gravity main to a new pump station at existing Regal Oak STP which is to be discomissioned.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1508048	ROJAN HH & M, LLC 2213 Concord Pike Wilmington, DE 19603	Chester	London Grove Township	East Branch White Clay Creek EV

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1508064	Transcontinental Gas Pipe Line Corporation 2800 Post Oak Boulevard Houston, TX 77056-1396	Chester	Caln, East Caln, East Brandywine, East Whiteland and West Whiteland Townships	Valley Creek EV Beaver and East Branch Brandywine Creeks WWF, MF Ludwigs Run WWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023908018	Partners Profit Group, LLC 49 Glendale Avenue Edison, NJ 08817	Lehigh	South Whitehall Township	Little Cedar Creek HQ-CWF Jordan Creek HQ-CWF
PAI023907003(1)	Northwestern Lehigh School District 6493 Route 309 New Tripoli, PA 18066	Lehigh	Lynn and Heidelberg Townships	Tributary to Jordan Creek HQ-CWF, MF Ontelaunee Creek EV

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041408010	Mr. and Mrs. Conrad Weiser Weiser Subdivision P. O. Box 130 Julian, PA 16844	Centre	Huston and Patton Townships	UNT to Buffalo Run HQ-CWF

Tioga County Conservation District: 50 Plaza Lane, Wellsboro, PA 16901, (570) 724-1801, Ext. 3.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045909001	Drew Remley 32 Penn Street Washington Borough, PA 17852	Tioga	Liberty Township	Salt Spring Run HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Northampton Township Bucks County	PAG200 0909030	Northampton Bucks County Municipal Authority 111 Township Line Road Richboro, PA 18954-1550	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG200 0907104	Heath A. Dumack P. O. Box 547 Penns Park, PA 18943	Tributary Mill Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG200 0909025	Department of Veterans Affairs CFM 384 Vermont Avenue Washington, DC 20420	UNT Houghs Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Delaware County	PAG200 2308048	Naamans Creek Crossing, LLC 910 South Chapel Street Suite 100 Newark, DE 19713	Brandywine Creek WWF, MF Chester Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Hanover Township Montgomery County	PAG200 4608149	Advanced Gas Technologies, Inc. 1401 Stauffer Road Palm, PA 18070	UNT Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Pottsgrove Township Montgomery County	PAG200 460316-R	Sukonik Brookside Estates, LP 1250 Germantown Pike Suite 100 Plymouth Meeting, PA 19464	Sprogels Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Horsham Township Montgomery County	PAG200 4608130	Horsham Soccer Club 1025 Horsham Road Horsham, PA 19044	Park Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Gwynedd Township Montgomery County	PAG200 4608097	YMCA of Philadelphia and Vicinity 200 Market Street Suite 750 Philadelphia, PA 19103	Wissahickon Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitpain Township Montgomery County	PAG200 4609006	Montgomery County Community College 340 DeKalb Pike Blue Bell, PA 19422	UNT Stony Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109004	Rock Run Holding, Inc. 5003 Umbria Street Suite 200 Philadelphia, PA 19128	Delaware River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109006	Department of General Services Room 100 Tent Building 18th and Herr Streets Harrisburg, PA 17125	Poquessing Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bethel Township Berks County	PAG2000609004	Robert Wolf 861 Bloody Spring Road Bethel, PA 19057	Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201

NOTICES

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<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Rockland Township Berks County	PAG2000604055-R	Keith Zielaskowski Quest Land Development 711 Spring Street Wyomissing, PA 19610	UNT to Willow Creek WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Mount Union Borough Huntingdon County	PAG2003108013	James Estep 28 West Market Street Mount Union, PA 17066	Juniata River WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Hellam Township York County	PAG2006709001	Alfred G. Stewart Stewart Welding & Fabricating, Inc. 1033 Water Street Wrightsville, PA 17368	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAR10Y399R-2	Kinsley Equitiei II, LP 2700 Water Street York, PA 17403	UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Altoona City Blair County	PAG2000709002	Eight Hundred Logan Boulevard, LP Andrea Cohen 101 Lakemont Park Boulevard Altoona, PA 16602	Mill Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Cambria County Conemaugh Township City of Johnstown	PAG2001108019	Pegasus Sewer Authority 1296 Clapboard Run Road Johnstown, PA 15904	Peggy's Run and Little Conemaugh River WWF	Cambria County Conservation District (814) 472-2120
Cambria County Cambria Township	PAG2001109004	Kathy Wagner CDM Ebensburg, LLC 259 Lakemont Park Boulevard Suite 200 Altoona, PA 16602	UNT South Branch Blacklick Creek CWF	Cambria County Conservation District (814) 472-2120
Indiana County Conemaugh Township	PAG2003209003	Saltsburg School District 102 School Lane Blairsville, PA 15717	Kiskiminetas River WWF	Indiana County Conservation District (724) 463-8547
Indiana County White and Cherryhill Townships	PAG2003209004	Indiana County Municipal Services Authority 602 Kolter Drive Indiana, PA 15701	UNT to Two Lick Creek and UNT to Crooked Creek CWF	Indiana County Conservation District (724) 463-8547
Indiana County South Mahoning Township	PAG2003209006	Indiana County Municipal Services Authority 602 Kolter Drive Indiana, PA 15701	North Branch of Plum Creek CWF	Indiana County Conservation District (724) 463-8547
Somerset County Jenner Township	PAG2005608008	Christian Camps of Pittsburgh, Inc. R. D. 2 Box 299 Boswell, PA 15531	Beaverdam Run CWF	Somerset County Conservation District (814) 445-4652
Washington County Mt. Pleasant Township	PAG2006309011	Odra Land Co., Inc. 12 Jaskiewicz Way White Haven, PA 18661	Raccoon Creek WWF	Washington County Conservation District (724) 228-6774

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Washington County California Borough	PAG2006309012	Cambridge Venture Partners, Inc. 100 The Benedum Tress Building 223 Fourth Avenue Pittsburgh, PA 15222	Pike Run TSF	Washington County Conservation District (724) 228-6774
Westmoreland County Washington Township	PAG2006508043	Municipal Authority of Washington Township 283 Pine Run Church Road Apollo, PA 15613	Pine Run WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Unity Township	PAG2006508044	Modal, Inc. George Heskey 757 Lloyd Avenue Latrobe, PA 15650	Tributary to Ninemile Run WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Hempfield Township	PAG2006509002	Harry M. Brady 100 Brady Place New Station, PA 15672 and New Enterprise Stone 3912 Rumbaugh Road New Enterprise, PA 16664	UNT to Sewickley Creek WWF	Westmoreland County Conservation District (724) 837-5271
Clarion County Monroe Township	PAG2061609002	Trinity Point Lot 14 Biotech Building Clarion Trinity Development Company, LP P. O. Box 445 Clarion, PA 16214 and Clarion University Foundation 840 Wood Street Clarion, PA 16214 and Robert Borland 2000 Lincoln Road Pittsburgh, PA 15235	Brush Run CWF	Department of Environmental Protection 230 Chestnut Street Meadeville, PA 16335
Erie County Millcreek Township	PAG2002509002	SR 0005-A02 Corridor Improvements Department of Transportation 255 Elm Street P. O. Box 398 Oil City, PA 16301	Wilkin's Run CWF, MF Marshall Run CWF, MF Scott Run WWF, MF West Branch Cascade Creek WWF, MF	Erie County Conservation District (814) 825-6403

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Berks County Kutztown Borough Maxatawny Township	PAR213506	Berks Products Corporation—Kutztown Building Materials P. O. Box 9000 Wyomissing, PA 19610	Sacony Creek CWF 3B	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAR236117	Rubber Rolls, Inc. P. O. Box 398 50 Rockwood Drive Meadow Lands, PA 15347	Chartiers Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
PAR116117	Kennametal 1576 Arona Road Irwin, PA 15642	Little Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

*Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAG040110	Richard and Brenda Steinmetz 5564 Tollgate Road Pipersville, PA 18947	UNT to Geddes Run Watershed 2D	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
PAG040113	Cynthia R. O'Brien 1305 North Bailey Road Coatesville, PA 19320	UNT to Beaver Creek Watershed 3H	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
PAG049513	Chase Steinbuhler 1258 Stone Springhouse Road Titusville, PA 16354	UNT to Prather Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
PAG048938	Edward C. Hajbura 306 Pontiac Avenue Pittsburgh, PA 15237	UNT to East Branch Oil Creek 16-E	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
PAG049499	Raymond Pflugh 310 Claytonia Road Slippery Rock, PA 16057	UNT of Big Run 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8 (SSN)**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Weisenberg Township Lehigh County	PAG08-2201	Synagro 1605 Dooley Road P. O. Box B Whiteford, MD 21160	Dennis Dorney Farm 7915 Holbens Valley Road New Tripoli, PA 18066	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
	PAG08-2203			
	PAG07-0003			
	PAG08-0008			
	PAG08-3501			
	PAG08-0002			
	PAG08-3535			
	PAG08-3551			
	PAG08-3517			
	PAG08-9903			
	PAG08-3596			
	PAG08-3510			
	PAG08-2211			
	PAG08-3506			
	PAG08-3522			
	PAG08-3515			
	PAG08-3502			
	PAG08-9904			
	PAG08-3547			
	PAG08-0006			
	PAG08-3540			
	PABIG-9903			
	PAG08-3547			
	PAG08-3600			
	PAG08-3565			
	PAG07-3508			
	PAG07-0005			
	PAG08-0003			
	PAG08-3825			
	PAG08-3542			
	PAG08-0004			
	PAG08-3518			
	PAG08-9905			
PAG08-3556				
PAG08-0018				
PAG08-3573				
PAG08-3597				

*General Permit Type—PAG-8**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Mt. Pleasant Township Adams County	PAG083588	Abbottstown-Paradise Joint Sewer Authority P. O. Box 505 Abbottstown, PA 17301	Abbottstown-Paradise Joint Sewer Authority Wastewater Treatment Facility Route 94 Abbottstown, PA	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Mt. Joy Township Adams County	PAG083537	White Run Regional Municipal Authority 2001 Baltimore Pike Gettysburg, PA 17325	White Run Wastewater Treatment Facility 2001 Baltimore Pike Gettysburg, PA 17325	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Quincy Township Franklin County	PAG083590	Mont Alto Municipal Authority P. O. Box 427 Mont Alto, PA 17237	Mont Alto Wastewater Treatment Facility PA 997 Mont Alto, PA 17237	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-9

*Facility Location:
Municipality &
County*

Peter's Township
Franklin County

Permit No.

PAG093524

*Applicant Name &
Address*

Rosy's Wastewater
Removal, Inc.
8058 Hubler Road
St. Thomas, PA 17252

*Site Name &
Location*

*Contact Office &
Phone No.*

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
(717) 705-4707

**PUBLIC WATER SUPPLY (PWS)
PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T 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. 4806504MA, Minor Amendment, Public Water Supply.

Applicant **Easton Suburban Water Authority**
3700 Hartley Avenue
Easton, PA 18045
City of Easton
County **Northampton**
Type of Facility **PWS**

Consulting Engineer Laurence S. Zimmermann, P. E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106

Permit to Construct Issued April 1, 2009

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

Permit No. 6708502, Public Water Supply.

Applicant **Delta Borough**
Municipality Peach Bottom Township
County **York**
Type of Facility New Well DR-2
Consulting Engineer Charles A. Kehew II, P. E.
James R. Holley & Assoc., Inc.
18 South George Street
York, PA 17401

Permit to Construct Issued April 9, 2009

Permit No. 0709501 MA, Minor Amendment, Public Water Supply.

Applicant **Greenfield Township Municipal Authority**
Municipality Greenfield Township
County **Blair**
Type of Facility Installation of approximately 2,250 linear feet of 8" water main to allow treated water to go directly to the tank while allowing the existing distribution system to continue to serve the customers.

Consulting Engineer William A. Sauserman, P. E.
Stiffler McGraw & Associates, Inc.
19 North Juniata Street
Hollidaysburg, PA 16648

Permit to Construct Issued April 10, 2009

Operations Permit issued to **Bailey Family Partnership**, 7360023, Mount Joy Borough, **Lancaster County** on April 8, 2009, for the operation of facilities approved under Construction Permit No. 3606509.

Operations Permit issued to **King's River Haven MHP and Campsite**, 7360002, Conoy Township, **Lancaster County** on April 3, 2009, for the operation of facilities approved under Construction Permit No. 3608519.

Operations Permit issued to **Italina Delight, Inc.**, 7220375, East Hanover Township, **Dauphin County** on April 2, 2009, for the operation of facilities approved under Construction Permit No. 7220375.

Operations Permit issued to **Red Rose Motel**, 7220006, Halifax Township, **Dauphin County** on April 2, 2009, for the operation of facilities approved under Construction Permit No. 7220006.

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

Permit No. 0809502—Construction, Public Water Supply.

Applicant	Wysox Presbyterian Church
Township or Borough	Wysox Township
County	Bradford
Responsible Official	Ronald Irvine Wysox Presbyterian Church Route 187 North P. O. Box 339 Wysox, PA 18854
Type of Facility	Public Water Supply—Construction
Consulting Engineer	N/A
Permit Issued Date	April 14, 2009
Description of Action	Construction of an iron and barium removal system, including a single tank ion exchange system, with Purolite SST60 resin.

Permit No. Minor Amendment—Construction, Public Water Supply.

Applicant	United Water Pennsylvania, Inc.
Township or Borough	Town of Bloomsburg
County	Columbia
Responsible Official	John Hollenbach United Water Pennsylvania, Inc. 4211 East Park Circle Harrisburg, PA 17111
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Arthur Saunders, P. E. United Water Pennsylvania, Inc. 4211 East Park Circle Harrisburg, PA 17111
Permit Issued Date	April 14, 2009
Description of Action	Rehabilitation of the existing 300,000 gallon steel finished water storage tank at Bloomsburg University.

Permit No. Minor Amendment—Operation, Public Water Supply.

Applicant	Whiskey Run Water Association
Township or Borough	Colebrook Township
County	Clinton

Responsible Official	Betty Barton Whiskey Run Water Association 2924 Farrandville Road Farrandville, PA 17745
Type of Facility	Public Water Supply—Operation
Consulting Engineer	K. Alan Uhler Jr., P. E., P.L.S. Kerry A. Uhler & Assoc., Inc. 140 West High Street Bellefonte, PA 16823
Permit Issued Date	April 14, 2009
Description of Action	Operation of the new cover over the Spring No. 1 collection reservoir.

Permit No. 1704501—Partial Operation, Public Water Supply.

Applicant	Houtzdale Municipal Authority
Township or Borough	Gulich Township
County	Clearfield
Responsible Official	John Gallagher Houtzdale Municipal Authority 561 Kirk Street P. O. Box 97 Houtzdale, PA 16651
Type of Facility	Public Water Supply—Partial Operation
Consulting Engineer	Jeffrey Garrigan, P. E. Uni-Tec Consulting Engineers 2007 Cato Avenue State College, PA 16801
Permit Issued Date	April 14, 2009
Description of Action	Operation of modifications to the treatment plant, Henderson booster pump station, 413,000 gallon Henderson finished water storage tank and distribution system improvements.

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

Operations Permit issued to **Borough of Somerset**, 340 West Union Street, Somerset, PA 15501, (PWSID No. 4560042) Somerset Township, **Somerset County** on April 9, 2009, for the operation of facilities approved under Construction Permit No. 5608503.

Permit No. 0209503MA, Minor Amendment, Public Water Supply.

Applicant	Moon Township Municipal Authority
Borough or Township	Moon Township
County	Allegheny
Type of Facility	Air Force Base water storage tank
Consulting Engineer	KLH Engineers, Inc. 5173 Campbells Run Road Pittsburgh, PA 15205

Permit to Construct April 14, 2009
Issued

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

Permit No. 2508503, Public Water Supply.

Applicant **Summit Township Water
Authority**
Township or Borough Summit Township
County **Erie County**
Type of Facility Public Water Supply
Consulting Engineer August E. Maas, P. E.
Permit to Construct April 9, 2009
Issued

**LAND RECYCLING AND
ENVIRONMENTAL REMEDIATION**

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Former Valley Hand Screen Printing Property, City of Lebanon, **Lebanon County.** Earth Resource Associates, Inc., 544 Hemlock Lane, Lebanon, PA 17042, on behalf of The Housing Authority of Lebanon County, P. O. Box 420, Lebanon, PA 17402-0420, submitted a Baseline Environmental Report concerning remediation of groundwater contaminated with VOCs from historical industrial activities. The site is being remediated as a Special Industrial Area.

**LAND RECYCLING AND
ENVIRONMENTAL REMEDIATION**

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at

the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Former Getty Service Station No. 67627, Hanover Borough, **York County**. The Tyree Company, 2702 Cindel Drive, Suite 7, Cinnaminson, NJ 08077-2035, on behalf of Getty Petroleum Marketing, Inc., 86 Doremus Avenue, Newark, NJ 07105, 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 April 8, 2009.

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

Deer Head Inn, Spring Creek Township, **Warren County**. AECOM Environment, Four Gateway Center, 444 Liberty Avenue, Suite 700, Pittsburgh, PA 15222-1220, on behalf of XL Insurance, 505 Eagleview Boulevard, Exton, PA 19341 has submitted a Final Report concerning remediation of site soil contaminated with benzene, cumene, ethyl benzene, methyl tert-butyl ether (MTBE), naphthalene, toluene, xylenes (total) and site groundwater contaminated with benzene, cumene, ethyl benzene, MTBE, naphthalene, toluene, xylenes (total). The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 8, 2009.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit Application No. 100992. The Harrisburg Authority Waste Ash Landfill, located in Harrisburg City and Swatara Township, **Dauphin County**. An application was submitted to renew the Municipal Waste Ash Landfill permit. This notice approves a permit renewal.

Comments concerning the application should be directed to Anthony Rathfon, Program Manager, Southcentral Regional Office. Persons interested in obtaining more information about the general permit application should contact the Southcentral Regional Office, (717) 705-4706. TDD users should contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

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, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-30-00170A: Atlas Pipeline Pennsylvania, LLC (P. O. Box 611, Moon Township, PA 15108-0611) on April 13, 2009, to install and operate a Caterpillar G3516 LE compressor engine rated at 1,340 bhp-hr and a Natco Dehydrator rated at .375 mmBtu/hr at their Brown Compressor Station located in Monongahela Township, **Greene County**.

GP5-63-00701: Chesapeake Appalachia, LLC (P. O. Box 6070, Charleston, WV 25362-0070) on April 13, 2009, to install and operate a Tri-ethylene Glycol dehydration unit with reboiler rated at 0.375 mmBtu/hr with an elevated flare at their Pine Oaks Station in Carroll Township, **Washington County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

15-0061A: Phoenixville Hospital, Inc. (140 Nutt Road, Phoenixville, PA 19460) on April 9, 2009, to install a new 1,250-kW diesel-fired internal combustion engine/electric generator (EGEN) and replacement of an existing boiler (Source ID 033 Boiler No. 3) with a new dual-fired (natural gas and No. 2 fuel oil) 12.247 mmBtu/hr boiler in Phoenixville Borough, **Chester County**. Also part of this project, the facility will be removing a 150-kW diesel-fired EGEN. The new EGEN is subject to the requirements of 40 CFR Part 60 Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines. The new boiler is subject to the requirements of 40 CFR Part 60 Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. Potential emissions are below major facility thresholds for the Philadelphia Metropolitan Area; the facility is classified as a Synthetic Minor Facility. The plan approval will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-0132A: Cephalon, Inc. (145 Brandywine Parkway, West Chester, PA 19380) on April 9, 2009, to operate a diesel fuel oil-fired 750 kW internal combustion engine/electric generators in West Goshen Township, **Chester County**. This generator is an existing unit at the site and currently grouped with other exempt generator units. The purpose of this plan approval is to remove it from the exempt group to provide more operating flexibility. This unit will be used for peak shaving, emergency power and curtailment purposes as well as periodic readiness testing. The primary pollutant of concern is NOx. Cephalon is

categorized as a Synthetic Minor facility and the proposed operation of this generator will not cause the facility to exceed any major thresholds. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

46-0005AD: Merck and Company, Inc. (Sumneystown Pike, West Point, PA 19486) on April 9, 2009, to install one portable emergency diesel-fired generator at their facility in Upper Gwynedd Township, **Montgomery County**. This installation is subject to the Department of Environmental Protection (Department) NSR regulations under 25 Pa. Code § 127.211(b)(1), for De Minimis emission increases of VOC. Thirty-four and twenty-four hundredths (34.24) tons of VOC ERCs will be surrendered to the Department for this project. There are no add-on control devices for this source. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

1. To address the NSR regulations for this source, the permittee shall surrender 34.24 tons of VOC ERCs to the Department. These ERCs are currently held by the permittee in the Department's ERC registry. This amount includes the De Minimis VOC increases (26.34 tons) times a multiplier of 1.3. The generator shall not start up until the ERCs are transferred.

2. Air contaminant emissions shall not exceed any of the following:

- (a) VOC—0.29 g/bhp-hr;
- (b) NO_x—4.48 g/bhp-hr;
- (c) PM and PM₁₀—0.12 g/bhp; and
- (d) CO—1.42 g/bhp-hr.

3. Only diesel fuel with 0.05% sulfur or less, by weight, shall be used in the operation of this source.

4. The source shall not operate more than 500 hours in any 12-consecutive month period, including no more than 100 hours for maintenance checks and readiness tests.

5. The permittee shall monitor and record the hours of operation and the operating hours for maintenance checks and readiness tests, using a nonresettable hour meter or Department approved equivalent.

6. The fuel usage and operating times for this source shall be recorded monthly and aggregated on a 12-consecutive month basis.

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

ER-36-5068: Masonic Homes (One Masonic Drive, Elizabethtown, PA 17022) on April 9, 2009, for the shutdown of three coal fired boilers in Elizabethtown Borough, **Lancaster County**.

ER-44-5001A: Standard Steel, LLC (500 North Walnut Street, Burnham, PA 17009-1698) on April 8, 2009, for the shutdown of 21 natural gas fired combustion sources at the Burnham facility in Burnham Borough, **Mifflin County**.

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

42-184I: Keystone Powdered Metal Co. (8 Hanley Drive, Lewis Run, PA 16738) on April 7, 2009, to relocate an induction heat treater from their facility in the City of

St. Marys, **Elk County** to their facility in Lewis Run Borough, **McKean County**. This is a Title V facility.

62-032E. Ellwood National Forge—Irvine (1 Front Street, Irvine, PA 16329) on April 7, 2009, for the increase in natural gas throughput restrictions associated with Source IDs 034, 101A, 111, 112; the decrease in natural gas throughput restrictions associated with Source IDs 032, 033, 035, 103, the increase in product throughput restrictions associated with Source ID 120; and the installation of a replacement dust collector associated with Source ID 114 at their facility in Brokenstraw Township, **Warren County**. This is a non-Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

32-00040B: Reliant Energy Wholesale Generation, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) on April 11, 2009, to allow for continued temporary operation of the sources covered under plan approval 32-00040B at the Seward Generating Station, in East Wheatfield Township, **Indiana County** until October 11, 2009. This plan approval has been transferred from Reliant Energy Seward, LLC to Reliant Wholesale Generation, LLC, effective April 11, 2009. The 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.

16-149A: Clarion Laminate, LLC (143 Fiberboard Road, Shippensburg, PA 16245) on April 8, 2009, to construct a laminate flooring facility which will include two laminating lines and two profiling lines at the their facility in Paint Township, **Clarion 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.

05-05021: Hill & Smith Holdings, Inc. (214 Industrial Lane, Alum Bank, PA 15521-8304) on March 30, 2009, for pultrusion, surface coating and chrome plating operations at their facility in West St. Clair Township, **Bedford County**. This is a renewal of the Title V operating permit.

67-05045: Glen Gery Corp. (1090 East Boundary Avenue, York, PA 17403-2920) on April 9, 2009, for operation of a brick manufacturing plant in Spring Garden Township, **York County**. This is a renewal of the Title V operating permit.

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

16-00035: The Commodore Corp.—Colony Factory Crafted Homes and Commodore Homes of PA (20898 Paint Boulevard, Clarion, PA 16743) on April 7, 2009, to re-issue a Title V Permit to operate a Mobile/Modular

Home manufacturing facility in Shippenville Borough, **Clarion County**. This is a major facility due to its potential to emit VOC emissions from the surface coating and adhesive application operations.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

46-00231: Judson A. Smith Co. (857—863 Sweinhart Road, Boyertown, PA 19512) on April 9, 2009, for a Non-Title V Facility, State-only, Natural Minor Operating Permit in Douglass Township, **Montgomery County**. Judson A. Smith Company fabricates metal tubing components used for the medical, auto, aerospace and electronic industries. The primary sources of air emissions from the facility are Branson Vapor Degreaser (Source ID 101), Branson Vapor Degreaser (Source ID 102), six Cold Cleaning Machines (Source ID 103) and two Emergency Generators (Source ID 104). Potential emissions from the facility are less than the following emission rates: 19.0 tpy for VOCs, 9.0 tpy for HAP, 5.0 tpy for PM, 3.0 tpy for NOx and 2.0 tpy for SOx and CO. The permit will contain monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

28-05018: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307-0807) on April 7, 2009, to operate their Chambersburg fruit processing facility in Chambersburg Borough, **Franklin County**. This is a renewal of the State-only operating permit.

67-05020: Exelon Generation Co., LLC (11848 Lay Road, Delta, PA 17314-9032) on April 7, 2009, for operation of boilers, emergency generators and cooling towers at the Peach Bottom Power Plant in Peach Bottom Township, **York County**. This action will convert the plant's previous Title V operating permit into a State-only operating permit during the scheduled renewal.

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

25-00995: Alliance Plastics, Inc. (2614 McClelland Avenue, Erie, PA 16510) on April 13, 2009, to operate a facility that manufactures vinyl-molded proprietary and custom plastic pieces in the City of Erie, **Erie County**. The facility's primary emission sources include three dip lines, a parts washer and a natural gas furnace.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

09-00096: Inergy Propane LLC—d/b/a Farm and Home Oil Co. (3115 State Road, Telford, PA 18969) on April 9, 2009, to issue a State-only Operating Permit as an Administrative Amendment for a Change of Owner-

ship of the facility formerly owned by Farm and Home Oil Company, LLC (Tax ID 26-1735995) now owned by Inergy Propane, LLC—d/b/a Farm and Home Oil Company (Tax ID 56-1995482) in Rockhill Township, **Bucks County**. The Administrative Amendment of the State-only Operating Permit is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amended State-only Operating Permit did not change and contains all of the applicable regulatory requirements including monitoring recordkeeping, reporting and emission limits.

09-00006: U.S. Steel Corp.—Fairless Works (Fairless Hills, PA 19030) on April 9, 2009, to revise a Title V Operating Permit to change the contact information for the responsible official and the permit contact name in both Sections A and C of the Title V Permit in Falls Township, **Bucks County**. The revisions and notification of these changes to the Title V Permit were made in accordance with 25 Pa. Code § 127.450. The changes to the Title V Permit do not result in an increase of emissions and comments will only be taken on the changes covered in this notice.

46-00147: Chemalloy Company, Inc. (1301 Conshohocken Road, Conshohocken, PA 19428) on April 13, 2009, to amend the operating permit to incorporate the sources and requirements of Plan Approval 46-0147B in Plymouth Township, **Montgomery County**. Administrative Amendment of State-only Synthetic Minor Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

15-00082: Downingtown Area School District (445 Manor Avenue, Downingtown, PA 19335) on April 13, 2009, to administratively amend a State-only operating permit to correct typographical errors in identifying source locations, in Section G—miscellaneous in Downingtown Borough, **Chester County**, for operation of nine boilers, firing natural gas or No. 2 oil, which provide heat to the campus buildings.

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

25-00052: Ames True Temper, Inc. (55 Pleasant Street, Union City, PA 16438-1337) on April 7, 2009, for an administrative amendment to the facilities Natural Minor Operating Permit in Union City Borough, **Erie County**. This amendment was to incorporate the sources and conditions from Plan Approval No. 25-052B into the permit.

25-00090: Zurn Industries, Inc., LLC—Cast Metals Division (1301 Raspberry Street, Erie, PA 16502) on April 7, 2009, for an administrative amendment to the facilities Natural Minor Operating Permit to operate a process that manufactures cast iron fixtures in the City of Erie, **Erie County**. This amendment was for a change of responsible official and permit contact person. The responsible official was changed from Rick Stuczynski to Ricardo Nieves. The permit contact person was changed from Jack Marini to Grady Gunesch.

37-00126: Roth Brothers, Inc.—Viridian Systems, LLC (30700 Solon Industrial Parkway, Solon, OH 44139) on April 10, 2009, for an administrative amendment document for a change of ownership from Hickman Manufacturing, Inc. to Roth Brothers, Inc. in New Beaver Borough, **Lawrence County**. The facility's primary sources of emissions are the roof coating manufacturing operations.

**ACTIONS ON COAL AND NONCOAL MINING
ACTIVITY APPLICATIONS**

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

56021301 and GP-12 56021301 and NPDES Permit No. PA0235547, Elk Lick Energy, Inc., (P. O. Box 240, Friedens, PA 15541-0240), to renew the permit for the Roytown Deep Mine in Lincoln Township, **Somerset County** and related NPDES permit. Includes renewal of Bureau of Air Quality GPA/GP-12 Authorization under GP-12 56021301-R8. No additional discharge. Application received October 1, 2008. Permit issued April 7, 2009.

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

56813050 and NPDES No. PA0605891. Shade Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Shade, Quemahoning and Stonycreek Townships, **Somerset County**, affecting 150.7 acres. Receiving streams: UNTs to Oven Run and UNTs to Lamberts Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority Stonycreek SWI. (There are no potable water supply intakes within 10 miles downstream). Application received November 13, 2008. Permit issued April 7, 2009.

56070201. NPDES No. PA0262501 and General Permit GP-12-56070301, Robindale Energy Services, Inc., 221 Grange Hall Road, Armagh, PA 15920, revision of an existing bituminous surface to obtain coverage for coal processing under air quality general permit GP-12 in Brothersvalley Township, **Somerset County**, affecting 23.0 acres. Receiving streams: Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 13, 2009. Permit issued April 8, 2009.

56080106 and NPDES No. PA0262650. Sherpa Mining Contractors, Inc., 337 Benny Road, Hooversville, PA 15936, commencement, operation and restoration of a bituminous surface and auger mine in Quemahoning and Shade Townships, **Somerset County**, affecting 318.8 acres. Receiving streams: Stonycreek River; UNTs to Stonycreek River classified for the following uses: TSF; CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Author-

ity—Border Dam Intake. Application received May 21, 2008. Permit issued April 8, 2009.

56980108 and NPDES No. PA0234915. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface mine in Milford Township, **Somerset County**, affecting 160.7 acres. Receiving streams: UNTs to Coxes Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received November 6, 2008. Permit issued April 9, 2009.

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

03910115 and NPDES Permit No. PA0200174. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mining site located in West Franklin Township, **Armstrong County**, affecting 468.8 acres. Receiving streams: Buffalo Creek to Allegheny River. Renewal application received December 12, 2008. Permit renewal issued April 9, 2009.

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

24980105 and NPDES Permit No. PA0227871. Tamburlin Brothers Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830) Renewal of an existing bituminous strip and auger operation in Horton Township, **Elk County** affecting 139.0 acres. Receiving streams: Karnes and Johnson Runs and UNT to Brandy Camp Creek. Application received February 11, 2009. Permit issued April 8, 2009.

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

54980103R2. Gale Coal Company, Inc., (1441 Oak Road, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in Frailey Township, **Schuylkill County** affecting 431.5 acres, receiving stream: none. Application received August 1, 2008. Renewal issued April 7, 2009.

54-305-012GP12. Reading Anthracite Company, (P. O. Box 1200, Pottsville, PA 17901), general operating permit to operate a coal preparation plant on Surface Mining Permit No. 54783702 in Norwegian Township, **Schuylkill County**. Application received January 8, 2009. Permit issued April 7, 2009.

22070201C. Meadowbrook Coal Co., Inc., (6690 SR 209, Lykens, PA 17048), correction to an existing anthracite coal refuse reprocessing operation to add biosolids application for reclamation in Williams Township, **Dauphin County** affecting 23.5 acres, receiving stream: none. Application received December 23, 2008. Correction issued April 9, 2009.

13990201R2. Rossi Excavating Company, (R. R. 1, Box 189E, Beaver Meadows, PA 18216), renewal of an existing anthracite coal refuse reprocessing operation in Banks Township, **Carbon County** affecting 493.0 acres, receiving stream: none. Application received November 18, 2008. Renewal issued April 10, 2009.

Noncoal Permits Actions

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

3076SM13. White Rock Silica Sand Co., Inc. (331 Methodist Road, Greenville, PA 16125) Renewal of exist-

ing NPDES Permit No. PA0207535 in Hempfield Township, **Mercer County**. Receiving streams: Mathay Run. Application received January 9, 2009. Permit issued April 8, 2009.

10020307. Parker Sand & Gravel Co. (P. O. Box 0, Parker, PA 16049) Renewal of existing NPDES Permit No. PA0242411 in Parker Township and Parker City, **Butler and Armstrong Counties**. Receiving streams: UNT No. 2 to the Allegheny River. Application received February 17, 2009. Permit issued April 8, 2009.

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

67960301C7 and NPDES Permit No. PA0223701. Codorus Stone & Supply Co., Inc., (135 Mundis Race Road, York, PA 17402), correction to an existing quarry operation to update the NPDES discharge for treated mine drainage in East Manchester Township, **York County**, receiving stream: Codorus Creek. Application received August 8, 2008. Correction issued April 9, 2009.

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.

21094109. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for residential development in North Middleton Township and Carlisle Borough, **Cumberland County**. Blasting activity permit end date is March 31, 2010. Permit issued April 2, 2009.

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

08094102. Austin Powder Northeast, LLC (25800 Science Park Drive, Beachwood, OH 44122), blasting for natural gas pad, Chesapeake Gas Site No. 09-09 located in Wyalusing Borough, **Bradford County**. Permit issued April 6, 2009. Permit expires March 31, 2010.

59094001. Appalachian Geophysical Services, LLC (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426), seismic data acquisition by blasting, Line No. PA-117-09-1 2, 3, 4, located in Covington and Richmond Townships, **Tioga County**. Permit issued April 6, 2009. Permit expires December 31, 2009.

59094002. Appalachian Geophysical Services, LLC (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426), seismic data acquisition by blasting, Line No. PA-117-09-5 located in Charleston Township, **Tioga County**. Permit issued April 6, 2009. Permit expires December 31, 2009.

59094003. Appalachian Geophysical Services, LLC (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426), seismic data acquisition by blasting, Line No. PA-117-09-6, 7, 8, 9, located in Covington, Bloss and Hamilton Townships, **Tioga County**. Permit issued April 6, 2009. Permit expires December 31, 2009.

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

15094105. Ed Wean Drilling & Blasting, Inc., (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for LA Fitness Malvern in East Whiteland Township, **Chester County** with an expiration date of April 1, 2010. Permit issued April 6, 2009.

46094110. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Waverly Heights in Lower Merion Township, **Montgomery County** with an expiration date of March 30, 2010. Permit issued April 6, 2009.

35094104. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for a single dwelling in Newton Township, **Lackawanna County** with an expiration date of June 30, 2009. Permit issued April 7, 2009.

36094116. Warren's Excavating & Drilling, Inc., (P. O. Box 214, Myerstown, PA 17067), construction blasting for utilities on Sun Valley Drive in Mt. Joy Township, **Lancaster County** with an expiration date of March 31, 2010. Permit issued April 7, 2009.

36094117. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Home Towne Square in Clay Township, **Lancaster County** with an expiration date of December 30, 2010. Permit issued April 7, 2009.

40094108. KGA Drilling & Blasting, Inc., (1250 Conshohocken Road, Conshohocken, PA 19428), construction blasting for wastewater treatment facilities improvements in Butler Township, **Luzerne County** with an expiration date of July 31, 2009. Permit issued April 7, 2009.

67094108. Warren's Excavating & Drilling, Inc., (P. O. Box 214, Myerstown, PA 17067), construction blasting for billboard foundation at Stettler Dodge in West Manchester Township and City of York, **York County** with an expiration date of April 7, 2010. Permit issued April 8, 2009.

64094002. Northeast Blasting, (403 Middle Creek Road, Honesdale, PA 18431), construction blasting for the Roger Swingle Horse Barn in Sterling Township, **Wayne County** with an expiration date of May 13, 2010. Permit issued April 9, 2009.

06094104. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013), construction blasting for Shilo Hills Park in Spring Township, **Berks County** with an expiration date of April 30, 2010. Permit issued April 10, 2009.

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(a) 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 AT&T 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 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 P. S. §§ 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.

E15-780. Transcontinental Gas Pipe Line Corporation, 2800 Post Oak Boulevard, Level 17, Houston, TX 77056-1396, East Brandywine, East Caln, East and West Whiteland Townships, **Chester County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a new 42-inch gas pipeline replacing the existing 30-inch 7.15-mile segment of the Mainline "A" pipeline. This pipeline crosses UNTs to Valley Creek (WF, MF) at various locations and the Ludwig's Run (TSF, MF) near Sterling Lane only (Station No. 2997+28). This project will impact approximately 0.16 acre of forested wetlands and the permittee proposes to create 0.16 acre of forested wetlands as compensation.

The limit of this pipeline is between the Downingtown Meter Station (Wagontown, PA USGS Quadrangle N: 1.0 inch; W: 3.5 inches) and the Compressor Station 200 (Malvern, PA USGS Quadrangle N: 9:0 inches; W: 12:0 inches) and it traverses through East Brandywine, East Caln, East and West Whiteland Townships in Chester County.

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

E34-476. Visionary Companies, LLC, 101 North Providence Road, P. O. Box 125, Wallingford, PA 19086,

Upland Borough, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

To rehabilitate and maintain an existing three-story stone building in and along the 100-year floodway of Chester Creek (WWF, MF) associated with the Minsec Facility Upland Project. This work will include construction and maintenance of a basketball court, an outfall structure and resurfacing of an existing parking lot. The site is located near the intersection of Race and Front Streets (Marcus Hook, PA USGS Quadrangle N: 18.75 inches; W: 1.00 inch).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-517. David N. Hostetler, 337 Bower Hollow Road, Woodward, PA 16882. Hostetler Crossing, in Haines Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (Millheim, PA Quadrangle Latitude 40° 53' 51.51"; Longitude 77° 25' 17.19").

To construct and maintain a 5-foot diameter 40-foot long culvert set 1-foot into the streambed with the associated stone headwalls and a low flow emergency spillway in the right flood plain of the UNT to Pine Creek for a single-residence driveway located 0.5 mile down Bower Hollow Road from SR 45. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E17-449. Stoneridge Properties, LLC, 10 Lakeside Avenue, Dubois, PA 15801. Juniata Run Wetland Fill and Stream Enclosure for Residential Condominium Development, City of Dubois, **Clearfield County**, United States Army Corps of Engineers, Pittsburgh District (Falls Creek, PA Quadrangle Latitude: 41° 8' 1.84"; Longitude: 78° 45' 14.80").

The applicant proposes to place and maintain fill in wetlands associated to Juniata Run and construct, operate and maintain an enclosure of a UNT to Juniata Run for the development of a 20 unit residential condominium complex and appurtenants. Placement of fill shall be limited to a maximum 0.44-acre of wetland. The stream enclosure shall be constructed with minimum diameter of 18-inches and maximum length of 120-feet. Placement of fill in 0.44-acre of wetlands and enclosing 120-feet of UNT are permanent impacts for which the applicant shall provide 0.61-acre of replacement wetlands and 300-feet of riparian stream corridor planting along Juniata Run as mitigation for those permanent impacts.

E18-442. Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 0510 Section 314 Roadway Betterment in Bald Eagle Township, Mill Hall Borough, **Clinton County**, United States Army Corps of Engineers, Baltimore District (Mill Hall, PA Quadrangle Latitude: 41° 06' 56"; Longitude 77° 28' 42").

Department of Transportation, Engineer District 2-0 is applying for a Standard Joint Permit to construct a betterment roadway rehabilitation project on SR 0150. The western limit is near the intersection of SR 0064 and Fishing Creek. The eastern limit is at the SR 0150 bridge over Bald Eagle Creek. The proposed roadway upgrades include lane and signal additions, signal timing adjustments, drainage improvements and milling and overlay-

ing the entire project. The project is entirely located within the floodplain of Bald Eagle and Fishing Creeks. The majority of the project is located within the FEMA special flood Hazard Areas. Minor fills will be placed in the floodways of Bald Eagle and Fishing Creeks. Minor fill amounts will be placed along the floodway of Fishing Creek at the intersection of SR 0150 and SR 0064. Minor fill amounts will be placed along the floodway of Bald Eagle Creek on SR 0150. Construction of additional turning lanes and roadway widening will result in a total of approximately 1,472 cubic yards of permanent fill in the floodway (0.85 acre, 37,000 ft² in the Bald Eagle Floodway and 0.14 acre, 6,000 ft² in the Fishing Creek Floodway). The project lies within the defined "Ineffective Flow Areas" of the two water courses and their confluence. The ineffective flow areas provide little to no impact on the water courses carrying capacity because they are removed from the mathematical calculations of a flood model. This project provides 5 ft or less of floodway encroachment along SR 0150 roadway on the two floodways. The floodway in this area is approximately 6,500 ft wide. Due to the fact that this fill lies within the limits of the ineffective flow areas and would be eliminated from the hydraulic model, a hydraulic model was waived for this application. This project is not expected to have any effect on adjacent Water Surface Elevations or Velocities. Bald Eagle Creek is designated a CWF according to 58 Pa. Code, Chapter 93. Fishing Creek is designated a WWF according to 58 Pa. Code, Chapter 93. This permit application is for fill in the floodway. No Temporary or Permanent stream or wetland impacts are anticipated from this project and mitigation is not required.

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

E02-1604. Duquesne Light Company, 2825 New Beaver Avenue, Pittsburgh, PA 15233-1003. To construct and maintain a screening wall in Sewickley Borough and Moon Township, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Ambridge, PA Quadrangle N: 7.0 inches; W: 8.95 inches, Latitude: 40° 32' 18"; Longitude: 80° 11' 12"). To construct and maintain a 10' high screening wall and its associated fill for a distance of approximately 230' in the right bank floodway fringe of the Ohio River (WWF), to construct and maintain a 138 KV line over the Ohio River and a UNT to the Ohio River, for the purpose of building the Sewickley substation expansion (138 KV Sewickley Loop Project). The proposed substation is located on the north east side of the intersection of Chadwick Street and White Avenue, the power line starts here and extends over the Ohio River.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

E42-342. Edward F. and Lorraine D. Selvoski, 19 Spud Drive, Scenery Hill, PA 15360. Small Flow Sewage Treatment Facility, Perennial Stream Discharge, in Corydon Township, **McKean County**, United States Army Corps of Engineers, Pittsburgh District (Stickney, PA Quadrangle N: 41° 58' 28"; W: 78° 52' 03").

To install and maintain a 4 inch SCH. 40 pipe outfall with a riprap apron along the north bank of Willow Creek (HQ-CWF) associated with a 400 gpd Small Flow Treatment Facility at 3287 West Washington Street approximately 1.6 miles southeast of the intersection of SR 321 and SR 346.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), 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 AT&T 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 to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

<i>ESCP No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESCGP-1 0809811-03	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Bradford	Troy Township	South Branch Sugar Creek TSF Mud Creek TSF
ESCGP-1 0809810-01	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Bradford	Troy Township	South Branch Sugar Creek TSF
ESCGP-1 0809812	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Bradford	Armenia Township	Weiber Creek CWF

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

ESCP No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
ESCP1009803	Rex Energy Corporation 476 Rolling Ridge Drive Suite 300 State College, PA 16801	Butler	Forward and Jackson Townships	Connoquenessing Creek WWF

[Pa.B. Doc. No. 09-742. Filed for public inspection April 24, 2009, 9:00 a.m.]

Bid Opportunity

OSM 02(3386)101.1, Abandoned Mine Reclamation Project, Indianola South, Indiana Township, Allegheny County. The principal items of work include demolition and disposal of mine shaft caps and backfilling mine shafts. Approximate quantities include 7,540 ton of rock fill, 1,950 ton of coarse aggregate, 300 linear feet of subsurface drain and 208 linear feet of fence. This project issues on April 24, 2009, and bids will be opened on May 21, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub.L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-743. Filed for public inspection April 24, 2009, 9:00 a.m.]

Delaware Water Resources Regional Committee; Meeting Cancellation

The May 8, 2009, meeting of the Delaware Water Resources Regional Committee (Committee) has been canceled. The next regularly scheduled meeting is August 14, 2009, at 9:30 a.m. at the Carbon County Environmental Center, 151 East White Bear Drive, Summit Hill, PA 18250. Questions concerning the next scheduled meeting of the Committee can be directed to Jay Braund at (717) 783-2402, jbraund@state.pa.us.

The agenda and meeting materials for the August 14, 2009, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 783-2402 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-744. Filed for public inspection April 24, 2009, 9:00 a.m.]

Potomac Water Resources Regional Committee; Conference Call Cancellation

The May 15, 2009, conference call of the Potomac Water Resources Regional Committee (Committee) has been canceled. The next regularly scheduled meeting is September 18, 2009, at 10 a.m. at the Adams County Conservation District, 670 Old Gettysburg Road, Suite 201, Gettysburg, PA 17325. Questions concerning the next scheduled meeting of the Committee can be directed to Leslie Sarvis at (717) 772-5634, lsarvis@state.pa.us.

The agenda and meeting materials for the September 18, 2009, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5634 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-745. Filed for public inspection April 24, 2009, 9:00 a.m.]

Proposed Pollution Control Technology Grant Program Criteria

Section 304 of the Alternative Energy Investment Act (73 P. S. § 1649.304) (Act 1 or Act) authorizes the Department of Environmental Protection (Department) to award a total of \$25 million for "pollution control technology projects" installed on electric generating units (EGUs) and cogeneration units that have an installed capacity of less than 500 MW per unit. The Act specifies that each unit is eligible to receive a pro rata share of the moneys allocated for pollution control technology projects based on criteria developed by the Department. Act 1 also provides that the criteria must be published in the *Pennsylvania Bulletin*, posted on the Department's web site and submitted to the Pennsylvania Senate and House Environmental Resources and Energy Committees for review and comment at least 60 days prior to accepting grant applications.

The Department is providing notice and an opportunity for a 30-day public comment period on the proposed criteria, which is the following:

- Pollution Control Technology Grant (Grant) applicants will be eligible to receive a pro rata share of the \$25,000,000 available for each eligible electric generating or cogeneration unit at a facility with an installed capacity of less than 500 MW per unit.

- Eligibility is limited to pollution control technology constructed or installed on the units to comply with regulatory requirements including the Clean Air Interstate Rule and SO₂ and NO_x emission reduction requirements established under 25 Pa. Code Chapters 121, 129 and 145 (relating to general provisions; standards for sources; and interstate pollution transport reduction).

- The Grant allocation will be based on the capital cost portion of each project.

- The owner or operator must have obtained a plan approval from the Department on or after July 9, 2008, and must have commenced construction or installed the controls within 1 year after the issuance of the plan approval; or

The owner or operator must have submitted a completed application for construction or installation of the controls, and be awaiting the issuance of a plan approval. The plan approval must be issued after July 9, 2008. The owner or operator must commence construction or install the controls within 1 year after the issuance of the plan approval.

- If the Grant is approved, the money will be dispersed only after the issuance of the plan approval for the pollution control project.

Written Comments

Written comments on the proposed Grant criteria should be sent to the attention of Dan Husted, Division of Permits, Bureau of Air Quality, Department of Environmental Protection, 400 Market Street, P. O. Box 8468, Harrisburg, PA 17105-8468. The Department must receive the comments by May 25, 2009 (30 days from the publication date). Persons with questions or those who need additional information, should contact Dan Husted, dhusted.state.pa.us or (717) 772-3995, or visit the Department's web site at www.depweb.state.pa.us, Keyword: Air Quality.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-746. Filed for public inspection April 24, 2009, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Albert Einstein Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Albert Einstein Medical Center has requested an exception to the requirements of 28 Pa. Code § 101.172 (relating to patient limits).

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.

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-747. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Alle-Kiski Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Alle-Kiski Medical Center has requested an exception to the requirements of 28 Pa. Code § 115.25 (relating to infant footprints).

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.

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-748. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Ambulatory Surgery Center of Pennsylvania Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Ambulatory Surgery Center of Pennsylvania Hospital has requested an exception to the requirements of 28 Pa. Code § 569.35 (relating to general safety precautions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-749. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Charles Cole Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Charles Cole Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-750. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Evangelical Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Evangelical Community Hospital has requested an exception to the requirements of 28 Pa. Code § 101.172 (relating to patient limits).

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, (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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-751. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application for Exception to 28 Pa. Code § 127.32

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 127.32 (relating to written orders):

Grandview Hospital
The Bloomsburg Hospital
Edgewood Surgical Hospital
Easton Hospital
Fulton County Medical Center
Lancaster General Hospital
Montrose General Hospital
Mercy Philadelphia Hospital
Mercy Fitzgerald Hospital
Lehigh Valley Hospital
Lehigh Valley Hospital-Muhlenberg
St. Mary Medical Center
Pottstown Memorial Medical Center
UPMC South Side
UPMC Mercy

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 Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-752. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Gettysburg Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gettysburg Hospital has requested an exception to the requirements of 28 Pa. Code § 138.2 (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.

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-753. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Holy Spirit Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Holy Spirit Hospital has requested an exception to the requirements of 28 Pa. Code § 143.5 (relating to medical supervision of podiatric patients).

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.

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-754. Filed for public inspection April 24, 2009, 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 § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 18.2.3.3 (relating to corridor width).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-755. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Jersey Shore Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Jersey Shore Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard

contained in this publication: 7.7.C3 (relating to warming cabinet requirements in substerile room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-756. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Memorial Hospital Outpatient Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Memorial Hospital Outpatient Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 559.2 (relating to director of nursing).

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.

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-757. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Montrose General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Montrose General Hospital has requested an exception to the requirements of 28 Pa. Code § 133.2 (relating to types of special care units).

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.

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-758. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Shamokin Area Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Shamokin Area Community Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 3.1.3 (relating to examination/treatment room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation

to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-759. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of The Surgery Center of The Main Line for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Surgery Center of The Main Line has requested an exception to the requirements of 28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-760. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of UOC Surgical Services for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UOC Surgical Services has requested an exception to the requirements of 28 Pa. Code § 569.35 (relating to general safety precautions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously

listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-761. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of UPMC Mercy South Side Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Mercy South Side Surgery Center has requested an exception to the requirements of 28 Pa. Code §§ 553.31, 557.4, 563.2 and 567.2.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

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 wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-762. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of UPMC Presbyterian Shadyside/Beckwith Center at Hillman for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Presbyterian Shadyside/Beckwith Center at Hillman 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.1.1.1 and 2.1.1.2 (relating to general purpose exam room space requirements and hand-washing station).

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.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-763. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of UPMC Presbyterian Shadyside/ Pittsburgh Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Presbyterian Shadyside/Pittsburgh 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.1-5.4.1.4 (relating to support areas for the cardiac cath lab).

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.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-764. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of UPMC Presbyterian Shadyside/ Western Psychiatric Institute and Clinic for Ex- ception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Presbyterian Shadyside/Western Psychiatric Institute and Clinic 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.3-2.1.1.5(1) (relating to toilet room), 2.1-3.1.1.2(2) (relating to dimensions and clearances), 2.1-8.2.2.3(2)(b)(i) (relating to inpatient bedrooms new construction) and 4.6.12.1 (relating to corridor width).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-765. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Wellspan Surgical Center for Excep- tion

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Wellspan Surgical Center has requested an exception to the requirements of 28 Pa. Code §§ 553.2—553.4, 555.1—555.3, 563.2 and 563.12.

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-766. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of The Western Pennsylvania Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Western Pennsylvania Hospital has requested an exception to the requirements of 28 Pa. Code § 115.25 (relating to infant footprints).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-767. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of The Western Pennsylvania Hospital Penn Hills for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Western Pennsylvania Hospital Penn Hills 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 3.1-5.1.1.1(1) (relating to corridor width).

This request is on file with the Department. Persons may receive a copy of a request for exception by request-

ing a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

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).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-768. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of Westfield Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Westfield Medical Center has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-769. Filed for public inspection April 24, 2009, 9:00 a.m.]

Application of York Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that York Hospital 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 request-

ing a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800)-654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-770. Filed for public inspection April 24, 2009, 9:00 a.m.]

Infant Hearing Screening Advisory Committee Meeting

The Infant Hearing Screening Advisory Committee, established under the Infant Hearing Education Assessment, Reporting and Referral Act (11 P. S. §§ 876-1—876-90) will hold a public meeting on Thursday, June 4, 2009. The meeting will be held in the Commonwealth Keystone Building, Commonwealth Avenue and Forster Street, 125N, Training Room A, Plaza Level, Harrisburg, PA 17120. The meeting is scheduled from 10 a.m. to 3 p.m.

For additional information, or if you are a person with a disability and wish to attend the meeting and require auxiliary aid, service or other accommodation to do so should contact Arthur A. Florio, Public Health Program Administrator, Newborn Hearing Screening Program, Division of Newborn Screening and Genetics at (717) 783-8143. Speech and/or hearing impaired persons should use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-771. Filed for public inspection April 24, 2009, 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 § 211.3(a) (relating to oral and telephone orders).

Charles Cole Memorial Hospital, ECF
1001 East Second Street
Coudersport, PA 16915
FAC ID 031802

Lakeview Senior Care and Living Center
15 West Willow Street
Smethport, PA 16749
FAC ID 194802

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-772. Filed for public inspection April 24, 2009, 9:00 a.m.]

Tobacco Use Prevention and Cessation Advisory Committee; Public Hearing and Meeting

The Tobacco Use Prevention and Cessation Advisory Committee of the Department of Health will hold a public meeting on May 13, 2009. The public meeting will be held in Room 812, Health and Welfare Building, 625 Forster Street, Harrisburg, PA from 10 a.m. to 3 p.m.

The purpose of the meeting is to discuss the tobacco use prevention and cessation priorities for the State Fiscal Year 2009-2010.

This meeting is open to the public. No reservations are required to attend the public meeting.

For additional information, or if you are a person with a disability and wish to attend the meeting and require auxiliary aid, service or other accommodation to do so should contact Judy Ochs, Director, Division of Tobacco Prevention and Control, Room 833, Health and Welfare Building, 625 Forster Streets, Harrisburg, PA 17120-0701, (717) 783-6600 or V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This hearing and meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-773. Filed for public inspection April 24, 2009, 9:00 a.m.]

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52), will hold a public meeting on Thursday, May 7, 2009, from 10 a.m. to 3 p.m. in the Richards Hall, Recital Room, Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110.

For additional information, or if you are a person with a disability and wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Maureen Young, Administrative Assistant, Division of Child and Adult Health Services at (717) 772-2762 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-774. Filed for public inspection April 24, 2009, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

SANDI VITO,
Acting Secretary

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
D.E.W. Steel Contractors, Inc. and Dale E. Weissner, Individually	244 Old Hershbeger Road Hollsopple, PA 15935	4/7/2009

[Pa.B. Doc. No. 09-775. Filed for public inspection April 24, 2009, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

**Henry A. and Barbara M. Jordan v. DEP and West
Pikeland Township, Permittee; EHB Doc. No.
2009-046-L; 4-3-09—Issuance of NPDES; Permit
No. PAI011508070**

Henry A. and Barbara M. Jordan have appealed the issuance by the Department of Environmental Protection of an NPDES permit to West Pikeland Township for

stormwater discharges associated with construction activities in West Pikeland Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (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. 09-776. Filed for public inspection April 24, 2009, 9:00 a.m.]

**Richard G. Mingey v. DEP; EHB Doc. No. 2009-047-
MG; 3-12-09—Letter Denying NPDES; Applica-
tion No. PAI1011506056**

Richard G. Mingey has appealed the denial by the Department of Environmental Protection of an NPDES permit to Richard G. Mingey for stormwater discharge for a subdivision in Willistown Township, Chester County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (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. 09-777. Filed for public inspection April 24, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, April 2, 2009, and announced the following:

Action Taken—Regulation Disapproved:

State Board of Osteopathic Medicine #16A-5318: Prescriptive Privileges for Physician Assistants (amends 49 Pa. Code Chapter 25)

Disapproval Order

Public Meeting held
April 2, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick; Nancy Sabol Frantz, Esq.; Karen A. Miller; John F. Mizner, Esq.

*State Board of Osteopathic Medicine—
Prescriptive Privileges for Physician Assistants;
Regulation No. 16A-53118 (#2644)*

On October 10, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Osteopathic Medicine (Board). This rulemaking amends 49 Pa. Code Chapter 25. The proposed regulation was published in the October 20, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 26, 2009.

This final-form regulation would permit physician assistants practicing under the supervision of osteopathic physicians to prescribe, dispense and administer drugs and therapeutic devices.

Dr. Joseph C. Gallagher, Jr., Chair of the Board, appeared at the public meeting on April 2, 2009, and represented that he was fully authorized to request, on behalf of the Board, that we disapprove this final-form regulation to allow the Board the opportunity to revise § 25.177(a)(3) pertaining to prescriptions for Schedule II controlled substances. Without support from the promulgating Board, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P. S. § 745.5b(b)(3). Therefore, in response to the Board's request, we disapprove this regulation.

By Order of the Commission:

Regulation #16A-5318 (IRRC #2644) is disapproved.
ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-778. Filed for public inspection April 24, 2009, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments

within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
11-238	Insurance Department Annual Audited Insurers' Financial Report Required 39 Pa.B. 841 (February 14, 2009)	3/16/09	4/15/09
7-431	Environmental Quality Board Oil and Gas Wells 39 Pa.B. 838 (February 14, 2009)	3/16/09	4/15/09

Insurance Department Regulation #11-238 (IRRC #2740) Annual Audited Insurers' Financial Report Required April 15, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the February 14, 2009 *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 Insurance Department (Department) to respond to all comments received from us or any other source.

General—Consistency; Reasonableness; Clarity.

The Insurance Federation of Pennsylvania (IFP) submitted a letter dated March 13, 2009, expressing overall support for the proposed regulation. In addition, the letter provided suggestions to improve clarity and consistency with nationwide standards in sections 147.3a, 147.4, 147.6 and 147.6a of the proposed regulation.

It is our understanding that the Department intends to adopt most, if not all, of the IFP's suggestions in amendments to the final-form regulation. We encourage the Department to make revisions to the regulation that improve its clarity and consistency with nationwide standards issued by the National Association of Insurance Commissioners.

Environmental Quality Board Regulation #7-431 (IRRC #2742)

Oil and Gas Wells April 15, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the February 14, 2009 *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. Legislative comment.

Senator Mary Jo White, Chairman of the Senate Environmental Resources and Energy Committee

Senator White submitted comments dated March 18, 2009. Senator White raised concerns and questions relating to the relationship between the length of a proposed well and administrative costs; the methodology used to arrive at a figure representative of what it costs to review and process an "average" permit application; the 10% fee penalty if the final well bore length of a well exceeds the length specified in the permit application; and clarification of the provision stating "Fees are non-refundable" (§ 78.19(e)) in relation to the money-back guarantee program.

Representatives Tim Solobay and Brian Ellis

Representatives Solobay and Ellis submitted a joint comment dated April 1, 2009, on behalf of the Oil and Gas Caucus of the House of Representatives. They suggest that the EQB set a fee that reflects the current application fee adjusted for inflation to the 2009 levels; question the relationship that the depth of the well bore has on the complexity of reviewing an application; request the EQB more clearly define and justify the anticipated cost to operate the permit application review; and request that the final-form regulation clarify that the oil and gas permitting program does qualify under the "money-back guarantee program."

We will review the EQB's responses to the concerns and questions raised by Senator White, Representative Solobay and Representative Ellis as part of our consideration of the final-form rulemaking.

2. Section 78.19. Permit application fees schedule.— Reasonableness; Need; Clarity.

Differentiation between "Vertical Wells," "Nonvertical Wells" and "Marcellus Shale Wells"

Subsection (a) shows a fee schedule for three types of wells: "Vertical Wells," "Nonvertical Wells" and "Marcellus Shale Wells." The text of the proposed regulation does not specify what is a "Vertical Well," "Nonvertical Well" and "Marcellus Shale Well," or how to distinguish between them. Consequently, it is not clear how to apply the fee schedule to a well application. The regulation should define these terms.

Fees for "Nonvertical Wells" and "Marcellus Shale Wells"

The fee schedules for these wells are identical in Subsections (a) and (c). The EQB should explain the need for two identical fee schedules.

Nearest foot interval

Subsections (b) and (c) state that for wells exceeding 12,000 feet, "fees shall be rounded to the foot interval." We suggest more specific language stating that fees shall be rounded to the "nearest 500 foot interval."

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-779. Filed for public inspection April 24, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Ecumenical Enterprises, Inc.

Ecumenical Enterprises, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at The Meadows Senior Living Community in Dallas, PA. The initial filing was received on April 6, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-780. Filed for public inspection April 24, 2009, 9:00 a.m.]

Kanawha Insurance Company; Rate Increase Filing for LTC Forms 80650, 80880, 82000 and 82120; Rate Filing

Kanawha Insurance Company is requesting a 50% increase on the following forms: 80650 4/94 PA, 82000 1/01 PA (03) and 82120 9/01 PA (03). A total of 171 Pennsylvania policyholders will be affected by this 50% rate adjustment. Additionally, Kanawha is requesting a 60% increase on the following forms: 80650 1/97 PA and 80880 NTQ 1/98 PA. A total of 647 Pennsylvania policyholders will be affected by this 60% rate adjustment.

Unless formal administrative action is taken prior to July 9, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.ins.state.pa.us. Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-781. Filed for public inspection April 24, 2009, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Bedford County, Wine & Spirits Store #0501, (Relocation), Bedford, PA

Lease expires: May 31, 2010

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500—4,000 net useable square feet of new or existing retail commercial space serving Bedford and surrounding areas, Bedford, PA.

Proposals due: May 8, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 158 Purity Road, Suite B, Pittsburgh, PA 15235-4441
Contact: George D. Danis, (412) 723-0124
 PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 09-782. Filed for public inspection April 24, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Funding Available to Improve Electric Delivery and Reliability, Energy Efficiency, Renewable Energy, Telecommunications Broadband Deployment, Clean Water, Waste Water and Railroads

To: All Jurisdictional Electric Distribution Companies, Natural Gas Distribution Companies, Telecommunications Companies, Water Companies, Wastewater Companies and Railroad Companies; Doc. No. M-2009-2094772

Re: American Recovery and Reinvestment Act of 2009

At a public meeting held March 12, 2009, the Pennsylvania Public Utility Commission (Commission) unanimously adopted the Joint Motion of Vice Chairperson Tyrone J. Christy and Commissioner Wayne E. Gardner with respect to the American Recovery and Reinvestment Act of 2009 (Act). The Act will, among other things, provide funding and incentives to improve the infrastructure of the United States. Governor Edward G. Rendell has sent a letter to President Barack Obama requesting use of the funds provided by the Act. In addition, the Governor has announced a new web site www.recovery.pa.gov providing information about the stimulus plan. Potentially, the Commonwealth should be the recipient of billions of dollars from the Act. This Commonwealth must take advantage of this opportunity.

The Commission is keenly interested in ensuring that the funding available for our utility infrastructure and related matters is identified, aggressively pursued and secured.

Funding is available to improve electric delivery and reliability, energy efficiency, renewable energy, telecommunications broadband deployment, clean water, waste

water and railroads. With that said, the Commission is actively involved in looking at available moneys that may benefit this Commonwealth's public utilities. The Commission will continue to work diligently with the administration to ensure that the Commonwealth receives the full benefit from the economic stimulus plan.

The Commission is also interested in programs that would benefit the State's utility customers that fall outside of our direct purview but which are consistent with the Commission's overall mission. Programs such as weatherization, smart grid applications, advanced battery technologies, railroad security and infrastructure and others are among those that could help this Commonwealth's utility consumers.

The Commission is committed to making certain that the utility infrastructure in the Commonwealth receives the maximum benefits afforded by the Act.

We are confident that the utilities under the Commission's jurisdiction and affected stakeholders are actively involved in determining what moneys they may qualify for and how they may obtain the maximum benefit of the Act. To the extent that the utilities and stakeholders need formal action or other support from the Commission, they are encouraged to seek the Commission's assistance.

The Commission stands ready to offer reinforcement to the Commonwealth utilities and stakeholders through activities such as writing letters of support for those seeking funds that will have a positive effect on improving our utility infrastructure. By its action in adopting the Joint Motion and issuing this letter, the Commission is formalizing that commitment.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-783. Filed for public inspection April 24, 2009, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by May 11, 2009. 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-2009-2098313. Direc Transit, LLC (45 East City Line Avenue, Suite 286, Bala Cynwyd, Montgomery County, PA 19004), a limited liability company of the Commonwealth—for the right to begin to transport persons, in paratransit service, from points in the City and County of Philadelphia to State and Federal Correctional Institutions located in Graterford, Montgomery County;

Camp Hill, Cumberland County; Chester, Delaware County; Dallas, Luzerne County; and Waymart, Wayne County, located in Pennsylvania, and return.

A-2009-2099067. Richard D. Barrett (1724 Dayton Road, Payton, PA 16222)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Jefferson, Indiana, Clarion and Armstrong, to points in Pennsylvania, and return.

A-2009-2099553. Armstrong Millien (1909 Renwick Street, Bethlehem, Northampton County, PA 18017)—persons in call or demand service in the Counties of Lehigh and Northampton.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.

A-2009-2100709. Chics Limousine and Transportation, Inc. (1624 Burke Avenue, Blue Bell, Montgomery County, PA 19422)—a corporation of the Commonwealth—in limousine service, between points in Pennsylvania, which is to be a transfer of all rights authorized under the certificate issued at A-00109611 to Aaron Transportation Services, Inc., subject to the same limitations and conditions. *Attorney:* Robert A. Saraceni, 548 1/2 East Main Street, Suite A, Norristown, PA 19401.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer of rights as described under the application.

A-2009-2100652. Walls/Delaware Valley Havertown/Westtown Movers, LLC (1241 Bon Air Road, Havertown, Delaware County, PA 19083)—household goods in use, which is to be a transfer of all rights authorized under the certificates issued at A-0010682 to C. James Link, t/a Wall's Delaware Valley Moving and Storage, subject to the same limitations and conditions. *Attorney:* Murray S. Eckell, 344 West Front Street, P. O. Box 319, Media, PA 19063.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Michael R. Napolitan t/a South Hills Shuttle; Doc. No. C-2009-2037677

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Michael R. Napolitan, t/a South Hills Shuttle, respondent, maintains his principal place of business at 1233 Highfield Court, Bethel Park, PA 15102.

2. That respondent was issued a Certificate of Public Convenience by this Commission on February 4, 2002, at A-00117699.

3. That respondent abandoned or discontinued service without having first filed an application with this Commission. Respondent sent a letter to this Commission on April 30, 2007, requesting a voluntary suspension of his authority. A letter was sent to respondent May 16, 2007, acknowledging receipt of the voluntary suspension and granting his request. The letter stated that to resume operations, respondent must notify this Commission in writing of his intention on or before February 23, 2008, or a complaint for abandonment of service would be instituted. Respondent has not responded to the request.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00117699.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commis-

sion issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of
 Transportation and Safety v. Catherine C. Hunt;
 Doc. No. C-2009-2043204*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Catherine C. Hunt (respondent) is under suspension effective January 27, 2009, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 38 York Street, Gettysburg, PA 17325.

3. That respondent was issued a Certificate of Public Convenience by this Commission on September 19, 2007, at A-00124078.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The penalty is \$250 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$250 and causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which: (1) cancels the Certificate of Public Convenience held by respondent at A-00124078 for failure to maintain evidence of current insurance on file with the Commission; (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint; (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration; and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services & Enforcement Division
 Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
 Motor Carrier Services and Enforcement
 Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations **and by paying the \$250 fine** proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and
 Safety
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer **and receipt of your fine payment**, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-784. Filed for public inspection April 24, 2009, 9:00 a.m.]

Telecommunications

A-2009-2100919. Verizon North, Inc. and PAETEC Communications, Inc. Joint petition of Verizon North, Inc. and PAETEC Communications, Inc. for adoption of and amendment No. 1 to the interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North, Inc. and PAETEC Communications, Inc., by its counsel, filed on April 10, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the adoption of and amendment No. 1 to the 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 PAETEC 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. 09-785. Filed for public inspection April 24, 2009, 9:00 a.m.]

Telecommunications

A-2009-2100878. Verizon North, Inc. and US LEC of Pennsylvania, Inc. Joint petition of Verizon North, Inc. and US LEC of Pennsylvania, Inc. for adoption of and amendment No. 1 to the interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North, Inc. and US LEC of Pennsylvania, Inc., by its counsel, filed on April 10, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the adoption of and amendment No. 1 to the 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 US LEC of Pennsylvania, 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. 09-786. Filed for public inspection April 24, 2009, 9:00 a.m.]

STATE BOARD OF NURSING

Bureau of Professional and Occupational Affairs v. Christal Rice, LPN; Doc. No. 0594-51-08

On February 25, 2009, Christal Rice, license no. PN264642, of Chester, Delaware County, was suspended and assessed a \$4,000 civil penalty based on findings she is unfit to practice by reason of negligence, habits or other causes; she committed fraud or deceit in the practice of practical nursing; has been guilty of unprofessional conduct; and willfully solicited, borrowed or misappropriated money from a patient.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Nursing (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

ANN L. O'SULLIVAN, Ph.D., FAAN, CRNP,
Chairperson

[Pa.B. Doc. No. 09-787. Filed for public inspection April 24, 2009, 9:00 a.m.]

STATE CONSERVATION COMMISSION

Dirt and Gravel Roads Pollution Prevention Maintenance Program

As required by 25 Pa. Code § 83.604(f) (relating to apportionment criteria), the State Conservation Commission (Commission) is providing public notice of the apportionment of Fiscal Year (FY) 2009 Dirt and Gravel Road Pollution Prevention Maintenance Program (Program) funds to participating county conservation districts. This apportionment is authorized under 75 Pa.C.S. § 9106 (relating to dirt and gravel road maintenance).

A. Effective Date

This apportionment is effective upon publication in the *Pennsylvania Bulletin*. Allocations will be disbursed when funds are released from the Treasury after July 1, 2009. The final amount and time of release of these allocations are subject to the final passage of the State budget of 2009-2010.

B. Background

The Commission approved the following allocations at their public meeting on March 18, 2009: \$3,528,000 of FY 09 funds are apportioned according to stipulations in 75 Pa.C.S. § 9106(c). Copies of 25 Pa. Code § 83.604 and 75 Pa.C.S. § 9106 are available from Michael Klimkos, State Conservation Commission Office, Room 407, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-8821.

The following allocations are being made to the county conservation districts participating in the Program. Not all counties receive an allocation as provided for at 25 Pa. Code § 83.613(a) (relating to performance standards).

Listed alphabetically, the allocations are:

FY 2009-2010 Allocations

* Adams	\$15,000 *
Armstrong	\$126,851
* Beaver	\$15,000 *
Bedford	\$40,663
* Berks	\$15,000 *
Blair	\$20,591
Bradford	\$312,573
Bucks	\$16,458
Butler	\$29,834
Cambria	\$15,023
Cameron	\$33,094
Carbon	\$25,728
Centre	\$33,281
Chester	\$17,030
Clarion	\$60,455
Clearfield	\$66,577
Clinton	\$22,747
Columbia	\$78,771
Crawford	\$146,298
* Cumberland	\$15,000 *
Dauphin	\$23,392

Elk	\$24,025
Erie	\$52,841
Fayette	\$32,183
Forest	\$21,226
Franklin	\$15,194
Fulton	\$30,102
Greene	\$37,639
Huntingdon	\$71,437
Indiana	\$92,691
Jefferson	\$45,001
Juniata	\$35,849
Lackawanna	\$28,346
Lancaster	\$16,618
* Lawrence	\$15,000 *
* Lebanon	\$15,000 *
Lehigh	\$26,083
Luzerne	\$24,874
Lycoming	\$82,266
McKean	\$21,129
Mercer	\$47,207
Mifflin	\$20,722
* Monroe	\$15,000 *
* Montgomery	\$15,000 *
Montour	\$17,729
* Northampton	\$15,000 *
Northumberland	\$47,688
Perry	\$41,667
Pike	\$56,542
Potter	\$132,361
Schuylkill	\$53,546
Snyder	\$27,982
Somerset	\$33,498
Sullivan	\$67,724
Susquehanna	\$134,721
Tioga	\$312,778
Union	\$25,265
Venango	\$74,025
Warren	\$191,373
Washington	\$76,200
Wayne	\$114,247
Westmoreland	\$27,165
Wyoming	\$57,620
York	\$106,070

* \$15,000 minimum applied

Total Allocated to Districts = \$3,528,000

JOHN HANGER,
Chair

[Pa.B. Doc. No. 09-788. Filed for public inspection April 24, 2009, 9:00 a.m.]

