

PENNSYLVANIA BULLETIN

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**Latest Pennsylvania Code Reporter
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No. 417, August 2009

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE GENERAL ASSEMBLY

Recent Actions during the 2009 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2009 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2009 APPROPRIATION ACTS OF REGULAR SESSION ENACTED—ACT 002A through 008A					
002A	Aug 12	HB1419	PN1741	Immediately	Public School Employees' Retirement Board—administrative expenses, and the like
003A	Aug 12	HB1420	PN1742	Immediately	State Employees' Retirement Board—administrative expenses, and the like
004A	Aug 12	HB1421	PN1743	Immediately	Bureau of Professional and Occupational Affairs—operation of professional licensure boards
005A	Aug 12	HB1422	PN1744	Immediately	Department of Labor and Industry and Department of Community and Economic Development—administer workers compensation, occupational diseases and Office of Small Business Advocate
006A	Aug 12	HB1423	PN1745	Immediately	Pennsylvania Public Utility Commission—operation
007A	Aug 12	HB1424	PN1746	Immediately	Office of Consumer Advocate—operation
008A	Aug 12	HB1425	PN1747	Immediately	Office of Small Business Advocate—operation

* denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore—PHMC, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$20, payable to the “Commonwealth of Pennsylvania.”

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

[Pa.B. Doc. No. 09-1599. Filed for public inspection August 28, 2009, 9:00 a.m.]

THE COURTS

Title 249—PHILADELPHIA RULES

In re: Philadelphia Traffic Court; President Judge
Administrative Order; No. 2009-04

Order

And Now, this 14th day of August, 2009, in light of the large number of cases scheduled and heard at the Philadelphia Traffic Court resulting in the attendance of a large number of defendants and witnesses, and so as not to interfere with the orderly processing of the cases and the conduct of the business of the Traffic Court and in order to ensure the safety of those in attendance, it is hereby *Ordered and Decreed* that no person is permitted to loiter, idle, lounge or restrict, or to otherwise prevent others from passage, ingress and egress in or about the Traffic Court premises, including interior space and corridors, as well as the sidewalks and streets adjacent to the Traffic Court premises.

As provided by the Philadelphia Code and Ordinances, Traffic Court personnel shall ask any person who engages in conduct prohibited by this Order as well as the Philadelphia Code and Ordinances to immediately cease such conduct and, if the conduct does not cease, shall make a report to the Police Department and/the Sheriff's Office and cooperate with the Police and/or the Sheriff's Office in removing such violator from the Traffic Court premises as well as with any proceedings which may be filed against said violator.

This Administrative Order shall be effective immediately. The original Administrative Order shall be filed with the Prothonotary in a docket maintained for Administrative Orders issued by the President Judge of the Court of Common Pleas, and shall be published in the *Pennsylvania Bulletin*. Certified copies of the Order shall be submitted to the Administrative Office of Pennsylvania Courts. Copies of the Administrative Order will also be sent to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Library and the Law Library of the First Judicial District of Pennsylvania, and posted on the web site of the First Judicial District: <http://courts.phila.gov>.

By the Court

HONORABLE PAMELA PRYOR DEMBE,
President Judge

[Pa.B. Doc. No. 09-1600. Filed for public inspection August 28, 2009, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LACKAWANNA COUNTY

Repeal and Adoption of Rules of Civil Procedure;
No. 94-CV-102

Order

And Now, this 11th day of June, 2009, it is hereby *Ordered and Decreed* that the attached Lacka. Co.R.C.P.

215.5 is adopted to govern the court-annexed mediation program in civil cases in the Court of Common Pleas of Lackawanna County.

The adoption of Lacka. Co.R.C.P. 212.5 shall become effective thirty (30) days from the date of its publication in the *Pennsylvania Bulletin* pursuant to Pa.R.Civ.P. 239. The Lackawanna County Court Administrator shall file seven (7) certified copies of the new local rule with the Administrative Office of the Pennsylvania Courts and shall forward two (2) certified copies of the same to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of Lacka. Co.R.C.P. 212.5 shall be filed with the Civil Procedural Rules Committee for the Supreme Court of Pennsylvania and new Local Rule 212.5 shall be available for public inspection and copying in the office of the Clerk of Judicial Records, Civil Division.

By the Court

CHESTER T. HARHUT,
President Judge

Rule 212.5. Mediation.

(a) **Submission to mediation.** Except as otherwise provided by Pa.R.Civ.P. 1042.21, upon the filing of a Certificate of Readiness on or after January 1, 2009, the court administrator shall refer a civil case to mandatory mediation to be conducted by a Special Trial Master. This rule shall not apply to medical malpractice and/or mass tort cases. Such cases may be referred to mandatory mediation before a Special Trial Master upon the consent of all parties.

(b) **Special Trial Master.** The President Judge shall certify as many Special Trial Masters as determined necessary under this Rule. An individual may be certified only if [s]he has been admitted to practice law in the Commonwealth of Pennsylvania for at least ten years and has been determined by the President Judge to have substantial trial experience. The Court Administrator shall maintain and manage a list all persons appointed by the Court to act as a Special Trial Master.

(c) **Compensation of Special Trial Master.** The services of the Special Trial Master shall be provided *pro bono* and no mediator shall be called more than twice in a single calendar year to act as a Special Trial Master without prior approval of the Special Trial Master.

(d) **Assignment of Special Trial Master.** Upon the filing of a certificate of trial readiness, all civil cases will be assigned to a Trial Judge. The trial judge will conduct a status conference, schedule a pre-trial conference and establish a date for trial. At the same time, all civil cases will be assigned to a Special Trial Master for purposes of mandatory mediation. The Court Administrator will assign all Special Trial Masters in random order from the list referenced in subsection (b) above.

(e) **Time for Mandatory Mediation.** To the extent possible, a mandatory mediation shall be scheduled by the assigned Special Trial Master to take place within sixty (60) days of assignment to the Special Trial Master.

(f) **Mandatory Mediation Session.** Counsel who are primary responsible for the case and any unrepresented party shall attend the mediation. All parties, insurers and principals or parties with decision-making authority must attend the mediation session in person, unless their attendance is excused for good cause shown, in which

event they must be available by telephone for the entire session. All parties, insurers, principals and counsel shall be prepared to discuss all issues of liability and damages and to participate in meaningful settlement discussions.

(g) Confidentiality. All mediation proceeding shall be kept confidential. No statements made during the mediation process shall be deemed admissions by any parties. Settlement positions of parties and negotiation techniques shall not be revealed to the Trial Judge, if applicable. No transcript or recording of the mediation session shall be allowed.

(h) Mediation Memorandum. A confidential mediation memorandum substantially in the form prescribed shall be submitted to the Special Trial Master at least seven (7) days in advance of the mediation session. See Appendix, Form 6. The memorandum may be exchanged between the parties, at the discretion of each party. The memorandum shall not be filed with the Court.

(i) Trial by Special Trial Master. In the event that a case does not settle as a result of the mediation session, a trial may be held before the Special Trial Master upon agreement of all parties in writing. If all parties cannot agree to a trial before the Special Trial Master, the case will proceed to trial before the assigned Trial Judge as scheduled in accordance with subsection (d) above. In the event that all parties agree to a trial before a Special Trial Master, the trial will be scheduled expeditiously and conducted in accordance with the Pennsylvania Rules of Civil Procedure.

(j) Post-trial Motions. In the event that a trial is conducted before a Special Trial Master, any and all post-trial motions timely filed following such a proceeding shall be ruled upon by the Special Trial Master in the form of a Report and Recommendation to the assigned Trial Judge. The assigned Trial Judge will approve or reject the Report and Recommendation. Rulings on Post-trial Motions shall not be deemed final until acted upon by the assigned Trial Judge.

FORM NO. 6

PLAINTIFF

:IN THE COURT OF COMMON PLEAS
:OF LACKAWANNA COUNTY

vs.

:
:
:CIVIL ACTION-LAW
:JURY TRIAL DEMANDED

DEFENDANT

:NO.: -CV-
:
:

.....
CONFIDENTIAL MEDIATION MEMORANDUM

1. Identification of Counsel:
 - a. Attorney for Plaintiff:
 - b. Attorney for Defendant:
2. Lacka. Co. R.C.P. 238 Confirmation of Settlement Offer and Response:
 - a. Date and amount of settlement offer(s):
 - b. Date and substance of response to settlement offer(s):
3. Insurance information:
 - a. Identity of insurance carrier:
 - b. Identity of insurance adjuster:
 - c. Policy limits:
 - d. Coverage issues (if any):
4. Statement of Facts and Legal Issues:
5. Injuries:
6. Calculation of Special Damages:
 - a. Wage loss (if any):
 - b. Medical bills (if any):

- c. Other (explain):
7. Liens (if a lien has been asserted against all or part of any potential settlement, indicate the amount and entity making the claim, i.e. Worker's Compensation carrier, Department of Public Welfare, Health Insurance carrier, etc.):
8. Identification of Expert Witnesses:
- a. For Plaintiff:
- b. For Defendant:
9. Estimated Number of Trial Days:
10. Any additional issues which should be considered to facilitate the settlement of this matter:

[Pa.B. Doc. No. 09-1601. Filed for public inspection August 28, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL QUALITY BOARD

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 109]

Safe Drinking Water—General Update

Corrective Amendment to 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 in Subchapters A, C—H, J and K.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 as deposited with the Legislative Reference Bureau and published at 39 Pa.B. 2661 (May 23, 2009), and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 417, August 2009). The amendments published at 39 Pa.B. 2661 were never codified.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107. The corrective amendment to 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 is effective August 1, 2009, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 is as it appeared at 39 Pa.B. 2661.

MARY LOU BARTON, Esq.,
Department of Environmental Protection

[Pa.B. Doc. No. 09-1602. Filed for public inspection August 28, 2009, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 135.103 (relating to registration for controlled goose hunting areas) to permit persons who have previously hunted a controlled goose hunting area to apply for unclaimed blinds on the morning of the designated shooting day, but only when there exists an absence of applications for the unclaimed blinds from persons who have not previously hunted a controlled goose hunting area.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2951 (June 13, 2009).

1. Purpose and Authority

The Commission currently maintains two controlled goose hunting areas across this Commonwealth at its Pymatuning and Middle Creek Wildlife Management Areas. As a measure to promote full and equal opportunity for all Pennsylvania goose hunters, the Commission has traditionally limited hunters to hunt only 1 day per season on only one controlled goose hunting area as either a reservation holder or a guest of a reservation holder. Although a rare occasion, the lack of flexibility of this restriction had the unfortunate consequence of limiting the Commission's ability to fill unclaimed blinds when there was an absence of available first-time hunter applicants present on the morning of the designated shooting day. The Commission has determined that it can continue to promote full and equal opportunity for all goose hunters in this Commonwealth while also advancing the fullest utilization of its unclaimed blinds by amending this restriction. To this end, the Commission amended § 135.103 to permit persons who have previously hunted a controlled goose hunting area to apply for unclaimed blinds on the morning of the designated shooting day; but only when there exists an absence of applications for the unclaimed blinds from persons who have not previously hunted a controlled goose hunting area.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." The amendments to § 135.103 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended § 135.103 by replacing the language prohibiting persons who have previously hunted a controlled goose hunting area applying for

an unclaimed blind with language permitting persons who have previously hunted a controlled goose hunting area to apply for unclaimed blinds on the morning of the designated shooting day; but only when there exists an absence of applications for the unclaimed blinds from persons who have not previously hunted a controlled goose hunting area.

3. *Persons Affected*

Persons wishing to apply for controlled goose hunting area blinds may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

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

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. *Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.103 to read as set forth at 39 Pa.B. 2951.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 2951 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-287 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1603. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 135] Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 135.48 (relating to state game lands roads open to vehicular traffic for disabled persons) to remove the one-way travel limitation affecting the limited travel permitted on designated State Game Lands (SGLs) roads and replace it with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2812 (June 6, 2009).

1. *Purpose and Authority*

During the annual fall hunting seasons, the Commission enhances disabled hunter/trapper access to interior portions of its various SGL landholdings across this Commonwealth by opening certain designated roads normally closed to public travel to limited vehicular travel by persons issued a Use of a Vehicle as a Blind Disabled Persons Permit. Traditionally, travel on these designated roads has been strictly limited to one-way travel. In an effort to further expand this access, the Commission has determined that directional travel and related limitations should be determined on a location specific rather than on an across the board basis. Under this structure, some roads will remain limited to one-way travel while other roads may be expanded to two-way travel, all based upon location specific conditions. To this end, the Commission amended § 135.48 to remove the one-way travel limitation affecting the limited travel permitted on designated SGL roads and replace it with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 741(b) of the code (relating to commission actions for damage to buildings or property) provides "The commission shall promulgate regulations to protect users, improvements, lands and buildings under its control. These regulations shall cover, but need not be limited to . . . regulations required to properly protect and preserve these lands for their intended use." The amendments to § 135.48 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended § 135.48 by replacing the language limiting travel on designated SGL roads to one-way travel only with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

3. *Persons Affected*

Eligible persons wishing to travel on designated SGLs roads may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking may result in some additional cost and paperwork associated with the production and deployment of any necessary signage or postings. However, the Commission has determined that if there is any additional expense associated with this effort, it will be minimal and will be absorbed by the current budget.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

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

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. *Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.48 to read as set forth at 39 Pa.B. 2812.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 2812 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-286 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1604. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 135.41 (relating to state game lands) to specifically prohibit the use or possession of drug paraphernalia on State Game Lands (SGLs).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2811 (June 6, 2009).

1. *Purpose and Authority*

Illicit drug use and related drug crime has been a recurring problem that has plagued SGLs properties across this Commonwealth for decades. The Commission has and will continue to maintain a zero tolerance policy for illicit drug use and related drug crime on SGLs in its continuing efforts to maintain these lands for their primary purposes of providing and conserving habitat for this Commonwealth's wildlife resources as well as providing public access to open lands for recreational hunting and trapping activities. The Commission determined that although former regulatory provisions clearly prohibited the use and possession of controlled substances, they failed to clearly prohibit the use and possession of drug paraphernalia. The Commission also determined that the use and possession of drug paraphernalia on SGLs is just as deleterious as their related drug substances. In an effort to address this concern, the Commission amended § 135.41 to specifically prohibit the use or possession of drug paraphernalia on SGLs.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 741(b) of the code (relating to commission actions for damage to buildings or property) provides "The commission shall promulgate regulations to protect users, improvements, lands and buildings under its control. These regulations shall cover, but need not be limited to . . . regulations required to properly protect and preserve these lands for their intended use." The amendments to § 135.41 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended § 135.41 to specifically prohibit the use or possession of drug paraphernalia on SGLs.

3. *Persons Affected*

Persons unlawfully using or possessing drug paraphernalia on SGLs will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

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

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. *Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.41 to read as set forth at 39 Pa.B. 2811.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 2811 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-285 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1605. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 141 AND 147]

Hunting and Trapping and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend §§ 141.47 and 147.701 (relating to elk; and general), rescind § 141.49 (relating to elk guide permits) and add Chapter 147, Subchapter Y (relating to guiding permit) to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2809 (June 6, 2009).

1. *Purpose and Authority*

Formerly, §§ 141.47, 141.49 and 147.701 separately provided for the permitting of persons guiding other hunters or trappers in their pursuit of elk and bobcats. The Commission amended §§ 141.47 and 147.701, rescinded § 141.49, and added Subchapter Y, §§ 147.901—147.905 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species. Some notable changes will be increases in the associated permit fees as well as more stringent eligibility standards.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to §§ 141.47, 141.49, 147.701 and addition of Chapter 147, Subchapter Y were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended §§ 141.47 and 147.701, rescinded § 141.49, and added Subchapter Y, §§ 147.901—147.905 to Chapter 147 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species.

3. *Persons Affected*

Persons interested in guiding other hunters or trappers for certain designated species will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

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

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

9. Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 141 and 147, are amended by amending §§ 141.47 and 147.701 and deleting § 141.49 to read as set forth at 39 Pa.B. 2809; and by adding §§ 147.901—147.905 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 39 Pa.B. 2809 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-288 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter Y. GUIDING PERMIT

- Sec.
- 147.901. Purpose and scope.
- 147.902. Definitions.
- 147.903. Application.
- 147.904. Permit.
- 147.905. Violations.

§ 147.901. Purpose and scope.

The purpose of this subchapter is to provide for the issuance of guiding permits to authorize eligible applicants to serve as guides for persons hunting, trapping or otherwise taking certain designated species of wildlife.

§ 147.902. Definitions.

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

Guide—A person who assists another person in any manner to hunt, trap or otherwise take certain designated species of wildlife.

Guiding—

(i) The act of assisting or conspiring to assist another person in any manner to hunt, trap or otherwise take certain designated species of wildlife by locating, calling or directing another person to the quarry.

(ii) The term is not intended to include or authorize the assistance taking the form of any overt act directly connected with harvesting wildlife by discharging a firearm, bow or crossbow or setting or resetting a trap or cable restraints.

§ 147.903. Application.

(a) Applications for guiding permits issued under this subchapter shall be made through the applicants' local district wildlife conservation officers on the appropriate form provided by the Commission.

(b) Each application must include the name, address, telephone number and date of birth of the applicant, as well as the specific eligible species of wildlife sought to be covered by the permit.

(c) Applications for guiding permits will only be accepted from persons who possess a valid hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions) and have no prior record of violations of the act or this title or related license revocations within the previous 10 years.

(d) The fee for a guiding permit will be \$25 for residents and \$50 for nonresidents for each respective eligible species of wildlife to be covered by the permit.

§ 147.904. Permit.

(a) *General rule.* A guiding permit issued under this subchapter is required for any person to engage in any guiding activities for the following designated species of wildlife: elk and bobcat.

(b) *Additional permits.* Possession of a guiding permit issued under this subchapter does not diminish an individual's obligation to obtain any other applicable Federal, State or local permits concerning the guiding activities.

(c) *Guiding on State game lands.* Notwithstanding the general prohibitions of § 135.41 (relating to state game lands), a guiding permit issued pursuant to this subchapter shall authorize its holder to engage in commercial guiding activities on State game lands for an eligible species of wildlife.

(d) *Orientation.* In any year the Commission establishes an orientation program for an eligible species of wildlife, the continuing validity of any guiding permit issued under this subchapter covering the eligible species, is premised upon the permit holder's completion of the orientation program prior to engaging in any guiding activities for the eligible species of wildlife.

§ 147.905. Violations.

The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

[Pa.B. Doc. No. 09-1606. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 147]
Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 147.142 (relating to wildlife disposition) to expand the section's coverage to apply to wildlife disposition generally under a consumption permit.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2813 (June 6, 2009).

1. Purpose and Authority

The code and its attendant regulations limit the circumstances in which residents of this Commonwealth may possess and consume the edible portions of wildlife to the current eligibility criteria under § 147.142. There are no provisions for other circumstances, including, but not limited to, mistake kills, agricultural or property protection kills and illegal kills. Despite this absence of a specific permit classification, the Commission has found pragmatic approaches to informally authorize the possession and consumption of the edible portions of the applicable wildlife to make legitimate use of these valuable wildlife resources. The Commission determined that that was necessary to more formally and clearly define and implement a permitting process by which these distributions should occur. To this end, the Commission amended § 147.142 to expand the section's coverage to apply to wildlife disposition generally under a consumption permit.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to § 147.142 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended § 147.142 by expanding the section's coverage to apply to wildlife disposition generally under a consumption permit.

3. Persons Affected

Persons wishing to possess and consume the edible portions of wildlife killed by means other than lawful hunting or trapping will be affected by the final-form rulemaking.

4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork.

6. Effective Date

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. Findings

The Commission finds that:

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

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending § 147.142 to read as set forth in Annex A.

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

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-289 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter H. PROTECTED SPECIMEN

§ 147.142. Wildlife disposition.

(a) *Consumption permit.* The Commission, in its sole discretion, may issue a consumption permit to a resident of this Commonwealth to authorize the possession and consumption of the edible portions of any wildlife carcass. A permit issued under this subsection will be valid for a period not to exceed 120 days from the date of issuance. The whole, or any part of any wildlife possessed under this subsection, may not be transferred to another person nor may any edible portion be removed from the possessor's place of residence for any purpose other than processing. Inedible portions of any wildlife possessed under this subsection shall be surrendered to the Commission or disposed of in a manner directed by the Commission.

(1) *General procedures.* Except as otherwise provided in paragraph (2), a person shall contact the Commission to obtain a paper consumption permit prior to taking possession of the carcass of any wildlife.

(2) *Special procedures for deer and turkey accidentally killed by a motor vehicle.* A person is authorized to take immediate possession of the carcass of a deer or turkey evidently killed accidentally by a motor vehicle and transport it to a place of safekeeping within this Commonwealth. A person taking possession of a deer or turkey carcass under this paragraph shall contact the Commission to obtain a permit number within 24 hours after having taken possession of the deer or turkey carcass. The issued permit number itself shall be considered a valid permit for the purposes of authorizing the continued possession of the edible portions of the deer or turkey carcass.

(b) *Furbearing species accidentally killed by a motor vehicle.* A person holding a valid Pennsylvania furtaker's license is authorized to take immediate possession of and utilize the edible and inedible portions of any furbearer, except river otters, bobcats and fishers, evidently killed accidentally by a motor vehicle. Any person taking possession of any furbearer under this subsection during the

closed season for the taking of the same shall contact the Commission to make notification of the possession within 24 hours.

(c) *Unlawful acts.* It is unlawful to:

(1) Possess the whole or any part of any wildlife without receiving any required permit, making any required notification or meeting any applicable eligibility standards within any applicable time restrictions.

(2) Fail to surrender the inedible portions of any wildlife possessed under the authorizations of subsection (a) to the Commission or to dispose of the same in the manner directed by the Commission.

(3) Violate any other provisions of this section.

(d) *Inapplicability.* This section does not limit the lawful possession of the whole or any part of any wildlife that is otherwise authorized by § 147.141 (relating to the sale of wildlife and wildlife parts).

[Pa.B. Doc. No. 09-1607. Filed for public inspection August 28, 2009, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS. 403a, 435a, 441a,
461a AND 465a]
Revised Procedures

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. §§ 1202(a)(1) and (b)(23), 1207(1), (3) and (5), 1209(a), 1305(d), 1322(a), (b)(2), (4) and (9) and (c)(3), (4), (5) and (8), 1326(b) and 1331(1), (3) and (4), amends Chapters 403a, 435a, 441a, 461a and 465a to read as set forth at 39 Pa.B. 418 (January 24, 2009) and in Annex A.

Purpose of the Final-Form Rulemaking

This final-form rulemaking contains a variety of amendments which correct errors in the existing regulations, clarify a number of requirements and revise or add new requirements that reflect current practices.

Explanation of Amendments to Chapters 403a, 435a, 441a, 461a and 465a

In § 403a.6 (relating to delegation of powers), “or order” has been added as one of the ways that the Board may make a delegation of its authority. While most Board delegations have been made by regulation or by resolution, in a few cases, the Board has used orders as well.

In § 435a.1 (relating to general provisions) “any felony offense” has been added to the list of arrests, charges, indictments or convictions that an individual who has a license, permit or registration has a continuing duty to report to the Board. Because felonies, by their very nature, are serious offenses, this information is essential for the Board to determine an individual’s continuing suitability.

In § 441a.5 (relating to license fee payment bond or letter of credit requirements) the incorrect citation to section 1209(c) of the act has been replaced with the correct citations to sections 1209(a) and 1305(d) of the act.

In § 461a.10 (relating to automated gaming voucher and coupon redemption machines) subsection (g)(1) has

been amended to allow either the slot operations or the security department to maintain the key to the lock securing the compartment, housing the storage box. This will give slot machine licensees some additional operational flexibility, while still preserving the departmental segregation of duties necessary to protect financial integrity. Additionally, subsection (g)(3) is being deleted. Because of the low risk for theft of coins, a lock on the compartment housing the coin storage containers is not necessary. Similarly, the second sentence in subsection (h), which requires all input/output ports to be secured, is being deleted. Since these ports are all located inside the locked housing, there is no need for additional security.

In § 461a.22 (relating to automated jackpot payout machines), new provisions have been added addressing key control and the physical security of automated jackpot payout machines. These provisions are similar to the requirements for automated gaming voucher and coupon redemption machines.

Section 461a.24 (relating to waivers) has been revised to clarify that written requests for waivers of any of the requirements in Chapter 461a (relating to slot machine testing and control) are to be submitted to the Board as a petition under § 493a.4 (relating to petitions generally) and that the waiver must be approved by the Board.

In § 465a.2 (relating to internal control systems and audit protocols), revisions have been made to subsections (f), (g) and (i) to further clarify the approval process for amendments to internal controls. Additionally, the requirement in subsection (f) that requests for changes or amendments also be submitted to the Department of Revenue (Revenue) has been deleted. Due to the large volume of changes and the fact that most changes have no impact on Revenue’s responsibilities, there is no need for Revenue to receive all changes. Instead, the Board will notify Revenue when a change is submitted that will impact their responsibilities.

In § 465a.5(h) (relating to annual audit; other reports; suspicious activity and currency transaction reporting), the word “license” has been replaced with “licensee.”

In § 465a.6 (relating to retention, storage and destruction of books, records and documents), subsections (b)(2) and (d)(1) and (2) have been revised to clarify that the location of books, records and documents that are required to be retained by a slot machine licensee must be secured and have a fire suppression system. This will apply if the records are stored in the licensed facility or in an approved alternate location. The reference to the Board as the entity that will review and approve requests to use an alternate location for records storage has also been replaced with the Office of Gaming Operations.

Section 465a.12 (relating to access badges) has been totally rewritten to eliminate the confusion between the access control and badge system that the slot machine licensees must establish and the emergency and temporary credentials that may be issued by the Board under §§ 435a.7—435a.9 (relating to emergency credentials; temporary credentials for principals and key employees; and temporary credentials for nongaming employees). In the proposed rulemaking, the slot machine licensee’s human resources department was to be responsible for determining the appropriate access level for each job description based upon the duties in each job description. The slot machine licensee’s director of security was to be responsible for maintaining the database with the access levels for all employees and monitoring compliance with the access levels. These proposed changes have been

revised further, as discussed in this preamble. The Board's representatives will have read-only access to this database. Employees of the slot machine licensee will be required to display their access badges at all times when they are working in the licensed facility. These requirements are consistent with or very similar, to the current practice in the operating licensed facilities.

In § 465a.16 (relating to accounting controls for the cashiers' cage) the word "cashiers'" has been replaced with "cashier's" in subsection (a). Additionally, the provision in subsection (c)(1)(viii), which addresses the functions of the cage cashiers, has been moved to subsection (c)(2), which covers main bank cashier functions, as a new subparagraph (x). This reflects the current industry practice when the issuance of cash to fill these machines is a function of the main bank, not the cage cashiers.

In § 465a.28 (relating to merchandise jackpots), revisions are being made to streamline the review process for merchandise jackpots. The requirement to submit a request using an Amendment Waiver and Request Form has been replaced with just a written request submitted to the Bureau of Gaming Operations. Approval of these requests will be made by the Executive Director instead of the Board. This will allow quicker action on these requests, which will in turn allow licensed facilities to more quickly respond to marketing trends. Additionally, the language in subsection (b) has been revised to provide greater clarity discribing what may be included as part of a merchandise jackpot.

In § 465a.29 (relating to automated teller machines), the phrase "or other color combination approved by the Bureau of Gaming Operations" is being added to subsection (b). This will make the language used in this subsection the same as the language used in §§ 461a.7 and 461a.22 (relating to slot machine minimum design standards; and automated jackpot payout machines).

As was done in § 461a.24, § 465a.30 (relating to waivers; and waiver of requirements) is being revised to clarify that written requests for waivers of any of the requirements in Chapter 465a (relating to accounting and internal controls) are to be submitted to the Board as a petition under § 493a.4 (relating to petitions generally) and that the waiver must be approved by the Board.

Comment and Response Summary

Notice of proposed rulemaking was published at 39 Pa.B. 418 (January 24, 2009).

The Board received comments from Greenwood Gaming and Entertainment, Inc. (Greenwood) and Mountainview Thoroughbred Racing Association (Mountainview) during the public comment period. On March 25, 2009, the Independent Regulatory Review Commission (IRRC) also filed comments on the proposed rulemaking. These comments were reviewed by the Board and are discussed in detail as follows.

In its comments, IRRC asked the Board to explain how the sections of the Pennsylvania Race Horse Development and Gaming Act (act) cited in the Regulatory Analysis Form relate to the Board's exercise of rulemaking authority.

The sections of the act cited in the preamble and Regulatory Analysis Form, reflect the statutory basis for the amendments to the Board's regulations. More specifically, §§ 1202(b)(23), 1207(1), 1209(a), 1305(a), 1326(b) and 1331(1), (3) and (4) pertain to the Board's licensing authority and requirements which are the subject of the amendments to §§ 435a.1 and 441a.5. The remaining

sections, §§ 1202(a)(1), 1207(3) and (5) and 1322(a), (b)(2), (4) and (9) and (c)(3), (4), (5) and (8) pertain to the amendments to the Board's regulations relating to internal controls in Chapters 461a and 465a.

Concerning the revisions to § 403a.6, IRRC asked that the Board clarify what circumstances would prompt the use of orders to delegate authority.

As the Board was beginning its operations, the Board used resolutions as the administrative mechanism to record actions taken by the Board at its public meetings. However, most Commonwealth agencies use orders instead of resolutions. The Board is adding orders to this section to bring its practices more in line with those of other Commonwealth agencies.

On § 465a.2, IRRC had three concerns. First, IRRC asked if the act provides the Executive Director (Director) with the authority to approve and disapprove amendments to internal controls. Second, IRRC asked why the requirement that an applicant provide a copy of amendments to its internal controls to the Revenue is being deleted. Finally, IRRC asked that the Board explain the difference between the Amendment and Waiver Request Form and the Internal Controls Amendment Request Form.

On IRRC's first concern, the act does not provide the Director with the authority to approve or disapprove changes to internal controls. The act gives the Board that authority under 4 Pa.C.S. §§ 1207 and 1322. However, the Board has delegated authority to the Director to approve or disapprove changes to a slot machine licensee's internal controls under § 403a.6. This has been done because changes to internal controls happen quite often due to changes in technologies, slot machine licensees' business practices, Board regulations and periodic audits. Requiring all internal control changes to go through a Board meeting would impose an administrative hardship on slot machine licensees and delay needed improvements to slot machine licensees' internal controls.

Regarding IRRC's second concern, the Board originally required that slot machine licensees submit a copy of all internal control changes to Revenue because Revenue wanted to receive them. However, most internal control changes have nothing to do with the central control computer system or the operation of slot machines, so Revenue has been flooded with internal control changes that did not want to receive. To resolve this problem, the Board has agreed to forward to Revenue any changes that affect its areas of interest. This will reduce the filing burden on the slot machine licensees, and save Revenue time it would have spent sorting through all of the changes that are submitted.

Concerning the difference between the Amendment and Waiver Request Form and the Internal Controls Amendment Request Form, the actual difference between the forms is minor. Originally, the Board attempted to use the same form for submission of both amendments to internal controls and applications for waivers under § 465a.30. Unfortunately, using the same form created confusion for some of the slot machine licensees and Board staff. To eliminate this confusion, this section of the regulation has been amended to reference the new, updated form for submission of internal control amendments, the Internal Controls Amendment Request Form. While the name of the form has changed, the information required by the new form is essentially the same.

Regarding § 465a.6, Greenwood suggested that the security and fire suppression system requirements not

apply to temporary facilities to avoid duplicative costs for these systems. If not addressed in the regulation, Greenwood indicated that it will seek a waiver under § 465a.30. IRRC voiced similar questions including: would the rulemaking require a fire suppression system in both temporary and permanent licensed facilities; did the Board consider the costs of having fire suppression systems in both facilities and would the Board consider granting a waiver of these requirements.

Because these records are essential to the audit process and protecting the financial integrity of gaming, they need to be kept a secured location that has fire suppression capabilities. For this reason, these requirements do apply to both temporary and permanent facilities. However, because the costs associated with fire suppression systems can be significant for a facility that will soon be transitioning to its permanent facility, such as Greenwood which is scheduled to move into its permanent facility in December, the Board believes that filing a waiver request under § 465a.30 would be more appropriate.

In § 465a.12, Greenwood, Mountainview and IRRC all suggested that subsection (b) be amended to allow someone other than the human resources department to be responsible for determining the access level of each job classification. Similarly, they all suggested that subsections (c) and (d) also be amended to allow someone other than the director of security to be responsible for the development and maintenance of the employee access level electronic database and any changes made to the database.

Additionally, Greenwood objected to the requirement in subsection (e) that the Board have read-only access to the access database because their current system doesn't have that capability. They requested that this provision not apply to temporary facilities or they will request a waiver for the temporary facility.

IRRC also asked why a department name was used in subsection (b) while individuals were listed in subsections (c) and (d); in subsection (c), what would be a "functional equivalent" to an electronic database system; and in subsection (e), had the Board considered the compliance cost of this requirement for Greenwood's temporary facility.

While the proposed amendment mirrors how many slot machine licensees have assigned these responsibilities, the Board agrees with all of the commentators that the slot machine licensees should have additional flexibility to decide who is responsible for these functions. Therefore, subsections (b), (c) and (d) have been revised to require the slot machine licensee to designate the individuals who will be responsible for these functions in their internal controls.

The Board disagrees with Greenwood's request that subsection (e), which requires that the Board be provided read-only access to the electronic database system, not apply to its temporary facility. If Greenwood believes that the cost is excessive, it has the option of filing a waiver request.

Regarding IRRC's other concerns, the revisions to subsection (b), (c) or (d) discussed previously resolve the first concern about the use of a department name instead of an individual position title. As to what constitutes a functional equivalent, this could include electronic logs that are not in a database format or paper tracking systems such as a log book. For the last concern, related to the cost of providing read-only access, the Board believes that the waiver process provides a mechanism for Greenwood to seek relief from this requirement.

Regarding § 465a.28, IRRC asked if the act provides the Director the authority to approve merchandise jackpots.

The act does not give the Director the authority to approve or disapprove merchandise jackpots. Instead, the Board has delegated this authority to the Director under § 403a.6. This was done because slot machine licensees frequently use merchandise jackpots as a marketing tool to increase player participation during slow periods. Requiring merchandise jackpots to go through a Board meeting would impose an administrative hardship on slot machine licensees by making it more difficult to quickly respond to market conditions.

On § 465a.30, Greenwood objected to the requirement that requests for waivers of the Board's regulations be filed as petitions under § 493a.4. It believed that it will increase the amount of time and costs to file these waivers. Instead, it suggested that the Board continue to use the process that is used for review of amendments to licensed facilities internal controls. IRRC also asked why the Board is eliminating the Amendment and Waiver Request Form and if it considered the potential cost implications. IRRC also asked if the Board had considered providing a list of examples of waivers it might approve.

As previously noted, attempting to use one form, the Amendment Waiver Request Form, for amendments to internal controls and for waiver requests, resulted in confusion between these two distinctly different processes. It was never the Board's intent to allow waivers of Board regulations to be approved using the same process that is used to review internal control amendments. Requiring waiver requests to be submitted as petitions will eliminate any further confusion.

The Board also believes that requiring waiver requests be filed as petitions, will not significantly increase the cost of filing a waiver request. Regardless of how a waiver request is filed, using a form, in writing or by petition, the slot machine licensee must still provide the same information needed to demonstrate how the alternative controls that are being proposed will still meet the operational integrity requirements of the regulations. So, while the form of the filing will be different, the substance of the filing will be essentially the same.

Finally, the Board has not adopted IRRC's suggestion that it add examples of items that it would grant a waiver. It would be difficult to give examples because each waiver request will be somewhat unique and the Board's decision will be based on the particular details contained in the petition. Additionally, when the Board has identified particular circumstances where waivers of the Board's regulations are appropriate, it has amended its regulations accordingly.

Affected Parties

This final-form rulemaking will affect slot machine licensees and individuals who hold a license, permit or registration.

Fiscal Impact

Commonwealth

The clarifications and revised procedures contained in this final-form rulemaking will improve the operations of the Board which may result in some savings. However, the magnitude of these savings is expected to be minimal.

Political Subdivisions

This final-form rulemaking will have no fiscal impact on political subdivisions of the Commonwealth.

Private Sector

Because most of the changes in this final-form rule-making reflect current industry practices, provide greater operational flexibility or simplify existing requirements, the net impact of these changes may result in some slight savings for slot machine licensees.

General Public

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

Paperwork Requirements

Slot machine licensees will no longer be required to submit copies of proposed changes to their internal controls to the Department.

Individuals who hold a license, permit or registration will be required to notify the Board if they are arrested, charged, indicted or convicted of a felony offense.

Effective Date

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

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2008, the Board submitted a copy of this proposed rulemaking, published at 39 Pa.B. 418 and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the Committees on July 22, 2009. Under section 5.1(e) of the Regulatory Review Act IRRC met on July 23, 2009 and approved the final-form rule-making.

Findings

The Board finds that:

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

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

Order

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

(a) The regulations of the Board, 58 Pa. Code Chapters 403a, 435a, 441a, 461a and 465a are amended by amending §§ 403a.6, 435a.1, 441a.5, 461a.10, 461a.22, 461a.24,

465a.5, 465a.16, 465a.28, 465a.29 and 465a.30 to read as set forth at 39 Pa.B. 418; and by amending §§ 465a.2, 465a.6, 465a.12, 465a.28 and 465a.29 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall certify this order, 39 Pa.B. 418 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

GREGORY C. FAJT,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 4832 (August 8, 2009).)

Fiscal Note: Fiscal Note 125-96 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.2. Internal control systems and audit protocols.

* * * * *

(f) If a slot machine licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations using the Internal Controls Amendment Request Form posted on the Board's web site (www.pgcb.state.pa.us). A request for a change or amendment must include electronic copies of the attestations required under subsection (b)(1) and (2). The slot machine licensee may implement the change or amendment upon receipt of written notice of approval from the Board's Executive Director or on the 30th calendar day following the filing of a complete submission unless the slot machine licensee receives a notice under subsection (g) tolling the change or amendment or written notice of disapproval from the Board's Executive Director.

(g) If during the 30-day review period in subsection (f), the Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue, the Bureau of Gaming Operations, by written notice to the slot machine licensee, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30 calendar day review period in subsection (f) be tolled and that any internal controls at issue not be implemented until approved under subsection (i).

* * * * *

(i) When a change or amendment has been tolled under subsection (g), the slot machine licensee may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The slot machine licensee may implement the revised change or amendment upon receipt of written

notice of approval from the Board's Executive Director or on the 30th calendar day following the filing of the revision unless it receives written notice under subsection (g) tolling the change or amendment or written notice of disapproval from the Board's Executive Director.

* * * * *

§ 465a.6. Retention, storage and destruction of books, records and documents.

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the licensed facility including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records required to be generated and maintained under § 451a.1 (relating to recordkeeping generally) or this part. This definition applies without regard to the medium through which the record is generated or maintained, for example, paper, magnetic media or encoded disk.

(b) Original books, records and documents pertaining to the operation of a licensed facility shall be:

(1) Prepared and maintained in a complete, accurate and legible form. Electronic data must be stored in a format that ensures readability, regardless of whether the technology or software that created or maintained it has become obsolete.

(2) Retained in a secure location in the licensed facility that is equipped with a fire suppression system or at another location approved under subsection (d).

(3) Kept immediately available for inspection by agents of the Board, the Department and the Pennsylvania State Police during all hours of operation.

(4) Organized and indexed in a manner to provide immediate accessibility to agents of the Board, the Department and the Pennsylvania State Police.

(5) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that the Board may, upon the written request of a slot machine licensee and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by a slot machine licensee for a minimum of 5 years with the following exceptions:

(1) Documentation with regard to gaming vouchers reported to the Board as possibly counterfeit, altered or tampered with, should be retained for a minimum of 2 years.

(2) Coupons entitling patrons to cash or slot machine credits, whether unused, voided or redeemed shall be retained for a minimum of 6 months.

(3) Voided gaming vouchers and gaming vouchers redeemed at a location other than a slot machine, shall be retained for a minimum of 6 months.

(4) Gaming vouchers redeemed at a slot machine shall be retained for a minimum of 7 days.

(d) A slot machine licensee may request, in writing, that the Bureau of Gaming Operations approve a location outside the licensed facility to store original books, records and documents. The request must include the following:

(1) A detailed description of the proposed location, including security and fire suppression systems.

(2) The procedures under which the Board, the Department and the Pennsylvania State Police will be able to gain access to the original books, records and documents retained at the location outside the licensed facility.

(e) A slot machine licensee may request, in writing, that the Board approve a microfilm, microfiche or other suitable media system for the copying and storage of original books, records and documents. The request must include representations regarding:

(1) The processing, preservation and maintenance methods which will be employed to insure that the books, records and documents are available in a format which makes them readily available for review and copying.

(2) The inspection and quality control methods which will be employed to insure that microfilm, microfiche or other media when displayed on a reader/viewer or reproduced on paper exhibits a high degree of legibility and readability.

(3) The availability of a reader/printer for use by the Board, the Department and the Pennsylvania State Police at the licensed facility or other location approved by the Board and the readiness with which the books, records or documents being stored on microfilm, microfiche or other media can be located, read and reproduced.

(4) The availability of a detailed index of all micro-filmed, microfiched or other stored data maintained and arranged in a manner to permit the immediate location of any particular book, record or document.

(f) Nothing herein shall be construed as relieving a slot machine licensee from meeting any obligation to prepare or maintain any book, record or document required by any other Federal, State or local governmental body, authority or agency.

§ 465a.12. Access badges.

(a) Slot machine licensees shall develop an access control matrix indicating the restricted areas in a licensed facility that an employee may access for each employee job description. Access to restricted areas by an employee shall be limited to the restricted areas that the employee needs to access in the course of the performance of the employee's normal duties listed in the employee's job description.

(b) In the internal controls required to be submitted under § 465a.2 (relating to internal control systems and audit protocols), the slot machine licensee shall designate the individuals who shall be responsible for determining the appropriate level of access for each job description and updating the level of access when a job description changes. The level of access information for each employee shall be transmitted to the individual or individuals designated in subsection (c).

(c) In the internal controls required to be submitted under § 465a.2, the slot machine licensee shall designate the individuals who shall develop and maintain an electronic database system, or its functional equivalent, which contains the access level of all employees of the slot machine licensee. The electronic database system must be capable of tracking who enters or changes the access level assigned to each employee.

(d) In the internal controls required to be submitted under § 465a.2, the slot machine licensee shall designate the individuals who shall be responsible for entering or making changes to the access level of employees of the slot machine licensee in the electronic database system.

(e) Read-only access to the electronic database system shall be made available through secure computer access to the Board's representatives at the licensed facility.

(f) Slot machine licensees shall develop an access badge system consisting of a badge that contains the employee's name and a color, code or symbol that indicates the areas in the licensed facility that the employee is allowed to access.

(g) Employees of a slot machine licensee shall be required to wear an access badge in a visible location at all times while they are working in a licensed facility.

§ 465a.28. Merchandise jackpots.

(a) A slot machine licensee may not offer a merchandise jackpot payout unless:

(1) The terms and conditions of the merchandise jackpot, including the effect on the calculation of the theoretical payout percentage, comply with the act, this subpart and technical standards on jackpot payouts approved by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(2) The Executive Director has approved the specific offer of the merchandise jackpot. To obtain the Executive Director's approval, a slot machine licensee shall file a written request with the Bureau of Gaming Operations containing all of the details related to the merchandise jackpot payout including:

- (i) A detailed description of the merchandise jackpot.
- (ii) A description of the slot machines that will offer the merchandise jackpot.

(iii) Supporting documentation relating to the valuation of the merchandise offered as the merchandise jackpot.

(b) A merchandise jackpot may consist of one of the following:

(1) A payout that consists of both merchandise and cash.

(2) A payout of merchandise only with an optional cash payout that the patron may elect to receive in lieu of receiving the merchandise.

* * * * *

§ 465a.29. Automated teller machines.

(a) Automated teller machines may be placed at any location within a licensed facility.

(b) An automated teller machine must have a label on the top of the automated teller machine and on the front of the automated teller machine that displays a unique identification number of the automated teller machine. The labels must have white lettering on a black background or other color combination approved by the Bureau of Gaming Operations, may not be easily removed and must be easily visible to the surveillance department. The label on the top of the automated teller machine must be at least 1.5 inches by 5.5 inches and the label on the front of the automated teller machine must be at least 1 inch by 2.5 inches.

[Pa.B. Doc. No. 09-1608. Filed for public inspection August 28, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 59 AND 59a]

Comment Period Extended for the Proposed Rulemaking on the Milk Sanitation

The Department of Agriculture (Department) recently provided notice of its intention to rescind the current regulation in 7 Pa. Code Chapter 59 (relating to milk sanitation) and establish a new Chapter 59a (relating to milk sanitation). This notice was published at 39 Pa.B. 4677 (August 1, 2009); and provided for a 30-day public comment period on the proposed regulations.

The Department gives notice that it will extend this public comment period by an additional 30 days, providing the total public comment period of 60 days. This public comment period began on August 1, 2009, and will run through September 30, 2009.

Interested persons may submit written comments regarding the proposed regulations to the Department of Agriculture, Bureau of Food Safety, Division of Milk Sanitation, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Paul Hoge.

RUSSELL C. REDDING,
Executive Deputy Secretary

[Pa.B. Doc. No. 09-1609. Filed for public inspection August 28, 2009, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 102]

Erosion and Sediment Control and Stormwater Management

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code Chapter 102 (relating to erosion and sediment control and stormwater management). The amendments update agricultural planning and implementation requirements, update erosion and sediment (E & S) control requirements, incorporate the Federal Clean Water Act "Phase II" NPDES permit requirements for stormwater discharges associated with construction activities, include post construction stormwater management (PCSM) requirements, establish riparian forest buffer provisions, and include provisions for a permit-by-rule option.

This proposal was adopted by the Board at its meeting of June 16, 2009.

A. Effective Date

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

B. Contact Persons

For further information contact Kenneth F. Murin, Chief, Division of Waterways, Wetlands, and Stormwater Management, P. O. Box 8775, Rachel Carson State Office

Building, Harrisburg, PA 17105-8775, (717) 787-6827 or Margaret O. Murphy, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the DEP web site (<http://www.depweb.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is being made under the authority of Sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402), which authorize the Department of Environmental Protection to formulate, adopt and promulgate rules and regulations that are necessary to implement the provisions of the act, specifically, to regulate accelerated erosion, sedimentation and stormwater runoff from earth disturbance activities to protect, maintain, reclaim and restore waters of this Commonwealth by requiring that accelerated erosion, sedimentation during construction, and volume, rate and quality of post construction stormwater runoff, be minimized and controlled; and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the Board to promulgate rules and regulations that may be determined by the Board to be for the proper performance of the work of the Department; and Section 11 of the Conservation District Law (3 P. S. § 859(2)).

D. Background and Purpose

The existing E&S control regulations found in 25 Chapter 102 describe the requirements for controlling accelerated erosion and preventing sediment pollution from various earth disturbance activities. The purpose of Chapter 102 is to protect surface waters of this Commonwealth from sediment and stormwater pollution by requiring the use of best management practices (BMPs) that minimize accelerated erosion and sedimentation and manage post construction stormwater runoff, both during and after earth disturbance activities.

Since 1972, earth disturbance activities related to agricultural plowing and tilling, as well as, non-agricultural earth disturbance activities have been regulated under this chapter by requiring persons to develop, implement and maintain BMPs.

The proposed amendments elaborated in this preamble, incorporate specific language which enhance requirements related to agriculture; clarify existing requirements for accelerated E&S control; incorporate updated Federal requirements; update permit fees; codify PCSM requirements; add requirements related to riparian forest buffers; and introduce a permit-by-rule option.

Enhanced requirements related to agriculture

The scope of the agricultural section (§ 102.4(a)) is being enhanced beyond "agricultural plowing and tilling" to also include "animal heavy use areas." The requirements related to plowing and tilling are also being more clearly defined. The animal heavy use area provisions of the proposed rulemaking require responsible parties to develop and implement an E & S Control Plan (E & S Plan) that minimizes accelerated erosion and sedimentation.

Clarification of existing requirements for accelerated E & S control

Revisions to existing language are included in the proposed rulemaking to clarify definitions, plan requirements, Chapter 93 antidegradation implementation requirements, permitting and site stabilization.

Incorporation of updated Federal requirements

The Federal Clean Water Act, NPDES Program includes regulatory requirements for stormwater discharges associated with construction activities. Pennsylvania is delegated administration of the NPDES program by Environmental Protection Agency (EPA). Chapter 102 provides the regulatory framework for the stormwater construction portion of the NPDES program in this Commonwealth. The Federal requirements for stormwater construction were promulgated by the EPA in two phases (Pennsylvania compliance required by 1992 and 2002, respectively). The Chapter 102 amendments in 2000 included the first phase "Phase I" of these NPDES requirements. In order to maintain delegation of the NPDES program and to be compliant with Federal law, Pennsylvania is incorporating the second phase "Phase II" of the Federal requirements in this proposed rulemaking.

Updated permit fees

The proposed rulemaking includes the NPDES permit fees specific to the stormwater construction program, and updates the fees for other (non-NPDES) permits that may be required under Chapter 102.

Codification of PCSM requirements

Permanent changes to the surface of the land resulting from earth disturbance activities also have the potential to cause pollution as that term is defined under both the federal Clean Water Act as well as the Clean Streams Law. This rulemaking proposes to include specific PCSM requirements, as a codification of existing practices in this Commonwealth. Since 2002, the Department has included PCSM requirements in the NPDES stormwater permitting program in response to the need for enhanced water quality protection, long-term stormwater management, streambed and streambank protection and as a flood control measure. The inclusion of PCSM requirements in this program is driven by the federal NPDES stormwater construction requirements, Environmental Hearing Board decisions, and is necessary to support implementation of stormwater management planning requirements for the Municipal Separate Storm Sewer System (MS4) NPDES program and the Pennsylvania Stormwater Management Act (32 P. S. §§ 680.1—680.17).

Addition of requirements related to riparian forest buffers

Riparian forest buffers are one of the most effective and efficient BMPs for preventing pollution both during and after earth disturbance activities, and provide natural, long-term sustainability for aquatic resource protection and water quality enhancement. This proposed rulemaking includes new requirements for protecting existing riparian forest buffers and for establishing new buffers. The rulemaking also proposes mandatory riparian forest buffers for projects permitted under Chapter 102 that contain, or are located along or within, 150 feet of Exceptional Value (EV) rivers, perennial and intermittent streams, or lakes, ponds, or reservoirs. Requirements for buffer conservation, construction and maintenance are included.

Introduction of a permit-by-rule option

The proposed amendments include a new permitting option for low impact, low risk projects that incorporate riparian forest buffers. This permit-by-rule could be used to authorize qualifying projects that require either an NPDES permit or E & S control permit under this chapter. The proposed permit-by-rule balances environmental protection for this Commonwealth with predictability in permitting for the applicant. The permit-by-rule includes eligibility criteria to limit applicability to "low-risk" projects and conditions requiring the use of riparian forest buffers, "low impact design" techniques, more prescriptive plan and implementation requirements, mandatory oversight by a professional engineer, geologist or landscape architect registered in this Commonwealth, and a 30-day review time frame.

E. Public Participation and Outreach

In developing this proposed rulemaking, the Department undertook extensive outreach efforts to meet with stakeholders, including: conservation districts, builders, agriculture, other industry groups, environmental groups, legislators and advisory committees.

Outreach efforts by Department Secretary Hanger and Executive Staff on permit-by-rule and riparian forest buffers included meetings with the following groups during 2008-2009:

- Department of Community and Economic Development
- Governor's Action Team
- Interested legislators
- Pennsylvania Association of Conservation Districts (PACD)
- PA Builder's Association and building industry representatives
- PA Campaign for Clean Water (Coalition of environmental groups including: Chesapeake Bay Foundation, Clean Water Action, Delaware River Keepers, Sierra Club, Trout Unlimited PA Chapter, Penn Future)
- PA Chamber of Business and Industry
- POGAM, IOGA, and oil & gas industry representatives
- State Conservation Commission

Outreach efforts by the Department staff on Chapter 102 revisions, permit-by-rule and buffers included meetings with the following groups during 2007-2009:

- Conservation district directors, managers, and staff
- Department of Conservation & Natural Resources
- PACD
- PA Builders Association
- PA Campaign for Clean Water (Coalition of environmental groups including: Chesapeake Bay Foundation, Clean Water Action, Delaware RiverKeepers, Sierra Club, Trout Unlimited PA Chapter, Penn Future)
- PennAg Industries, PA Farm Bureau and agricultural representatives
- State Conservation Commission
- USDA, NRCS

Advisory Committee Meetings:

- Citizen's Advisory Council:
 - March 17, 2009 (permit-by-rule)
 - April 21, 2009
- Agricultural Advisory Board (AAB) :
 - February 21, 2007 Overview of proposed revisions
 - October 10, 2007 Overview of proposed revisions
 - December 19, 2007 Discussion of proposed draft language for agricultural activities
 - April 15, 2009 Consideration of Proposed Chapter 102 rulemaking
- Water Resources Advisory Committee (WRAC):
 - January 10, 2007 Overview of proposed revisions
 - January 9, 2008 Overview of proposed revisions
 - July 22, 2008 Overview of riparian forest buffers
 - February 25, 2009 Overview of proposed permit-by-rule
 - April 8, 2009 Consideration of Proposed Chapter 102 rulemaking
 - April 23, 2009 Special Meeting—continuation of proposed Chapter 102 Rulemaking
 - April 29, 2009 Second Special Meeting—continuation of proposed Chapter 102 (No quorum of WRAC)

In the proposed rulemaking, the Department has incorporated many revisions suggested by these various groups. The Department acknowledges that the Water Resources Advisory Committee would like the Board to solicit input during the public comment period on the following three issues:

- Scope of the permit-by-rule: Should the proposed rulemaking limit or expand the availability of the proposed permit-by-rule?

The permit by rule is proposed to be used for low risk projects with riparian forest buffers in High Quality and all waters other than Exceptional value. Some of the members recommended that the permit-by-rule be available for all waters (including Exceptional Value); while others recommended that it be available for use in only waters other than special protection.

- Responsibility for long-term PCSM operation and maintenance (O & M): How should the proposal rulemaking address responsibility for long-term operation and maintenance of PCSM BMPs?

Assignment of the long-term O&M responsibility for PCSM has been, and continues to be, a challenging issue for the Department and regulated community. The proposed rulemaking requires the permit applicant to identify a party with long-term responsibility for operation and maintenance of PCSM BMPs, and includes a default provision that obligates either the landowner or permittee to provide that O&M function. Some members of WRAC voiced concern that the Department should be more detailed and prescriptive on how this function will be carried out.

- Mandatory Riparian Forest Buffers: Should the proposed rulemaking include a provision for mandatory riparian forest buffers?

The rulemaking proposes 150-foot riparian forest buffers for permitted activities along Exceptional Value (EV) streams. Some of the members recommended that riparian forest buffers be mandatory for not only EV, but all waters, while others recommended that riparian forest buffers be used voluntarily.

F. Summary of Regulatory Requirements

Several changes are proposed in this regulatory package and are described as follows. The descriptions include a reference to the section or subsection proposed to be changed, the nature of the change and the effect of the change.

§ 102.1. Definitions

Specific amendments include the following:

New definitions: Act 167, Agricultural Operation, Along, Animal heavy use areas, Antidegradation Best Available Combination of Technologies, Forest stewardship plan, Intermittent stream, K Factor, Licensed professional, Nondischarge alternative, Normal pool elevation, Notice of Termination, Oil and gas activities, Perennial stream, Point source, Pollutant, Post construction stormwater, PCSM, PCSM Plan, PPC Plan, Riparian forest buffer, Soil loss tolerance, Stormwater, Surface waters and Top of streambank.

Revised definitions: Agricultural plowing or tilling activity, BMPs, Conservation district, Conservation plan, Diversion, Earth disturbance activity, E & S Permit, E & S Plan Municipality, NPDES, Notice of Intent, NPDES Permit for Stormwater Discharges Associated with Construction Activities, Operator, Person, Project site, and Sediment.

Definitions proposed to be deleted: Dewatering zone, Permanent pool, Principal spillway, and Skim.

§ 102.2. Scope and purpose.

This section is revised to reflect the codification of existing PCSM requirements.

§ 102.4. Erosion and sediment control regulations.

Agricultural Activities

This section incorporates new terms and establishes general requirements for animal heavy use areas. The revisions clarify planning requirements for agricultural activities and soil loss tolerance values or "T," and identify the conservation plan requirements that satisfy the E & S Plan requirements of this Chapter.

Non-agricultural Activities

This section provides clarity by codifying the Department's current policy and guidelines that have been established to meet Federal requirements and to comply with court decisions. Persons proposing or conducting earth disturbance activities shall limit the extent and duration of the earth disturbance; protect existing drainage features and vegetation; minimize soil compaction; utilize measures or controls that prevent or minimize the generation of stormwater; and protect, maintain, reclaim and restore waters of this Commonwealth. Additionally an E & S Plan must be consistent with the PCSM Plan; identify naturally occurring geologic formations, or soil conditions that may have the potential to cause pollution during earth disturbance activities and include BMPs to avoid or minimize potential pollution and its impacts from such formations; utilize Chapter 93 nondischarge and ABACT BMPs in special protection waters, evaluate

the potential for thermal impacts; and identify and protect existing and proposed forest riparian buffers when applicable.

§ 102.5. Permit requirements.

This section adds the federal NPDES “Phase II” permit requirements for earth disturbance activities between 1 and 5 acres with a point source discharge; and incorporates the antidegradation implementation requirements related to NPDES Permits in special protection waters as required by Chapter 93 and *Blue Mtn. Preservation Assn. v. DEP*, 2006 EHB 589. Permitting requirements are included for oil and gas activities to obtain an E&S permit for 5 acres or more of earth disturbance. Additionally, a permit requirement is included for activities involving 5 acres or more of earth disturbance not otherwise specified in this section as requiring permit coverage. Additional requirements have been included for a preconstruction meeting for all permitted activities; a general requirement that a permittee must ensure long term operation and maintenance requirements for PCSM facilities identified in § 102.8; and a provision to clarify that operators who are not the permittee shall be identified as co-permittees. Finally, the Clean Water Act NPDES permit exemption for activities covered by a Clean Water Act § 404 dredge and fill permit is clarified.

§ 102.6. Permit application and fees.

This section introduces the registration requirements for coverage under the permit-by-rule option; clarifies the existing requirement to include a PCSM Plan with a permit application, as well as the existing requirement to create a preparedness, prevention and contingency (PPC) plan when necessary. Fees for E & S permits are updated to meet program expenses. The fees for NPDES Permits for Stormwater Discharges Associated with Construction Activities from Chapter 92 are incorporated and updated. Language is added to clarify the Department’s obligation to review fees at least once every 3 years and to clearly define complete applications and an applicant’s responsibility to provide additional information to the Department within 60 days. Additionally, the ability of conservation districts to charge additional fees pursuant to Conservation District Law is clearly outlined.

§ 102.7. Permit Termination.

This section adds an obligation to identify the person responsible for operation and maintenance of PCSM BMP and PCSM Plans and clarifies the obligation of the permittee to operate and maintain the PCSM BMPS and PCSM Plan until the Notice of Termination is acknowledged.

§ 102.8. PCSM requirements.

This new section is added to codify provisions for PCSM for all activities that require an NPDES permit for stormwater discharges from construction activities or an E & S Permit. The goals for which PCSM Plans should be designed and implemented are outlined. The components of a written PCSM Plan that includes drawings and a narrative portion are also identified. Additional requirements are also established including, the performance criteria for the PCSM BMPs; the need for a licensed professional to certify “record drawings” that ensure the PCSM Plan was implemented properly prior to termination of the permit; and a requirement to ensure there is a long-term operation and maintenance plan and that a responsible party is identified.

§ 102.11. General requirement.

This section has been revised to include additional references.

§ 102.14. Riparian forest buffer requirements.

This section was added to describe requirements associated with the establishment of new riparian forest buffer and the protection of existing buffers along surface waters in this Commonwealth when required under Chapter 102, or which may be required by other Department rules regulations, permits, orders, or other authorizations. General requirements are added to identify a certain size, composition, quality, management, reporting, and permanent protection of riparian forest buffers when utilized to meet regulatory requirements. Finally, this section establishes a mandatory 150 foot riparian forest buffer requirement for projects permitted under Chapter 102 that are located along certain specified Exceptional Value waters.

§ 102.15. Permit-by-rule for low impact projects with riparian forest buffers.

This section provides a new permit-by-rule option in addition to existing individual and general permits. The permit-by-rule includes the following eligibility criteria: discharges to waters other than Exceptional Value; Pennsylvania Natural Heritage Program requirements shall be met; applicants shall satisfy compliance history requirements; lands that are currently contaminated are excluded; and sensitive geologic formations, soils with steep slopes, wetlands and floodplains are excluded.

The permit-by-rule conditions for use, include: a pre-submission meeting; inclusion of a riparian forest buffer (meeting the requirements of § 102.14); limit of 15 acres of disturbance at any one time during development of a project; and the retention of services of a professional engineer, geologist, or landscape architect registered in this Commonwealth to prepare and certify E & S and PCSM Plans, oversee critical stages of construction, and provide “record drawings” upon project completion.

The permit-by-rule option includes a requirement for municipal notification; prescriptive planning requirements for E & S and PCSM; a 30-day review and eligibility verification and determination for coverage; and an obligation for the Department to verify the effectiveness and level of environmental protection that the permit-by-rule provides. Additionally, the permit-by-rule includes further requirements for projects in High Quality waters and waters impaired for stormwater or sediment.

§ 102.22. Site stabilization.

This section is revised to incorporate and to clarify existing requirements for permanent and temporary stabilization.

§ 102.32. Compliance and enforcement provisions.

This section adds a new provision to include an opportunity to request an informal hearing with the Department after action by a conservation district and a new provision for cost recovery by the Department or conservation district.

§ 102.42. Notification of applications of permits.

This section is revised to reference the Federal NPDES “Phase II” permit requirements and to be consistent with the change in § 102.5.

§ 102.43. Withholding permits.

This section clarifies language to include references to local stormwater approvals and authorizations.

F. Benefits, Costs and Compliance

Benefits

The citizens of the Commonwealth, the regulated community, and State and local governments will benefit from the recommended changes in this rulemaking because surface waters will be protected, maintained and improved through requirements that minimize accelerated erosion and sedimentation and strengthen PCSM.

The proposed rulemaking provisions related to E & S control and PCSM will improve water quality and mitigate flooding potential by controlling increases in sediment and other pollutant discharges during and after earth disturbance activities. Controlling the discharges through this rulemaking will limit the risk for increased pollutant levels to waters of this Commonwealth, and protect against adverse impacts on aquatic ecosystems. To ensure protection against adverse impacts from stormwater runoff, the proposed rulemaking includes provisions for long-term operation and maintenance of PCSM facilities. In support of the Federal NPDES Stormwater Construction rulemakings the EPA also cited: benefits to navigation in the reduced sediment loads requiring dredging; benefits to water storage in reservoirs - again as a result of regained capacity from reduced sediment build-up; benefits to drinking water treatment - in terms of reduced costs for treatment for sediment in turbidity; as well as water quality.

The Commonwealth will benefit from increased permit fees that are based in part on the estimated cost of administering the program. Revisions to Chapter 92 in 1999 and Chapter 102 in 2000 included modifications to permit fees, but these were administrative filing fees and did not cover cost of program operations. This proposed rulemaking is the first effort by the Department to cover the Chapter 102 program costs through permit fees.

The regulated community is expected to benefit from these regulatory revisions through the restructuring and clarification of planning and permit application requirements, as well as the codification of the existing PCSM requirements. This rulemaking reflects a continuing commitment to integrate regulatory obligations for stormwater management including requirements under Act 167, the NPDES Municipal Separate Storm Sewer Systems (MS4) program and permitting of earth disturbance activities. Local governments with State Act 167 or NPDES MS4 regulatory obligations may rely on the regulatory structure provided by this proposed rulemaking. This reliance on existing State stormwater programs represents a significant cost savings to local governments.

Finally, these regulatory revisions are beneficial because they continue to support the delegation of the E & S control and stormwater management programs to local county conservation districts. County conservation districts and the Department have had a successful and effective partnership that allows the Commonwealth to meet the Federal requirements of the NPDES program. Additionally, the delegation to the local government provides more accessibility to the community and regulated parties and ensures local involvement in oversight of the program.

Compliance Costs

These regulatory revisions should not result in significant increased compliance costs for persons proposing or conducting earth disturbance activities. Moderate increased costs may be incurred due to: increased permit application fees for activities requiring permits; PCSM Plan licensed professional oversight and preparation of record drawings; and long-term operation and maintenance of PCSM facilities.

Generally, there may be cost savings as a result of eliminating the outdated and unnecessary requirements, while increasing the protection of this Commonwealth's valuable water resources. Additionally, the emphasis in the proposed rulemaking on nonstructural "low-impact" stormwater management approaches should result in lower long-term operation and management costs. The permit-by-rule may provide the regulated community cost savings through a new permitting option that provides a definitive timeframe for review and determination of coverage.

Compliance Assistance Plan

The Department assists the regulated community in complying with these regulations through technical and educational assistance, largely provided in partnership with county conservation districts. These efforts have resulted in local community based initiatives that stimulate awareness and achieve regulatory compliance. Department staff have worked with conservation districts to develop and enhance their professional abilities. The development of compliance strategies that focus on negotiation, total quality management, mediation, and professional development, has greatly enhanced the Department's ability to protect *this* Commonwealth's water resources. County conservation district staff provide an efficient and effective local source of assistance as well as an efficient mechanism for the protection of valuable resources. Evaluations of district performance have shown that district staff can provide a quick response to process, review, and acknowledge permit applications.

By involving various advisory committees in the development of these regulations, and pursuing initiatives with the regulated community and other stakeholders, the Department's outreach efforts have allowed stakeholders to work together with regulators to work towards the goal of protecting water quality and the aquatic environment through E & S control and stormwater management efforts. Involvement of the public and the regulated community in the development of these regulations fosters subsequent compliance with standards and practices developed as a result of these efforts, and are an important form of compliance assistance.

The Department assists the regulated community with compliance by its development of standard checklists, worksheets and permit review letters to aid plan designers in developing sound pollution prevention plans. The Department also assists compliance by assuring that Department and district reviews are timely, effective, and consistent. Finally, the regulations incorporate a performance-based approach, which allows persons conducting earth disturbance broad latitude and flexibility in designing BMPs to achieve compliance.

Paperwork Requirements

The majority of the revisions to this proposed rulemaking are codifications of existing requirements, therefore only minor changes to forms, fact sheets, and technical guidance are anticipated.

G. Pollution Prevention

Chapter 102 prevents sediment and stormwater pollution to surface waters of this Commonwealth from earth disturbance activities through a tiered regulatory framework built upon BMP requirements. The chapter covers both agricultural and nonagricultural earth disturbance activities, with distinct regulatory requirements for these two broad categories. Regardless of the category, all earth disturbance activities must utilize BMPs to minimize accelerated erosion and sedimentation for the duration of earth disturbance activities. Additionally, some earth disturbance activities require preparation of a written E & S Plan. Finally, earth disturbance activities exceeding specified acreage thresholds may trigger the requirement to obtain permit coverage, which in turn includes the obligation to prepare and implement a written PCSM Plan.

The proposed rulemaking will improve protection from earth disturbance activities not only through the inclusion of PCSM requirements, but also through the addition of the riparian forest buffer provisions, which are one of the most effective and sustainable BMPs for protecting, maintaining, reclaiming and restoring surface waters of this Commonwealth.

Effective pollution prevention also requires robust inspection, oversight, and enforcement authority, which are retained and enhanced in this rulemaking. The proposed rulemaking adds requirements such as: mandatory pre-construction meetings; licensed professional documentation requirements; and a program audit provision to verify the environmental protection and effectiveness of the permit-by-rule.

H. Sunset Review

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

I. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking on August 18, 2009, to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted.

Comments, suggestions or objections must be received by the Board by November 30, 2009. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by November 30, 2009. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by November 30, 2009. A subject heading of the proposal and a return name and address must be included in each transmission.

K. Public Meetings and Public Hearings

The Board will hold three public meetings to explain the proposed rulemaking and to respond to questions from meeting participants. In addition to the public meetings, the Board will hold three public hearings for the purpose of accepting comments on the proposed rulemaking. The public meetings and hearings will be held as follows:

- | | |
|--------------------|---|
| September 29, 2009 | Cranberry Township Municipal Building
2525 Rochester Road
Cranberry Township, PA 16066-6499
Public Meeting: 4 p.m.
Public Hearing: 5 p.m. |
| October 1, 2009 | Department of Environmental Protection
Southcentral Regional Office
Susquehanna Room A
909 Elmerton Avenue
Harrisburg, PA 17110
Public Meeting: 4 p.m.
Public Hearing: 5 p.m. |
| October 5, 2009 | Salisbury Township Municipal Building
2900 South Pike Avenue
Allentown, PA 18103
Public Meeting: 4 p.m.
Public Hearing: 5 p.m. |

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board may accommodate their needs.

JOHN HANGER,
Chairperson

Fiscal Note: 7-440. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 102. EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT

GENERAL PROVISIONS

ENFORCEMENT

GENERAL PROVISIONS

§ 102.1. Definitions.

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

ABACT—Antidegradation best available combination of technologies—Treatment, land disposal, pollution prevention and stormwater reuse BMPs that will individually or collectively manage the difference in the net change from preexisting stormwater volume, rate, and quality for storm events up to and including the 2-year/24-hour storm that is not fully managed by nondischarge alternative BMPs and that will maintain and protect the existing quality of the receiving surface water.

* * * * *

Act 167—The Storm Water Management Act (32P. S. §§ 680.1—680.17)

Agricultural operation—The management and use of farming resources for the production of crops, livestock, or poultry, or for equine activity.

Agricultural plowing or tilling activity—

(i) Earth disturbance activity involving the preparation and maintenance of soil for the production of agricultural crops.

(ii) The term includes no-till cropping methods.

Along—Touching or contiguous; to be in contact with; to abut upon.

Animal heavy use area—Barnyard, feedlot, loafing area, exercise lot, or other similar area on an agricultural operation where because of the concentration of animals it is not possible to establish and maintain vegetative cover of a density capable of minimizing accelerated erosion and sedimentation by usual planting methods.

BMPs—Best management practices—Activities, facilities, measures, planning or procedures used to minimize accelerated erosion and sedimentation and manage stormwater to protect, maintain, reclaim, and restore the quality of waters and the existing and designated uses of waters within this Commonwealth before, during, and after earth disturbance activities.

* * * * *

Collector—A channel, dike or other conveyance, constructed downslope of an earth disturbance activity for the purpose of collecting stormwater runoff from [an existing or proposed disturbed] that area and conveying it to facilities for sediment retention or removal.

[County conservation] Conservation district—A conservation district, as defined in section 3(c) of the Conservation District Law (3 P. S. § 851(c)), which has the authority under a delegation agreement executed with the Department to administer and enforce all or a portion of the erosion [and], sediment [control], and stormwater management program in this Commonwealth.

Conservation Plan—A plan that identifies conservation practices and includes site specific BMPs [which minimize the potential for accelerated erosion and sediment from] for agricultural plowing or tilling activities and animal heavy use areas.

[(i) BMPs for agricultural plowing or tilling activities, including soil loss tolerance values (T), are identified in the Pennsylvania Soil and Water Conservation Technical Guide, United States Department of Agriculture, Natural Resources Conservation Service, 1991.

(ii) The Conservation Plan shall include a schedule for the implementation of the BMPs.

Dewatering zone—The zone within a sediment basin where stormwater runoff is held and released in a controlled manner.]

* * * * *

Diversion—A facility, including a channel, [terrace or dike] or a conveyance constructed up-slope of [an earth disturbance activity for the purpose of diverting] the disturbed area to divert clean offsite runoff away from [an existing or proposed disturbed area] the earth disturbance activity.

Earth disturbance activity—A construction or other human activity which disturbs the surface of the land, including [,but not limited to,] land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy use areas, timber harvesting activities, road maintenance activities, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

* * * * *

E & S Permit—Erosion and Sediment Control Permit—A permit required for earth disturbance activities [of 25 acres (10 hectares) or more] where the earth disturbance is associated with timber harvesting [or], road maintenance activities, or oil and gas activities.

E & S Plan—Erosion and Sediment Control Plan—A site-specific plan [identifying] consisting of both drawings and a narrative that identifies BMPs to minimize accelerated erosion and sedimentation before, during and after earth disturbance activities. [For agricultural plowing or tilling activities, the Erosion and Sediment Control Plan is that portion of a conservation plan identifying BMPs to minimize accelerated erosion and sedimentation.]

Forest Stewardship Plan—A written plan that provides an overview of a woodland property in the context of a landowner's needs and objectives and serves as a means of communicating technical information in a concise form that is useful to the landowner.

Intermittent stream—A body of water flowing in a channel or bed composed primarily of substrates associated with flowing water, which, during periods of the year, is below the local water table and obtains its flow from both surface runoff and groundwater discharges.

K factor—The soil erosion factor used for determining the level of potential erosion based upon soil characteristics.

Licensed professional—Professional engineers, landscape architects, geologists and land surveyors licensed to practice in this Commonwealth.

Municipality—[(i)] A county, city, borough, town, township, school district, institution or authority [created by any one or more of the foregoing] or another public body created by or pursuant to state law. [(ii)] For purposes of this definition, town includes an incorporated town.

NOI—Notice of Intent—A request, on a form provided by the Department [or county conservation district], for coverage under a General NPDES Permit for Stormwater Discharges Associated With Construction Activities.

NOT—Notice of Termination—A request, on a form provided by the Department, to terminate coverage under a permit-by-rule, General or Individual NPDES Permit for Stormwater Discharges Associated With Construction Activities or other permits under this chapter.

NPDES—National Pollutant Discharge Elimination System—The National system for the issuance of permits under section 402 of the Federal Clean Water Act (33 U.S.C.A. § 1342) including a state or interstate program which has been approved in whole or in part by the EPA, including the regulations codified in Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance), and as specified in this chapter.

NPDES Permit for Stormwater Discharges Associated With Construction Activities—A permit required for the discharge or potential discharge of stormwater [into waters of this Commonwealth] from construction activities, including clearing and grubbing, grading and excavation activities involving [5]:

(i) Equal to or greater than 1 acre and less than 5 acres (0.4 to 2 hectares) of earth disturbance with a point source discharge to surface waters of this Commonwealth, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves equal to or greater than 1 acre to less than 5 acres (0.4 to 2 hectares) of earth disturbance with a point source discharge to surface waters of this Commonwealth over the life of the project.

(ii) Five acres (2 hectares) or more of earth disturbance, or an earth disturbance on any portion, part or during any stage of, a larger common plan of development or sale that involves 5 acres (2 hectares) or more of earth disturbance over the life of the project.

Nondischarge alternative—Environmentally sound and cost-effective BMPs that individually or collectively eliminate the net change from preexisting stormwater volume, rate and quality for storm events up to and including the 2-year/24-hour storm.

Normal pool elevation—

(i) For bodies of water which have no structural measures to regulate height of water, the height of water at ordinary stages of low water unaffected by drought.

(ii) For structurally regulated bodies of water, the elevation of the spillway, outlet control, or dam crest which maintains the body of water at a specified height.

(iii) The term does not apply to wetlands.

Oil and gas activities—Earth disturbance associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities.

Operator—A person who has one or more of the following:

(i) Oversight responsibility of earth disturbance activity on a project site or a portion thereof [which] who has the ability to make modifications to the [Erosion and Sediment Control] E & S Plan, PCSM Plan or site specifications.

(ii) Day-to-day operational control over earth disturbance activity on a project site or a portion thereof to ensure compliance with the [Erosion and Sediment Control] E & S Plan or PCSM Plan.

Perennial stream—A body of water flowing in a channel or bed composed primarily of substrates associated with flowing waters and capable, in the absence of pollution or other manmade stream disturbances, of supporting a benthic macroinvertebrate community which is composed of two or more recognizable taxonomic groups of organisms which are large enough to be seen by the unaided eye and can be retained by a United States Standard No. 30 sieve (28 meshes per inch, 0.595 mm openings) and live at least part of their life cycles within or upon available substrates in a body of water or water transport system.

* * * * *

Person—[An] Any operator, [natural person, partnership, association or corporation or an agency, instrumentality or entity of Federal or State government, including a municipality] individual, public or private corporation, partnership, association, municipality or political subdivision of this Commonwealth, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; Department, agency or instrumentality of State, Federal or local government, or an agent or employee thereof; or any other legal entity.

* * * * *

[**Permanent pool**—The area within a sediment basin which is designed to be inundated with water at all times.

Principal spillway—The structure within a sediment basin which controls the discharge of water from the facility.]

Point source—

(i) Any discernible, confined and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, land-fill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged.

(ii) The term includes concentrated or channelized flow associated with stormwater.

(iii) The term does not include sheet flow associated with stormwater.

Pollutant—Any contaminant or other alteration of the physical, chemical, biological or radiological integrity of surface water which causes or has the potential to cause pollution as defined in section 1 of The Clean Streams Law (35 P. S. § 691.1).

Post construction stormwater—Stormwater associated with a project site after the earth disturbance activity has been completed and the project site is permanently stabilized.

PCSM—Postconstruction stormwater management.

PCSM Plan—A site-specific plan identifying BMPs to manage changes in stormwater runoff volume, rate and water quality after earth disturbance activities have ended and the project site is permanently stabilized.

PPC Plan—Preparedness, Prevention and Contingency Plan—A written plan that identifies an emergency response program, material and waste inventory, spill and leak prevention and response, inspection program, housekeeping program, security and external factors, developed and implemented at the construction site to control potential discharges of pollutants other than sediment into waters of this Commonwealth.

Project site—The entire area of activity, development, lease, or sale including:

* * * * *

ROC—Registration of coverage for the permit-by-rule

Riparian forest buffer—A BMP that is an area of permanent vegetation consisting of predominantly native trees, shrubs and forbs along surface waters that is maintained in a natural state or sustainably managed to protect and enhance water quality, stabilize stream channels and banks, and buffer land use activities from surface waters.

* * * * *

Sediment—Soils or other erodible materials transported by surface water as a product of erosion.

* * * * *

[**Skim**—To remove the uppermost portion of water within a sediment basin.]

Soil loss tolerance (T)—The maximum amount of soil loss, in tons/acre/year, that a given soil type can tolerate and still permit a high level of crop production to be sustained economically and indefinitely. Values for T for various soil types may be obtained from the *Pennsylvania Soil and Water*

Conservation Technical Guide, USDA NRCS, 1991 (as amended and updated).

Stabilization—The proper placing, grading, constructing, reinforcing, lining, and covering of soil, rock or earth to [insure] ensure their resistance to erosion, sliding or other movement.

Stormwater—Runoff from precipitation, snowmelt, and surface runoff and drainage.

Surface waters—Perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds, and constructed wetlands used as part of a wastewater treatment process.

* * * * *

Top of streambank—First substantial break in slope between the edge of the bed of the stream and the surrounding terrain. The top of streambank can either be a natural or constructed (that is, road or railroad grade) feature, lying generally parallel to the watercourse.

* * * * *

§ 102.2. Scope and purpose.

(a) This chapter requires persons proposing or conducting earth disturbance activities to develop, implement and maintain BMPs to minimize the potential for accelerated erosion and sedimentation and to manage post construction stormwater.

* * * * *

§ 102.4. Erosion and sediment control requirements.

(a) For agricultural plowing or tilling activities or for animal heavy use areas, the following erosion and sediment control requirements apply:

* * * * *

(2) Written [**Erosion and Sediment Control**] E & S Plans are required for agricultural plowing or tilling activities or for animal heavy use areas that disturb 5,000 square feet (464.5 square meters) or more of land.

(3) The landowner, and any lessee, renter, tenant or other land occupier, conducting or planning to conduct agricultural plowing or tilling activities, or operating an animal heavy use area, are jointly and individually responsible for developing a written [**Erosion and Sediment Control**] E & S Plan and implementing and maintaining BMPs, including those identified in the [**Erosion and Sediment Control**] E & S Plan.

(4) The [**Erosion and Sediment Control**] E & S Plan [shall be] must include cost-effective and reasonable BMPs designed to minimize the potential for accelerated erosion and sedimentation from agricultural plowing or tilling activities and animal heavy use areas.

(i) For agricultural plowing or tilling activities, the E & S Plan must, at a minimum, limit soil loss from accelerated erosion to the soil loss tolerance (T) over the planned crop rotation.

(ii) For agricultural plowing and tilling activities that will occur on fields with less than 25% cover and within 100 feet of a river, or perennial or intermittent stream, additional BMPs shall be implemented to minimize accelerated erosion and sedimentation.

(iii) For animal heavy use areas, the E & S Plan must identify BMPs to minimize accelerated erosion and sedimentation. BMPs and their design standards are listed in the current amended and updated version of the appropriate National Resources conservation Service conservation practice standards such as Heavy Use Area Protection, Critical Area Planting, Fencing, Wastewater Treatment Strip, Constructed Wetland, Use Exclusion, Animal Trails and Walkways, Diversions, and Roof Runoff Structure.

(5) The [Erosion and Sediment Control] E & S Plan [shall] must contain plan maps [, soils maps,] that show the location of features including surface waters [of this Commonwealth,] and drainage patterns, field and property boundaries, buildings and farm structures, animal heavy use areas, roads and crossroads, and BMPs; soils maps; and a description of BMPs including animal heavy use area practices and procedures, tillage systems, schedules, and crop rotations[, and cost effective and technically practical conservation measures]. The plan must be consistent with the current conditions and activities on the agricultural operation.

(6) The E & S Plan must contain an implementation schedule. The plan shall be implemented according to the schedule, and the BMPs shall be operated and maintained as long as there are agricultural plowing or tilling activities or animal heavy use areas, on the agricultural operation.

(7) The portion of a conservation plan that identifies BMPs to minimize accelerated erosion and sedimentation from agricultural plowing or tilling activities, or from operation of animal heavy use areas, may be used to satisfy the E & S Plan requirements of this subsection if it meets the requirements of paragraphs (4)—(6).

(8) The [Erosion and Sediment Control] E & S Plan shall be available for review and inspection at the [project site during each stage of the agricultural plowing or tilling activity] agricultural operation.

(9) Nothing in this section negates the requirements under other provisions of this chapter, such as those applicable to construction activities.

(b) For earth disturbance activities other than agricultural plowing or tilling or animal heavy use areas, the following erosion and sediment control requirements apply:

(1) The implementation and maintenance of [erosion and sediment control] E & S BMPs are required to minimize the potential for accelerated erosion and sedimentation, including for those activities which disturb less than 5,000 square feet (464.5 square meters).

(2) A person proposing earth disturbance activities shall develop and implement a written [Erosion and Sediment Control] E & S Plan under this chapter if one or more of the following criteria apply:

* * * * *

(ii) The person proposing the earth disturbance activities is required to develop an [Erosion and Sediment Control] E & S Plan under to this chapter under Department regulations other than those contained in this chapter.

* * * * *

(3) The [Erosion and Sediment Control] E & S Plan shall be prepared by a person trained and experienced in [erosion and sediment] E & S control methods and techniques [, and shall be designed to minimize the potential for accelerated erosion and sedimentation].

(4) [Earth disturbance activities shall be planned and conducted to minimize the extent and duration of the disturbance.] Unless otherwise authorized by the Department or conservation district after consultation with the Department, earth disturbance activities shall be planned and implemented to the extent practicable in accordance with the following:

(i) Minimize the extent and duration of the earth disturbance.

(ii) Maximize protection of existing drainage features and vegetation.

(iii) Minimize soil compaction.

(iv) Utilize other measures or controls that prevent or minimize the generation of increased stormwater runoff.

(v) Protect, maintain, reclaim and restore the quality of water and the existing and designated uses of waters within this Commonwealth.

(5) The [Erosion and Sediment Control] E & S Plan [shall] must contain drawings and narrative which describe the following:

* * * * *

(iv) The [amount] volume and rate of runoff from the project [area] site and its upstream watershed area.

(v) The location of all surface waters [of this Commonwealth] which may receive runoff within or from the project site and their classification under to Chapter 93.

(vi) A [written depiction] narrative description of the location and type of perimeter and onsite BMPs used before, during and after the earth disturbance activity.

(vii) A sequence of BMP installation and removal in relation to the scheduling of earth disturbance activities, prior to, during and after earth disturbance activities that ensure the proper functioning of all BMPs.

(viii) Supporting calculations and measurements.

* * * * *

(x) A maintenance program which provides for the operation and maintenance of BMPs and the inspection of BMPs on a weekly basis and after each [measurable rainfall] stormwater event, including the repair of the BMPs to ensure effective and efficient operation. The program must provide for completion of a written report documenting each inspection and all BMP repair and maintenance activities.

* * * * *

(xii) Identify naturally occurring geologic formations or soil conditions that may have the potential to cause pollution during earth disturbance activities and include BMPs to avoid or minimize potential pollution and its impacts from the formations.

(xiii) Evaluate the potential for thermal impacts to surface waters from the earth disturbance activity and include BMPs to avoid, minimize or mitigate potential pollution from thermal impacts.

(xiv) The E & S Plan shall be planned, designed and implemented to be consistent with the PCSM Plan under § 102.8 (relating to PCSM requirements). Unless otherwise approved by the Department, the E & S Plan must be separate from the PCSM Plan and labeled "E & S" or "Erosion and Sediment Control Plan" and be the final plan for construction.

(xv) Identify existing and proposed riparian forest buffers.

(6) Where an earth disturbance activity may result in a discharge to a water of this Commonwealth classified as High Quality or Exceptional Value under Chapter 93, the person proposing the activity shall, as applicable, use [the following Special Protection] nondischarge alternatives and ABACT BMPs to maintain and protect the water from degradation[:]. Nondischarge alternatives and ABACT BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual*, Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-2134-008 (April 2000), as amended and updated.

[(i) Special sediment basin requirements.

(A) Principal spillways shall be designed to skim water from the top 6 inches (15 centimeters) of the dewatering zone, or shall have permanent pools greater than or equal to 18 inches (46 centimeters) deep.

(B) The basin shall be designed with a flow length to basin width ratio of 4:1 or greater.

(C) The basin shall be designed so that it dewateres in at least 4 days and no more than 7 days when at full capacity.

(ii) Channels, collectors and diversions shall be lined with permanent vegetation, rock, geotextile or other nonerosive materials.

(iii) BMPs that divert or carry surface water shall be designed to have a minimum capacity to convey the peak discharge from a 5-year frequency storm.

(iv) Upon completion or temporary cessation of the earth disturbance activity, or any stage thereof, the project site shall be immediately stabilized.

(v)] The Department [or county conservation district] may approve alternative BMPs which will maintain and protect existing water quality and existing and designated uses.

(7) The [Erosion and Sediment Control] E & S Plan, inspection reports and monitoring records shall be available for review and inspection by the Department or the [county] conservation district at the project site during all stages of the earth disturbance activity.

(8) Upon complaint or site inspection, the Department or [county] conservation district may require that the E & S Plan be submitted for review and approval to ensure compliance with this chapter.

(c) The Department may require, or [county] the conservation district [may require] after consultation with the Department may require, other information necessary to adequately review a plan, or may require additional BMPs, on a case-by-case basis, when necessary to ensure the maintenance and protection of water quality and existing and designated uses.

(d) A person proposing or conducting an earth disturbance activity shall obtain the other necessary permits and authorizations from the Department or conservation district, related to the earth disturbance activity, before commencing with the earth disturbance activity.

(e) Persons proposing an earth disturbance activity that requires permit coverage under § 102.5 (relating to requirements) shall have permit coverage prior to commencing the earth disturbance activity.

§ 102.5. Permit requirements.

(a) *An NPDES permit stormwater discharges associated with construction activities.*

(1) Other than agricultural plowing or tilling activities, animal heavy use areas, timber harvesting activities or road maintenance activities, a person proposing an earth disturbance activity that involves equal to or greater than 1 acre and less than 5 acres (0.4 to 2 hectares) of earth disturbance with a point source discharge to surface waters, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development sale that involves equal to or greater than 1 acre and less than 5 acres (0.4 to 2 hectares) of earth disturbance with a point source discharge to surface waters over the life of the project, shall obtain an individual NPDES Permit or coverage under a general NPDES permit or NPDES permit-by-rule for Stormwater Discharges Associated with Construction Activities prior to commencing the earth disturbance activity.

(2) Other than agricultural plowing or tilling activities, animal heavy use areas, timber harvesting activities or road maintenance activities, a person proposing an earth disturbance activity that involves 5 acres (2 hectares) or more of earth disturbance, or an earth disturbance on any portion, part, or during any stage of, a larger common plan of development or sale that involves 5 acres (2 hectares) or more of earth disturbance over the life of the project, shall obtain [a general or] an individual NPDES Permit for Stormwater Discharges Associated With Construction Activities or coverage

under a general NPDES permit or NPDES permit-by-rule for Stormwater Discharges Associated with Construction Activities prior to commencing the earth disturbance activity.

(3) In addition to other applicable requirements, persons required to obtain an Individual NPDES Permit for Stormwater Discharges Associated with Construction Activities for projects proposed in special protection watersheds shall evaluate and use BMPs in accordance with the antidegradation requirements of Chapter 93 (relating to water quality standards) regardless of whether the discharge is new, additional or increased.

(b) A person proposing a timber harvesting or road maintenance activity involving 25 acres (10 hectares) or more of earth disturbance shall obtain an [**Erosion and Sediment Control Permit**] E & S Permit under this chapter prior to commencing the earth disturbance activity.

(c) A person proposing oil and gas activities that involve 5 acres (2 hectares) or more of earth disturbance over the life of the project shall obtain an E & S Permit under this chapter prior to commencing the earth disturbance activity.

(d) Other than agricultural plowing or tilling activities, animal heavy use areas, timber harvesting or road maintenance activities, a person proposing earth disturbance activities that involve 5 acres (2 hectares) or more of earth disturbance over the life of the project that do not require a permit under subsections (a), (b), (c), (g) and (i) shall obtain an E & S Permit under this chapter prior to commencing the earth disturbance activity.

(e) For earth disturbance activities authorized by a permit under this chapter, a preconstruction meeting is required unless the permittee has been notified otherwise in writing by the Department or conservation district. The permittee shall contact the Department or conservation district at least 7 days but not more than 30 days prior to the commencement of construction. Permittees, co-permittees, operators, and licensed professionals or designees responsible for critical stages of construction must attend a preconstruction meeting along with the Department or conservation district.

(f) A person proposing earth disturbance activities requiring a permit or permit coverage under this chapter shall be responsible to ensure implementation and long-term operation and maintenance of the PCSM Plan.

(g) A person proposing or conducting an earth disturbance activity approved under a Department permit issued under a chapter other than Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) or this chapter, which includes requirements to comply with Chapter 92 and this chapter, need not obtain an additional [**Erosion and Sediment Control**] E & S Permit or NPDES Permit for Stormwater Discharges Associated With Construction Activities.

(h) Operators who are not the permittee shall be co-permittees.

(i) A person proposing or conducting an earth disturbance activity associated with discharging dredged or fill material to waters of the United

States which is required to obtain a permit or coverage under a permit under section 404 of the Clean Water Act (33 U.S.C.A. § 1344) need not obtain an additional E & S Permit or NPDES Permit for Stormwater Discharges Associated with Construction Activities for the area of disturbance covered by the Clean Water Act section 404 permit.

[(d)](j) A person proposing or conducting agricultural plowing or tilling activities or animal heavy use areas is not required to obtain an [**Erosion and Sediment Control**] E & S Permit, or an NPDES Permit for Stormwater Discharges Associated With Construction Activities, for these activities under this chapter.

[(e)](k) A person proposing or conducting an earth disturbance activity who is not required to obtain a Permit under this chapter shall comply with the other provisions of this chapter.

§ 102.6. Permit applications and fees.

(a) *Permit requirements.* A person proposing or conducting an earth disturbance activity which requires [**an Erosion and Sediment Control Permit or an NPDES Permit for Stormwater Discharges Associated with Construction Activities**] a permit under § 102.5 (relating to permit requirements), shall:

(1) Submit to the Department or a [**county**] conservation district a complete application, [**or notice of intent**], or ROC, an [**Erosion and Sediment Control**] E & S Plan meeting the requirements of § 102.4 (relating to erosion and sediment control requirements), a PCSM Plan meeting the requirements of § 102.8 (relating to PCSM requirements), and other information the Department may require.

(2) Provide proof of consultation with the Pennsylvania Natural [**Diversity Inventory (PNDI)**] **Heritage Program (PNHP)** regarding the presence of a State or Federal threatened or endangered species on the project site. If the Department or [**county**] conservation district determines, based upon [**PNDI**] **PNHP** data or other sources, that the proposed earth disturbance activity may adversely impact the species or critical habitat, the person proposing the earth disturbance activity shall consult with the Department or [**county**] conservation district to avoid or prevent the impact. If the impact cannot be avoided or prevented, the person proposing the activity shall demonstrate how the impacts will be minimized in accordance with State and Federal laws pertaining to the protection of threatened or endangered flora and fauna and its habitat.

(3) **Prepare and implement a PPC Plan when storing, using or transporting materials including: fuels, chemicals, solvents, pesticides, fertilizers, lime, petrochemicals, wastewater, wash water, core drilling wastewater, cement, sanitary wastes, solid wastes, or hazardous materials onto, on, or from the project site during earth disturbance activities. The PPC Plan shall be available upon request by the Department or conservation district.**

(b) *Permit fees.*

(1) [**Erosion and Sediment Control Permit applications for timber harvesting and road maintenance activities shall be accompanied by an application fee of \$500.**

(2) Applications and Notices of Intent for an NPDES Permit for Stormwater Discharges Associated with Construction Activities shall be submitted and accompanied by the fee established pursuant to Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance).]

A person submitting a permit application, NOI or ROC shall submit a fee as follows:

- (i) NPDES permit-by-rule—\$2,500.
- (ii) General NPDES Permit—\$2,500.
- (iii) Individual NPDES Permit—\$5,000.
- (iv) General E & S Permit—\$2,500.
- (v) Individual E & S Permit—\$5,000.

(2) The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and contain recommendations to adjust fees to eliminate the disparity, including recommendations for regulatory amendments.

(3) Conservation districts may charge additional fees in accordance with section 9(13) of the Conservation District Law (3 P. S. § 857(13)).

(c) Complete applications or NOI.

(1) An application or NOI for a permit is not complete until the necessary information and requirements under The Clean Streams Law (35 P. S. § 691.1—691.1001) and this chapter have been satisfied by the applicant.

(2) When the Department determines that an application or NOI is incomplete or contains insufficient information to determine compliance with this chapter, it will notify the applicant in writing. The applicant shall have 60 days to complete the application or NOI, or the Department will consider the application to be withdrawn by the applicant. Requests for a specific extension may be sought by the applicant in writing. The applicant will be notified in writing when an application or NOI is considered withdrawn. When an application or NOI is considered withdrawn, the Department will close the application file and take no further action to review the file.

(3) If the incomplete or deficient application is returned or withdrawn, the fees associated with filing the application will not be refunded.

§ 102.7. Permit termination.

(a) Upon permanent stabilization of the earth disturbance activity under § 102.22[(c)](a)(2) (relating to permanent stabilization), the person who obtains permit coverage under this chapter shall submit a notice of termination to the Department or [county] conservation district.

(b) The notice of termination [shall] must include:
* * * * *

(5) An identification of the persons who will be responsible for operation and maintenance of the PCSM BMPs in accordance with the approved PCSM Plan.

(c) Until the permittee has received written acknowledgement an NOT, the permittee will remain responsible for compliance with the permit terms and conditions including operation and maintenance of all PCSM BMPs on the project site and is responsible for violations occurring on the project site.

§ 102.8. PCSM requirements.

(a) A person proposing an earth disturbance activity that requires NPDES permit coverage under this chapter or other Department permit that requires compliance with this chapter shall be responsible to ensure that a written PCSM Plan is developed, implemented, operated and maintained.

(b) The management of post construction stormwater shall be planned and conducted to the extent practicable in accordance with the following:

- (1) Preserve the integrity of stream channels and protect the physical, biological and chemical qualities of the receiving stream.
- (2) Prevent an increase in the rate of stormwater runoff.
- (3) Minimize any increase in stormwater runoff volume.
- (4) Minimize impervious areas.
- (5) Maximize the protection of existing drainage features and existing vegetation.
- (6) Minimize land clearing and grading.
- (7) Minimize soil compaction.
- (8) Utilize other measures or controls that prevent or minimize the generation of increased stormwater runoff and pollutants.
- (9) Protect, maintain, reclaim and restore the quality of water and the existing and designated uses of waters within this Commonwealth.

(c) The PCSM Plan shall be planned, designed and implemented to be consistent with the E & S Plan under § 102.4(b) (relating to erosion and sediment and control requirements).

(d) Unless otherwise approved by the Department, the PCSM Plan must be separate from the E & S Plan and labeled “PCSM” or “Post Construction Stormwater Management Plan” and be the final plan for construction.

(e) The PCSM Plan shall be prepared by a person trained and experienced in PCSM design methods and techniques.

(f) The PCSM Plan must contain drawings and narrative requirements as described within this chapter and other supporting documentation. The PCSM Plan shall be designed to minimize the threat to human health, safety and the environment to the greatest extent practicable. PCSM Plans must contain at a minimum the following:

- (1) The existing topographic features of the project site and the immediate surrounding area.
- (2) The types, depth, slope, locations and limitations of the soils and geologic formations.
- (3) The characteristics of the project site, including the past, present and proposed land uses and the proposed alteration to the project site.

(4) Identification of the net change in volume and rate of stormwater from preconstruction hydrology to post construction hydrology for the entire project site and each drainage area.

(5) Identification of the location of surface waters, which may receive runoff within or from the project site and their classification under Chapter 93 (relating to water quality standards).

(6) A written description of the location and type of PCSM BMPs including construction details for permanent stormwater BMPs including permanent stabilization specifications and locations.

(7) A sequence of PCSM BMP implementation or installation in relation to earth disturbance activities of the project site and a schedule of inspections for critical stages of PCSM BMP installation.

(8) Supporting calculations.

(9) Plan drawings.

(10) A long-term operation and maintenance schedule, which provides for inspection of PCSM BMPs, including the repair, replacement, or other routine maintenance of the PCSM BMPs to ensure effective and efficient operation. The program must provide for completion of a written report documenting each inspection and all BMP repair and maintenance activities and how access to the PCSM BMPs will be provided.

(11) Identification of the persons responsible for long-term operation and maintenance of the PCSM BMPs.

(12) Procedures, which ensure that the proper measures for the recycling or disposal of materials associated with or from the PCSM BMPs, are in accordance with Department laws, regulations and requirements.

(13) Identification of naturally occurring geologic formations or soil conditions that may have the potential to cause pollution after earth disturbance activities are completed and PCSM BMPs are operational, and development of a management plan to avoid or minimize potential pollution and its impacts.

(14) An evaluation of potential thermal impacts from post construction stormwater to surface waters and inclusion BMPs to avoid, minimize or mitigate potential pollution from thermal impacts.

(15) A Riparian Forest Buffer Management Plan when required under § 102.14 (relating to riparian forest buffer requirements).

(16) Additional information requested by the Department.

(g) PCSM Plans for proposed activities requiring a permit under this chapter require the following additional information:

(1) Analytical testing and assessment of soil, geology, and other predevelopment site characteristics including infiltration and geotechnical studies that identify location and depths of test sites and methods used.

(2) Analysis demonstrating that the PCSM BMPs will meet the volume reduction and water quality requirements specified in an applicable Department approved and current Act 167 stormwater management watershed plan; or manage the net

change for storms up to and including the 2-year/24-hour storm event when compared to preconstruction runoff volume and water quality. The analysis for the 2-year/24-hour storm event shall be conducted using the following minimum criteria:

(i) Existing predevelopment nonforested pervious areas must be considered meadow in good condition or its equivalent.

(ii) When the existing project site contains impervious area, 20% of the existing impervious area to be disturbed must be considered meadow in good condition or better, except for repair, reconstruction, or restoration of roadways or utility infrastructure when the site will be returned to existing condition.

(3) Analysis demonstrating that the PCSM BMPs will meet the rate requirements specified in an applicable Department approved and current Act 167 stormwater management watershed plan; or manage the net change in peak rate for the 2-, 5-, 10-, 25-, 50-, and 100-year/24-hour storm events in a manner not to exceed preconstruction rates.

(i) Hydrologic routing analysis is required to demonstrate this requirement is met.

(ii) Exempt from this requirement are Department approved direct discharges to tidal areas or Department-approved no detention areas.

(4) Identify the methodologies for calculating the total runoff volume and peak rate of runoff and provide supporting documentation and calculations.

(5) Construction techniques or special considerations to address soil and geologic limitations.

(6) The Department may require, or after consultation with the Department a conservation district may require, additional information necessary to adequately review a PCSM Plan or may require additional BMPs, on a case-by-case basis, when necessary to ensure the maintenance and protection of water quality and existing and designated uses.

(h) When a PCSM Plan is being developed for an activity that may result in a discharge to a water of this Commonwealth classified as High Quality or Exceptional Value under Chapter 93, the person proposing the activity shall use nondischarge and ABACT BMPs to maintain and protect the water from degradation. Specifically, the person proposing the activity shall use PCSM BMPs that collectively achieve no net change when compared to preconstruction discharges, in stormwater runoff volume, rate and water quality during storm events up to and including the 2-year/24-hour storm event. Nondischarge alternatives and ABACT BMPs and their design standards are listed in the *Pennsylvania Stormwater Best Management Practices Manual* Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-0300-002 (December 2006), as amended and updated.

(i) Upon complaint or site inspection, the Department or conservation district may require that the PCSM Plan be submitted for review and approval to ensure compliance with this chapter.

(j) The PCSM Plan, inspection reports and monitoring records shall be available for review and inspection by the Department or the conservation district.

(k) A licensed professional or a designee shall be present onsite and be responsible during critical stages of implementation of the approved PCSM Plan including underground treatment or storage BMPs, structurally engineered BMPs, or other BMPs as deemed appropriate by the Department.

(l) The permittee shall include with the notice of termination "Record Drawings" with a final certification statement from a licensed professional, which reads as follows:

"I (name) do hereby certify pursuant to the penalties of 18 Pa.C.S.A. § 4904 to the best of my knowledge, information and belief, that the accompanying record drawings accurately reflect the redline drawings, are true and correct, and are in conformance with Chapter 102 of the rules and regulations of the Department of Environment Protection and that the project site was constructed in accordance with the approved PCSM Plan and accepted construction practices."

(1) The permittee shall retain a copy of the record drawings as a part of the approved PCSM Plan.

(2) The permittee shall provide a copy of the record drawings as a part of the approved PCSM Plan to the person identified in this section as being responsible for the operation and maintenance of the PCSM BMPs.

(m) Unless a different person is approved in writing by the Department, operation and maintenance of PCSM BMPs shall be the responsibility of the landowner of the property where the PCSM BMP is located. The deed for any property containing a PCSM BMP shall identify the PCSM BMP and provide notice that the responsibility for operation and maintenance of the PCSM BMP is a covenant that runs with the land and that is enforceable by subsequent grantees. A grantor that fails to comply with this requirement shall remain jointly responsible with the landowner for operation and maintenance of the PCSM BMPs located on the property.

(n) The portion of a site reclamation or restoration plan that identifies PCSM BMPs to manage stormwater from oil and gas activities or mining activities permitted in accordance with Chapters 77 and 86—90, or a plan for abandoned mine land reclamation activities may be used to satisfy the PCSM Plan requirements of this section if the reclamation plan meets the requirements of subsections (b), (c), (e), (f), (h), (i) and (m).

EROSION AND SEDIMENT CONTROL AND POST CONSTRUCTION STORMWATER MANAGEMENT BMPs

§ 102.11. General requirements.

(a) A person conducting or proposing to conduct an earth disturbance activity shall [**design**]:

(1) **Design**, implement and maintain E & S BMPs to minimize the potential for accelerated erosion and sedimentation [**in order**] to protect, maintain, reclaim and restore water quality and existing and designated uses. Various E & S BMPs and their design standards are listed in the *Erosion and Sediment Pollution Control Program Manual* (Manual), Commonwealth of Pennsylvania,

Department of Environmental Protection, No. 363-2134-008 [(January 1996)] (April 2000), as amended and updated.

(2) If required to develop a PCSM Plan, design, implement and maintain PCSM BMPs to mimic preconstruction stormwater runoff conditions to protect, maintain, reclaim and restore water quality and existing and designated uses. Various PCSM BMPs and their design standards are listed in the *Pennsylvania Stormwater Best Management Practices Manual* (Stormwater BMP Manual), Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-0300-002 (December 2006), as amended and updated.

(3) If required to develop a riparian forest buffer, design, implement and maintain the buffer in accordance with § 102.14 (relating to riparian forest buffer requirements). Various design, construction, and maintenance standards are listed in the *Riparian Forest Buffer Guidance*, (Buffer Guidance), Commonwealth of Pennsylvania, Department of Environmental Protection, No. 395-5600-001 (2009), as amended and updated.

(b) BMPs and design standards other than those listed in the [**Manual**] **Manuals or Buffer Guidance** may be used when a person conducting or proposing to conduct an earth disturbance activity demonstrates to the Department [**or a county conservation district**] that the alternate BMP or design standard minimizes accelerated erosion and sedimentation **or manages stormwater during and after the completion of earth disturbance activities** to achieve the regulatory standards in subsection (a).

§ 102.14 Riparian forest buffer requirements.

(a) *General requirements.*

(1) *Riparian forest buffer.* Persons proposing or conducting earth disturbance activities shall incorporate a riparian forest buffer within the boundaries of the project site in accordance with this section if one of the following apply:

(i) The activity requires a permit under this chapter, is located within an Exceptional Value watershed, and the project site contains, is along or within, 150 feet of a river, stream, creek, lake, pond or reservoir.

(ii) The activity is authorized utilizing the permit-by-rule under this chapter.

(2) *Other approvals that include buffer.* A riparian forest buffer may be required to be incorporated within the boundaries of a project site in accordance with this section by other rules, regulations, order, permit or other approval of the Department.

(3) *Discharges into the buffer.* Concentrated flow and accelerated erosion and sedimentation shall be managed in the area upgrade and along the riparian forest buffer in accordance with §§ 102.4(b)—(e) and § 102.8 (relating to erosion and sediment control requirements; and PCSM requirements).

(4) *Existing buffer composition.* An existing riparian forest buffer must: meet the requirements of subsection (d); consist predominantly of native trees and shrubs that provide at least 60% uniform canopy cover;

noxious weeds and invasive species must be removed or controlled to the extent possible.

(5) *Existing site enhancement.* Existing sites that consist of predominantly native woody vegetation that do not meet all of the criteria in paragraph (3) shall be enhanced or widened, or both, by additional plantings in open spaces around existing native trees and shrubs to establish a riparian forest buffer. Noxious weeds and invasive species shall be removed or controlled to the extent possible.

(6) *Buffer establishment.* On sites with no native woody vegetation, a riparian forest buffer shall be established in accordance with this chapter.

(7) *Wetlands and buffers.* Wetlands located in the riparian forest buffer shall be protected and maintained consistent with Chapter 105 (relating to dam safety and waterway management).

(8) *Plan submission.* The applicant shall prepare and submit a plan for riparian forest buffer management to the Department or conservation district as part of the PCSM Plan. The riparian forest buffer management plan must describe how the management requirements of this section will be met.

(b) *Composition.*

(1) *Buffer zones.* At a minimum, newly established riparian forest buffers must be composed of two distinct zones, Zones 1 and 2 (See paragraph (2) regarding zones). Concentrated flow and accelerated erosion and sedimentation shall be managed in the area upgrade and along the riparian forest buffer in accordance with this subsection and subsections (c)—(e) and § 102.8.

(2) *Zones.*

(i) *Zone 1.* Undisturbed forest (trees) must begin at the top of the streambank or normal pool elevation of a lake, pond or reservoir and occupy a strip of land measured horizontally on a line perpendicular from the top of streambank or normal pool elevation of a lake, pond or reservoir. Predominant vegetation must be composed of a variety of native riparian tree species.

(ii) *Zone 2.* Managed forest (trees and shrubs) must begin at the landward edge of Zone 1 and occupy an additional strip of land measured horizontally on a line perpendicular from the top of streambank or normal pool elevation of a lake, pond or reservoir. Predominant vegetation must be composed of a variety of native riparian tree and shrub species.

(c) *Measurements.* Riparian forest buffers must be measured horizontally with no more than a 10% variation below the minimum width from the normal pool elevation for lake, pond or reservoir and from top of streambank or top of slope for streams.

(d) *Average minimum widths.*

(1) *All waters.* One hundred feet (50 feet Zone 1 and 50 feet Zone 2 for newly established riparian forest buffers) along all rivers, perennial or intermittent streams (both sides), lakes, ponds or reservoirs. Concentrated flow and accelerated erosion and sedimentation shall be managed in the area upgrade and along the riparian forest buffer in accordance with §§ 102.4(b)—(e) and § 102.8.

(2) *Impaired waters.* One hundred fifty feet (75 feet Zone 1 and 75 feet Zone 2 on newly established riparian forest buffers) along all rivers, perennial or intermittent streams (both sides), lakes, ponds or reservoirs. Concentrated flow and accelerated erosion and sedimentation shall be managed in the area upgrade and along the riparian forest buffer in accordance with §§ 102.4(b)—(e) and 102.8.

(3) *Special protection waters.* One hundred fifty feet (75 feet Zone 1 and 75 feet Zone 2 on newly established riparian forest buffers) in special protection waters (High Quality and Exceptional Value designations) on all rivers, perennial or intermittent streams (both sides), and the shoreline of lakes and ponds. Concentrated flow and accelerated erosion and sedimentation shall be managed in the area upgrade and along the riparian forest buffer in accordance with §§ 102.4(b)—(e) and 102.8.

(4) *Existing buffer width.* Existing riparian forest buffers must meet minimum aggregate widths of this chapter.

(5) *Average buffer width.* The average riparian forest buffer width shall be calculated based upon the entire length of streambank or shoreline that is located within the boundaries of the project site. When calculating the buffer length the natural streambank or shoreline shall be followed.

(e) *Management requirements.*

(1) Both existing and newly established riparian forest buffers, including wetlands and floodplains, shall be managed and maintained to enhance and maximize the unique value of these resources.

(2) Newly established riparian forest buffers and sites with existing woody vegetation shall be managed in accordance with the riparian forest buffer management plan and until established vegetation consists of predominantly native trees and shrubs that provide at least 60% uniform canopy cover and noxious weeds and invasive species have been removed or controlled to the extent possible for a period of at least 5 years.

(3) The following practices and activities are prohibited within the riparian forest buffer:

(i) Soil disturbance by grading, stripping of topsoil, plowing, cultivating or other practices.

(ii) Draining by ditching, underdrains or other drainage systems.

(iii) Housing, grazing or otherwise maintaining animals.

(iv) Storing or stockpiling materials.

(v) Off road vehicular travel.

(4) The following practices and activities are acceptable in the riparian forest buffer when permitted by the Department:

(i) Construction or placement of roads, bridges, trails, storm drainage, utilities or other structures.

(ii) Water obstructions or encroachments.

(5) The following practices and activities are allowable within the riparian forest buffer:

(i) Activities or practices used to maintain the riparian forest buffer including the disturbance of existing vegetation, tree removal, shrub removal, clearing, mowing, burning, or spraying in accordance with the long-term operation and maintenance plan.

(ii) Restoration projects, facilities, emergency response and other activities approved by the Department.

(iii) Scientific studies approved by the Department, including water quality monitoring and stream gauging.

(iv) Timber harvesting operations only in Zone 2, as described in this section, that maintain at least 60% uniform canopy cover of predominantly native trees and shrubs and are identified in a Forest Stewardship Plan approved by the Department of Conservation and Natural Resources.

(v) Passive recreational activities.

(f) *Permanent protection of riparian forest buffers.*

(1) Existing and newly established riparian forest buffers including access easements must be protected in perpetuity through deed restriction, conservation easement, local ordinance or permit conditions.

(2) For any existing or newly established riparian forest buffer, the boundary limits of the riparian forest buffer must be identified and clearly marked.

(g) *Reporting.* Permittees shall complete data forms provided by the Department for newly established and existing riparian forest buffers and submit them to the Department or conservation district as part of the PCSM Plan.

§ 102.15. Permit-by-rule for low impact projects with riparian forest buffers.

(a) *Qualifying for coverage.* Persons proposing or conducting an earth disturbance activity requiring a permit authorization under this chapter shall qualify for permit coverage under this rule if they meet the requirements of this section, which supersede any requirements of Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). An earth disturbance activity that requires a permit authorization under this chapter that is not consistent with this section shall obtain coverage under a general or individual NPDES Permit for Discharges Associated with Construction Activities or other E & S control permit under this chapter prior to commencing the earth disturbance activity.

(b) *Permit-by-rule exclusions.* The following sites or the activities associated with the project are not eligible for coverage under the permit-by-rule:

(1) Projects located in or with the potential to discharge to waters that have a designated or existing use of Exceptional Value under Chapter 93 (relating to water quality standards).

(2) Earth disturbance activities conducted in or on the following sensitive areas:

(i) Highly erodible conditions (soils in combination with percent slope) as follows:

(A) 3% to 8% slope with soil K factor greater than 0.37.

(B) 8% to 15% slope with soil K factor greater than 0.28.

(C) 15% slope with soil K factor greater than 0.18.

(ii) Geological formations that present a risk to public health, safety and the environment including:

(A) Sinkhole development.

(B) Land sliding.

(C) With the significant potential to cause or contribute to pollution when disturbed; including acid, radioactive and arsenic bearing formations.

(iii) Wetlands or floodplains, unless earth disturbance in these areas is required for access and utilities and is authorized under Chapter 105 or 106 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance; and floodplain management).

(3) Lands that are currently contaminated from a spill or release of a hazardous material, or hazardous, toxic, or other regulated substance, as these terms are defined in this title, that pose a risk or threat to public health, safety, or the environment.

(4) The earth disturbance is being proposed or conducted by a person who has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit and schedule of compliance or order issued by the Department.

(5) The earth disturbance activities or potential discharges will adversely affect a Pennsylvania or federal endangered or threatened species.

(c) *Permit conditions.* Persons conducting earth disturbance activities under this permit shall meet the following requirements:

(1) Persons seeking coverage under permit-by-rule shall first schedule a presubmission meeting with the Department or the conservation district prior to submitting an ROC. The meeting shall also be attended by the professional engineer, geologist or landscape architect registered in this Commonwealth that will be responsible for project design and the operator when known. At the presubmission meeting, the registrant shall provide:

(i) A site location map (United States Geologic Survey or equivalent) including:

(A) All waters of this Commonwealth and water quality classifications under Chapter 93 (relating to water quality standards).

(B) Existing site conditions.

(C) Limits of earth disturbance activities.

(D) Preliminary site design.

(E) Total project acres and boundaries.

(ii) A presubmission meeting checklist using a form provided by the Department.

(2) When the project site contains, is along, or within 100 feet of a river, stream, creek, lake, pond or reservoir, the registrant shall:

(i) Establish new or preserve existing riparian forest buffers at least 100 feet in width between the top of streambank or normal pool elevation of a lake, pond or reservoir and areas of earth disturbance.

(ii) Establish new or preserve existing riparian forest buffers at least 150 feet in width between the top of streambank or normal pool elevation of a lake, pond or reservoir and disturbed areas for projects located in high quality or impaired watersheds.

(iii) Design or maintain, or both, a riparian forest buffer in accordance with *Riparian Forest Buffer Guidance*, Commonwealth of Pennsylvania, Department of Environmental Protection, No. 395-5600-001 (2009), as amended and updated.

(3) The earth disturbance must not exceed 15 acres at a time. If the total disturbed area will exceed 15 acres over the life of the project, earth disturbance shall be sequenced in a manner that provides for stabilization prior to disturbance of subsequent phases.

(4) Earth disturbance activities on any portion, part, or during any stage of, a larger common plan of development or sale over the life of the project must meet the requirements and be covered under a single ROC.

(i) Any significant new or increased changes to the earth disturbance activities that are not included in the original ROC shall be submitted to the Department or conservation district through an amended ROC in accordance with this section.

(ii) The new or increased earth disturbance activities may not commence until receipt of written verification of coverage.

(5) Analysis demonstrating that the PCSM BMPs will: meet the volume reduction and water quality requirements specified in an applicable Department approved and current Act 167 stormwater management watershed plan; or manage the net change for storms up to and including the 2-year/24-hour storm event when compared to preconstruction runoff volume and water quality. The analysis for the 2-year/24-hour storm event shall be conducted using the following minimum criteria:

(i) Existing predevelopment nonforested pervious areas must be considered meadow in good condition or its equivalent.

(ii) When the existing project site contains impervious area, 20% of the existing impervious area to be disturbed must be considered meadow in good condition or better, except for repair, reconstruction, or restoration of roadways or utility infrastructure when the site will be returned to existing condition.

(6) Analysis demonstrating that the PCSM BMPs will: meet the rate requirements specified in an applicable Department approved and current Act 167 stormwater management watershed plan; or manage the net change in peak rate for the 2-, 5-, 10-, 25-, 50-, and 100-year/24-hour storm events in a manner not to exceed preconstruction rates.

(i) Hydrologic routing analysis is required to demonstrate this requirement is met.

(ii) Exempt from this requirement are Department-approved direct discharges to tidal areas or Department-approved no detention areas.

(7) Retain the services of a professional engineer, geologist or landscape architect registered in this Commonwealth who shall:

(i) Prepare and seal E & S and PCSM Plans to be submitted with the ROC which contain the following certification:

“I (name) do hereby certify, pursuant to the penalties of 18 Pa.C.S.A. § 4904, to the best of my knowledge, information and belief that the ROC, E & S and PCSM Plans are true and correct, and are in conformance with Chapter 102 of the rules and regulations of the Department of Environmental Protection.”

(ii) Identify in the E & S and PCSM Plans a schedule of inspections for critical stages of E & S and PCSM BMP installation and provide oversight responsibility during construction of those critical stages.

(iii) Oversee and seal any necessary modifications to E & S and PCSM Plans; and submit copies of modified plans to the Department or conservation district.

(iv) Prepare and seal record drawings and provide certification that the E & S and PCSM BMPs were installed consistent with E & S and PCSM Plans submitted with the ROC.

(8) Upon receipt of the Verification of Coverage, the registrant shall notify the Department or conservation district at least 7 business days before commencing construction.

(9) The registrant or co-registrant shall have the E & S Plan, PPC Plan, PCSM Plan, and other documents required by this permit-by-rule available at the site for review by the Department, conservation district, or other authorized local, State or Federal government official.

(10) The registrant shall implement the plans developed and verified in accordance with this section.

(11) The registrant or an agent shall notify the Department or conservation district at least 3 days prior to critical stages of E & S and PCSM BMP installation.

(d) *Projects located in High Quality watersheds or watersheds impaired for sediment or stormwater.*

(1) *Watersheds.* Permit-by-rule registrants proposing projects that are located in watersheds that have a designated or existing use of high quality, or nonspecial protection waters impaired for sediment or stormwater shall demonstrate that all construction and post construction discharges will not degrade the physical, chemical or biological characteristics of the surface waters and may not utilize the social or economic justification process established under § 93.4c(b)(iii) (relating to implementation of antidegradation requirements). In addition to the 150-foot riparian forest buffer, registrants shall utilize solely nondischarge alternative BMPs in their E & S and PCSM Plans.

(2) *Public notice.*

(i) The registrant shall provide a public notice once a week for 3 consecutive weeks in at least one newspaper of general circulation within the geographical area of the project site prior to submission for the ROC. The contents of every public notice must include the following:

(A) The name, address and phone number of the registrant.

(B) A 30-day period following publication of the notice during which written comments may be submitted by interested persons to the applicant.

(C) A brief description of each registrant's activities and project location which result in the discharge proposed for the permit-by-rule.

(D) The name of the receiving water and watershed to which each discharge is made and a short description of the location of each discharge on the waterway indicating whether the discharge is a new or an existing discharge.

(E) The location of the nearest downstream potable water supply, or a finding that no potable water supply will be affected by the proposed discharge.

(F) The means by which interested persons may comment upon the proposed project.

(G) Contact information including the name, address and phone number where interested persons may obtain further information regarding the project.

(H) The existing or designated use of the receiving surface water under Chapter 93.

(ii) The registrant shall provide proof that public notice has been published in a newspaper of general circulation covering the locality or localities in which the activity is or will be located. The proof of public notice, along with any comments and responses, shall be submitted with the ROC.

(e) *Municipal notification.* At least 30 days prior to submission of the ROC, the registrant shall provide written notification to every municipality in which the proposed earth disturbance activity will be located under section 1905-A of The Administrative Code of 1929 (71 P. S. § 510-5). Proof of this notification shall be submitted with the complete ROC.

(f) *Written E & S Plan, PCSM Plan and PPC Plan.* The registrant shall develop an E & S Plan, PCSM Plan and PPC Plan in accordance with the requirements of this chapter and the following:

(1) The E & S BMPs required by this section shall be designed and implemented to meet the standards and specifications identified in the Department's *Erosion and Sediment Pollution Control Manual*, Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-2134-008 (April 2000), as amended and updated.

(2) PCSM BMPs shall be designed and implemented to meet the standards and specifications identified in the *Pennsylvania Stormwater Best Management Practices Manual*, Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-0300-002 (December 2006), as amended and updated.

(3) Both the E & S Plan and the PCSM Plan must include a riparian forest buffer designed in accordance with § 102.14 (relating to riparian forest buffer requirements) and this section.

(4) Both the E & S Plan and PCSM Plan must minimize the accelerated erosion and sedimentation and must use PCSM BMPs that collectively achieve no net change when compared to preconstruction discharges in stormwater runoff volume, rate and water quality. This shall be accomplished first through the use of site design and nonstructural BMP approaches, and if necessary, structural filtration, infiltration and runoff control BMPs in accordance with *Erosion and Sediment Pollution Control Manual*, Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-2134-008 (April 2000), and *Stormwater Best Management Practices Manual*, Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-0300-002 (December 2006), as amended and updated.

(5) Both the E & S Plan and PCSM Plan shall be prepared and sealed by a professional engineer, geologist or landscape architect registered in this Commonwealth.

(6) Prepare a PPC Plan in accordance with *Guidelines for the Development and Implementation of Environmental Emergency Response Plans*, Commonwealth of Pennsylvania, Department of Environmental Protection, No. 400-2200-001 (April 2001), as amended and updated.

(g) *E & S Plan for the permit-by-rule.* The E & S Plan submitted under this section must meet the requirements of § 102.4 (relating to erosion and sediment control requirements) and also include the following categories of E & S BMPs to be installed and maintained. The installation of BMPs shall be conducted in the following sequence:

(1) *Site preparation, sensitive area and buffer protection.* Prior to commencement of any earth disturbance activity including clearing and grubbing, the registrant shall clearly delineate sensitive areas, riparian forest buffer boundaries, areas proposed for infiltration practices, the limits of clearing, and trees that are to be conserved within the project site and install appropriate barriers where equipment may not be parked, staged, operated or located for any purpose.

(2) *Site access.* This is the first land-disturbance activity to take place at the site and the registrant should provide BMPs to minimize accelerated erosion and sedimentation from the following areas: entrance to the site, construction routes, and areas designated for equipment or other use at the site including parking areas and soil stockpiles.

(3) *Sediment barriers.* The registrant shall install perimeter BMPs after the construction site is accessed, keeping associated clearing and grubbing limited to only that amount required for installing perimeter BMPs.

(4) *Diversions.* The registrant shall include outlet protection, constructed to divert upslope clean water runoff around the disturbed area (when necessary).

(5) *Sediment basins and traps.* Outlet protection included shall be constructed prior to the remaining clearing/grubbing and other earth disturbance activities.

(6) *Sediment laden water channels or other conveyance.* This method shall be used to divert stormwater runoff water to the appropriate BMPs such as traps and ponds and should be installed prior to the remaining clearing/grubbing and other earth disturbance activities.

(7) *Land clearing and grading.* The registrant shall implement clearing and grading only after all downslope E & S BMPs have been constructed and stabilized.

(8) *Surface stabilization.* The registrant shall apply temporary or permanent stabilization measures immediately to any disturbed areas where work has reached final grade, has been delayed or otherwise has been temporarily suspended.

(9) *Construction of buildings, utilities, and paving.* During construction, the registrant shall install and maintain any additional E & S BMPs that may be required and implement structural PCSM BMPs.

(10) *Landscaping and final stabilization, topsoiling, trees, and shrubs.* After construction is completed, the registrant shall install stabilization BMPs including: permanent seeding, mulching, sodding and riprap, and complete implementation of PCSM BMPs in this last construction phase. The registrants stabilize all open areas, including borrow and spoil areas, and remove all temporary BMPs and stabilize any disturbances associated with the removal of the BMP.

(h) *PCSM Plan for the permit-by-rule.* The PCSM Plan submitted under this section must meet the requirements of § 102.8 (relating to PCSM requirements), and also include the following categories of BMPs to be installed and maintained:

(1) *Nonstructural BMPs.* Nonstructural BMPs which promote the treatment, infiltration, evaporation and transpiration of stormwater runoff shall be used.

(2) *Low impact, conservation and green infrastructure designs.* These designs shall be used to minimize the generation of runoff by preserving open space, preserving natural areas, reducing the amount of impervious surface, and other green infrastructure design principles that utilize or mimic infiltration or evapotranspiration.

(3) *Volume reduction and infiltration practices.* These practices must include either engineered structures or landscape features designed to capture, reuse, recycle and manage, or infiltrate runoff that mimic preconstruction conditions.

(4) *Runoff practices.* These practices shall be designed and constructed to convey runoff, increase evaporation and manage rate. The practices are to also promote infiltration, filtration and biological uptake of pollutants.

(5) *Filtration practices.* These practices shall be used to treat runoff through filter media that are designed to capture pollutants through the processes of physical filtration of solids or cation exchange of dissolved pollutants.

(i) *ROC under the permit-by-rule.* Registrants seeking coverage under this permit-by-rule shall prepare and submit a complete ROC to the Department or conservation district. The ROC must demonstrate eligibility under and compliance with this section and include:

(1) An ROC checklist.

(2) An E & S Plan prepared by a professional engineer, geologist or landscape architect registered in this Commonwealth.

(3) A PCSM Plan prepared by a professional engineer, geologist, or landscape architect registered in this Commonwealth.

(4) Proof of municipal notice.

(5) Proof of public notice along with all comments and responses for projects in High Quality watersheds impaired for sediment or stormwater.

(6) Proof of consultation with the PNHP regarding the presence of a State or Federal threatened or endangered species on the project site.

(7) Applicable fees.

(j) *Eligibility verification.* Upon submission of the ROC, the Department or the conservation district will review the ROC for consistency with the eligibility criteria, conditions and other requirements of this section, and make a determination of coverage within 30 days. Upon determination of eligibility, the Department or the conservation district will provide written verification of coverage for 5 years. The registrant may apply for other permit coverage as referenced in this section if coverage under this permit-by-rule is denied.

(k) *Coverage notice.* The Department will provide notice in the *Pennsylvania Bulletin* of every approval of coverage under this permit-by-rule.

(l) *Requiring coverage under an individual permit or general permit.*

(1) The Department may deny coverage under this permit-by-rule, or may amend, revoke, suspend or terminate previously issued coverage under this permit-by-rule and require the registrant to apply for and obtain either a general or an individual NPDES permit for failure to meet the requirements of this section. An interested person may petition the Department to take action under this subsection. If a permittee is notified by the Department that previously authorized coverage under this permit is revoked, terminated or suspended and that a general or individual NPDES permit is required, the registrant shall submit a complete NPDES NOI or application, in conformance with this chapter, within 90 days of receipt of the notification, unless the discharger is already in possession of a valid general or individual NPDES permit. Failure to submit the NOI or application within 90 days shall result in automatic termination of coverage under the permit-by-rule. If the project site is in compliance with this chapter, a timely submission of a complete NOI or application shall result in continuation of coverage under the permit-by-rule until the Department takes final action on the pending NOI or permit application.

(2) An action of the Department or the conservation district denying coverage under this permit-by-rule, or requiring a general or an individual NPDES permit, is not a final action of the Department until the registrant submits and the Department takes final action on an individual permit application.

(m) *ROC*. Persons requesting an ROC under this permit-by-rule shall submit to the Department or conservation district an administratively complete and acceptable ROC at least 30 days prior to the expiration date of the coverage. In the event that a timely, administratively complete, and acceptable application for renewal of coverage has been submitted and the Department or conservation district is unable, through no fault of the permittee, to reissue the approval for coverage before the expiration date of the approved coverage, the terms and conditions of the approved coverage will be automatically continued and will remain fully effective and enforceable pending the issuance or denial of the renewal of coverage, provided the permittee is, and has been, operating in compliance with the terms and conditions of the permit-by-rule.

(n) *Other permits or approvals*. Nothing in this permit-by-rule relieves the registrant of the obligation to obtain any other applicable permits, or of complying with all Federal, State or local laws, regulations or standards for the construction, operation and maintenance of the project.

(o) *Termination of coverage*. A permit-by-rule registrant covered under this section shall comply with § 102.7 (relating to permit termination) to terminate permit coverage.

(p) *Program audit*.

(1) The Department will audit the permit-by-rule to verify the effectiveness and the level of environmental protection that the permit provides. The audit will include the following:

(i) Evaluation of whether the objectives of riparian forest buffers, conservation design and permittee compliance are being met.

(ii) Whether the professional engineer, geologist or landscape architect registered in this Commonwealth plan certifications are accurate and effective.

(iii) The adequacy of permittee plan development and BMP implementation and maintenance.

(iv) The effectiveness of achieving the desired environmental results.

(2) This audit process will not only report non-compliance and corrective actions, but also highlight areas of good practices and favorable results. That information will be used to develop policy or amend regulations for enhanced and continual improvement.

§ 102.22. [Permanent] Site stabilization.

(a) *Permanent stabilization*. Upon final completion of an earth disturbance activity or any stage or phase of an activity, the site shall [be] immediately have topsoil restored, replaced, or amended, seeded, mulched or otherwise permanently stabilized and protected from accelerated erosion and sedimentation.

[(b) Erosion and sediment control]

(1) E & S BMPs shall be implemented and maintained until the permanent stabilization is completed. Once permanent stabilization has been established, the temporary E & S BMPs shall be removed. Any areas disturbed in the act of removing temporary E & S BMPs shall be permanently stabilized upon completion of the temporary E & S BMP removal activity.

[(c)](2) For an earth disturbance activity or any stage or phase of an activity to be considered permanently stabilized, the disturbed areas shall be covered with one of the following:

[(1)](i) A minimum uniform 70% perennial vegetative cover, with a density capable of resisting accelerated erosion and sedimentation.

[(2)](ii) An acceptable BMP which permanently minimizes accelerated erosion and sedimentation.

(b) *Temporary stabilization*.

(1) Upon temporary cessation of an earth disturbance activity or any stage or phase of an activity where a cessation of earth disturbance activities will exceed 3 days, the site shall be immediately seeded, mulched, or otherwise protected from accelerated erosion and sedimentation pending future earth disturbance activities.

(2) For an earth disturbance activity or any stage or phase of an activity to be considered temporarily stabilized, the disturbed areas shall be covered with one of the following:

(i) A minimum uniform coverage of mulch and seed, with a density capable of resisting accelerated erosion and sedimentation.

(ii) An acceptable BMP which temporarily minimizes accelerated erosion and sedimentation.

ENFORCEMENT

§ 102.31. Applicability.

The Department or a [county] conservation district may enforce this chapter under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

§ 102.32. Compliance and enforcement provisions.

* * * * *

(b) If the Department finds that pollution or a danger of pollution results from an act of God in the form of sediment from land for which a complete Conservation Plan has been developed by the [county] conservation district and the Natural Resource Conservation Service, and the plan has been fully implemented and maintained, the landowner shall be excluded from the penalties of [the act] The Clean Streams Law (35 P. S. § 691.1—691.1001)

(c) A person aggrieved by an action of a conservation district under this chapter may request an informal hearing with the Department within 30 days following the notice of the action. Any final determination by the Department under the informal hearing may be appealed to the EHB in accordance with established administrative and judicial procedures.

(d) For enforcement action taken under this subchapter, the Department or conservation district may collect or recover, from the responsible party, costs and expenses involved in taking enforcement action in accordance with this

subchapter and initiating cost recovery actions under this subchapter. The Department or conservation district may collect the amount in the same manner as civil penalties are collected under section 605 of The Clean Streams Law (35 P.S. § 691.1605).

RESPONSIBILITIES OF LOCAL GOVERNING BODIES

§ 102.41. Administration by [**county**] conservation districts.

(a) The Department may delegate by written agreement the administration and enforcement of this chapter to [**county**] conservation districts if they have adequate and qualified staff, and are; or will be; implementing the program identified in the delegation agreement.

(b) An acceptable program shall have the concurrence and approval of the governing body of the county in which the [**county**] conservation district operates.

(c) The Department will retain program administration and enforcement over projects which cross the political boundaries of [**county**] conservation districts unless otherwise authorized by the Department.

§ 102.42. Notification of application for permits.

A municipality or county which issues building or other permits shall notify the Department or [**county**] conservation district within 5 days of receipt of an application for a permit involving an earth disturbance activity consisting of [**5 acres**] 1 acre ([**2**] 0.4 hectares) or more.

§ 102.43. Withholding permits.

[**A**] With the exception of local stormwater approvals or authorizations, a municipality or county may not issue a building or other permit or final approval to those proposing or conducting earth disturbance activities requiring a Department permit until the Department or a [**county**] conservation district has issued the [**Erosion and Sediment Control**] E & S or individual NPDES Permit, or approved coverage under the general NPDES Permit for Stormwater Discharges Associated With Construction Activities under § 102.5 (relating to permit requirements).

[Pa.B. Doc. No. 09-1610. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 143]

Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its July 9, 2009, meeting:

Add § 143.203a (relating to special elk conservation license auction) to Chapter 143 to establish the special elk conservation license auction and license issuance process.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the July 9, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until September 25, 2009.

1. Purpose and Authority

On October 9, 2008, House Bill 747 (Act 101, 2008) was signed into law. This legislation effectively amended section 2706.2 of the code (relating to elk hunting licenses) to authorize the Commission to sell one elk license per year by auction sale through an eligible wildlife conservation organization. Due to the intermediary role the wildlife conservation organization serves in the sale of the license, the Commission determined that the implementation of the voucher procedures in section 2712 of the code (relating to vouchers for licenses and permits) will streamline and simplify the process of transferring the license to the winning bidder of the auction. Under this process, the wildlife conservation organization will issue the winning bidder of the auction a voucher which then may be redeemed from the Commission for the official elk license. To this end, the Commission is proposing to add § 143.203a to establish the special elk conservation license auction and license issuance process.

Section 2706.2 of the code (relating to elk hunting licenses) provides that "The commission shall promulgate regulations for the use of the license, remitting funds to the commission and conduct of the auction." Section 2712 of the code (relating to vouchers for licenses for permits) provides that "The commission may promulgate regulations to implement this section." Section 2722(g) of the code directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. The addition of § 143.203a was proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will add § 143.203a to establish the special elk conservation license auction and license issuance process.

3. Persons Affected

Persons wishing to hunt elk within this Commonwealth may be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking may result in some additional cost and paperwork associated with the production and distribution of the special elk conservation license. However, the Commission determined any additional expense associated with this initiative, should it exist, will be nominal and will be absorbed by the current budget.

5. Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-291. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 143. HUNTING AND FUR TAKER
LICENSES

Subchapter K. ELK LICENSES

§ 143.203a. Special elk conservation license auction.

(a) Each year the Commission may contract with an eligible wildlife conservation organization to conduct an auction sale of one special elk conservation license in accordance with the mandates under section 2706.2 of the act (relating to elk hunting licenses).

(b) Upon conclusion of the auction, the wildlife conservation organization shall issue the winning bidder a license voucher which may be redeemed for a special elk conservation license under section 2712 of the act (relating to vouchers for licenses and permits).

[Pa.B. Doc. No. 09-1611. Filed for public inspection August 28, 2009, 9:00 a.m.]

[58 PA. CODE CHS. 141 AND 147]
Hunting and Trapping and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its July 9, 2009 meeting:

Amend §§ 141.20 (relating to protective material required falconry) and §§ 147.101, 147.104, 147.114 (relating to falconry) rescind §§ 147.105—147.110, 147.110a, 147.111—147.114 and add §§ 147.105a—147.109a, 147.110b—147.111a and 147.112a to meet the new Federal standards as well as simplify, reorganize and enhance current State regulations pertaining to falconry.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the July 9, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until September 25, 2009.

1. Purpose and Authority

A dual State and Federal permitting system has been in place since the initial implementation of the Federal regulations governing falconry. Notwithstanding, the separation and independence of these dual permitting structures, the states have always been obliged to operate their individual falconry programs within the bounds of the Federal regulations. On October 8, 2008, the United States Fish and Wildlife Service published new changes to the Federal regulations. Most significantly, the new language eliminated the requirement for a Federal permit to practice falconry. The new language also established a deadline of January 1, 2014, at which time the Federal permit program will be discontinued. For Pennsylvania's falconry program to continue beyond this deadline, it must adopt and implement regulations that meet the standards of the new Federal regulations. Once these standards are met, falconers will only be required to possess a State permit. To this end, the Commission is

proposing to amend these regulations to meet the new Federal standards as well as simplify, reorganize and enhance current State regulations pertaining to falconry.

Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or fur taking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to §§ 141.20 and 147.101—147.114 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.20 and 147.101, 147.109, rescind §§ 147.105—147.110, 147.110a, 147.111—147.114 and by adding §§ 147.105a—147.109a, 147.110b, 147.111a and 147.112a—147.114 to meet the new Federal standards as well as simplify, reorganize and enhance current State regulations pertaining to falconry.

3. Persons Affected

Persons wishing to engage in falconry activities within this Commonwealth may be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-292. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 141. HUNTING AND TRAPPING
Subchapter A. GENERAL

§ 141.20. Protective material required.

* * * * *

(b) *Permitted acts.* It is lawful to:

(1) Hunt without wearing daylight fluorescent orange-colored material for:

* * * * *

(iv) [**Small game**] Any or wildlife that can be lawfully harvested under the authority of a valid falconry permit.

* * * * *

CHAPTER 147. SPECIAL PERMITS

Subchapter F. FALCONRY

§ 147.101. Definitions.

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

Bate—Attempt to fly.

Eyases—A young bird not yet capable of flight.

* * * * *

Falconry—The [**sport of hunting with trained raptors—including the training of raptors**] wild capture, husbandry and training of raptors for the pursuit of game and wildlife, and the hunting of game and wildlife with raptors.

Hacking—The controlled release of a raptor to the wild.

Hybrid—The offspring of birds listed as two or more distinct species in 50 CFR 10.13 (relating to list of migratory birds), offspring of birds recognized by ornithological authorities as two or more distinct species listed in 50 CFR 10.13 and the offspring of any hybrid birds.

Imprint—For the purposes of falconry, a bird that is hand-raised in isolation from the sight of other raptors until it has fledged. An imprinted bird is considered to be so for its entire lifetime.

* * * * *

Passage birds—

(i) Raptors in their first year of life, **postfledging** and possessing no more than two adult feathers.

(ii) Golden Eagles taken as a juvenile must possess at least one subadult feather.

Raptors—Live migratory birds of the order *Falconiformes* or the order *Strigiformes* [**other than**] including the Bald Eagle—*Haliaeetus leucocephalus*— [**or**] and the Golden Eagle—*Aquila chrysaetos*, wherever its place of origin, whether or not raised in captivity or a hybrid of those species.

* * * * *

§ 147.102. [**Examination**] Application, examination and fees.

[(a) New falconers shall begin at the apprentice class and are required to pass a supervised examination with a grade of 80%. Falconry examinations will be provided or approved by the United States Fish and Wildlife Service. Examinations will be given from January 1 to June 30 of each year at each regional headquarters building. The examination may relate to basic biology, care and handling of raptors, literature, regulations and other appropriate subject matter.

(b) The basic permit fee—whether a raptor is possessed or not—is \$25, which authorizes the permittee to possess one raptor. Each additional raptor

held shall require an extra fee of \$25. A raptor acquired during the permit year requires an added fee of \$25 payable within 10 days after receipt of the falconry bird.]

(a) **Application.** Applications for falconry permits issued under this subchapter shall be made through the regional office on the appropriate form provided by the Commission.

(1) Applications will only be accepted from persons who possess a valid hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions).

(2) Applications must include the name, address and telephone number of the applicant, a photocopy of the applicant's valid Pennsylvania hunting license and a nonrefundable examination fee of \$25.

(3) Applicants who are 17 years of age or younger are additionally required to have a parent or legal guardian co-sign the application and assume legal responsibility for the applicant's falconry activities.

(b) **Examination.**

(1) New applicants shall pass a supervised examination with a minimum grade of 80%.

(2) Examinations must cover the following subjects:

(i) Laws and regulations.

(ii) Raptor biology and raptor identification.

(iii) Trapping methods.

(iv) Facilities requirements.

(v) Care of raptors held for falconry.

(vi) Disease and health problems of raptors.

(vii) Training methods.

(3) Examinations are administered by the Commission at each regional office from January 1 to June 30 each year.

(c) **Validation.** A new applicant's falconry permit is validated at the apprentice class only upon passage of the supervised examination, passage of facility inspection, and payment of the falconry permit fee set forth in section 2904 of the act (relating to permit fees).

(d) **Lapsed permit.** A falconer whose permit lapses for 2 or more years shall apply as a new applicant.

§ 147.103. Classes [of permits].

(a) [**Apprentice.** A permittee shall be 16 years of age or older.

(1) A sponsor, who is the holder of a valid Federal and Pennsylvania general or master falconry permit, is required for a permittee in the apprentice class. An apprentice permittee shall notify the Commission in writing within 5 days after sponsorship has been withdrawn.

(2) A permittee may not have more than one raptor and may not obtain more than one raptor for replacement during a permit year. A first year permittee may take only one raptor with no replacement.

(3) A permittee shall possess only an American Kestrel—*Falco sparverius*—a Red Tailed Hawk—*Buteo jamaicensis*—or a Red Shouldered Hawk—*Buteo lineatus*.

(4) The raptor held by an apprentice shall be taken from the wild.

(b) *General*. A permittee shall be at least 20 years of age.

(1) A permittee who has been licensed at least 2 years as an apprentice falconer and has had a raptor in possession for at least 12 months of that time may be moved to the next higher classification. A sponsor for an apprentice shall certify in writing that the apprentice is qualified to become a general falconer.

(2) A permittee may not have more than two raptors in his possession and may not take more than two raptors for replacement birds during a permit year. For the first permit year at the general class, a permittee may take one raptor in addition to the one possessed as an apprentice and also take one replacement.

(3) A permittee may not take, transport or possess a Golden Eagle or a species listed as endangered or threatened by the United States Department of Interior or the Commission.

(c) *Master*. A permittee shall be at least 25 years of age.

(1) A permittee who has at least 5 years of falconry experience in the practice of falconry at the general class and had a raptor in possession for 30 months of this time may be moved to the master classification.

(2) A permittee may not possess more than three raptors, and may not take more than two raptors for replacements during a permit year. For the first permit year at the master class, one raptor may be taken in addition to the two which may be possessed as a general falconer and one raptor may be taken as a replacement.

(3) A permittee may not take, transport or possess a species listed as endangered on a United States Department of Interior or Commission list.

(4) A permittee may not take, transport or possess a Golden Eagle for falconry purposes unless authorized in writing by both the United States Fish and Wildlife Service and the Commission.

(5) A permittee may not take, transport or possess as part of the three bird limitation, more than one raptor listed as threatened on United States Department of Interior or Commission list and then only in compliance with all Federal requirements and written permission of the Commission.]

Apprentice. Permittees of the apprentice class shall be subject to the following requirements and limitations:

(1) Permittees shall be 12 years of age or older.

(2) Permittees shall be sponsored, at all times, by a Pennsylvania general or master class falconry permit holder. If a permittee's sponsorship is withdrawn or lost for any reason, the permittee shall provide written notification of the loss to the Commission within 5 days and shall be required to replace the sponsorship within 15 days.

(3) A first year permittee of this class may take and possess only one raptor with no replacement during the first permit year. Other permittees of this class may take and possess only one raptor with only one replacement during each permit year.

(4) Permittees are limited to taking and possessing only wild passage (no eyases) raptors of the following species:

(i) American Kestrel (*Falco sparverius*).

(ii) Red-tailed Hawk (*Buteo jamaicensis*).

(5) Permittees are required to trap their first passage raptor under the direct supervision of a Pennsylvania general or master class falconry permit holder.

(b) *General*. Permittees of the general class shall be subject to the following requirements and limitations:

(1) Permittees shall be 18 years of age or older.

(2) General class permit applicants shall have maintained their apprentice class permit status in good standing for a minimum of 2 years and during that period shall have maintained a raptor for a minimum of 12 months. An application to advance to the general class shall be accompanied by a written letter of recommendation from the permittee's sponsor representing that the permittee possesses the competency and skills necessary to become a member of the general class.

(3) A first year permittee of this class may take only one additional raptor and possess up to a total of two raptors with only one replacement during the first permit year. Other permittees of this class may possess up to a total of three raptors with two replacements during each permit year. Captive-bred raptors shall be included in these quota limits.

(4) Except as further limited under § 147.109 (relating to restrictions on taking raptors), permittees are authorized to take and possess any wild passage or eyas raptors except the following species:

(i) Golden Eagle (*Aquila chrysaetos*).

(ii) Bald Eagle (*Haliaeetus leucocephalus*).

(iii) White-tailed Eagle (*Haliaeetus albicilla*).

(iv) Steller's Sea-eagle (*Haliaeetus pelagicus*).

(v) Other raptor species listed or classified as threatened or endangered by the United States Department of Interior or the Commission.

(c) *Master*. Permittees of the master class shall be subject to the following requirements and limitations:

(1) Permittees shall be 23 years of age or older.

(2) Master class permit applicants shall have maintained their general class permit status in good standing for a minimum of 5 years and during that period shall have maintained a raptor for a minimum of 3 years.

(3) A first year permittee of this class may take only one additional raptor and possess up to a total of four raptors with only one replacement during the first permit year. Other permittees of this class may possess up to a total of five raptors with two

replacements during each permit year. Captive-bred raptors will not be included in these quota limits.

(4) Except as otherwise provided under § 147.109 and paragraph (5), permittees are authorized to take and possess any wild passage or eyas raptors except the following species:

- (i) Golden Eagle (*Aquila chrysaetos*).
- (ii) Bald Eagle (*Haliaeetus leucocephalus*).
- (iii) White-tailed Eagle (*Haliaeetus albicilla*).
- (iv) Steller's Sea-eagle (*Haliaeetus pelagicus*).

(v) Other raptor species listed or classified as threatened or endangered by the United States Department of Interior or the Commission, unless authorized in writing by the United States Department of Interior or the Commission, or both, to possess up to a maximum of one threatened or endangered raptor as part of their total possession allowance.

(5) Upon additional written authorization provided by the Commission, permittees may possess up to a maximum of three eagles, regardless of captive-bred or wild caught, limited to golden eagles, white-tailed eagles and Steller's sea-eagles, as part of their total possession allowance. An application to possess eligible eagles shall be accompanied by two written letters of recommendation from persons with experience handling or flying, or both, large raptors, such as eagles, ferruginous hawks (*Buteo regalis*), goshawks (*Accipiter gentilis*) or great horned owls (*Bubo virginianus*). Each letter of reference must contain a concise history of the author's experience with large raptors and an explicit representation that the permittee possesses the competency and skills necessary to possess eagles.

§ 147.104. [Facilities] Shelter, care and protection.

(a) [The primary consideration for raptor housing facilities, whether indoors or outdoors, is protection from the environment, predators and undue disturbance. Each falconer or applicant shall have indoor or outdoor facilities, or both, as described in paragraphs (1) and (2). The facilities shall be constructed so that the raptor being housed is provided with adequate protection at all times.

(1) *Indoor facilities.* Mews shall be sufficient to allow easy access for caring for the raptors in the facility. If more than one raptor is to be kept in the mews, the raptors shall be tethered, or separated by partitions, and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a secure door that can be easily closed. The mews floor shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.

(2) *Outdoor facilities.* Weathering areas shall be fenced and covered with netting or wire, or roofed to protect birds from disturbance and attack by predators. Perches more than 6 1/2 feet high need not be covered or roofed. The enclosed area shall be large enough to ensure the birds cannot strike the fence when flying from the perch. Protection

from excessive sun, wind and inclement weather shall be provided for each bird. Adequate perches shall be provided.

(b) If a falconer has only a single facility of an outdoor type where the bird is kept permanently tied, the facility shall be entirely enclosed with fencing material, regardless of the height of the perch, and the facility shall be constructed so that the raptor is able to seek refuge from extreme climatic conditions and disturbance. If a falconer has only a single facility of the indoor type, the raptors may not be weathered unless the bird is weathered on the fist.]

Housing. Any raptor possessed under a falconry permit shall be housed in a permanent indoor or outdoor facility that provides humane and healthful living conditions, including suitable protection from the environment, predators and other disturbances.

(1) *Size.* Housing facilities must be large enough to afford the permittee easy access to provide for the care and feeding of raptors housed within. Each raptor must have an area large enough to allow it to fly if it is untethered or, if tethered, to fully extend its wings and bate without damaging its feathers or contacting other raptors.

(2) *Containment.* Housing facilities must be totally enclosed and of a design, strength, quality and condition to provide for the adequate containment of any raptor housed within and exclusion of any predators from without. If two or more raptors are housed in the same housing facilities, each raptor shall be separated from other raptors by partitioning walls or suitable tethering. Compatible raptors may be housed together.

(3) *Protection.* Housing facilities must provide areas of refuge that provide adequate protection from excessive sun, wind, inclement weather and disturbance to any raptor housed within.

(4) *Perches.* Housing facilities must provide a suitable perch for each raptor housed within.

(5) *Sunlight.* Housing facilities must provide at least one opening or window to permit the admission of sunlight. The opening or window must be protected on the inside with visible bars spaced narrower than the width of the raptor's body to deter in flight impacts.

(6) *Cleaning and drainage.* Housing facilities must be of a design and condition to permit easy cleaning and adequate drainage.

(7) *Transportation.* Raptors may be transported to and from their permanent or temporary housing facilities provided they have a suitable perch and protection from extreme temperatures, wind and excessive disturbance.

(8) *Temporary housing.* Raptors may be housed outside of their permanent housing facilities, provided they have a suitable perch and protection from extreme temperatures, wind and excessive disturbance for a period not to exceed 30 days without additional authorization from the Commission. Permittees are required to notify the district wildlife conservation officer within 5 days of the commencement of utilizing a temporary housing facility.

(b) *Equipment.* Permittees shall possess the following equipment suitable for the maintenance of raptors:

(1) *Jesses.* At least one pair of Alymeria jesses or jesses of similar type or design and constructed of pliable, high quality leather or suitable synthetic material for use when free flying the raptor. Traditional one piece jesses may only be used for hunting or free flight if they do not have slits.

(2) *Leashes and swivels.* At least one flexible weather resistant leash and one strong swivel.

(3) *Bath container.* At least one suitable container accessible to each raptor for drinking and bathing purposes. The container must be 2 to 6 inches deep and wider than the length of one raptor.

(4) *Outdoor perches.* At least one suitable weathering area perch for each raptor.

(5) *Weighing device.* A reliable scale or balance suitable for weighing raptors. The device shall be graduated in increments of not more than 1/2 ounce or 15 grams.

(c) *Maintenance, care and sanitation.* Permittees shall maintain all raptors and their attendant housing facilities in safe, sanitary and humane condition.

(1) *Food.* Permittees shall provide each raptor with adequate supplies of palatable, uncontaminated and nutritionally adequate food suitable to ensuring the normal health and maintenance of raptors.

(2) *Water.* Permittees shall provide each raptor with adequate supplies of fresh, uncontaminated water that is available at all times.

(3) *Waste.* Permittees shall remove fecal, food and other waste from housing facilities as needed.

(4) *Care.* Permittees shall provide any necessary health care or seek care through a licensed veterinarian or wildlife rehabilitator for any sick or injured raptor.

(d) *Inspection.* A permittee's raptors, housing facilities, equipment and records are subject to inspection by the Commission during normal business hours on any day of the week. All housing, equipment, maintenance, care and sanitation conditions are subject to the initial and ongoing approval of the Commission. Any required modifications shall be completed within 30 days after official oral or written notice of deficiency received from the Commission.

§ 147.105. [Equipment] (Reserved).

[The following items shall be in the possession of the applicant before a permit or license will be granted:

(1) *Jesses.* At least one pair of Alymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material shall be used when a raptor is flown free. Traditional one-piece jesses may be used on raptors when not being flown.

(2) *Leashes and swivels.* At least one flexible weather-resistant leash and one strong swivel.

(3) *Bath container.* At least one suitable container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for a raptor.

(4) *Outdoor perches.* At least one weathering area perch of an acceptable design shall be provided for each raptor.

(5) *Weighing device.* A reliable scale or balance suitable for weighing the raptor held and graduated in increments of not more than 1/2 ounce—15 grams—shall be provided.]

§ 147.105a. Taking restrictions for resident falconers.

Taking restrictions for resident falcons are as follows:

(1) A valid falconry permit is required prior to obtaining a raptor.

(2) *Eyases* may only be taken by a General or Master falconer. No more than two wild eyases may be taken by the same permittee per permit year. Permittee may not take the last remaining eyas from the nest.

(3) A raptor, other than an endangered or threatened species, taken under a depredation permit or rehabilitated by a licensed rehabilitator determined to be unfit for return to the wild, may, with written authorization of the Commission, be used by falconers as long as they do not exceed limits set by its classification and this subchapter.

(4) A bal-chatri type live trap, other live traps and nets may be used for taking raptors if they are used in a manner which minimizes the danger of injuring the raptor.

(5) Owners of escaped raptors which are banded as required by § 147.107 (relating to marking of certain raptors) may recapture the banded raptors.

(6) Permittees may take no more than two raptors from the wild during any given permit year for replacement or other purposes regardless of their permit quota allowances.

§ 147.106. [Maintenance] (Reserved).

[Facilities and equipment shall be kept at or above standards in this subchapter.]

§ 147.106a. Nonresident falconers.

(a) *Temporary importation.* A nonresident may temporarily import raptors into this Commonwealth for the purpose of attending a falconry meeting or to hunt, provided the possession and importation of the raptors is in compliance with applicable Federal and State laws and regulations. The temporary importation may not exceed 30 days without additional authorization from the Commission.

(b) *Permanent importation.* A nonresident who moves into this Commonwealth for the purpose of becoming a resident may permanently import raptors into this Commonwealth provided the following conditions are met:

(1) Possession and importation of the raptors is otherwise in compliance with applicable State and Federal laws and regulations.

(2) Establish permanent housing facilities for the raptors that meet or exceed the requirements of § 147.104 (relating to shelter, care and protection) within 30 days of importation.

(3) Obtain a Pennsylvania falconry permit no later than 60 days after relocation into this Commonwealth. A relocating nonresident is eligible to receive a Pennsylvania falconry permit of the same or equivalent classification. The falconry permit issued by the former state of residence will be deemed the nonresident's temporary authority to possess and exercise imported raptors until the Pennsylvania permit is issued. This temporary authority may not be construed to permit the taking of additional raptors from the wild in this Commonwealth.

(c) *Taking restrictions.* Taking restrictions for nonresidents are as follows:

(1) A nonresident permittee possessing a current and active falconry permit in the General or Master classification in a state listed in 50 CFR 21.29(k) (relating to Federal falconry standards), may apply for a special permit to take one raptor from the wild in this Commonwealth if the home state of the applicant allows the taking of raptors by nonresidents.

(2) The fee for a permit to take a raptor is \$100 and is not refundable.

(3) Applications for this permit shall be submitted directly to the Bureau of Wildlife Protection with the applicant's name, address, telephone number, date of birth, and the species desired and whether a nestling (eyas) or passage bird is requested. Copies of the applicant's current state or Federal, or both, falconry permit along with a valid import permit or letter from the applicant's home state authorizing the import of the raptor being requested must accompany the application. A certified check or money order in the amount of \$100 payable to "Pennsylvania Game Commission" must accompany the application.

(4) Applications may only be submitted between January 1 and December 1, annually.

(5) Periods for taking raptors as authorized under a nonresident take permit are May 8 to July 15, inclusive for nestling (eyas) birds, or September 19 to December 31, inclusive for passage birds.

(6) A permittee may not take the last remaining nestling—eyas—from a nest.

(7) The number of permits issued annually will not exceed:

<i>Number</i>	<i>Type</i>
5	Nestling (Eyas)
15	Passage

(8) Eyas Goshawk birds may not be taken.

(9) Permits will be issued under a first-come-first-served basis until the annual allocation is exhausted.

(10) The acquisition of a raptor taken from the wild as authorized by the take permit shall be reported to the United States Fish and Wildlife Service by completing a Form 3-186A (Migratory Bird Acquisition and Disposition Report) and forwarding a copy to the Bureau of Wildlife Protection within 5 days.

(11) Marking of certain raptors shall be in compliance with the requirements of the home state of the falconer.

(12) Raptors taken under the authority of this permit shall be used for falconry purposes only.

§ 147.107. [Transportation-temporary holding] (Reserved).

[A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 days.]

§ 147.107a. Marking of certain raptors.

(a) *Banding.* The following raptors possessed for falconry purposes shall be immediately banded upon capture by either a seamless numbered band or a permanent, numbered, nonreusable band supplied by the United States Fish and Wildlife Service or the Commission:

- (1) Peregrine Falcons (*Falco peregrinus*).
- (2) Goshawks (*Accipiter gentilis*).
- (3) Gyrfalcons (*Falco rusticolus*).
- (4) Harris Hawks (*Parabuteo unicinctus*).
- (5) Captive bred raptors and/or hybrid raptors.

(b) *Replacement bands.* The Commission will replace any band required by subsection (a) that has become mutilated, illegible or lost. The permittee shall report any damage or loss requiring replacement to the Bureau of Wildlife Protection within 72 hours of the damage or lost band. A band which is mutilated or no longer legible shall be returned to the Commission prior to replacement.

(c) *Return of bands.*

(1) *Removal and return of used bands.* Permittees shall remove bands from any raptor that expires, is released into the wild, or no longer requires banding under subsection (a). Golden Eagles banded prior to January 1, 2010, may retain their leg bands. Permittees shall return any removed bands to the Bureau of Wildlife Protection within 5 days.

(2) *Return of unused bands.* Permittees shall return any unused bands in their possession by June 30 to the Bureau of Wildlife Protection.

(d) *Radio transmitters.* Permittees shall attach two radio transmitters on any hybrid raptor that is flown for falconry purposes or for a falconry demonstration for the purpose of relocation if lost.

(e) *Unlawful acts.* It is unlawful for any person to transfer, alter or deface a lawfully issued band or to use or possess a counterfeit band. This subsection may not be construed in any manner to prohibit a permittee from removing the rear tab or smoothing rough or imperfect surfaces if the integrity of the band and numbering is not diminished.

§ 147.108. [Inspection] (Reserved).

[Falconry equipment shall be inspected and certified annually by a representative of the Commission. Equipment shall meet or exceed standards in this subchapter.]

§ 147.108a. Reporting requirements.

(a) *Raptor acquisition, transfer or disposition report.* Permittees shall complete and submit a Form 3-186A (Migratory Bird Acquisition and Disposition Report) to the United States Fish and Wildlife

Service and forward a copy to the Bureau of Wildlife Protection within 5 days for the following types of transactions or events:

- (1) The acquisition of a raptor taken from the wild or received by transfer from another person.
- (2) The loss of a raptor previously held through release, escape, theft or death.
- (3) The transfer of a raptor to another person.
- (4) The banding or rebanding of any raptor which requires banding.
- (5) The loss or removal of banding from any raptor that does not presently require banding.

(b) *Annual report.* Permittees shall complete and submit an annual report to the Bureau of Wildlife Protection by July 31 on forms supplied by the Commission. These reports must include an accurate accounting of all activities conducted under the authority of their falconry permit during the preceding permit year. Permittees shall complete and submit a similar report within 30 days of the termination of their permit.

§ 147.109. [Restrictions on taking raptors] (Reserved).

[(a) Taking restrictions for residents are as follows:

(1) A valid falconry permit is required prior to obtaining a raptor.

(2) Young wild birds not yet capable of flight—eyases—may only be taken by a general or master falconer, and only during the period April 1 to April 7 inclusive and May 8 to July 15 inclusive. Great Horned Owl eyases may be taken from March 15 to March 21 inclusive. No more than two wild eyases may be taken by the same permittee during specified periods.

(3) First year wild-passage-birds may be taken during the period September 19 to December 31, inclusive.

(4) Adult American Kestrels (*Falco sparverius*) and Great Horned Owls (*Bubo virginianus*) may be taken during the period September 19 to December 31, inclusive.

(5) A raptor, other than an endangered or threatened species, taken under a depredation permit or rehabilitated by a licensed rehabilitator determined to be unfit for return to the wild may, with written authorization of the Commission, be used by falconers as long as they do not exceed limits set by its classification and this subchapter.

(6) A bal-chatri type live trap, other live traps and nets may be used for taking raptors if they are used in a manner which minimizes the danger of injuring the raptor.

(7) Owners of escaped raptors which are banded as required by the United States Fish and Wildlife Service may recapture the banded raptors.

(b) Taking restrictions for nonresidents are as follows:

(1) A nonresident possessing a current and active falconry permit in the General or Master Classification in a state listed in 50 CFR 21—29(k) (relating to Federal falconry standards), may apply for a

special permit to take a raptor in this Commonwealth if the home state of the applicant allows the taking of raptors by nonresidents.

(2) The fee for a permit to take a raptor is \$100 and is not refundable.

(3) Applications for this permit shall be submitted directly to the Commissions' Bureau of Law Enforcement and shall state the applicants name, address, date of birth, telephone number and the species desired and whether a nestling (eyas) or passage bird is requested. Copies of the applicant's current state or Federal, or both, falconry permit along with a valid import permit or letter from the applicant's home state authorizing the import of the raptor being requested shall accompany the application. A certified check or money order in the amount of \$100 payable to "Pennsylvania Game Commission" shall accompany the application.

(4) Applications may only be submitted between January 1 and August 15 annually.

(5) Periods for taking raptors as authorized under a nonresident take permit are May 8 to July 15 inclusive for nestling (eyas) birds or September 19 to December 31, inclusive for passage birds.

(6) A permittee may not take the last remaining nestling—eyas—from a nest.

(7) The number of permits issued annually will not exceed:

<i>Number</i>	<i>Type</i>
5	Nestling (Eyas)
15	Passage

(8) Eyas Goshawk birds may not be taken.

(9) Permits will be issued under a first-come-first-served procedure until the annual allocation is exhausted.

(10) The acquisition of a raptor taken from the wild as authorized by the take permit shall be immediately reported to the Commission by completing a Form 3-186A (Migratory Bird Acquisition and Disposition Report) and forwarding a copy to the Bureau of Law Enforcement, Technical Services Division.

(11) Marking of certain raptors shall be as directed in 50 CFR 21.28(d)(7) (relating to falconry permits).

(12) Raptors taken under the authority of this permit shall be used for falconry purposes only.]

§ 147.109a. Hunting and training with raptors.

(a) Permittees may only hunt wildlife through the use of raptors in accordance with the requirements of the act and this part.

(b) Permittees may train raptors or propagated game birds during the period August 1 to March 31, inclusive, and are subject to the following conditions:

(1) Quarry shall be released either by hand or by means of electronic, spring or box holding devices.

(2) Game birds released shall be obtained from a licensed propagator.

(3) Released game birds which escape shall be considered wild birds, and no further attempt shall be made to pursue them except during the open season for hunting small game.

(c) Permittees shall possess their hunting license and falconry permit on their person at all times while engaged in any raptor hunting or training activities.

§ 147.110. [Marking of certain raptors] (Reserved).

[Marking of certain raptors shall be as follows:

(1) No Peregrine Falcon, Gyrfalcon or Harris Hawk may be taken, possessed or transported for falconry purposes unless the raptor is banded by either a seamless numbered band or by a permanent, numbered, nonreusable band supplied by the United States Fish and Wildlife Service. Permanent, numbered, nonreusable bands may be obtained by directing a written request to the Harrisburg headquarters of the Commission. The band shall be attached to the raptor immediately upon capture. A band is not transferable.

(2) A band which is required for Peregrine Falcons, Gyrfalcons, Harris Hawks and captive bred raptors that has been mutilated, becomes illegible or lost shall be reported within 72 hours to the Harrisburg headquarters of the Commission. A band which is mutilated or no longer legible shall be returned with the request for replacement. Replacement bands will be issued only for Peregrine Falcons, Gyrfalcons, Harris Hawks and captive bred raptors. A rebanding shall be reported to the United States Fish and Wildlife Service on a Form 3-186A, submitted within 5-calendar days from the date of the rebanding.

(3) A United States Fish and Wildlife Service Form 3-186A shall be completed for each other raptor which no longer requires banding when the presently attached band becomes mutilated, illegible or lost. The Form 3-186A shall be submitted directly to the United States Fish and Wildlife Service within 5-calendar days of the mutilation, illegibility or loss of the band. Bands removed as a result of mutilation or illegibility shall be returned to the Harrisburg headquarters of the Commission within 5-calendar days following their removal.

(4) It is unlawful for a person to alter or deface a band. A permittee may remove the rear tab and smooth an imperfect surface, if the integrity of the band and numbering is not affected. It is unlawful to use or possess a counterfeit band.

(5) A band shall be removed from a raptor which dies or is intentionally released into the wild and shall be forwarded to the Harrisburg headquarters of the Commission, within 5-calendar days, along with a report of the probable cause of death or the area of release.

(6) Unused bands in possession on July 16 or January 1 shall be returned to the Harrisburg headquarters of the Commission within 72 hours.]

§ 147.110a. [Raptor acquisition, transfer or disposition reporting] (Reserved).

[A United States Fish and Wildlife Service Form 3-186A (migratory bird acquisition and deposition report) shall be completed and submitted directly to the United States Fish and Wildlife Service within 5-calendar days following the date of transaction as follows:

(1) The acquisition of a raptor taken from the wild or received by transfer.

(2) The loss of a raptor held through its release, escape, theft or death.

(3) The transfer of raptor to another person.

(4) The rebanding of a raptor which requires banding.

(5) The loss, mutilation or illegibility of a previously attached band for a raptor held which does not presently require banding.]

§ 147.110b. Educational use of raptors.

(a) *Falconry and raptor lectures.* Permittees may engage in noncommercial educational lecture activities using live raptors subject to the following conditions:

(1) The educational lecture activities shall be focused on the natural history of raptors, the conservation of raptors, the sport of falconry and other related topics.

(2) The educational lecture activities shall be conducted by permittee's of the General or Master class only.

(3) Raptors used in educational lecture activities may not have physical contact with members of the audience or general public.

(4) Raptors used in educational lecture activities shall be maintained either tethered and on the permittee's gloved hand or in a transport carrier. No flight is permitted.

(5) The permittee may not receive any form of compensation for the lecture.

(6) The permittee is encouraged, but not required, to notify the regional office in advance of conducting any scheduled educational lecture activities.

(b) *Falconry demonstrations.* Permittees may engage in noncommercial falconry demonstrations using live raptors subject to the following conditions:

(1) Falconry demonstrations shall be conducted by permittees of the General or Master class only.

(2) Raptors used in falconry demonstrations activities shall not have any physical contact with members of the audience or general public.

(3) Outdoor raptor free-flight demonstrations may be conducted by permittees of the Master class only.

(4) Indoor raptor flight demonstrations shall be conducted with the raptor tethered in a manner that prevents physical contact with the audience or general public or with physical structures such as walls, windows or furniture. Indoor raptor free-flight demonstrations are strictly prohibited.

(5) The permittee may not receive any form of compensation for the falconry demonstration.

(6) The permittee shall notify the regional office in writing at least 5 days in advance of conducting any scheduled falconry demonstration activities.

(c) *Other educational uses of raptors.* Permittees may engage in other forms of noncommercial educational activities using live raptors, such as photography or filming, subject to the following conditions:

(1) The activities shall be focused on the natural history of raptors, the conservation of raptors, the sport of falconry and other related topics.

(2) The permittee may not receive any form of compensation for the activity.

(3) The permittee may not use raptors for entertainment, advertisements, promotion or endorsements of any products, merchandise, goods, services, meetings, fairs or as a representation of any business, company, corporation or other organization.

§ 147.111. [Hunting with raptors] (Reserved).

[(a) Wild birds and animals may be hunted only in accordance with the act and this part.

(b) The training of raptors by holders of valid falconry permits on liberated propagated game birds during the period August 1 to March 31, inclusive, is permitted, subject to the following conditions:

(1) Quarry shall be released either by hand or by means of electronic, spring or box holding devices.

(2) Game birds released shall be obtained from a licensed propagator.

(3) Released game birds which escape shall be considered wild birds, and no further attempt shall be made to pursue them except during the open season for hunting small game.

(4) Raptors may be used to take game birds on a licensed regulated hunting ground.]

§ 147.111a. Additional requirements for permittee.

(a) Permittees are prohibited from propagating raptors held under the authority of a falconry permit unless they possess a joint State/Federal raptor propagation permit.

(b) A permittee whose permit lapses or is otherwise suspended or revoked shall return any raptors possessed into the wild by hacking-back, transfer the raptors to another permitted falconer or forfeit the raptors to the Commission. Propagated, hybrid and nonindigenous raptors may not be released into the wild.

(c) A permittee may not sell, purchase, barter or offer to sell, purchase or barter a propagated raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the United States Fish and Wildlife Service or the Commission.

(d) If a permittee's raptor unintentionally injures or kills any wildlife during a closed season while engaged in falconry activities, the permittee shall comply with the notification and reporting requirements in section 2306 of the act (relating to killing game or wildlife by mistake). The permittee will not be required to pay any restitution fees unless the injury or taking is determined to be the result of carelessness or negligence. The permittee is not required to put the carcass of the injured or killed wildlife in a place of safekeeping, but rather may leave the carcass in the field and allow the raptor to feed upon it. Once the raptor is finished feeding, it may not be hunted the rest of that day.

(e) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by a properly completed United States Fish and Wildlife Service Form 3-186A designating the permittee as the possessor of record and by a signed, dated statement from the permittee. If the period of care will exceed 30 days, written permission shall be obtained from the Commission. Illness or disability of the permittee would be cause for temporary transfer of the raptors to another authorized person for care. The Commission shall be notified of this action within 5 days following the temporary transfer. Final disposition of the raptors will be at the discretion of the Commission.

(f) Molted feathers, or feathers from birds held in captivity that die, may be retained by the permittee for imping purposes only. Molted feathers and retrices from a golden eagle shall be collected and used for imping purposes or submitted to the National Eagle Repository.

(g) Carcasses of dead raptors shall be disposed in a proper waste receptacle or buried underground unless otherwise authorized by the Commission. The entire carcass of dead golden eagles, including all feathers, talons and other parts shall be submitted to the National Eagle Repository.

(h) Propagated, hybrid and nonindigenous raptors may not be intentionally released into the wild without prior written approval of the Commission.

(i) A sponsor may not have more than three apprentices at one time.

§ 147.112. [Nonresident falconers] (Reserved).

[(a) A nonresident of this Commonwealth who possesses Federal falconry permits or falconry permits issued by states designated as participants in a joint Federal/state falconry permit system may bring a raptor legally possessed by the nonresident under authority of the falconry permit into this Commonwealth to attend falconry meets or to hunt if:

(1) No laws or regulations of other states are violated.

(2) No Federal laws are violated.

(3) A nonresident Pennsylvania hunting license is obtained and hunting regulations are observed.

(b) A nonresident of this Commonwealth who possesses Federal falconry permits or falconry permits issued by states designated as participants in a joint Federal/State falconry permit system who moves into this Commonwealth for the purpose of becoming a resident may bring legally possessed raptors if required facilities are constructed within 30 days, and the nonresident applies for a Pennsylvania falconry permit no later than 60 days after moving to this Commonwealth. A permit in the same classification as held in the previous state of residence may be issued without a written examination. The falconry permit issued by the former state of residence will be authority to possess and

exercise raptors until a Pennsylvania permit is obtained, if no raptors are taken from the wild and raptors are not used to take quarry without a valid Pennsylvania hunting license.]

§ 147.112a. Violations.

The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

§ 147.113. [Miscellaneous] (Reserved).

[(a) A person holding raptors under authority of a falconry permit shall possess a current hunting license. The hunting license shall be displayed while hunting wildlife with raptors. The falconry permit, or a facsimile thereof, shall be carried by the permittee when engaged in the sport of falconry.

(b) Captive breeding attempts, using raptors held under authority of falconry permits, are prohibited unless otherwise permitted under Federal law and then only under authority of a joint Federal/State permit.

(c) No permit will be renewed if the facilities do not meet the requirements of § 147.105 (relating to equipment).

(d) A person having a raptor in his possession whose falconry permit is not renewed or is revoked with cause has 30 days to return the birds to the wild by hacking-back or shall forfeit the raptors to the Commission. A raptor not indigenous to this Commonwealth shall be transferred to a licensed falconer or forfeited to the Commission.

(e) A permittee may not sell, purchase, barter or offer to sell, purchase or barter a raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the United States Fish and Wildlife Service.

(f) If a person, while engaged in the sport of falconry, unintentionally injures or kills wildlife which could not legally be killed at that time, the person shall notify the regional office servicing the area within 12 hours of the injury or killing. The wildlife injured or killed shall be put in a place of safe keeping and may be disposed of only as specified by a Commission officer.

(g) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by a properly completed United States Fish and Wildlife Service Form 3-186A designating the permittee as the possessor of record and by a signed, dated statement from the permittee. If the period of care will exceed 30 days, written permission shall be obtained from the Commission. Illness, disability or death of the permittee would be cause for temporary transfer of the raptors of the permittee to another authorized person for care. The Commission shall be notified of this action within

5-calendar days following the temporary transfer. Final disposition of the raptors will be at the discretion of the Commission.

(h) Molted feathers, or feathers from birds held in captivity that die, may be retained by the permittee for imping purposes only.

(i) A permittee may transfer a raptor to another permittee if the transfer occurs entirely within this Commonwealth and a properly completed Form 3-186A is submitted to the United States Fish and Wildlife Service by each permittee as required.

(j) A permittee may transfer a raptor to or receive a raptor from another permittee in an interstate transaction if a properly completed Form 3-186A is submitted to the United States Fish and Wildlife Service by each permittee as required.

(k) Raptors which die shall be reported on a properly completed Form 3-186A submitted to the United States Fish and Wildlife Service as required. Carcasses of dead raptors shall be buried unless otherwise authorized by the Commission.

(l) A raptor which is not indigenous to the Commonwealth may not be intentionally released to the wild without prior written approval of the Commission.

(m) Captive bred and hybrid raptors used for falconry shall be included as part of the permittee's possession limit.

(n) Raptors held under authority of a falconry permit may be used for falconry. They cannot be used for another purpose except falconry demonstrations, which shall include the actual flying of the raptor. A notice of scheduled falconry demonstrations shall be submitted in writing to the regional office in charge of that area at least 5 days prior to the event. The notice shall set forth the location, date and time of the falconry demonstration.

(o) A permittee who refuses sponsorship of an applicant shall report the reasons for refusal to the Commission in writing within 10 days upon written request of the Commission.

(p) A sponsor may not have more than three apprentices at one time.

(q) This subchapter does not prohibit activities which are otherwise permitted.]

§ 147.114. [Annual report] (Reserved).

[An annual report shall be submitted on forms supplied by the Commission and approved by the United States Fish and Wildlife Service by July 31 of each year whether or not renewal is requested. A similar report is required upon termination of the permit. This report shall be an accurate account of all activities carried on under authority of the permit.]

[Pa.B. Doc. No. 09-1612. Filed for public inspection August 28, 2009, 9:00 a.m.]

[58 PA. CODE CH. 147]
Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its July 9, 2009, meeting:

Add § 147.558a (relating to political subdivisions as applicants) to authorize political subdivisions to apply for an agricultural deer control permit for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the July 9, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until September 25, 2009.

1. *Purpose and Authority*

The Agricultural Deer Control Permit (commonly referred to as "Red Tag") is a very useful program that assists landowners in achieving their land use goals by managing deer densities on their respective properties through the use of licensed hunters. Traditionally, this program has required landowners to individually manage the application, reporting and deer control activities themselves. This higher level of individual responsibility has proven to be an impediment to participation for some landowners that are greatly interested in controlling deer densities on their properties, but are not capable of dedicating the necessary resources to manage the program on their property. In an effort to enhance public access to this program, the Commission is proposing to add § 147.558a to authorize political subdivisions to apply for an agricultural deer control permit for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision. This structure will not only reduce the demands on each respective landowner, but it will enhance the effectiveness of a larger deer control plan promoted by the community by consolidating the management of the agricultural deer control activities into one centralized location.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The addition of § 147.558a was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will add § 147.558a to authorize political subdivisions to apply for an agricultural deer control permit for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision.

3. *Persons Affected*

Persons wishing to engage in agricultural deer control activities within this Commonwealth may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in any additional cost or paperwork.

5. *Effective Date*

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-293. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

AGRICULTURE

§ 147.558a. Political subdivisions as applicants.

(a) *Eligibility.* Political subdivisions are authorized to apply for an agricultural deer control permit under this subchapter for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision. Any lands, other than those publicly owned, which lie immediately adjacent to and are connected with otherwise individually eligible lands may be included in the conglomeration of properties with the written consent of the owner or lessee thereof.

(b) *Application.* Political subdivisions applying for an agricultural deer control permit are responsible for the collection and submission of the application records required under § 147.552 (relating to application) for each of the properties included in the conglomeration.

(c) *Management.* Political subdivision permittees shall manage the distribution of agricultural deer control subpermits to qualified individuals in accordance with the eligibility criteria and quota limitations in §§ 147.553 and 147.554 (relating to permit; and subpermit). Political subdivision permittees shall appoint an officer or employee of the political subdivision to manage the permit activities and serve as a point of contact for affected land owners and the Commission.

(d) *Reporting.* Political subdivision permittees are responsible for the collection and submission of reporting records required under § 147.557 (relating to reporting of deer taken) for each of the properties included in the conglomeration.

[Pa.B. Doc. No. 09-1613. Filed for public inspection August 28, 2009, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

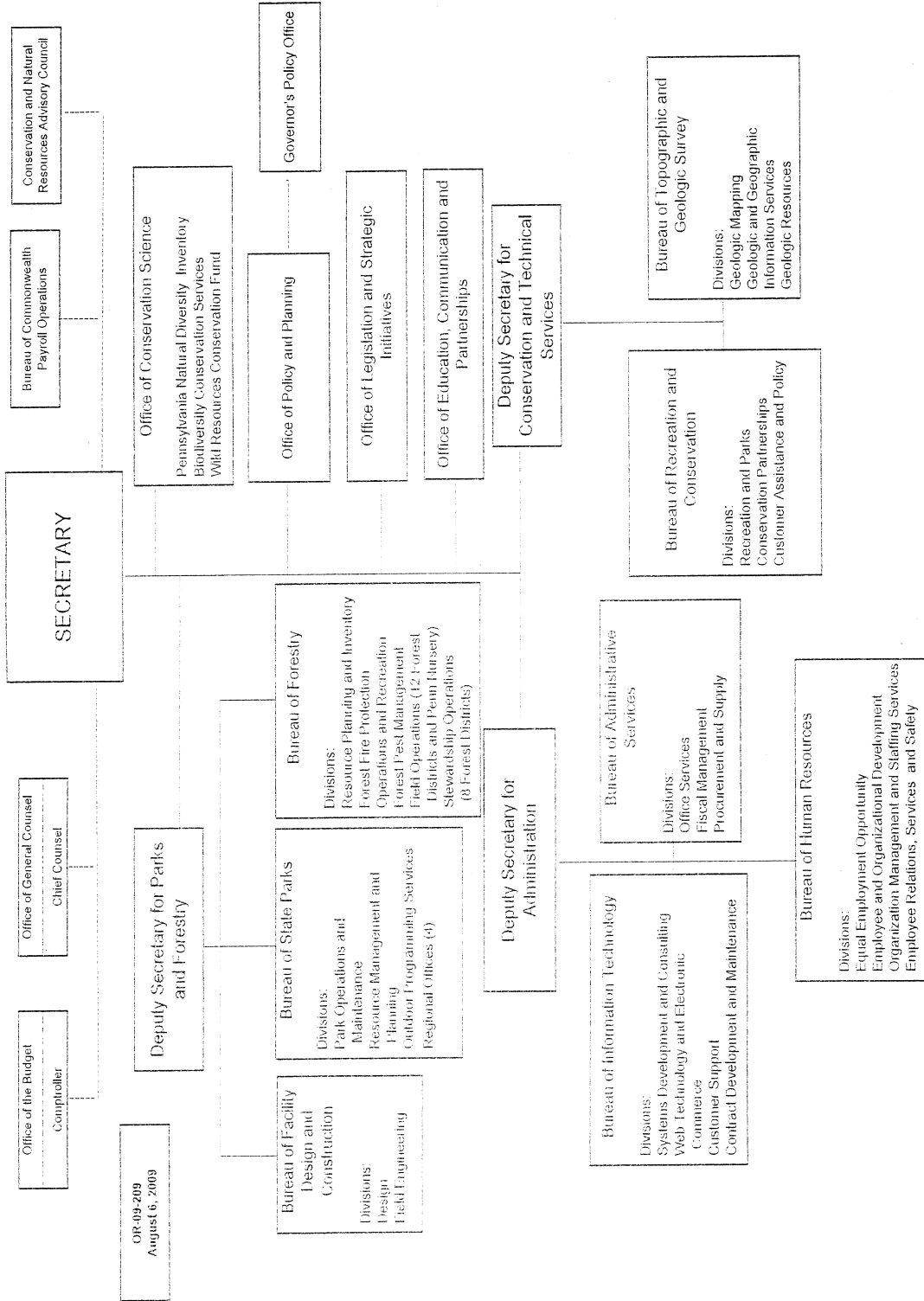
Reorganization of the Department of Conservation and Natural Resources

The Executive Board approved a reorganization of the Department of Conservation and Natural Resources effective August 6, 2009.

The organization chart at 39 Pa.B. 5165 (August 29, 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.)

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES



OR-09-209
August 6, 2009

[Pa.B. Doc. No. 09-1614. Filed for public inspection August 28, 2009, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending August 18, 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

Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
8-13-2009	Gateway Bank of Pennsylvania McMurray Washington County Amendment to Article V of the institution's Articles of Incorporation provides for the issuance of Common Stock and Preferred Stock.	Approved and Effective

SAVINGS INSTITUTIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
8-17-2009	Fidelity Savings and Loan Association of Bucks County Bristol Bucks County Application for approval to merge Croydon Savings Bank, Croydon, with and into Fidelity Savings and Loan Association of Bucks County, Bristol.	Filed

CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-1615. Filed for public inspection August 28, 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>
PAS802213 (Stormwater)	United Parcel Service, Inc. 2129 Rockdale Lane Stroudsburg, PA 18360	Stroud Township Monroe County	Little Pocono Creek 1E	Y
PA0060551 (Sewage)	Little Washington Wastewater Co. Rivercrest Development WWT Facility 762 West Lancaster Avenue Bryn Mawr, PA 19010	Wyoming County Tunkhannock Township	North Branch Susquehanna River 4G	Y

Chesapeake Bay nutrient monitoring requirements for Ammonia Nitrogen, Kjeldahl Nitrogen, Nitrite-Nitrate as N, Total Nitrogen and Total Phosphorus are being added to this permit.

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>
PA0080799 (Sew)	Newburg-Hopewell Joint Authority P. O. Box 128 Newburg, PA 17240	Cumberland County Hopewell Township	Newburg Run 7-B	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0080586 (Sew)	Morton Buildings, Inc. 3370 York Road Gettysburg, PA 17325-8258	Adams County Straban Township	UNT to Swift Run 7-F	Y
PA0055123 (IW/Transfer)	American Household, Inc. 2381 Executive Center Drive Boca Raton, FL 33431	Berks County Bally Borough	West Branch of Perkiomen Creek 3-E	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>
PAS804803 (Sewerage)	Dominion Transmission, Inc. Harrison Compressor Station 1001 Pleasant Valley Road Harrison Valley, PA 16827	Harrison Township Potter County	North Branch Cowanesque River 4A	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>
PA0037923	North East Borough 31 West Main Street North East, PA 16428	North East Township Erie County	Sixteen Mile Creek 15	Y
PA0104396	VL Greenhouses, LLC 568 Tomato Drive Punxsutawney, PA 15767	Ringgold Township Jefferson County	Caylor Run 17-D	Y
PA0210218	Beazer East, Inc. One Oxford Center Suite 3000 Pittsburgh, PA 15219-6401	Petrolia Borough Butler County	South Branch Bear Creek 17-B	Y

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

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

PA0061051, Sewage, **Farda Realty Associates, LP**, P. O. Box 130, Tannersville, PA 18372. This proposed facility is located in Pocono Township, **Monroe County**.

Description of Proposed Activity: The receiving stream, UNT to Pocono Creek, is in the State Water Plan Watershed 1E and is classified for: HQ-CWF. The nearest downstream public water supply intake for City of Easton is located 33 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.20 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	15.0		30.0
Total Suspended Solids	30.0		60.0
NH ₃ -N			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.0		18.0
Dissolved Oxygen	A minimum of 6.0 mg/l at all times.		
Fecal Coliform	200/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	Monitor and Report		

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

PA0217468, Industrial Waste, SIC 4941, **Beaver Falls Municipal Authority**, 1425 8th Avenue, P. O. Box 400, Beaver Falls, PA 15010. This application is for renewal of an NPDES permit to discharge treated process water from a water plant in Eastvale Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, the Beaver River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Beaver Falls Municipal Authority, located at New Brighton, 3 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.335 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
TSS			30		60
Aluminum			4		8
Iron			2		4
Manganese			1		2
TRC			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PA0205800, Industrial Waste, SIC 4941, **Southwestern Pennsylvania Water Authority**, P. O. Box 1887, Jefferson, PA 15344. This application is for renewal of an NPDES permit to discharge treated process water and untreated stormwater from Southwestern Pennsylvania Water Treatment Plant in Cumberland Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Tri-County Joint Municipal Authority, located 6.54 miles below the discharge point.

Internal Monitoring Point 101: existing discharge, design flow of 0.2867 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
Suspended Solids			30.0		60.0
Iron			2.0		4.0
Aluminum			4.0		8.0
Manganese			1.0		2.0
Total Residual Chlorine			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

Outfall 001: existing discharge, to the Monongahela River

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
This discharge shall solely consist of sources monitored at Internal Monitoring Point 101 and uncontaminated stormwater runoff from plant area.					

PA0254088, Sewage, **Derry Township Municipal Authority**, P. O. Box 250, New Derry, PA 15671. This application is for issuance of an NPDES permit to discharge treated sewage from New Alexandria Sewage Treatment Plant in Derry Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Loyalhanna Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the United States Army Corps of Engineers Bush Recreation Area.

Outfall 001: new discharge, design flow of 0.1 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.5			1.2
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0252751, Sewage, **Leet Township Municipal Authority**, 198 Ambridge Avenue, Fair Oaks, Ambridge, PA 15003. This application is for issuance of an NPDES permit to discharge combined sewage from a combined sewer outfall in Leet Township, **Allegheny County**.

The Fair Oaks Diversion Structure, Beech Street, discharges to the receiving waters known as Big Sewickley Creek which serves as a combined sewer overflow necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant and are permitted to discharge only for such reason. There are at this time no specific effluent limitations on the outfalls. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

Other Conditions: The Leet Township Municipal Authority is required to develop a "Plan of Actions" for the system-wide management of its combined sewer system in accordance with Part C conditions of its permit.

The EPA waiver is in effect.

PA0252638, Sewage, **Perry Township Municipal Authority**, One Township Drive, Star Junction, PA 15482. This application is for renewal of an NPDES permit to discharge treated sewage from Perry Township Municipal Authority STP in Perry Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Youghiogheny River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority—McKeesport.

Outfall 001: existing discharge, design flow of 0.1 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

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

WQM Permit No. 5409403, Sewerage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This proposed facility is located in North Union Township, **Schuylkill County**.

Description of Proposed Action/Activity: This project is for the rerating of the existing Eagle Rock wastewater treatment facility from 250,000 gpd to 350,000 gpd.

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

WQM Permit No. 2182405, Amendment 09-1, Sewerage, **Newburg-Hopewell Joint Authority**, P. O. Box 128, Newburg, PA 17240. This proposed facility is located in Hopewell Township, **Cumberland County**.

Description of Proposed Action/Activity: Permit application request seeking approval to make improvements to the WWTF.

WQM Permit No. 3602411, Amendment 09-1, Sewerage, **West Earl Sewer Authority**, 157 West Metzler Road, P. O. Box 787, Brownstown, PA 17508. This proposed facility is located in West Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Plant upgrade/rerate.

WQM Permit No. 078840, Amendment 09-1, Sewerage, **Lisa A. Gates, Roaring Spring Municipal Authority**, 616 Spang Street, Roaring Spring, PA 16673-1350. This proposed facility is located in Taylor Township, **Blair County**.

Description of Proposed Action/Activity: Seeking approval for the installation of an ultraviolet disinfection system.

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

WQM Permit No. 1409202, Industrial Waste, **Glenn O. Hawbaker**, 1952 Waddle Road, State College, PA 16803. This proposed facility is located in Spring Township, **Centre County**.

Description of Proposed Action/Activity: The applicant is proposing to construct a 102,000 cubic feet lined impoundment to store runoff at a proposed paved railcar stockpiling facility. The stock piling will be of salt and/or coal. There will be no associated discharge of stormwater. When the impoundment becomes full, the stormwater will be trucked to a treatment facility.

WQM Permit No. 1709201, Industrial Waste, **Clepper Bus Service**, 162 Lincoln Drive, DuBois, PA 15801. This proposed facility is located in Sandy Township, **Clearfield County**.

Description of Proposed Action/Activity: The applicant is proposing to construct a lined residual waste impoundment industrial wastewater generated at a bus service facility. There will be no discharge associated with the impoundment.

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

WQM Permit No. 5609201, Industrial Waste, **Somerset Regional Water Resources, LLC**, 888 Stoystown Road, Somerset, PA 15501. This proposed facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a wastewater treatment facility.

WQM Permit No. 0409403, Sewerage, **Patterson Township Municipal Authority**, 1600 19th Avenue, Beaver Falls, PA 15010. This proposed facility is located in Patterson Township, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system replacement.

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

WQM Permit No. 2509404, Sewerage, **Dennis P. and Laura A. Baker**, 367 Briar Lane, Corry, PA 16407. This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Action/Activity: Replacement of an existing malfunctioning wastewater treatment plant with a new 20,000 gpd extended aeration package plant.

WQM Permit No. 2009403, Sewerage, **Linesville Pine Joint Municipal Authority**, P. O. Box 382, Linesville, PA 16424. This proposed facility is located in Pine Township, **Crawford County**.

Description of Proposed Action/Activity: This permit is for a new sewage treatment plant, collection and conveyance facilities to serve six service areas in Pine Township, and rehabilitation of a portion of the existing Linesville Borough sanitary 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 1509027	St. Joseph's Church 3640 Schuylkill Road Spring City, PA 19475-1525	Chester	East Vincent Township	Stony Run HQ-TSF
PAI01 5109006	Philadelphia Water Department 1101 Market Street 2nd Floor Philadelphia, PA 19107-2294	Philadelphia	City of Philadelphia	Lower Schuylkill River Watershed WWF

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

Luzerne County Conservation District: R485 Smith Pond Road, Lehman, PA 18627, (570) 674-7991.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024009001	Apple Alley Associates, LP Dennis Dunn 372 Center Avenue PMB 114 Schuylkill Haven, PA 17972-1012	Luzerne	Lehman Township	UNT to East Fork Harveys Creek CWF
PAI024009002	Gerald J. Bonner 156 Fairway Drive Mountaintop, PA 18707	Luzerne	Wright Township	Bow Creek HQ-CWF

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

Washington County Conservation District: 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056309003	David Paul Hapchuck 226 Rankin Road Washington, PA 15301-3182	Washington	South Strabane Township	Little Chartiers Creek HQ-WWF

Westmoreland County Conservation District: 218 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI056509006	Greater Johnstown Water Authority 640 Franklin Street Johnstown, PA 15907	Westmoreland	Ligonier Township Ligonier Borough Fairfield Township	Mill Creek, Hess Run, Tubmill Creek, Alwine Creek, Dalton Run EV/HQ-CWF/CWF

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

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

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

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

Application No. 2009506, Public Water Supply.

Applicant	Victoria Estates Mobile Home Park, LLC
Township or Borough	Summit Township Crawford County
Responsible Official	Duane A. Beilstein Owner

Consulting Engineer	Steven R. Halmi, P. E. Deiss & Halmi Engineering, Inc. 105 Meadville Street Edinboro, PA 16412
Application Received Date	July 31, 2009
Description of Action	Permit and modify water treatment system serving 38 lot mobile home park.

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 pub-

lished in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Lonza, Inc., Conshohocken Borough, **Montgomery County**. Stephen Brower, Environmental Standards, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482-0810 on behalf of Peter McGinnis, Lonza, Incorporated, 900 River Road, Conshohocken, PA 19428 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of other organics. The current and recent historical use of the property is a pharmaceutical manufacturing facility. It is anticipated that the use of the property will remain pharmaceutical manufacturing (nonresidential) for the foreseeable future.

Paciello Residence, Upper Merion Township, **Montgomery County**. Staci Cottone, J & J Spill Service, P. O. Box 370, Blue Bell, PA 19422 on behalf of John and Kathy Paciello, 576 Keebler Road, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site will remain the same.

Kotzen Residence, Borough of Hatboro, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 and Ed Applegate, State Farm, P. O. Box 13, Concordville, PA 19331 on behalf of Jeffrey Kotzen, 118 South Linden Avenue, Hatboro, PA 19049 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The intended future use of the site is residential. A summary of the Notice of intent of Remediate was reported to have been published in *The Intelligencer* on July 16, 2009.

213 Welsh Pool Road, Uwchlan Township, **Chester County**. George Petroka, IES Engineers, 1720 Walton Road, Blue Bell, PA 1942 on behalf of Tom Apple, Morphotck, Inc., 210 Welsh Pool Roads, Exton, PA 19341 and Phil Sass, Morphotck, Inc., 210 Welsh Pool Roads, Exton, PA 19341 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of No. 2 fuel oil. The current owner plans on developing the site for use as a pharmaceutical pilot plant.

The Kennedy Company, Horsham Township, **Montgomery County**. Ryan C. Winnan, Strob Environmental, Inc., 410 North Eaton Road, Willow Grove, PA 19090 and

Robert Kennedy, The Kennedy Company, 8000 Midlantic Drive, Suite 200N, Mt. Lauren, NJ 08054 on behalf of Theresa Kohn, 28 Chambersburg Street, Gettysburg, PA 17325 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of No. 2 fuel oil. The property is currently, and will continue to be used for industrial purpose.

Brian Robin and Gary Armstrong Residence, Bridgeton Township, **Bucks County**. Robert M. Fry, Hillman Environmental Group, LLC, 1600 Route 22 East, Union, NJ 07083 on behalf of Brian Robin and Gary Armstrong, 399 Geigel Hill Road, Upper Black Eddy, PA 18972 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel and mtbe. The current and intended future use of the property is a private residence.

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

Merle Reedy Property, Providence Township, **Lancaster County**. Reliance Environmental, Inc., 130 East Chestnut Street, Lancaster, PA 17602, on behalf of Merle Reedy, 112 Buck Heights Road, Quarryville, PA 17566 and Whitelock & Woerth, Inc., 1220 Georgetown Road, Christiana, PA 17509 submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil released from an aboveground storage tank. The site will be remediated to the Site-Specific Standard and will remain residential.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Salem Tube (Salem Tube, Inc.), Pymatuning Township, **Mercer County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of Salem Tube, Inc., 951 Fourth Street, Greenville, PA 16125 has submitted a Notice of Intent to Remediate. Releases of trichloroethylene (TCE) have occurred over the years at the property. TCE and its degradation products, including cis 1-2 dichloroethene and vinyl chloride, are present in soils and groundwater at the property and a portion of adjacent property approximately 300 feet north of Salem Tube property at elevated concentrations. The intended future use of the site will continue to be manufacturing. The Notice of Intent to Remediate was published in the *Record-Argus* on July 15, 2009 and *The Herald* on July 16, 2009. The site will be remediated to the Site-Specific Standard.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Renewal Applications Received

Curtis Bay Energy, LLC, 3200 Hawkins Point Road, Baltimore, MD 21226. License No. PA-HC 0236. Received on June 29, 2009.

York Hospital, 1001 South George Street, York, PA 17401-1409. License No. PA-HC 0017. Received on July 7, 2009.

S. H. Bio-Waste, LTD, P. O. Box 2117, Norristown, PA 19404. License No. PA-HC 0096. Received on July 24, 2009.

Weavertown Transport Leasing, Inc., 2 Dorrington Road, Carnegie, PA 15106. License No. PA-HC 0020. Received on June 29, 2009.

New Applications Received

Secured Medical Waste, LLC, 3113 Lauren Hill Drive, Finksburg, MD 21048. License No. PA-HC 0241. Received on April 20, 2009.

Agape Pet Services, LLC, 19712 Shepherdstown Pike, Boonsboro, MD 21713. License No. PA-HC 0240. Received on April 30, 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.

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

46-0094A: Highway Materials, Inc. (5100 Joshua Road, Plymouth Meeting, PA 19462) to install a new hot mix asphalt plant at an existing facility in Whitemarsh Township, **Montgomery County**. Highway Materials will remove an existing batch mix plant and proposes to replace it with a new combination drum mix and batch mix asphalt plant. The annual production limit will remain at 500,000 tons on a 12-month rolling basis. The plant will use natural gas, fuel oil (No. 2 and No. 4) and WDLF fuel. Emission limits for NO_x, SO_x, VOC, CO and PM will not increase and the facility will remain a synthetic minor. The company will comply with good air pollution control practices, monitoring and recordkeeping procedures designed to keep the facility operating within all applicable air quality requirements.

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

14-00005B: Department of Corrections (Box A, Bellefonte, PA 16823) for installation and operation of a baghouse to control the air contaminant emissions from the three existing coal-fired boilers (Source IDs 031, 032 and 033) at the Rockview State Correctional Institution in Benner Township, **Centre County**.

18-00028A: Truck-Lite Co., Inc. (P. O. Box 329, 786 McElhattan Drive, McElhattan, PA 17748) to construct a plastic component surface coating operation in Wayne Township, **Clinton County**.

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

33-133A: HRI, Inc.—Brookville Plant (785 Route 830, Brookville, PA 15825) for replacement of the existing baghouse with a new 48,500 CFM MAC baghouse, knock out box, blower and fan system at the facility in the Township of Pine Creek, **Jefferson 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.

15-0090C: National Envelope Corp. (303 Eagleview Boulevard, Exton, PA 19341) for installation of

flexographic printing heads on an existing unit at an envelope manufacturing and printing facility in Uwchlan Township, **Chester County**. The plan approval is for a non-Title V (State-only) facility. The process will potentially increase actual VOC and total HAP emissions by 2.1 and 1.4 tons per annum, respectively. However, the facility will continue to operate under its current facility-wide permitted emission limits. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-0022C: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) for the reactivation of a spray booth (Source ID 103B—Pail Line Flange Booth); VOC emissions from the spray booth are controlled by the existing Regenerative Thermal Oxidizer (Source ID C05) and PM emissions from the spray booth are controlled by existing filter system (C12). The facility is in Quakertown Borough, **Bucks County**. The facility is an area source for HAPs and major for VOC. The plan approval modification will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

46-01980: Blommer Chocolate Co. (1101 Blommer Drive, East Greenville, PA 18041) for the addition of a dust collector to an existing Aspiration Channel on Production Line 1. The proposed source has the potential to emit 0.68 tpy PM after controls. The facility is located in Upper Hanover Township, **Montgomery County**.

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

29-03001A: JLG Equipment Services, Inc. (253 Success Drive, McConnellsburg, PA 17233) for a modification to their existing operation at their Military Support Center (Equipment Services Facilities) in Ayr Township, **Fulton County**. The modification is an increase in production through their existing spray booths. The VOC emissions are expected to increase 19.5 tons per 12-consecutive months, as a result of this modification. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the sources operating within all applicable air quality requirements. The facility currently operates under operating permit No. 29-03001. The plan approval will be incorporated into the permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment) at a later date.

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

10-361A: JADCO Manufacturing, Inc. (167 Evergreen Mill Road, Harmony, PA 16037) for authorization to operate three welding tables controlled by a dust collection system as in the Harmony Borough, **Butler County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the Harmony Borough, Butler County. This plan approval will authorize the applicant to operate three welding tables controlled by a dust collection system as described in the applicant's application of June 25, 2009. The Plan Approval will subsequently be incorporated into a State-only Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

The control unit has an estimated 99% removal efficiency and shall not exceed the PM emissions of 0.02 gr/dscf. The source is not considered major precontrolled, therefore, CAM is not applicable. The facility will demonstrate compliance with the restrictions by performing weekly visible observation and preventative maintenance.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at (814) 332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered, may submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 10-361A.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

24-083Q: Carbone of America Industries Corporation (215 Stackpole Street, St. Marys, PA 15857), for the modification of plan approval 24-083J stack testing requirement in St. Marys City, **Elk County**. This is a Title V facility. The public notice is necessary for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (relating to plan approval terms and conditions) and will demonstrate BAT for the source:

- The conditions from plan approval 24-083J issued on May 21, 2007, will remain in effect with the following exception:
- The facility may operate the source at greater than their throughput limitation in the facility operating permit but not to exceed their rated capacity as stated in the original plan approval application only during stack testing to show compliance with the FPM limitation. The stack test shall be performed in accordance with the provisions of 25 Pa. Code Chapter 139 of the Department of Environmental Protection (Department). The stack test shall be conducted for FPM on one stack for the Crusher/Blending process and one stack for the screening process using Environmental Protection Agency Method 5 or

another Department approved method. The facility operating permit will be modified to show the new throughput limitation established during this testing after the Department approves the results showing compliance with the FPM limitation.

33-055C: Glen-Gery Corp. (P. O. Box 68, Summerville, PA 15864), Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection (Department) intends to issue a plan approval for their Hanley Plant located in **Jefferson County**, to modify emission limits, based on the results of the Ceric Tunnel Kiln stack testing, in existing Title V permit. The facility currently has a Title V permit No. 33-00055 which was issued August 14, 2003. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

As a general summary, the following modified or additional requirements are applicable to the kiln and the control device:

1. The permittee shall maintain a daily record of:
 - (a) Hours of tunnel kiln operation.
 - (b) Daily production records of tons of brick fired.
 - (c) Natural gas usage in the tunnel kiln.

2. The emission of air contaminants from the kiln during normal operations, and bypass operations shall not exceed the following based on a consecutive 12-month period:

PM₁₀—29.43 tpy
 CO—112.13 tpy
 VOC—12.61 tpy
 NO_x (expressed as NO₂)—21.03 tpy
 SO₂—217.84 tpy
 H₂SO₄—21.16 tpy
 HF—4.54 tpy
 HCl—7.12 tpy
 Total HAP—11.734 tpy

3. Hazardous Air Pollutants (HAPs)

(a) HF emissions shall not exceed 0.057 lb/ton fired brick or shall be reduced from uncontrolled emissions by at least 90%.

(b) HCl emissions shall not exceed 0.10 lb/ton fired brick or shall be reduced from uncontrolled emissions by at least 75%.

4. The emission of air contaminants from the kiln and measured at the scrubber outlet shall not exceed the following limits expressed as lb/hr or pounds per ton of brick fired during normal operations, as applicable:

NO_x (expressed as NO₂)—0.3 lb/ton
 CO—1.6 lb/ton
 VOC—0.18 lb/ton
 SO_x (expressed as SO₂)—3.10 lb/ton,
 H₂SO₄—0.30 lb/ton
 Total HAP—0.158 lb/ton

5. The Department reserves the right to impose more stringent limitations based on results from stack testing.

6. The most recent stack test will be used to calculate controlled and uncontrolled emissions.

Copies of the application, the Department's analysis and other documents used in the evaluation of the

application are available for public review during normal business hours at 230 Chestnut Street, Meadville, PA 16335.

Any persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No. 33-005C.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Carolyn L. Cooper, New Source Review, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6638.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting Carolyn L. Cooper, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

If a plan approval has not undergone the previous public notice process, the change to an operating permit must be treated as a significant modification. In these situations the Department should follow the procedures described in §§ 127.421 to 127.431 for State-only operating permits or §§ 127.521 to 127.524 for Title V operating permits.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 09068: Inolex Chemical Co. (2101 South Swanson Street, Philadelphia, PA 19148-3497) to replace one existing boiler with one 49.00 mmBtu/hr boiler firing No. 6 oil/natural gas or Waste Oil in the City of Philadelphia, **Philadelphia County**. The boiler will have the following combined potential annual emissions: 50 tons of CO, 22 tons of PM. The boiler will be limited to less than 25 tons of NO_x and 40 tons of SO₂ emissions per year. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

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

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

09-00128: East Coast Sign Advertising (5058 Route 13 North, Bristol, PA 19007) for operation their facility in Bristol Township, **Bucks County**. This action is a renewal of the permit for a non-Title V (State-only) facility. The facility's main sources include: three large paint

spray booths and a paint storage/mix room. There are no proposed changes to equipment or operating conditions. The permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00173: P & R Industries, Inc., d/b/a Arbonite (3826 Old Easton Road, Doylestown, PA 18901) for a renewal of State-only (Natural Minor) Operating Permit No. 09-00173, which was originally issued on September 8, 2004. The renewed State-only Operating Permit will include monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

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

40-00079: Johns Manville, Intl. (600 Jaycee Drive, Hazleton, PA 18202) for operation of a urethane and foam product manufacturing facility in the City of Hazleton, **Luzerne County**. This is a renewal of a State-only Operating Permit.

54-00072: JELD-WEN, Inc. (1162 Keystone Boulevard, Pottsville, PA 17901) for a new door manufacturing facility in Cass Township, **Schuylkill County**. This is a State-only Natural Minor operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

54-00051: Department of Corrections—Mahanoy SCI (301 Morea Road, Frackville, PA 17932) for operation of a boiler and two emergency generators at their facility in West Mahanoy Township, **Schuylkill County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

03-00152: Glacial Sand & Gravel Company (P. O. Box 1022, Kittanning, PA 16201) for operation of Tartown Land Plant facility in East Frank Township, **Armstrong County**. This is a State-only Operating Permit renewal.

03-00193: Glacial Sand & Gravel Company (P. O. Box 1022, Kittanning, PA 16201) for operation screening and loading at the Bridgeburg Coal Crushing, Screening and Loading facility in East Franklin, **Armstrong County**. This is a State-only Operating Permit renewal.

32-00316: Equitrans, LP (200 Allegheny Center Mall, Pittsburgh, PA 15212-5352) for operation of the Pennview Compressor Station in Wheatfield Township, **Indiana County**. This is a State-only Operating Permit Renewal.

63-00909: GE Hitachi Nuclear Energy Americas, LLC (50 Curry Avenue, Canonsburg, PA 15317-1743) on August 17, 2009, submitted an application for a synthetic-minor operating permit to operate a metal containers manufacturing facility at their GE Ionics plant in Canonsburg Borough, **Washington County**. This is a renewal of the existing synthetic minor operating permit, issued in 2005.

63-00947: MarkWest Liberty Midstream & Resources, LLC (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on August 13, 2009, submitted an application for a State-only permit to operate five natural-gas compressor engines, a dehydration unit and associated equipment at the Lowry Compressor Station in Hopewell Township, **Washington County**. This site currently operates under a general permit, GP5-63-00947.

65-00898 Equitrans, LP (200 Allegheny Center Mall, Pittsburgh, PA 15212-5352) for operation of Sleepy Hollow Compressor Station in Salem Township, **Westmoreland County**.

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

10-00220: ESM Group, Inc. (130 Myoma Road, Mars, PA 16046) for re-issuance of a Natural Minor Operating Permit to operate a powder blending and packaging facility in Adams Township, **Butler County**. The facility's primary emission sources include a truck dumping station, a custom blending system, materials handling, synflux mixing and bagging, storage silos and a parts washer.

33-00002: Owens-Illinois, Inc.—Plant No. 19 (Route 219N, Brockway, PA 15824), for the reissuance of a Title V Permit to operate a glass containers manufacturing facility in Township of Snyder, **Jefferson County**. The major sources included: boiler, raw material handling and storage, batch gather and mix, glass melting furnaces C & D, cullet handling and storage, two refiners, six forehearth, six annealing lehrs, miscellaneous combustion sources, six container forming machines, hot end surface treatment, road fugitives and four parts cleaning machines. The facility is a major facility due to its potential to emit of NOx and SOx. The facility is subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is not subject to CAM rule because the precontrolled emissions are not exceeding the Title V threshold limits.

37-00321: New Castle Recycling (215 Gardner Avenue, New Castle, PA 16101-3926) to issue a renewal State-only Operating Permit for the scrap metal cutting operations in the City of New Castle, **Lawrence County**. The facility is a Natural Minor. The primary sources at the facility include scrap cutting of large objects under a metal hood that is controlled by a baghouse and yard cutting for smaller carbon steel scrap (with minimal amounts of nickel and chrome) and aluminum.

PLAN APPROVALS

Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.

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

PA 48-399-061: Laminating Corp. (700 Bartley-Chester Road, P. O. Box 37, Flanders, NJ 07836-0037) for construction and operation of a laminating process at the facility, to be in Upper Mount Bethel Township, **Northampton County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received and intends to issue Plan Approval to Custom Laminating Corp. (700 Bartley-Chester Road, P. O. Box 27, Flanders, NJ 078-0037) for their facility to be in Upper Bethel Township, Northampton County. This Plan Approval No. 48-399-06 will be incorporated into the company's Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 48-399-061 is for the construction and operation of a laminating process at the facility. VOC emissions from the plant will remain under 50 tpy, 12-month rolling sum. Total HAP emissions from the facility will be under 25 tpy, 12-month rolling sum. Single HAP emissions will be under 10 tpy, 12-month rolling sum. PM emissions will be controlled by the use of a baghouse, which is limited to 0.02 gr/dscf. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 48-399-061.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2511 within 30 days after publication date.

PA No. 54-316-007: JELD-WEN (407 Harbor Isles Boulevard, P. O. Box 1540, Klamath Falls, OR 97601-0253) for the construction and operation of a new paint spray booth in Cass Township, **Schuylkill County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received and intends to issue a Plan Approval to JELD-WEN (407 Harbor Isles Boulevard, P. O. Box 1540, Klamath Falls, OR 97601-0253) for their facility to be located in Cass Township, Schuylkill County.

This Plan Approval No. 54-316-007 will be incorporated into a State-only Permit through an administrative amendment at a later date.

Plan Approval No. 54-316-007 is for the construction and operation of a new paint spray booth. PM emissions will not exceed 0.04 gr/dscf. The company shall be subject to, and comply with, 25 Pa. Code § 123.31 for malodorous emissions. The company shall be subject to, and comply with, 25 Pa. Code § 123.41 for Visible emissions. Emissions will be controlled by the use of dry filters. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No. 54-316-007.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2511 within 30 days after publication date.

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.

When 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			

¹ 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) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

03991301 and NPDES Permit No. PA0235407, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Logansport Mine in Bethel Township, **Armstrong County** to add underground permit acres and to revise the subsidence control plan boundary by adding 3,895.4 acres and deleting 1,077.1 acres. Underground Acres Proposed 260.9, Subsidence Control Plan Acres Proposed 2,818.3. The first downstream potable water supply intake from the point of discharge is Municipal Authority of Buffalo Township (Freeport), and intake Allegheny River. Application received May 14, 2009.

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

56050102 and NPDES No. PA0249751. Sherpa Mining Contractors, Inc., 337 Benny Road, Hooversville, PA 15936, revision of an existing bituminous surface auger, blasting mine in Shade Township, **Somerset County**, affecting 63.3 acres. Receiving streams: UNT to Oven Run and UNT to Stonycreek River classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority. The application includes a request to remove Middle Kittanning coal and existing coal refuse for reprocessing and redisposal. The application also includes a road variance request along the northern side of SR 1012. The road variance begins at a point 1,000 feet east of the intersection of SR 1012 and Township Route T-706 and continues in a westerly direction a distance of 1,630 feet. Application received September 28, 2007.

32900301 and NPDES No. PA0598712. Edward C. Griffith Quarry, Inc., 7815 Colonel Drake Highway, Mahaffey, PA 15757, permit revision of an existing large surface industrial mineral mine to change the post-mining land use from forest to pasture in North Mahoning Township, **Indiana County**, affecting 45.3 acres. Receiving stream: UNT to Little Mahoning Creek, classified for the following use: HQ-CWF. There are no potable

water supply intakes within 10 miles downstream. Application received July 30, 2009.

32000108 and NPDES No. PA0248801. River Hill Coal Company, Inc., P. O. Box 141, Kylertown, PA 16847, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in West Wheatfield Township, **Indiana County**, affecting 759.2 acres. Receiving streams: UNTs to/and Conemaugh River, Richards Run and Roaring Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 22, 2009.

56070110 and NPDES No. PA0262498. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, revision of an existing bituminous surface mine to add 13.9 acres for the installation of a haulroad, changing the total SMP acres from 282.4 to 296.3 in Stonycreek Township, **Somerset County**, affecting 282.4 acres. Receiving streams: Schrock Run and UNT No. 2 to Glades Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 7, 2009.

32990108 and NPDES No. PA 0235130. KMP Associates Inc., 1094 Lantz Road, Avonmore, PA 15618, permit revision of an existing bituminous surface mine to change land use from forest to unmanaged natural habitat in Young Township, **Indiana County**, affecting 54 acres. Receiving streams: UNT to Whiskey Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 7, 2009.

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

26090106 and NPDES Permit No. PA0251739. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application for commencement, operation and reclamation of a bituminous surface mine, located in Menallen Township, **Fayette County**, affecting 202.4 acres. Receiving streams: UNTs to Dunlap Creek and Dunlap Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received August 5, 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.

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

56090301 and NPDES No. PA0262846. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, commencement, operation and restoration of a noncoal (Loyalhanna Formation) surface and

deep mine in Jefferson Township, **Somerset County**, affecting 289 acres. Receiving streams: a UNT to Kooser Run and UNTs to Shafer Run (tributaries to Laurel Hill Creek) classified for the following antidegradation use: HQ-CWF. The first downstream potable water supply is the Somerset Borough Municipal intake on Laurel Hill Creek downstream of the confluence with Shafer Run. The Department of Environmental Protection has made a tentative determination to issue the NPDES permit with a requirement that wastewater and stormwater be handled with nondischarge alternatives and without point source discharges. Therefore, no effluent limits for point source discharges are proposed. The final determination on the application will be formulated based on a review of the information in the noncoal mining and NPDES application and upon consideration of comments received under this notice and newspaper notice of the applications (including information gathered at informal conferences and/or public hearings, if they are requested); other pertinent available information will be considered. The application includes a request for two stream variances to conduct mine support activities within 100 feet of a UNT to Kooser Run including constructing a haulroad crossing, a conveyor crossing, erosion and sedimentation controls, and an aerial pipe line crossing. Application received July 31, 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 Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-1045. Richard Montalbano, Albert Einstein Healthcare Network, 5501 Old York Road, Hackenberg 5, Philadelphia, PA 19141, East Norriton Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities to the existing man-made ponds in the Stony Creek (TSF) Watershed within the Woods Golf Course associated with the proposed Albert Einstein Healthcare Network project:

1. To place fill in a 110-foot diameter (9204 SF) off-stream man-made pond.
2. To place fill in 652 SF of wetlands located along western side of the site.
3. To expand the existing spring fed pond located on the eastern side by 10,358 SF, to compensate for filling of the open water pond. A 10-foot wide vegetative/aquatic buffer will be created around the perimeter of this pond.

The site is located approximately 700 feet northeast of the intersection of Germantown Pike and Whitehall Road (Lansdale, PA USGS Quadrangle N: 5.2 inches; W: 12.80 inches).

E23-477. MacDade Darby Development, 5004 State Road, Drexel Hill, PA 19026, Darby Borough, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

Darby Town Center Project.

To place and maintain fill in the floodway of Darby Creek (WWF-MF) associated with the proposed Darby Town Center commercial development project which consists of two buildings totaling 42,429 square feet, and access roadways.

The project is located approximately 147 feet south of the intersection of Chestnut Street and MacDade Boulevard in Ridley Township, Delaware County (Lansdowne, PA USGS Quadrangle N: 8.13 inches; W: 2.17 inches).

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

E39-491. Lehigh County, 17 South 7th Street, Allentown, PA 18101-2401, in North Whitehall Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 2,625 linear feet, 12-foot wide gravel pedestrian walking trail within the floodway of the Jordan Creek (TSF-MF); to construct and maintain a 6-foot wide, single-span, wooden pedestrian bridge with wooden planking and open stairs, having a 97-foot span and a 10.8-foot underclearance across the Jordan Creek (TSF-MF); and construct and maintain a 6-foot wide, wooden boardwalk spanning approximately 8 feet of wetlands and constructed on 6" by 6" square wooden columns for the purpose of improving the existing trail within the Trexler Nature Preserve. The project is located approximately 3.15 miles north east of the intersection of

SR 4040 and SR 100 (Slatedale and Cementon, PA Quadrangles Latitude: 40° 39' 13"; Longitude: -75° 37' 27") in North Whitehall Township, Lehigh County. Subbasin: 2C.

E48-387. Allen Township, 4714 Indian Trail Road, Northampton, PA 18067, Allen Township, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in 0.02 acre of wetland and to construct and maintain a 12-foot wide by 6-foot high reinforced concrete box culvert depressed 1-foot below streambed elevation with concrete wingwalls and riprap bank protection over Dry Run (CWF) associated with the proposed realignment of Atlas Road (TR 465). The project will include the removal of the existing bridge structure and stabilization of the immediate channel banks. The project is located approximately 1,200 feet upstream of the intersection of Short Lane and Atlas Road in Allen Township, Northampton County (Catasauqua, PA Quadrangle Latitude: 40° 41' 37"; Longitude: -75° 28' 0"). Subbasin: 2C.

E45-521. Mitchell and Karen Kaplan, 257 Washington Drive, Watchung, NJ 07069, Stroud Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To maintain the Flagler Run streambank stabilization project which included the construction of stepped retaining walls having lengths of approximately 145 feet and maximum heights of 10.5 feet along the northern streambank and the placement of R-7 riprap along the toe of the retaining wall and along 200 feet of the southern streambank. The project was constructed under Emergency Permit EP4508403. The project is located approximately 100 feet downstream from SR 0611 (Stroudsburg, PA Quadrangle Latitude: 40° 59' 15"; Longitude: -75° 13' 16"). Subbasin: 1E.

E40-666. Robert and Helen Roderick, R. R. 1, Box 301A, Harveys Lake, PA 18618. Harveys Lake Borough, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To modify and maintain an existing pile-supported boathouse and dock in Harveys Lake (HQ-CWF) with work consisting of a 60 sf addition to the boathouse and a 184 sf addition to the dock structure. The total surface area of the modified pile-supported structure will be approximately 1,345 sf and will extend approximately 45 feet from the shoreline. The project is located on the eastern side of the lake between Poles No. 39 and No. 40 (Harveys Lake, PA Quadrangle Latitude: 41° 21' 49"; Longitude: -76° 2' 12"). Subbasin: 46.

E40-697. Borough of West Pittston, 555 Exeter Avenue, West Pittston, PA 18643, in Borough of West Pittston, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 60-inch diameter SLCPP stormwater outfall with a concrete headwall, flapgate and grouted R-7 riprap apron in the floodway of the Susquehanna River (WWF). The outfall is located near the intersection of Philadelphia and Susquehanna Avenues (Pittston, PA Quadrangle Latitude: 41° 19' 22"; Longitude: 75° 47' 55") in West Pittston Borough, Luzerne County. Subbasin: 5B.

E40-679A. City of Pittston, 35 Broad Street, City of Pittston, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To amend Permit E40-679 to authorize the modification and maintenance of an approximately 3,500-foot long stream enclosure in a tributary to the Susquehanna River with work consisting of replacing an approximately 2,000-foot portion of the stream enclosure with a 72" by 84" reinforced concrete box culvert.

E40-679 authorized the modification and maintenance of the same stream enclosure with work consisting of replacing a 300-foot long collapsed portion with 72-inch diameter reinforced concrete pipe. The location of the project begins at Gazette Street, and terminates along the east bank of the Susquehanna River, contiguous with Market Street (Pittston, PA Quadrangle Latitude: 41° 19' 10"; Longitude: 75° 46' 47") in the City of Pittston, Luzerne County. Subbasin: 5B.

E54-337. Schoeneman Realty Company, P. O. Box 600, Route 61 North, East Norwegian Township, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To fill 0.16 acre of wetlands for the purpose of providing improved access off Tunnel Road to an existing commercial business. A 300-foot long, 36-inch diameter HDPE pipe will be placed under the fill for the purpose of maintaining hydrology and providing bat access to an existing tunnel. The permittee is required to provide for 0.16 acre of replacement wetlands by participating in the Pennsylvania Wetland Replacement Project. The project is located near the intersection of SR 61 and Tunnel Road (T-750), approximately 5.22 miles south east of the intersection of I-81 along SR 61 (Pottsville, PA Quadrangle Latitude: 40° 42' 14"; Longitude: -76° 11' 11") in East Norwegian Township, Schuylkill County.

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

E06-648. Borough of Shillington, Michael Mountz, 2 East Lancaster Avenue, Shillington Borough, PA 19607, **Berks County**, United States Army Corps of Engineers, Philadelphia District.

To construct a 13,400 linear foot 24-inch PVC sanitary sewer main to replace an existing cast iron and vitrified clay sewer main that is deteriorating. The sewer main will cross the Wyomissing Creek (HQ-CWF) seven times, will cross wetlands identified as EV, and will convey sewage to the Joint Municipal Authority of Wyomissing Valley's wastewater treatment facility. The project is located along Old Wyomissing Road (Reading, PA Quadrangle N: 11.0 inches; W: 13.5 inches, Latitude: 40° 19' 30"; Longitude: 75° 57' 37") in Shillington Borough, Berks County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E12-157. Shippen Township, 1681 Rich Valley Road, P. O. Box 349, Emporium, PA 15834. Jenks Run Bridge Across Clear Creek Project, Shippen Township, **Cameron County**, United States Army Corps of Engineers, Baltimore District (Rich Valley, PA Quadrangle Latitude: 41° 30' 43.52"; Longitude: 78° 20' 1.39").

Shippen Township proposes to remove an existing structure and construct, operate and maintain prestressed concrete spread box beam bridge across East Branch, Clear Creek (HQ-CWF) for improved public access and safety. The bridge across Clear Creek shall be constructed as a single-span structure having a minimum span of 30-feet, underclearance of 5-feet, and width of

23-feet. As proposed the bridge replacement project will permanently impact 15-square feet of wetland and 10-feet of stream, while temporarily impacting 40-feet of stream channel that is located along the southern right-of-way of T-389 (Clear Creek Road) approximately 3-miles west of SR 4004 and T-389 intersection. The Department of Environmental Protection has deemed the 15-square feet of permanent wetland impacts incurred by the bridge replacement as de minimis, and as such, no replacement wetlands will be required. This permit application was submitted for permit reissuance, since E12-157 originally expired on December 31, 2008.

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

E02-1616. Borough of Bridgeville, 425 Bower Hill Road, Bridgeville, PA 15017. To construct stream rehabilitation in the channel of McLaughlin Run in the Borough of Bridgeville, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Bridgeville, PA Quadrangle N: 19.0 inches; W: 13.8 inches, Latitude: 40° 20' 43"; Longitude: 80° 05' 19"). The applicant proposes to construct and maintain a stream rehabilitation project in and along the channel of McLaughlin Run (WWF) for a distance of approximately 480.0 linear feet for the pur-

pose of improving the channel characteristics and habitat of said stream. The project will consist of constructing Rock Vanes and J-Hook Rock Vanes on the left bank of said stream and cutting and placing fill on both banks of said stream. The project is located on the east side of McLaughlin Run Road, approximately 1,000.0 feet east from the intersection of McLaughlin Run Road and Coolidge Street and will impact approximately 480.0 linear feet of stream channel.

E02-1617. Township of Upper St. Clair, 1820 McLaughlin Run Road, Upper St. Clair, PA 15241. To relocate the channel of a UNT to Chartiers Creek in Upper St. Clair Township, **Allegheny County**, United States Army Corp of Engineers, Pittsburgh District (Bridgeville, PA Quadrangle N: 15.3 inches; W: 14.0 inches, Latitude: 40° 20' 03"; Longitude: 80° 06' 02"). The applicant proposes to reconstruct and relocate approximately 990.0 linear feet of the channel of a UNT to Chartiers Creek (WWF) for the purpose of stabilizing the stream banks of said stream and improving aquatic habitat, and will consist of in-stream grade control structures and riparian plantings. The project is located at the former Mayview State Hospital Grounds, approximately 1,600.0 feet upstream from the confluence of said stream and Chartiers Creek and will impact approximately 1,090.0 linear feet of stream channel.

ACTIONS

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

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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal 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 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.

I. NPDES Renewal Permit Actions

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>
PA0085715 (Sew)	Lloyd and Bertha Geib, Jr. 504 Hemlock Lane Lebanon, PA 17042-9015	Lebanon County Cornwall Borough	UNT of Shearers Creek 7-G	Y
PA0082805 (Sew)	Robert A. Droege 2524 Ironville Pike Columbia, PA 17512	Lancaster County Hempfield Township	Shawnee Run 7-G	Y
PA0023604 (Sew)	McAlisterville Area Joint Authority P. O. Box 61 McAlisterville, PA 17049	Juniata County Fayette Township	Little Lost Creek 12-B	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>
PA0228737 (Sewage)	Westover Borough 143 Tannery Road P. O. Box 51 Westover, PA 16692	Westover Borough Clearfield County	Chest Creek WWF	Y
PA0113034 Sewerage	Penn Township 4600 Beaver Lake Road Hughesville, PA 17737	Penn Township Lycoming County	Beaver Run 10D	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>
PA0098817 Sewage	Charles Hilligas 669 Nelson Road F Farmington, PA 15437	Fayette County Wharton Township	UNT of Meadow Run	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. PA0011070, Industrial Waste, **Knoll, Inc.** 1235 Water Street, P. O. Box 157, East Greenville, PA 18041. This proposed facility is located in Upper Hanover Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated wastewater from the Knoll East Greenville Facility into the Perkiomen Creek in Watershed 3E.

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

NPDES Permit No. PA0038415 Amendment No. 2, Sewage, **East Pennsboro Township**, 98 South Enola Drive, Enola, PA 17025. This proposed facility is located in East Pennsboro Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to the Conodoguinet Creek in Watershed 7-B.

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

PA0233811, Industrial Waste SIC 22, **Ulster Municipal Authority**, P. O. Box 157, Ulster, PA 18850. This proposed facility is located in Ulster Township, **Bradford County**.

Description of Proposed Activity: This permit is for the backwash discharge from the water supply filter plant.

The receiving stream, Toad Hollow Run, is in the State Water Plan Watershed 4B and is classified for WWF. The nearest downstream public water supply intake for the Borough of Danville is located on the Susquehanna River and is 142.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0072 mgd.

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum mg/l
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Suspended Solids	Monitor	Monitor	30	60	75
Iron (total)	Monitor	Monitor	1.5	3	3.8
Manganese (total)	Monitor	Monitor	1	2	2.5
Total Residual Chlorine	Monitor	Monitor	0.26		0.84
pH			Between 6 and 9 at all times		

The EPA waiver will be in effect.

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

NPDES Permit No. PA0263541, Sewage, **Thomas Young**, 209 Center Drive, Chicora, PA 16025-3705. This proposed facility is located in Oakland Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a permit for new discharge of treated sewage.

NPDES Permit No. PA0263443, Sewage, **Linesville Pine Joint Municipal Authority**, P. O. Box 382, Linesville, PA 16424. This proposed facility is located in Pine Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a permit for new treated sewage discharge.

NPDES Permit No. PA0240222, Sewage, **Medix Hotel**, 23155 Quehanna Highway, Weedville, PA 15868. This proposed facility is located in Benezette Township, **Elk County**.

Description of Proposed Action/Activity: Issuance of a permit for new treated sewage discharge.

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

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

WQM Permit No. 5209401, 509 Central South, LLC and 509 Central North, LLC, 5020 Clark Road No. 315, Sarasota, FL 34233. This proposed facility is located in Palmyra Township, **Pike County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the construction of a small flow sewage treatment facility with a spray irrigation system for a proposed five lot residential subdivision called Sunset Harbour.

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

WQM Permit No. 0809201, Industrial Waste 22, **Ulster Municipal Authority**, P. O. Box 157, Ulster, PA 18850. This proposed facility is located in Ulster Township, **Bradford County**.

Description of Proposed Action/Activity: This application is for the backwash treatment from the water supply filter plant. The treatment consists of a holding/settling tank and sludge drying beds.

WQM Permit No. WQG02140903, Sewerage 4952, **Port Matilda Borough Authority**, P. O. Box 519, Port Matilda, PA 16870-0483. This proposed facility will be located in Worth Township, **Centre County**.

Description of Proposed Action/Activity: The applicant is approved under the Water Quality Management General Permit to construct and operate a sanitary sewer extension and associated grinder pumps in Worth Township.

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

WQM Permit No. 5609402, Sewerage, **Northeast District of the Brethren Church**, Berlin Brethren Church, 622 Main Street, Berlin, PA 15530. This proposed facility is located in Greenville Township, **Somerset County**.

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

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

WQM Permit No. WQG018702, Sewerage, **Nikki Martin**, 733 Lakewood-Neshannock Falls Road, New Castle, PA 16101. This proposed facility is located in Pulaski Township, **Lawrence County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

WQM Permit No. WQG018695, Sewerage, **Thomas Young**, 209 Center Drive, Chicora, PA 16025-3705. This proposed facility is located in Oakland Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

WQM Permit No. WQG018703, Sewerage, **Laurie Wagner**, 467 Covered Bridge Road, Volant, PA 16156. This proposed facility is located in Shenango Township, **Lawrence County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

WQM Permit No. WQG018708, Sewerage, **Steven Degel**, 404 Protzman Road, Butler, PA 16002-9111. This proposed facility is located in Eau Claire Borough, **Butler County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

WQM Permit No. 4209402, Sewerage, **Hamlin Township**, 22 Park Road, P. O. Box 235, Hazel Hurst, PA 16733. This proposed facility is located in Hamlin Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

WQM Permit No. 2009403, Sewerage, **Linesville Pine Joint Municipal Authority**, P. O. Box 382, Linesville, PA 16424. This proposed facility is located in Pine Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a permit to construct new sewers in Pine Township and construct a new regional sewage treatment plant.

WQM Permit No. 2408402, Sewerage, **Medix Hotel**, 23155 Quehanna Highway, Weedville, PA 15868. This proposed facility is located in Benezetze Township, **Elk County**.

Description of Proposed Action/Activity: Issuance of a permit to construct a sewage treatment plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI010909005	Gorski Engineering, Inc. 1 Iron Bridge Drive Collegeville, PA 19426	Bucks	Milford Township	Molasses Creek HQ-TSF

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

Wayne County Conservation District: Agriculture Service Center, 470 Sunrise Avenue, Honesdale, PA 18431, (570) 253-0930.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI026404003R	Department of Transportation Engineering District 4-0 55 Keystone Industrial Park Dunmore, PA 18512	Wayne	Honesdale Borough	Lackawaxen and West Branch Lackawaxen Rivers HQ-TSF, MF

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI033109001	Department of Transportation Engineering District 9-0 162 North Juniata Street Hollidaysburg, PA 16648	Huntingdon	Morris Township	UNT to Frankstown Branch Juniata River WWF UNT to Little Juniata River WWF Floodplain wetlands tributary to Frankstown Branch Juniata River EV

Northcentral Region: Watershed 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.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041409005	Ronald J. Woodhead Centre Regional Recreation Authority 2643 Gateway Drive State College, PA 16801	Centre	State College Borough	Thompson 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.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI064209001	Hamlin Township 22 Park Road P. O. Box 235 Hazel Hurst, PA 16733	McKean	Hamlin Township	UNT West Branch Clarion River CWF South Branch Kinzua Creek HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Richland Township Bucks County	PAG200 0908093	Allen D. Keller 3103 Old Bethlehem Pike Quakertown, PA 18951	Tohickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chalfont and New Britain Townships Bucks County	PAG200 0909077	Chalfont-New Britain Township Joint Sewage Authority 1645 Upper State Road Doylestown, PA 18901	West Branch Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Newtown Township Bucks County	PAG200 0909007	Horizon Lot 2 Associates, LP 125 Brownsburg Road East New Hope, PA 18938	Core Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Bucks County	PAG200 0909052	Friends Lane, LLC 2755 Philmont Avenue Suite 130 Huntingdon Valley, PA 19468	Core Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAG200 0907060	Hostvedt-Pavoni, Inc. 30 South Pine Street Doylestown, PA 18901	Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Garden Township Chester County	PAG200 1509013	Auto Zone, Inc. 123 South Front Street 3rd Floor Memphis, TN 38103-3618	Red Clay Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Caln Township Chester County	PAG200 1509025	PA American Water 4 Wellington Boulevard Suite 2 Wyomissing, PA 19610	Rock Run TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Garden Township Chester County	PAG200 1509010	New Garden Township 299 Starr Road Landenberg, PA 19350	UNT Egypt Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Garden Township Chester County	PAG200 1509020	Giant Food Stores, LLC 1149 Harrisburg Pike Carlisle, PA 17013	West Branch Red Clay Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Tredyffrin Township Chester County	PAG200 1509027	F and H Main Line, Inc. 701 Haviland Avenue Wayne, PA 19087	Crow Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Phoenixville Borough Chester County	PAG200 1504074-R	Northridge Village, LP 1890 Rose Cottage Lane Malvern, PA 19355 and NV Homes/Ryan Homes 893 South Matlack Street West Chester, PA 19382	French Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Delaware County	PAG200 2308044	Main Line Health Services 937 Haverford Road Bryn Mawr, PA 19010	Brandywine Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG200 4607166	TH Properties 345 Main Street Harleysville, PA 19438 and Archdiocese of Philadelphia 222 North 17th Street Philadelphia, PA 19104	Tributary Mingo Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Montgomery Township Montgomery County	PAG200 4604068	Montgomeryville Investors, LP 14 Balligomingo Road P. O. Box 429 Conshohocken, PA 19428	Little Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Whitpain Township Montgomery County	PAG200 4609016	Blue Bell Investment Co., LP 6711 Columbia Gateway Drive Columbia, MD 21046	Saw Mill Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wright Township Luzerne County	PAG2004007049	Wright Township Daniel Frascella 321 South Mountain Boulevard Mountaintop, PA 18707	Wapwallopen Creek CWF	Luzerne County Conservation District (570) 674-7991
Borough of Bowmanstown Carbon County	PAG2001309003	Borough of Bowmanstown P. O. Box 127 490 Ore Street Bowmanstown, PA 18030	Fireline Creek CWF, MF	Carbon County Conservation District (610) 377-4894
Windsor Township Bucks County	PAG2000609019	Dwight Hermann Department of General Services 18th and Herr Streets Harrisburg, PA 17125	UNT/Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Centre Township Berks County	PAG2000609028	Harold Spatz The Village at Irish Creek, LLC 290 Irish Creek Road Mohrsville, PA 19541	Irish Creek/Maiden Creek-WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Clearfield County Union Township	PAG2001709005	City of DuBois 16 West Scribner Avenue DuBois, PA 15801	Anderson Creek CWF-below dam HQ-CWF above dam	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clearfield County City of DuBois	PAG2001709006	Tractor Supply DuBois, LLC 10053 Old Farm Court Cincinnati, OH 54242	Beaver Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Armstrong County Manor Township	PAG2000309006	Trek Development Corp. 130 7th Street Suite 300 Pittsburgh, PA 15213	Garretts Run WWF	Armstrong County Conservation District (724) 548-3425
Somerset County Somerset Township	PAG2005609009	Saint Paul's Presbyterian Church 272 Kuhntown Road Somerset, PA 15501	UNTB to east Branch of Coxes Creek WWF	Somerset County Conservation District (814) 445-4652
Crawford County Pine Township Linesville Borough	PAG2002009004	Linesville Pine Joint Municipal Authority P. O. Box 382, Linesville, PA 16424	Shenango River WWF	Crawford County Conservation District (814) 763-5269
Lawrence County Hickory Township	PAG 003706001R1	Hickory Township Attn: Todd Fennick 127 Eastbrook Neshannock Falls Road New Castle, PA 16105	UNT to Big Run WWF	Lawrence County Conservation District (724) 652-4512

*General Permit Type—PAG-3**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
North Manheim Township Schuylkill County	PAR122213	Tuscan/Lehigh Dairies, Inc. 880 Allentown Road Lansdale, PA 19446	UNT to Schuylkill River CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Lebanon County Annville Township	PAR603539	Carl W. Weber Weber Brothers Auto 795 North Mill Street Lebanon, PA 17046	UNT to Quittaphilla Creek TSF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Athens Township Bradford County	PAR224842	Masco Retail Cabinet Group, LLC P. O. Box 158 Sayre, PA 18840	UNT To Chemung River WWF	Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701 (570) 327-3664
Shenango Township Mercer County	PAR608327	Patrick Sickafuse 4287 New Castle Road Pulaski, PA 16143	UNT to West Branch Little Neshannock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Mahoning Township Lawrence County	PAR708321	Dunbar Asphalt Products, Inc. P. O. Box 477 Wheatland, PA 16161	Mahoning River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Doylestown Township Bucks County	PAG040124	John J. Murphy, Jr. 89 Chestnut Valley Drive Doylestown, PA 18901	UNT to Cook's Run 2F-Neshaminy	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
West Rockhill Township Bucks County	PAG040125	Daniel L. Ranker 31 Weikel Road Sellersville, PA 18960	UNT to Three Mile Run 2D Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Slippery Rock Township Butler County	PAG048723	Lynne and P. Joseph Barth 138 Bradman Estates Slippery Rock, PA 16057	UNT to Long Run 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pulaski Township Lawrence County	PAG049524	Nikki Martin 733 Lakewood- Neshannock Falls Road New Castle, PA 16101	UNT to Deer Creek 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Shenango Township Lawrence County	PAG049526	Laurie Wagner 467 Covered Bridge Road Volant, PA 16156	UNT to McKee Run 20-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Eau Claire Borough Butler County	PAG049531	Steven Degel 404 Protzman Road Butler, PA 16002-9111	UNT to South Fork Little Scrubgrass Creek 16-G	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-7**Facility Location:
Municipality &
County*Westfall Township
Pike County*Permit No.*

PAG07-2201

*Applicant Name &
Address*Pike County
Environmental
P. O. Box 127
Matamoras, PA 18336*Site Name & Location*Pike County
Environmental
1116 Delaware Drive
Matamoras, PA 18336*Contact Office &
Phone No.*DEP—NERO
2 Public Square
Wilkes-Barre, PA
18711-0790
(570) 826-2511*General Permit Type—PAG-10**Facility Location:
Municipality &
County*Bradford County
Herrick Township*Permit No.*

PAG104810

*Applicant Name &
Address*Angelina Gathering
Company, LLC
2350 North Sam
Houston Parkway East
Suite 125
Houston, TX 77032*Receiving
Water/Use*UNT to Cold Creek
WWF*Contact Office &
Phone No.*Northcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3664Clearfield County
Clearfield Borough*Permit No.*

PAG10104811

Bionol Clearfield, LLC
250 Technology Drive
Suite 5
Clearfield, PA 16830West Branch
Susquehanna River
WWFNorthcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3664Statewide:
Discharge points to
be provided at least
15 days prior to any
planned discharge.*Permit No.*

PAG109601

Domonion Resources, Inc.
501 Martindale Street
Suite 400
Pittsburgh, PA
15212-5817Statewide Use-
Water/use information
to be provided to the
Department of
Environmental
Protection before the
discharge.Bureau of Water
Standards and Facility
Regulation
Department of
Environmental Protection
Central Office
400 Market Street
Harrisburg, PA 17105
(717) 787-8184Statewide:
Discharge points to
be provided at least
15 days prior to any
planned discharge.*Permit No.*

PAG109616

National Fuel Gas
Supply Corporation
1100 State Street
Erie, PA 16501Statewide Use-
Water/use information
to be provided to the
Department of
Environmental
Protection before the
discharge.Bureau of Water
Standards and Facility
Regulation
Department of
Environmental Protection
Central Office
400 Market Street
Harrisburg, PA 17105
(717) 787-8184Statewide:
Discharge points to
be provided at least
15 days prior to any
planned discharge.*Permit No.*

PAG109609

Equitable Resources, Inc.
225 North Shore Drive
Pittsburgh, PA 15212Statewide Use-
Water/use information
to be provided to the
Department of
Environmental
Protection before the
discharge.Bureau of Water
Standards and Facility
Regulation
Department of
Environmental Protection
Central Office
400 Market Street
Harrisburg, PA 17105
(717) 787-8184**STATE CONSERVATION COMMISSION****NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES

permits, or Notices of Intent for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board’s rules of practice and procedure may be obtained from the Board. The appeal form and the Board’s rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
James Kurtz 1070 Grand Valley Road Mifflinburg, PA 17844	Union	0	603.4	Swine	NA	Approved

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. 4509507MA, Minor Amendment, Public Water Supply.

Applicant	Brodhead Creek Regional Authority 410 Stokes Avenue East Stroudsburg, PA 18301
Borough or Township	Stroud Township
County	Monroe
Type of Facility	PWS
Consulting Engineer	Michael E. Gable, P. E. RKR Hess Associates, Inc. 961 Marcon Boulevard Suite 425 Allentown, PA 18109
Permit to Construct Issued	August 14, 2009

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 3809504 MA, Minor Amendment, Public Water Supply.

Applicant	City of Lebanon Authority
Municipality	North Lebanon Township
County	Lebanon

Type of Facility Construction of Clearwell No. 2; installation of baffle walls in Clearwell No. 1; and, replacement of equipment in the the North and South clarifiers.

Consulting Engineer Laurence S. Zimmermann, P. E. Gannett Flemming, Inc. P. O. Box 67100 Harrisburg, PA 17106-7100

Permit to Construct Issued: July 30, 2009

Operations Permit issued to **Exelon Generation Company, LLC**, 7220872, Londonderry Township, **Dauphin County** on August 7, 2009, for the operation of facilities approved under Construction Permit No. 2295502 T2.

Operations Permit issued to **Exelon Generation Company, LLC**, 7220917, Londonderry Township, **Dauphin County** on August 7, 2009, for the operation of facilities approved under Construction Permit No. 2296501 T2.

Operations Permit issued to **Northwestern Lancaster County Authority**, 7360164, Penn Township, **Lancaster County** on August 7, 2009, for the operation of facilities approved under Construction Permit No. 3606522 MA.

Operations Permit issued to **Lake Meade Municipal Authority**, 7010036, Reading Township, **Adams County** on August 7, 2009, for the operation of facilities approved under Construction Permit No. 0108508 MA.

Operations Permit issued to **City of Lebanon Authority**, 7380010, Swatara Township, **Lebanon County** on August 7, 2009, for the operation of facilities approved under Construction Permit No. 3808504 MA.

Operations Permit issued to **North Heidelberg Water Company**, 3060115, North Heidelberg Township, **Berks County** on August 10, 2009, for the operation of facilities approved under Construction Permit No. 0608509.

Operations Permit issued to **Irish Creek Village MHP**, 3060113, Centre Township, **Berks County** on August 11, 2009, for the operation of facilities approved under Construction Permit No. 0608510 MA.

Operations Permit issued to **Western Berks Water Authority**, 3060066, Lower Heidelberg Township, **Berks County** on August 10, 2009, for the operation of facilities approved under Construction Permit No. 0609503 MA.

Operations Permit issued to **CHR Corporation**, 7670323, Fawn Township, **York County** on August 11, 2009, for the operation of facilities approved under Construction Permit No. 6709501.

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

Permit No. 1407503—Operation, Public Water Supply.

Applicant **Walker Township Water Association**

Township or Borough County Walker Township **Centre**

Responsible Official M. David Foreman, President Walker Township Water Association P. O. Box 160 Mingoville, PA 16856

Type of Facility Public Water Supply—Operation

Consulting Engineer David McCullough, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801

Permit Issued Date August 12, 2009

Description of Action Operation of Snyderstown Well No. 3, transmission line and related treatment building, including gas chlorination facilities.

Permit No. 1709502—Construction, Public Water Supply.

Applicant **Brady Township-Troutville Borough Association**

Township or Borough County Brady Township **Clearfield**

Responsible Official Lester Wachob, President Brady Township-Troutville Borough Association 3309 Shamokin Trail Luthersburg, PA 15848

Type of Facility Public Water Supply—Construction

Consulting Engineer Steven Heine, P. E. Steven V. Heine, Inc. P. O. Box 466 Huntingdon, PA 16652

Permit Issued Date August 12, 2009

Description of Action Construction of a 150,000 gallon steel finished water storage tank (Luthersburg Reservoir No. 3).

Permit No. Minor Amendment—Operation, Public Water Supply.

Applicant **United Water Pennsylvania, Inc.**

Township or Borough County Town of Bloomsburg **Columbia**

Responsible Official Arthur Saunders Senior Engineer United Water Pennsylvania, Inc. 4211 East Park Circle Harrisburg, PA 17111

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date August 13, 2009

Description of Action Operation of the replacement powdered activated carbon feed system you were permitted to install November 2, 2001, for taste and odor control at the Irondale Water Treatment/Filtration Plant in Bloomsburg.

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

Permit No. 1604502-MA2, Public Water Supply.

Applicant **Borough of East Brady**
 Township or Borough East Brady Borough
 County **Clarion County**
 Type of Facility Public Water Supply
 Consulting Engineer Kenneth Orié, P. E.
 Gibson-Thomas Engineering
 Co., Inc.
 Permit to Construct August 13, 2009
 Issued

SEWAGE FACILITIES ACT PLAN APPROVAL

Plans Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

Southwest Regional Office, Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (414) 442-4000.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Ligonier Borough	Ligonier Borough Paul Fry, Secretary 120 East Main Street Ligonier, PA 15658	Westmoreland
Ligonier Township	Ligonier Township Supervisors Keith Whipkey, Secretary 1 Municipal Park Drive Ligonier, PA 15658-8763	

Plan Description: The project is located in the Loyalhanna Creek Watershed, in portions of Ligonier Borough and Ligonier Township, Westmoreland County.

The Ligonier East Planning Area Project will provide municipal sewer service to up to 465 existing structures in the Loyalhanna Creek Watershed. The project will serve the area beginning at the existing Ligonier Borough Wastewater Treatment Plant and extend to the Rolling Rock Club entrance on Route 30 East. The plan provides for the construction of collection sewers, interceptors and a new sewage pump station.

The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts results from this proposal.

Any required WQM Permits must be obtained in the name of the Ligonier Township Municipal Authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require

the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Blosinenski Farm, Brandywine Township, **Chester County**. Michael Welsh, Applied Environmental Management, Inc., 16 Chester County Commons, Malvern, PA 19355 and Charlie David, Gambone Brothers Development Company, 1030 West Germantown Pike, Norristown, PA 19403 on behalf of David Dratch, Heatherwynd East Community Association, Inc., 1030 West Germantown Pike, P. O. Box 287, Norristown, PA 19403 have submitted a Final Report concerning remediation of site soil contaminated with used motor oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Yost Property, New Britain Borough, **Bucks County**. Donald Coleman, Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 and Robert Self, Self Heating & Cooling, Inc., 219 Keith Valley Road, Horsham, PA 19044 on behalf of Katherine Yost, 43 Evergreen Drive, New Britain, PA 18901 have submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Mill Street Industrial Associates, Quakertown Borough/Richland Township, **Bucks County**. Michael Christie, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Roger Altemose, Mill Street Industrial Associates, LP, 2880

Bergey Road, Suite D, Hatfield, PA 19440 has submitted a Final Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

Betty M. Weller Residence, Pike Township, **Berks County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of Betty M. Weller, 37 Rolling Rock Road, Boyertown, PA 19512, submitted a Final Report concerning remediation of site soils contaminated with gasoline from an underground storage tank. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

RW Sauder Inc. Lititz Division, Warwick Township, **Lancaster County**. Reliance Environmental, Inc., 130 East Chestnut Avenue, Lancaster, PA 17602, on behalf of RW Sauder, Inc., 570 Furnace Hills Pike, Lititz, PA 17543, submitted a Final Report concerning remediation of site soils contaminated with used motor oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Residential Statewide Health Standard.

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

Pennsylvania College of Technology-Rose Street Student Housing/Parking, City of Williamsport, **Lycoming County**. TCI Environmental Services, Inc., 100 North Wilkes-Barre Boulevard, Wilkes-Barre, PA 18702 on behalf of Pennsylvania College of Technology, 2245 Reach Road, Williamsport, PA 17701 has submitted a Remedial Investigation Report concerning remediation of site soil contaminated with lead and arsenic. The report is intended to document remediation of the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report

includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

101—103 Cricket Avenue, Lower Merion Township, **Montgomery County**. Samuel Kucia, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Samuel Galib, JAL Partners, 409 Boxwood Road, Bryn Mawr, PA 19010 has submitted a Remedial Investigation/Final Report concerning the remediation of site groundwater and soil contaminated with unleaded gasoline. The Remedial Investigation/Final Report was placed on hold by the Department of Environmental Protection on July 30, 2009.

Anro, Inc., Easttown Township, **Chester County**. James F. Mullan, Hocage Consulting, Inc., 987 Haddon Avenue, Collingswood, NJ 08108, on behalf of Dave Spinell, ANRO, Inc. 222 Lancaster Avenue, Devon, PA 19333 has submitted a Remedial Investigation/Risk Assessment and cleanup plan concerning the remediation of site groundwater contaminated with MTBE, No 2 fuel oil. The Remedial Investigation/Risk Assessment and Cleanup Plan was approved by the Department of Environmental Protection on August 10, 2009.

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

New York Wire, Inc., Spring Garden Township, **York County**. Earth Tech AECOM, 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of New York Wire, Inc., 829 Loucks Mill Road, York, PA, submitted a Remedial Investigation and Final Report concerning remediation of site soil and groundwater contaminated with metals. The combined report demonstrated attainment of a combination of the Residential Statewide Health and Site-Specific Standards, and was approved by the Department of Environmental Protection on August 11, 2009.

Columbia Reduction Company/Colonial Metals, Borough of Columbia, **Lancaster County**. Herbert, Rowland, & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Colonial Metals Company, 217 Linden Street, P. O. Box 311, Columbia, PA 17512, submitted a Remedial Investigation, Risk Assessment, and Cleanup Plan concerning remediation of site soils and groundwater contaminated with inorganics. The site is being remediated to a combination of Statewide Health and Site-Specific Standards. The Remedial Investigation, Risk Assessment, and Cleanup Plan were approved by the Department of Environmental Protection on August 11, 2009.

Lancaster General Hospital Property, formerly 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 Final Report concerning remediation of site soils and groundwater contaminated with heating oil released from an aboveground storage tank. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on August 12, 2009.

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

Pennsylvania College of Technology-Rose Street Student Housing/Parking, City of Williamsport, **Lycoming County**. TCI Environmental Services, Inc., 100 North Wilkes-Barre Boulevard, Wilkes-Barre, PA 18702 on behalf of Pennsylvania College of Technology, 2245 Reach Road, Williamsport, PA 17701 has submitted a Remedial Investigation Report concerning remediation of site soil contaminated with lead and arsenic. The report was approved by the Department of Environmental Protection on August 13, 2009.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act) (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Issued

Kuhnle Brothers, Inc., P. O. Box 375, 14905 Cross Creek Drive, Newbury, OH 44065. License No. PA-AH 0655. Effective June 25, 2009.

Dupre Logistics, LLC, 201 Energy Parkway, Lafayette, LA 70508. License No. PA-AH 0764. Effective June 30, 2009.

New York Environmental Technologies, Inc., P. O. Box 24398, Rochester, NY 14624. License No. PA-AH 0762. Effective July 2, 2009.

Marcor Environmental, LP, 246 Cockeysville Road, Hunt Valley, MD 21030. License No. PA-AH 0763. Effective July 16, 2009.

Waste Recycling Solutions, Inc., 17 Ole Dock Road, Yaphank, NY 11980. License No. PA-AH 0765. Effective August 5, 2009.

Hazardous Waste Transporter License Renewed

T. F. Boyle Transportation, Inc., 15 Riverhurst Road, Billerica, MA 01821. License No. PA-AH 0572. Effective July 6, 2009.

First Piedmont Hauling, Inc., P. O. Box 1069, Chatham, VA 24531. License No. PA-AH S212. Effective July 6, 2009.

Quality Carriers, Inc., 150 East PA Avenue, Suite 430, Downingtown, PA 19335. License No. PA-AH 0630. Effective July 9, 2009.

Beelman Truck Company, 1 Racehorse Drive, East St. Louis, IL 62205. License No. PA-AH 0363. Effective July 20, 2009.

Reliable Environmental Transport, Inc., P. O. Box 500, Bridgeport, WV 26330. License No. PA-AH 0721. Effective July 20, 2009.

AEG Environmental Products & Services, P. O. Box 286, Westminster, MD 21158. License No. PA-AH 0701. Effective August 4, 2009.

Barnett Transportation, Inc., P. O. Box 2468, Tuscaloosa, AL 35403. License No. PA-AH 0700. Effective August 10, 2009.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTATION LICENSE

Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Infectious and Chemotherapeutic Waste Transporter License Renewed

Curtis Bay Energy, LLC, 3200 Hawkins Point Road, Baltimore, MD 21226. License No. PA-HC 0236. Effective July 8, 2009.

York Hospital, 1001 South George Street, York, PA 17401-1409. License No. PA-HC 0017. Effective July 15, 2009.

S. H. Bio-Waste, LTD, P. O. Box 2117, Norristown, PA 19404. License No. PA-HC 0096. Effective August 3, 2009.

Weavertown Transport Leasing, Inc., 2 Dorrington Road, Carnegie, PA 15106. License No. PA-HC 0020. Effective August 4, 2009.

Infectious and Chemotherapeutic Waste Transporter License Issued

Secured Medical Waste, LLC, 3113 Lauren Hill Drive, Finksburg, MD 21048. License No. PA-HC 0241. Effective June 29, 2009.

Agape Pet Services, LLC, 19712 Shepherdstown Pike, Boonsboro, MD 21713. License No. PA-HC 0240. Effective June 30, 2009.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

Infectious and Chemotherapeutic Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Infectious and Chemotherapeutic Waste Transporter License Expired

BioMedical Waste Services, Inc., 7833 Golden Pine Circle, Severn, MD 21226. License No. PA-HC 0226. Effective July 1, 2009.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits Approved/Denied under the Solid Waste Management Act (35 P. S. §§ 6018.10—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.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 101679. Blythe Recycling and Demolition Site (BRADS Landfill), Blythe Township, P. O. Box 91, Cumbola, PA 17931. A permit authorizing the construction and operation of this municipal waste construction and demolition landfill located on Burma Road, Blythe Township, **Schuylkill County**. The permit was denied in the Regional Office on July 30, 2009.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP1-01-03012: TIN, Inc. (136 East York Street, P. O. Box 808, Biglerville, PA 17307) on August 13, 2009, for a Small Gas and No. 2 Oil Fired Combustion Unit under GP1 in Biglerville Borough, **Adams County**.

GP14-22-03084: Hoover-Boyer Funeral Homes, Inc. (118 South Market Street, Millersburg, PA 17061) on August 14, 2009, for a Human or Animal Crematory under GP14 in Millersburg Borough, **Dauphin County**.

GP14-22-03085: Hoover-Boyer Funeral Homes, Inc. (118 South Market Street, Millersburg, PA 17061) on August 14, 2009, for a Human or Animal Crematory under GP14 in Elizabethville Borough, **Dauphin County**.

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

GP5-08-292: Chesapeake Appalachia, LLC (P. O. Box 6070, Charleston, WV 25362) on July 31, 2009, to construct and operate a 384 brake horsepower natural gas-fired compressor engine under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the VanNoy Compressor Station in Granville Township, **Bradford County**.

GP5-08-02D: Chesapeake Appalachia, LLC (P. O. Box 6070, Charleston, WV 25362) on August 7, 2009, to increase the natural gas throughput in the existing glycol dehydrator (Unit No. 2) from 17 million standard cubic feet per day to 50 million standard cubic feet per day under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Evanchick Compressor Station in Asylum Township, **Bradford County**.

GP5-17-486: EOG Resources, Inc. (400 Southpointe Boulevard, Canonsburg, PA 15317) on August 12, 2009, to construct and operate one natural gas-fired compressor engine rated at 1,340 bhp and a 375,000 Btu/hr glycol dehydrator under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the PHC Compressor Station in Lawrence Township, **Clearfield County**.

GP5-14-01F: NCL Natural Resources, LLC (25231 Grogan Mill Road, Suite 500, The Woodlands, TX 77380-9110) on August 13, 2009, to construct and operate one natural gas-fired compressor engine rated at 1,340 bhp and one glycol dehydrators rated at 500,000 Btu/hr under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the De Haas Compressor Station in Curtin Township, **Centre County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP3-63-00931: Mon River Dock Co. (P. O. Box 400, Laughlintown, PA 15655-0400) on August 13, 2009, was authorized under GP3 to construct and operate a Nonmetallic Mineral Processing Plant consisting of one Pioneer 153 crusher, one Pioneer 54-CSL grinder, one Pioneer 153 nonvibratory screen, one Pioneer 16-E3-56 vibratory screen and five Pioneer conveyors at their Mon River Aggregates/Boyle Site facility in Centerville Borough, **Washington County**.

GP3-30-00184A: L & J Equipment Co. (P. O. Box 229, Mount Braddock, PA 15465-0229) on August 14, 2009, was authorized under GP3 to install and operate a 115-bhp John Deere 4045T engine in addition to the existing equipment (a 480-bhp Caterpillar D346 diesel engine) at Hatfield's Ferry Power Station in Monongahela Township, **Greene County**.

GP5-30-00174B: CNX Gas Company, LLC (200 Evergreene Drive, Waynesburg, PA 15370-6002) on August 12, 2009, was authorized under GP-5 to install and operate three Caterpillar G3516 LE natural gas compressor engines and a Natco 15MMcfd triethylene glycol dehydration unit at the McQuay Compressor Station in Center Township, **Greene County**.

GP5-63-00949: EQT Gathering, LLC (200 Allegheny Center Mall, Pittsburgh, PA 15212-5352) on August 13, 2009, was authorized under GP-5 to install and operate one Natco triethylene glycol dehydration unit equipped with a reboiler rated at 0.2 mmBtu/hr and associated condensate tanks at their Amity Interconnect facility in Amwell Township, **Washington County**.

GP9-30-00184A: L & J Equipment Company (P. O. Box 229, Mount Braddock, PA 15465-0229) on August 14, 2009, was authorized under GP9 to install and operate a Screen Machine vibratory screen rated at 175 tph and two Screen Machine conveyors in addition to the existing equipment (a Portec crusher and two Portec conveyors) at Hatfield's Ferry Power Station in Monongahela Township, **Greene 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.

09-0037G: CMS Gilbreth Systems, Inc. (3001 State Road, Croydon, PA 19021) on August 13, 2009, to modify a new ten color Rotomec Rotogravure Printing Press (Source ID 204A). Emissions from the press are controlled by the existing Regenerative Thermal Oxidizer in Bristol Township, **Bucks County**. Plan Approval No. 09-0037G supersedes Plan Approval No. 09-0037F. The modification revises the hours of operation and the precontrol VOC emission limit for the Source ID 204A. The postcontrol VOC emission limit has not been changed. The facility is an area source for HAPs, therefore not subjected to 40 CFR 63, Subpart KK. The facility is subjected to 25 Pa. Code § 129.67 for graphic arts systems. The plan approval modification will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

09-0196A: Abington Reldan Metals, LLC (550 Old Bordertown Road, Fairless Hills, PA 19030) on August 13, 2009, for construction of 12 ball mills, five sifters and two blenders exhausting to two baghouses at a new precious metal recovery facility in Falls Township, **Bucks County**. This facility is a non-Title V facility. This construction will result in PM being emitted into the atmosphere. The Plan Approval will contain recordkeeping requirements, monitoring requirements, operating conditions and performance testing requirements designed to keep the facility operating within the allowable emission limitations and 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.

06-05079E: United Corrstack, LLC (720 Laurel Street, Reading, PA 19602-2718) on August 12, 2009, for construction of a 482 mmBtu/hr circulating fluidized bed boiler and a 30 MW steam turbine in the City of Reading, **Berks County**.

ER-67-05004A: P.H. Glatfelter (228 South Main Street, Spring Grove, PA 17362) on July 23, 2009, for an Air Quality Emission Reduction Credit approval of 428 tons of SO_x resulting from the use of Power Boiler No. 5 to control pulpmill Low Volume High Concentration, Noncondensable Gas in Spring Grove Borough, **York County**.

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

08-00003H: CraftMaster Manufacturing, Inc. (P. O. Box 311, Towanda, PA 18848) on July 27, 2009, to modify control devices of Line 2 Press (Source ID 172P) at their facility in Wysox Township, **Bradford County**.

18-00026A: First Quality Products, Inc. (Clinton County Industrial Park, 121 North Road, Elhatten, PA 17748-0270) on July 28, 2009, to construct a Fameccanica FIU underpad machine at their Wayne Township, **Clinton County** facility.

14-00039A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on July 31, 2009, to construct a Kolberg portable crushing and screening plant and associated 400 hp diesel engine, a NORDBERG portable crushing plant and associated 425 hp diesel engine, a Warrior portable screening plant and associated 100 hp diesel engine, a Powerscreen Commander portable screening plant and associated 97 horsepower diesel engine and seven conveyors at their Recycling Center in Patton Township, **Centre County**.

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

10-333B: Penn United Technologies, Inc. (799 North Pike Road, Cabot, PA 16023-2223) on August 13, 2009, to change to an existing solvent being used in the batch vapor solvent degreasing unit, from a halogenated HAP to a non-HAP solvent their facility in Jefferson Township, **Butler County**.

10-359A: Rex Energy 1, LLC (476 Rolling Ridge Drive, Suite 300, State College, PA 16801) on July 28, 2009, to install a natural gas stripping plant at their facility in Forward Township, **Butler County**.

61-191B: Seneca Printing & Label, Inc. (1642 Debence Drive, Franklin, PA 16323) on August 10, 2009, to install five flexographic printing presses at their facility in Sandy Creek Township, **Venango County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

15-0060E: SECCRA (P. O. Box 221, Kennett Square, PA, 19348) on August 11, 2009, to operate an internal combustion engine in London Grove Township, **Chester County**.

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

21-05053A: PPL Renewable Energy, LLC (Two North Ninth Street, GEN-PL8, Allentown, PA 18101) on August 11, 2009, to install a new engine generating facility in Hopewell Township, **Cumberland County**. This plan approval was extended.

28-05035A: St. Thomas Development, Inc. (1750 Walton Road, P. O. Box 1667, Blue Bell, PA 19422) on August 12, 2009, for mining of construction aggregates

and production of asphaltic paving mixtures in St. Thomas Township, **Franklin County**. This plan approval was extended.

67-05005E: PPL Brunner Island, LLC (Two North Ninth Street, Allentown, PA 18101-1179) on August 13, 2009, to construct a limestone and gypsum handling operation at their Brunner Island Steam Electric Station in East Manchester Township, **York County**. This plan approval was extended.

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

49-00060A: Corson Asphalt, Inc. (26 Beaver Street, Cogan Station, PA 17728) on July 24, 2009, to extend the authorization to operate a batch mix asphalt plant on a temporary basis until January 7, 2010, and to extend the required NO_x, CO, PM and VOC stack testing until January 7, 2010, at their facility located in Ralpho Township, **Northumberland County**. The Plan Approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

32-00393A: Prime Metals & Alloys, Inc. (P. O. Box 194, Lucernemines, PA 15754-0194) on August 12, 2009, to extend the period of temporary operation of their specialty steel facility until February 9, 2010, located in Center Township, **Indiana County**.

65-00981A: Solar Power Industries, Inc. (440 Jonathan Willey Road, Belle Vernon, PA 15012-2958) on August 11, 2009, received an extension until February 7, 2010, to allow the completion of construction and testing of sources at Building Two of their solar cell and panel manufacturing facility in Rostraver Township, **Westmoreland County**.

Plan Approvals Denied, Terminated, Modified, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and the provisions of 25 Pa. Code §§ 127.13b and 127.13c.

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

09-0174A: Liberty Coating Company, LLC (21 South Steel Road, Morrisville, PA 19067) on August 14, 2009, the Department of Environmental Protection (Department) has denied an application for the modification to the line surface coating operation, at their facility located at 21 South Steel Road, Morrisville, PA 19067 in Falls Township, **Bucks County**. The Department denied the application for a Plan Approval to modify the surface coating operation because the company did not respond or contact the Department to discuss the concerns or schedule a meeting within the allotted 60 days time period after the Department sent a technical deficiency letter requesting information in accordance with 25 Pa. Code § 127.12(a)(2), (3), (5) and (10).

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00007: Waste Management Disposal Services of Pennsylvania, Inc. (1000 New Ford Mill Road, Morrisville, PA 19067) on August 18, 2009, for renewal of the Title V Operating Permit for their G.R.O.W.S. Landfill in Falls Township, **Bucks County**. The renewal will also include the incorporation of Plan Approval 09-0007B and RFD 09-A01-1122. The renewal does not contain any change in air emissions of regulated pollutants. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

39-00035: Allentown Wastewater Treatment Plant (112 Union Street, Allentown, PA 18102-4910) on August 13, 2009, to renew the State-only Operating Permit to operate a municipal wastewater treatment facility in the City of Allentown, **Lehigh County**.

40-00113: Hazelton Materials, LLC (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on August 18, 2009, for operation of a portable stone crushing plant in Foster Township, **Luzerne County**. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a State-only Synthetic Minor operating permit.

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

01-03030: Cooperative Milling, Inc. (1892 York Road, Gettysburg, PA 17325-8205) on August 13, 2009, for operation of their feed mill in Straban Township, **Adams County**. This is a renewal of the State-only operating permit.

06-03012: Brenntag Northeast, Inc. (81 West Huller Lane, P. O. Box 13788, Reading, PA 19612-3788) on August 10, 2009, for operation of their Leesport (Snyder Road) chemical distribution facility in Ontelaunee Township, **Berks County**. This is a renewal of the State-only operating permit.

21-05049: Pennsy Supply, Inc. (1 Clear Spring Road, Annville, PA 17003) on August 14, 2009, for operation of a hot mix batch asphalt plant at the Penn Township Quarry in Penn Township, **Cumberland County**. This is a renewal of the State-only operating permit.

38-03012: Sheridan Supply Co., Inc. (7 Furnace Road, Newmanstown, PA 17073-9106) on August 10, 2009, for operation of a crushing facility in Millcreek Township, **Lebanon County**. This is a renewal of the State-only operating permit.

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

41-00071: Williamsport Steel Container Co., Inc. (360 Arch Street, Williamsport, PA 17701-7811) on August 4, 2009, to issue a State-only Operating Permit for their facility in Williamsport City, **Lycoming County**. The facility's main sources include paint booths and drying ovens used to coat steel drums. The State-only operating

permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

20-00266: Electro Tech, Inc. (100 West Poplar Street, Meadville, PA 16335) on August 17, 2009, to issue a Natural Minor Operating Permit to operate a hard chromium electroplating facility in the City of Meadville, **Crawford County**. This operation plates small metal parts primarily used in the plastic injection molding industry. The primary emission sources include three electroplating lines, a parts washer and a natural gas furnace.

61-00204: Franklin Bronze & Alloy Co., Inc. (655 Grant Street, Franklin, PA 16323-2217) on August 13, 2009, to re-issue a Natural Minor Operating Permit to operate a manufacturing process creating bearings, bushings and plates using bronze and other nonferrous metals in the City of Franklin, **Venango County**. The primary emission sources include two dewax furnaces, shell pre-heat furnaces, degreasing operations, induction furnaces, cut off saws, grinders and miscellaneous natural gas use.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 1940, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

15-00051: Allan A. Myers LP, d/b/a Independence Construction Materials—Devault Asphalt Plant (4042 SR, Charlestown Township, PA 19432) on August 18, 2009, for operation of their batch asphalt plant in Charlestown Township, **Chester County**. The issued State-only Operating Permit has been amended to revise a Source Level State-only Requirement for the Recycled Asphalt Pavement crusher (Source 104) to allow the source to be operated without the water spray dust suppression system being operated without creating air contaminant emissions in excess of the limitation specified in any applicable Department of Environmental Protection rule or regulation.

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

25-00124: Mayer Brothers Construction Co. (1902 Cherry Street, Erie, PA 16502) on August 14, 2009, for an administrative amendment of Synthetic Minor Permit to incorporate the applicable conditions of plan approval No. 25-124C to operate a hot mix asphalt plant in City of Erie, **Erie County**. The significant sources are asphalt plant; fugitives from transfer points asphalt Tank (2). The facility has taken a restriction on production not exceeding 100,000 tpy to qualify as a Synthetic Minor facility.

43-00270: CCL Container—Advanced Monobloc Aerosol Division (One Llodio Drive, Hermitage, PA 16148) on August 12, 2009, to administratively amend their Synthetic Minor Operating Permit in the City of Hermitage, **Mercer County**. The amendment was to incorporate changes from Plan Approval Number 43-270G.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

56050102 and NPDES No. PA0249751. Sherpa Mining Contractors, Inc., 337 Benny Road, Hooversville, PA 15936, revision of an existing bituminous surface auger, blasting mine in Shade Township, **Somerset County**, affecting 63.3 acres. Receiving streams: UNT to Oven Run and UNT to Stonycreek River classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority. The application includes a request to remove Middle Kittanning coal and existing coal refuse for reprocessing and redisposal. The application also includes a road variance request along the northern side of SR 1012. The road variance begins at a point 1,000 feet east of the intersection of SR 1012 and Township Route T-706 and continues in a westerly direction a distance of 1,630 feet. Application received September 28, 2007. Permit issued August 12, 2009.

11773037 and NPDES No. PA0069159. Cooney Brothers Coal Company, P. O. Box 246, Cresson, PA 16630, revision of an existing bituminous surface mine to change the land use, on several properties, at the request of the landowners, from forestland, cropland, pastureland and/or land occasionally cut for hay to wildlife habitat, pastureland and/or land occasionally cut for hay in Conemaugh Township, **Cambria County**, affecting 358.7 acres. Receiving streams: UNTs to and Little Conemaugh River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 4, 2009. Permit issued August 13, 2009.

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

02080102 and NPDES Permit No. PA0251500. Mashuda Corporation (21101 Route 19, Cranberry Township, PA 16066). Permit for commencement, operation and reclamation of a bituminous surface mine, located in North Fayette and Collier Townships, **Allegheny County**, affecting 163.8 acres. Receiving streams: Robinson Run, and UNT to Robinson Run and Pinkertons Run. Application received October 1, 2008. Permit issued August 10, 2009.

Noncoal Permits Actions

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

64072811. Kevin Schrader, (3137A Creamton Drive, P. O. Box 262, Lake Como, PA 18437), commencement, operation and restoration of a quarry operation in Preston Township, **Wayne County** affecting 5.0 acres, receiving stream none. Application received November 21, 2007. Permit issued August 17, 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 Permit Actions

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

21094132. John W. Gleim, Jr., Inc., 625 Hamilton Street, Carlisle, PA 17013-1925, blasting activity permit issued for commercial development in Middlesex Township, **Cumberland County**. Blasting activity permit end date is April 15, 2010. Permit issued August 5, 2009.

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

08094007. Michael N. Neary (16 North Center Street, Frackville, PA 17931), blasting for Chesapeake Midstream/16"—20" Natural Gas Pipeline located in Tuscarora Township, **Bradford County**. Permit issued August 11, 2009. Permit expires July 27, 2010.

17094010. George C. Klopff/Dynamic Drilling (143 West Blade Drive, Pennsylvania Furnace, PA 16865), Seismic Exploration blasting located in Goshen Township, **Clearfield County**. Permit issued August 11, 2009. Permit expires October 31, 2009.

59094005. Seneca Resources (51 Zents Boulevard, Brookville, PA 15825), blasting for a pond and well pad located in Covington Township, **Tioga County**. Permit issued August 12, 2009. Permit expires December 25, 2009.

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

36094155. TJ Angelozzi, Inc., (7845 Kabik Court, Woodbine, MD 21797) construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of December 1, 2009. Permit issued August 11, 2009.

36094156. TJ Angelozzi, Inc., (7845 Kabik Court, Woodbine, MD 21797) construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of December 1, 2009. Permit issued August 11, 2009.

54094101. Geological Technologies, Inc., (P. O. Box 70, Falling Waters, WV 25419) construction blasting for Penske High Ridge Development in Cass Township, **Schuylkill County** with an expiration date of August 7, 2010. Permit issued August 11, 2009.

36094157. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013) construction blasting for the Manheim Township Library in Manheim Township, **Lancaster County** with an expiration date of July 31, 2010. Permit issued August 13, 2009.

38094123. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543) construction blasting for Mike Sensening manure pit in South Annville Township, **Lebanon County** with an expiration date of December 31, 2009. Permit issued August 13, 2009.

49094101. Kesco, Inc., (P. O. Box 95, Adrian, PA 16210) construction blasting for Mt. Carmel Waste Water Treatment Plant in Mt. Carmel Township, **Northumberland County** with an expiration date of January 31, 2010. Permit issued August 13, 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 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.

E46-1038. Lower Merion Township, 75 East Lancaster Avenue, Ardmore, PA 19003, Township of Lower Merion, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To stabilize and restore approximately 2,000 linear feet of the stream banks along Indian Creek (WWF) within the Shortridge Park. This work includes the removal of a few pedestrian accesses to the stream banks, and placement of vegetative barrier fence, and low impact habitat structures.

The project commences approximately 145 feet north of the intersection of East Wynnewood Road and Shortridge Drive and runs along the west side of, and almost parallels, Shortridge Drive and ends at Remington Road in Lower Merion Township, Montgomery County (Lansdowne, PA USGS Quadrangle N: 22.6 inches; W: 1.98 inches).

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)).

E51-188. Fairmount Park Commission, 1 Parkway, 10th Floor, 1515 Arch Street, Philadelphia, PA 19102, City of Philadelphia, **County of Philadelphia**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities in the floodplain of Cresheim Creek (TSF MF) within the limits of Wissahickon Valley Park located between Germantown Avenue to the north (Latitude: 40° 5' 3.28" N; Longitude: 75° 13' 41.53" W), and Schuylkill River to the south (Latitude: 40° 0' 56.06" N Longitude: 75° 12' 23.37" W) in the City and County of Philadelphia:

1. To maintain the existing trails.
2. To restore and maintain several eroded gullies.
3. To remove a wooden staircase, and two small bridges in the Devil's Pool area.
4. To install and maintain rock staircases, and associated terracing along the banks of the stream.

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

E36-840: Tim Keller, The Worship Center, 2384 New Holland Pike, Lancaster, PA, 17601, Upper Leacock Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain: (1) a 6.0-inch depressed, 34.0-foot long, 22.0-foot by 7.3-foot box culvert in a UNT to the Conestoga River (WWF) (Leola, PA Quadrangle

N: 14.58"; W: 14.30"; Latitude: 40° 04' 49"; Longitude: 76° 13' 50"); (2) a 34.0-foot long single span pedestrian bridge having a normal span of 26.0 feet and an underclearance of 3.0 feet across a UNT to the Conestoga River (WWF) (Leola, PA Quadrangle N: 14.63"; W: 14.30"; Latitude: 40° 04' 50"; Longitude: 76° 13' 38"); (3) a total of 60.0 feet of streambank grading for three stormwater swale outfalls each individually impacting a total of 20.0 linear feet of a UNT to the Conestoga River (WWF) (Leola, PA Quadrangle N: 14.58"; W: 14.65"; Latitude: 40° 04' 49"; Longitude: 76° 13' 47"); and (4) 20.0 feet of bank grading for one stormwater outfall swale impacting 20.0 linear feet of open water in and along a UNT to the Conestoga River (WWF) (Leola, PA Quadrangle N: 14.63"; W: 14.26"; Latitude: 40° 04' 50"; Longitude: 76° 13' 37"), for the purpose of a new church building, associated parking areas and site improvements at a point just southeast of the intersection of New Holland Pike (Route 23) and Hartman Station Road in Upper Leacock Township, Lancaster County.

E36-845: Warwick Devco, LP, c/o RJ Waters and Associates, Inc., Kevin Lahn, 200 Old Forge Lane, Suite 201, Kennett Square, PA, Warwick Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a wetland road crossing consisting of three 110.0-foot long 24-inch HDEPEP culvert pipes impacting 0.32 acre of palustrine emergent wetland (Lititz, PA Quadrangle N: 1.45 inches; W: 8.10 inches, Latitude: 40° 07' 58.74"; Longitude: 76° 18' 28.51"), and to relocate 220.0 linear feet of UNT to the Little Conestoga Creek (TSF) (Lititz, PA Quadrangle N: 1.36 inches; W: 8.19 inches, Latitude: 40° 07' 56.88"; Longitude: 76° 18' 31.08") for the purpose of expanding an existing retail shopping center located off of Route 501 in Warwick Township, Lancaster County. Wetland mitigation in the amount of 0.49 PEM/PSS is proposed onsite.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E12-170. Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110. State Game Lands No. 14 Bridge Across East Hicks Run, Shippen Township, **Cameron County**, United States Army Corps of Engineers, Baltimore District (West Creek, PA Quadrangle Latitude: 41° 26' 20.2"; Longitude: 78° 19' 46.6").

The Game Commission proposes to construct, operate and maintain a steel I-beam and timber deck bridge across East Branch, Hick Run for public access to State Game Lands No. 14. The bridge across East Branch, Hicks Run shall be constructed as a single span structure having a minimum span of 30-feet, underclearance of 7-feet, and width of 14-feet. All in-stream construction, repair and maintenance work shall be conducted in dry work conditions by dam and pumping, fluming or diverting stream flow around work areas. Since East Branch, Hicks Run is a WT and STF, no construction or future repair work shall be conducted in or along the stream channel between October 1 and December 31 and March 1 and June 15 without prior written approval from the Fish and Boat Commission. The bridge project is located along the western right-of-way of East Branch, Hick Run Road approximately 1.3-miles southeast of West Branch, Hicks Run Road and East Branch, Hicks Run Road intersection. This permit also authorizes the construction, operation, maintenance and removal of temporary stream diversions, flumes, cofferdams, roadways and causeways necessary for bridge

construction. This permit was issued under section 105.13(e) "Small Projects." This permit issued also includes section 401(a) Water Quality Certification.

E14-522. Amos K. Riehl, 236 Madisonburg Pike, Madisonburg, PA 16852. Water Line Crossing, in Miles Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (Madisonburg, PA Quadrangle N: 40° 55' 52.4"; W: 77° 31' 15.0").

To construct and maintain a 3/4-inch diameter waterline in a 2-inch steel casing 18 inches under a UNT to Elk Creek, located 150 ft southeast of the southeast corner of Amos Riehl's house. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes section 401(a) Water Quality Certification.

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

E02-1618. Department of Transportation, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. To remove existing bridge and construct and maintain single span bridge in Lincoln Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District. (McKeesport, PA Quadrangle N: 5.25 inches; W: 14 inches, Latitude: 40° 16' 45"; Longitude: 79° 51' 8"). Remove the existing SR 2010, 15 ft wide, 32 ft long single span bridge skewed 45° with an underclearance of 5 ft and construct and maintain adjacent to, and to the east a 27 ft wide, 47.5 ft long, single span bridge skewed 20° with an underclearance of 5 ft over Wylie Run (WWF) with a drainage area of 1.6 square miles; construct and maintain associated 250 ft of stream relocation and bank protection; and to construct and maintain adjoining stormwater outfalls. The project is located approximately one half mile upstream of the confluence with the Monongahela River.

E32-489. Department of Transportation, District 10-0, P. O. Box 429, Indiana, PA 15701-3388. To remove and reconstruct existing bridge in Conemaugh Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (Saltsburg, PA Quadrangle N: 14.4 inches; W: 2.2 inches, Latitude: 40° 27' 12"; Longitude: 79° 23' 30"). To remove the existing SR 3003, two lane, 25.7 ft wide, single span, steel through truss bridge having a total length of 390 ft, and having maximum underclearance of 27.7 ft; and to construct and maintain 22 ft downstream a 31.5 ft total width, two lane, four span, prestressed concrete beam replacement bridge having a total length of 400 ft on three piers centered 100 ft apart, and a maximum underclearance of 21.4 ft over the Conemaugh River (WWF). In addition, for construction of the replacement bridge and removal of the existing bridge, install a temporary full width crossing; and construct and maintain associated replacement stormwater outfalls to the Conemaugh River (WWF). The bridge improvement and relocation project is located between Loyalhanna Township, Westmoreland County and Conemaugh Township, Indiana County approximately 1.6 miles downstream of the Conemaugh Dam.

E63-614. California University of PA, 250 University Avenue, California, PA 15419. To construct and maintain an improvement project in the floodplain in California Borough, **Washington County**, United States Army Corps of Engineers, Pittsburgh District (California, PA Quadrangle N: 11.75 inches; W: 0.9 inch, Latitude: 40° 3' 53.87"; Longitude: 79° 52' 52.75"). To con-

struct and maintain an improvement project in the floodplain of Monongahela River (WWF). The project consists of pedestrian and vehicular improvement, widening of the Riverview Drive, and resurfacing and extension of the existing River Parking Lot. The proposed parking lot includes a 310-foot long retaining wall along the Monongahela River. Project is located within the Campus of the California University of Pennsylvania.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

E10-450, Buffalo Township, John Haven, Township Supervisor, 109 Bearcreek Road, Sarver, PA 16055. Butler-Freeport Trail-Phase 2, in Buffalo Township, Butler Township, Summit Township, City of Butler, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Butler and Saxonburg, PA Quadrangle N: 40° 50' 6.75"; W: -79° 49' 18.83").

To conduct the following activities associated with the construction of an extension to the Butler-Freeport Trail following approximately 4 miles of an existing abandoned Pennsylvania Central Railroad grade extending west from Bonniebrook Road to a point approximately 0.3 mile east of the intersection of Ziegler Avenue and Kaufman Drive in Summit Township, Butler County.

1. To realign a total of 1,900 linear feet of two UNTs to Coal Run.
2. To modify and maintain two existing culverts on UNTs to Coal Run (Butler and Saxonburg, PA Quadrangle N: 40° 51' 14.28"; W: 79° 52' 10.14", N: 40° 51' 17.21"; W: -79° 52' 34.26")
3. To construct and maintain two new culverts on UNTs to Coal Run (Butler and Saxonburg, PA Quadrangle N: 40° 50' 07.66"; W: 79° 49' 32.24", N: 40° 50' 09.78"; W: -79° 49' 39.17").
4. To maintain five existing cross culverts on UNTs to Coal Run at various locations along the 4 mile trail.

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 may 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 pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

Southwest Region: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

ESCGP-1 No.: ESX09-051-0026
 Applicant Name: Atlas Energy Resources, LLC
 Contact Person: Jeremy Hirtz
 Address: 800 Mountain View Drive
 City: Smithfield State: PA Zip Code: 15748
 County: Fayette Township(s): Nicholson
 Receiving Stream(s) and Classifications: Jacobs Creek, WWF, Other

ESCGP-1 No.: ESX09-125-0022
 Applicant Name: Antero Resources
 Contact Person: Kevin J. Kilstrom
 Address: 1625 17th Street, #300
 City: Denver State: CO Zip Code: 80202
 County: Washington Township(s): West Pike Run
 Receiving Stream(s) and Classifications: Trib 39905 to Little Pike Run, Other

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
09-40-007	Mountaintop Area Joint Sanitary Authority 290 Morio Drive Mountaintop, PA 18707 Attn: Thomas Keiper	Luzerne	Dorrance Township	One field-constructed UST storing Aluminum Sulfate	13,000 gallons

SPECIAL NOTICES

DRINKING WATER STATE REVOLVING FUND SPECIAL NOTICE

Special Notice under the Federal Safe Drinking Water Act (SDWA); 42 U.S.C. 300f et seq.

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

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Easton Suburban Water Authority	3700 Hartley Avenue Easton, PA 18045	Northampton

Project Description: The Pennsylvania Infrastructure Investment Authority (PENNVEST), which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Easton Suburban Water Authority proposes a water distribution system improvement and Davis Street Pumping Station replacement project (PENNVEST Project No. 48015060908-CW), located in the City of Easton, Northampton County. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The De-

partment of Environmental Protection hereby categorically excludes this project from the State Environmental Review Process.

Public Hearing Invitation Terraqua Resource Management LLC

NPDES Industrial Wastewater Permit Application

The Department of Environmental Protection (Department) will conduct a public hearing on an NPDES Industrial Wastewater permit application (PA0233650) submitted by Terraqua Resource Management, LLC to process 400,000 gpd of wastewater generated from the drilling, development and use of natural gas wells and discharge the treated effluent to the West Branch Susquehanna River in Williamsport at 41° 14' 43", 76° 59' 9" (River Mile Index 38.2). The applicant's address is 1000 Commerce Park Drive, P. O. Box 487, Williamsport, PA 17703. The site will be known as Water Tower Square Gas Well Wastewater Processing Facility. Notification of the Department's intent to issue this NPDES permit has been published in the *Pennsylvania Bulletin* on May 2, 2009.

The public hearing will be held at 7 p.m. on Wednesday, September 30, 2009, at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. The public hearing is being held due to a number of concerns raised regarding the Depart-

ment's permitting strategy for oil and gas well wastewater discharges, the accompanying technology required and water quality concerns.

During the public hearing, individuals may present oral testimony for a maximum of 5 minutes regarding the draft NPDES industrial wastewater permit. Written testimony of any length also will be accepted that evening and until October 7, 2009. The testimony will be recorded by a court reporter and transcribed into a written document. The Department will respond to all relevant comments at the time it makes a final decision on the application. Citizens who wish to present oral testimony may register to do so the night of the public hearing.

The application is available for public review at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, Monday through Friday between 8 a.m. and 4 p.m. An appointment must be made by calling Kathy Arndt at (570) 327-3693.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act should contact Daniel Spadoni at (570) 327-3659 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 09-1616. Filed for public inspection August 28, 2009, 9:00 a.m.]

Bid Opportunity

OSM 02(2225)101.1, Abandoned Mine Reclamation Project, Horning, South Park Township, Baldwin Borough and Municipality of Bethel Park, Allegheny County. The principal items of work are to demolish and dispose of an abandoned reinforced concrete coal tipple structure. This project issues on August 28, 2009, and bids will be opened on September 24, 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,
Secretary

[Pa.B. Doc. No. 09-1617. Filed for public inspection August 28, 2009, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program

The Department of Environmental Protection (Department) provides notice of the following actions regarding the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These actions were taken in relation to the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID No. 392-0900-001). See 36 Pa.B. 7999 (December 30, 2006). The Policy called for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals, by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System (NPDES) permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

The actions described in this notice relate to: (1) submitted proposals; (2) approved proposals; and (3) registered credits, through August 3, 2009.

Background

Before a credit can be used by an NPDES permittee, a three-step process is followed. First, the credit or offset proposal must be approved, second, it must be verified and third, it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of proposed or implemented activities to generate credits (in some cases the person generating the credits is not permitted to transfer them to another person, in which case they are called "offsets"). Certifications are based on at least: (1) a credit or offset proposal to be submitted describing the qualifying activities that will reduce the nutrient loadings delivered to the applicable watershed; (2) the calculation to quantify the pounds of reductions expected; and (3) a verification plan that, when implemented, ensures that the qualifying nutrient reduction activities have taken place. All of the proposals, certifications and registrations described in this notice apply to the Chesapeake Bay Watershed.

Once the credits or offsets are certified, they must be verified. Verification means implementation of the verification plan contained in a certified credit or offset proposal as required by the Department. Verification plans require annual submittal of documentation to the Department demonstrating that the qualifying nutrient reduction activities have taken place for the applicable compliance year.

The credits or offsets also need to be registered by the Department before they can be used in an NPDES permit. Registration occurs only after credits or offsets have been certified and verified, and a trading contract for credits has been submitted to the Department. For the Chesapeake Bay Watershed, the Department will register credits on an annual basis for use during the compliance year in which the qualifying nutrient reduction activities have taken place and will provide such credits with an annual registry number for reporting and tracking purposes.

The Department has received 73 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 45 have been approved, one has been withdrawn and the remaining proposals need additional clarification prior to certification.

Proposals under Review

The following proposals are being reviewed by the Department. Comments will be received on these projects for 30 days.

<i>Proposal Applicant</i>	<i>Proposal Description</i>
1. ElectroCell Technologies Inc.	Nitrogen and Phosphorus credits generated by a technology based process installed on a hog operation, Lancaster County.
2. American Farmland Trust	Nitrogen credits generated through the BMP Challenge for Planned Nutrient Reduction Project.

Certifications:

There are no new certifications.

Verifications and Registrations:

To date, there are no verifications and registrations.

For further details about the information or the Department's Nutrient Trading Program, contact Ann Smith, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, annsmith@state.pa.us or visit the Department's web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Nutrient Trading").

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1618. Filed for public inspection August 28, 2009, 9:00 a.m.]

Part 1 and Part 2 MACT Applications for Industrial, Commercial, and Institutional Boilers and Process Heaters; Notice of Availability

The U.S. Court of Appeals for the District of Columbia Circuit vacated the U.S. Environmental Protection Agency's (EPA) National emission standards for hazardous air pollutants (NESHAPs), also referred to as maximum achievable control technology (MACT) standards for Industrial, Commercial, and Institutional Boilers (ICI) and Process Heaters (Boiler MACT, Subpart DDDDD), on July 30, 2007. As a result of this vacatur, the provisions of Section 112(j) of the Clean Air Act (CAA) require state/local agencies to make case-by-case MACT determinations for existing affected sources. The Court has extended the deadline for the proposed "Boiler MACT" rule until September 15, 2009; the final rule is still due on July 15, 2010.

Under section 112(j) of the CAA, the owners and operators of any affected major source in a source category for which the EPA has failed to promulgate a MACT standard must submit a permit application to the state permitting authority within 18 months of the missed deadline, 42 U.S.C. 7412(j)(2). The permitting authority is then required to issue case-by-case MACT determinations for each affected source. With the vacatur of EPA's Boiler MACT Rule, the Department of Environmental Protection (Department or PA DEP) is required under section 112(j) of the CAA, section 6.6(b) of the Pennsylvania Air Pollution Control Act and 25 Pa. Code § 127.35(c) to make MACT determinations on a case-by-case basis for all affected ICI boilers and process heaters.

The resulting MACT determinations shall be incorporated into the Title V permits issued to the owners and operators of the affected facilities according to procedures established under Title V. Any stationary air contamination source or group of sources located on contiguous or adjacent properties and under common control that emits or has the potential to emit 10 tons per year or more of a single HAP including fugitive emissions or 25 tons per year or more of a combination of HAPs including fugitive emissions, is considered a major source.

On April 5, 2002, the EPA promulgated "Section 112(j) Rule" amendments (See 67 FR 16582—16611). These amendments revised the section 112(j) rule to create a two-part MACT application process. The owners and operators of affected existing sources must submit a Part 1 MACT Application to the appropriate Department of Environmental Protection's Regional Office and to the EPA Region III Office no later than 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Part 2 MACT Applications must be submitted to the Department of Environmental Protection and the EPA within 60 days after submission of the Part 1 MACT Applications. The Part 2 MACT Applications must include the relevant process, pollutant and control information to allow permitting authorities to establish MACT standards for the facility equivalent to what EPA would have established for the source category. The EPA submittals should be sent to the attention of Kathleen Anderson, Chief of the Permits and Technical Assessment Branch, Air Protection Division (3AP11), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-3029.

The Department's Part 1 and Part 2 MACT Applications and instructions are available on Department the web site at <http://www.dep.state.pa.us>. Applications and instructions can also be obtained by contacting any of the Department's Regional Offices. Contact Krishnan Ramamurthy for additional information at (717) 787-4325 or kramamurth@state.pa.us.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1619. Filed for public inspection August 28, 2009, 9:00 a.m.]

Proposed Revisions to General NPDES Permit for Stormwater Discharges Associated With Construction Activities (PAG-2); Public Notice of Availability; Correction Notice

An incorrect telephone number for the Department of Environmental Protection (Department) was advertised in the notice published at 39 Pa.B. 4955 (August 15, 2009) concerning the Proposed Revisions to General NPDES Permit for Stormwater Discharges Associated With Construction Activities (PAG-2). Individuals interested in the proposed amendments to PAG-2, including those who want to request a copy of the proposed amendments, should contact the Department as follows: Department of Environmental Protection, Bureau of Watershed Management, Rachel Carson State Office Building, P. O. Box 8775, 10th Floor, Harrisburg, PA 17105-8775, (717) 787-6827, e-mail ep-pag02comments@state.pa.us. Persons with a disability may contact the Department by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The proposed

PAG-2 amendment draft permit is also available on the Department's web site at <http://www.depweb.state.pa.us> (choose "Public Participation"; then scroll down to "Proposals Currently Open for Comment").

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1620. Filed for public inspection August 28, 2009, 9:00 a.m.]

DEPARTMENT OF HEALTH

Approved Prearrest and Evidential Breath Testing Devices

The Department of Health (Department) has statutory authority to approve both prearrest and evidential breath testing devices for use by law enforcement officials to determine the alcohol content of blood by analysis of a person's breath. This notice contains the combined lists of prearrest breath testing devices and evidential breath testing devices.

The Department approves prearrest breath testing devices as required by 28 Pa. Code §§ 5.101—5.104 (relating to equipment to determine blood alcohol content under the Vehicle Code and the Fish and Boat Code). Authority to promulgate these regulations is contained in the Vehicle Code, 75 Pa.C.S. § 1547(k) (relating to chemical testing to determine amount of alcohol or controlled substance), the Fish and Boat Code, 30 Pa.C.S. § 5125(k) (relating to chemical testing to determine amount of alcohol or controlled substance), the Game and Wildlife Code, 34 Pa.C.S. § 2502(j) (relating to chemical test to determine amount of alcohol), and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).

Prearrest breath testing devices approved under this authority may be used by police officers, waterways patrolmen and officers enforcing the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code in conducting preliminary determinations of the alcohol content of blood of persons suspected of driving, boating, hunting or furtaking, while under the influence of alcohol. Officers and patrolmen use these devices to assist them in determining whether or not a person should be placed under arrest for violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), for violation of 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance), for violation of 34 Pa.C.S. § 2501 (relating to hunting or furtaking prohibited while under influence of alcohol or controlled substance), or for any other criminal offense under the Vehicle Code, the Fish and Boat Code, or the Game and Wildlife Code, which involves operating a vehicle or boat, hunting, or furtaking while under the influence of alcohol. This notice lists devices that were included in the previous publication of the list of prearrest breath testing devices, which appeared at 39 Pa.B. 64 (January 3, 2009).

The National Highway Traffic Safety Administration (NHTSA) of the United States Department of Transportation published model specifications for Screening Devices to Measure Alcohol in Bodily Fluids at 59 FR 39382 (August 2, 1994). These specifications established performance criteria and methods for testing alcohol screening devices using either breath or bodily fluids, such as, saliva to measure blood alcohol content. NHTSA estab-

lished these specifications to support state laws and the Federal Department of Transportation's workplace alcohol testing program. The Department has elected to use the NHTSA criteria for approving devices for the prearrest testing of a person's breath to determine the alcohol content of the person's blood.

NHTSA published a conforming products list of alcohol screening devices at 72 FR 4559 (January 31, 2007). The breath testing devices included in this Federal approval list have been incorporated into the list in this notice. Since this notice lists only those devices which test breath, items on the NHTSA list that test saliva or other bodily fluids are not included in this notice.

Additionally, there are a number of breath testing devices on this list of approved equipment that may be used as both prearrest and evidential testing devices. Any device on this list that was evaluated using the 1993 Model Specifications for Evidential Breath Testers (58 FR 48705) also fully meets the requirements of the Model Specifications for prearrest screening devices. Both procedures evaluate the performance of instruments at the 0.020% alcohol level.

The Department approves evidential breath testing devices under the authority of 75 Pa.C.S. § 1547(c)(1), 30 Pa.C.S. § 5125(c)(1) and 34 Pa.C.S. § 2502(c).

Evidential breath testing devices approved under this notice may be used by law enforcement officials to obtain test results which will be admissible in evidence in any summary or criminal proceeding in which the defendant is charged with a violation of 75 Pa.C.S. § 3802, or any other violation of the Vehicle Code arising out of the same action; or 30 Pa.C.S. § 5502, or any other violation of the Fish and Boat Code arising out of the same action; or 34 Pa.C.S. § 2501, or any other violation of the Game and Wildlife Code arising out of the same action. Law enforcement agencies should determine that an approved training program in the use of the equipment is available in accordance with the previously referenced statutes before purchasing any of the devices contained on this list. This notice lists devices that were included in the previous publication of the list of evidential breath testing devices, which appeared at 39 Pa.B. 64 (January 3, 2009).

The approval of evidential equipment listed in this notice is based on the evaluation of the equipment by NHTSA. Equipment which met the Federal requirements was published at 72 FR 71480 (December 17, 2007) as a Conforming Products List. The list contained in this notice is based on that Conforming Products List.

Instruments marked with an asterisk (*) meet the Model Specifications detailed at 49 FR 48854 (December 14, 1984) (that is, instruments tested at breath alcohol concentrations of 0.000, 0.050, 0.101, and 0.151 grams of alcohol per 210 liters of air). Instruments not marked with an asterisk meet the Model Specifications detailed at 58 FR 48705 (September 17, 1993), and were tested at breath alcohol concentrations of 0.000, 0.020, 0.040, 0.080, and 0.160 grams of alcohol per 210 liters of air. The amended specifications that were published on September 17, 1993, added a test for the presence of acetone and other low molecular weight alcohols including methyl and isopropyl. Instruments whose precision and accuracy have been evaluated in the latter concentration range (that is, devices not marked with an asterisk) should be used when reliable results are required at blood alcohol concentrations below 0.050%.

NHTSA also evaluates equipment to determine if it must be operated at fixed locations (that is, nonmobile equipment) or can be transported to nonfixed operational sites in the field (mobile equipment). Most equipment on the list is approved for mobile and nonmobile operation. The listing at the end of this notice specifies nonmobile equipment only.

The instruments not marked with an asterisk meet the specifications for use as prearrest or evidentiary breath testing devices. The instruments marked with an asterisk may be used as evidentiary devices for law enforcement purposes that are concerned with blood alcohol concentrations at or above 0.050%. These instruments may also be used as prearrest breath testing devices if they are approved for mobile operations. However, these instruments may not be used for making arrests under the Vehicle Code, the Fish and Boat Code, or the Game and Wildlife Code where blood alcohol concentrations below 0.050% must be determined. Nonmobile devices can only be used as evidentiary testing instruments since they are not portable. Before purchasing breath testing devices, law enforcement officials should consult with the manufacturer of the equipment they intend to purchase to verify that the devices can be used for their intended purposes.

Law enforcement agencies that plan to utilize a device which does not appear on the following list should contact the manufacturer of the equipment to verify that it has been evaluated by NHTSA and found to meet NHTSA's performance requirements. If a device is approved by NHTSA after the date of this publication, the manufacturer of the device will need to forward documentation of NHTSA acceptability to Dr. M. Jeffery Shoemaker at the address given; so that the Department has information sufficient to enable it to include the device in the next revision of this notice in the *Pennsylvania Bulletin*.

Some of the devices included in this notice are listed under the name of more than one manufacturer. This is due to the fact that the name of the manufacturer has changed or the right to produce a device has been transferred to a different company. In such instances, the device is listed under the name of every company that was ever associated with the device in order to allow law enforcement agencies to continue using devices bearing the name of a previous manufacturer.

To facilitate accessibility to information concerning breath alcohol testing devices which are approved for law enforcement purposes in the Commonwealth, the Department will publish revisions of this list of equipment semiannually as notices in the *Pennsylvania Bulletin*. This practice was implemented in 2009 and will proceed even if an updated conforming products list has not appeared in the *Federal Register* since the Department's last annual publication of approved breath testing devices.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact Dr. Shoemaker at V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

AK Solutions, Inc., Palisades Park, NJ¹

Alcoscan AL-2500
AlcoChecker
AlcoKey
AlcoMate
AlcoMate Pro
Alcoscan AL-5000
Alcoscan AL-6000

Akers Laboratories, Inc., Thorofare, NJ

Alcohol $\sqrt{\text{TM}}$

Akers Biosciences, Inc., Thorofare, NJ

Breath Alcohol $\sqrt{\text{TM}}$.02 Detection System²

Alco Check International, Hudsonville, MI
Alco Check 3000 D.O.T.
Alco Check 9000
Alco Screen 3000

Alcohol Countermeasures Systems, Inc., Port Hurton, MI

Alert J3AD*
PBA 3000C

Alcohol Countermeasure Systems Corp., Missis-sauga, Ontario, Canada

Alert J3AD*
Alert J4X.ec
PBA3000C

Alcohol Countermeasure Systems, Inc., Cincinnati, OH

Alert J4

Approved Technology, Inc., Grand Rapids, MI

Alco-Check I
Alco-Check II
Alco-Check 3000

BAC Systems, Inc., Ontario, Canada

Breath Analysis Computer*

BHP Diagnostix, West Chester, PA

Prevent

CAMEC Ltd., North Shields, Tyne and Ware, Eng-land

IR Breath Analyzer*

CMI-MPH, Owensboro, KY

CMI S-D2
CMI S-L2

CMI, Inc., Owensboro, KY

AlcoBlow

Intoxilyzer Model:

200
200D
240 (aka Lion Alcolmeter 400 + outside the US)
300
400
400PA
1400
4011*
4011A*
4011AS*
4011AS-A*
4011AS-AQ*
4011AW*
4011A27-10100*

¹The AlcoMate was manufactured by Han International of Seoul, Korea, but marketed and sold in the US by AK Solutions.

²The Breath Alcohol $\sqrt{\text{TM}}$.02 Detection System consists of a single-use disposable breath tube used in conjunction with an electronic analyzer that determines the test result. The electronic analyzer and the disposable breath tubes are lot specific and manufactured to remain calibrated throughout the shelf-life of the device. This screening device cannot be used after the expiration date.

4011A27-10100 with filter*
 5000
 5000 (w/Cal. Vapor Re-Circ.)
 5000 (w/3/8" ID hose option)
 5000CD
 5000CD/FG5
 5000EN
 5000 (CAL DOJ)
 5000 (VA)
 8000
 PAC 1200*
 S-D2
 S-D5

Craig Technologies International Ltd., Aurora, CO
 BreathScan

Decator Electronics, Decator, IL
 Alco-Tector model 500*

Draeger Safety, Inc., (aka: National Draeger) Durango, CO

Alcotest Model:

6510
 6810
 7010*
 7110*
 7110 MKIII
 7110 MKIII-C
 7410
 7410 Plus
 9510

Breathalyzer Model:

900*
 900A*
 900BG*
 7410
 7410-II

EnviteC by Honeywell GmbH. Fond du Lac, WI
 AlcoQuant 6020

Gall's Inc., Lexington, KY
 Alcohol Detection System-A.D.S. 500

Guth Laboratories, Inc., Harrisburg, PA

Alco-Tector
 Alco-Tector Mark X
 Alcotector BAC-100
 Alcotector C2H5OH
 Alcotector WAT90
 Mark X Alcohol Checker
 Alcotector WAT89EC-1

Han International Co., Ltd., Seoul, Korea
 A.B.I. (Alcohol Breath Indicator)³

Intoximeters, Inc., St. Louis, MO

Indium Encapsulation System
 Photo Electric Intoximeter*
 GC Intoximeter MK II*
 GC Intoximeter MK IV*
 Auto Intoximeter*
 Intox EC-IR
 Intox EC-IR 2
 Portable Intox EC-IR

Intoximeter Model:

3000*
 3000 (rev B1)*
 3000 (rev B2)*
 3000 (rev B2A)*
 3000 (rev B2A) w/FM option*

3000 (Fuel Cell)*
 3000D*
 3000DFC*
 Alcomonitor
 Alcomonitor CC
 Alco-Sensor
 Alco-Sensor III
 Alco-Sensor III (Enhanced with Serial Numbers above 1,200,000)
 Alco-Sensor IV
 Alco-Sensor IV-XL
 Alco-Sensor AZ
 Alco-Sensor FST
 Alco-Sensor Light Display
 EC/IR
 EC/IR II
 EC/IR II (enhanced with serial number 10,000 or higher)
 Portable EC/IR II
 RBT-AZ
 RBT III
 RBT III-A
 RBT-IV
 RBT-IV with CEM (cell enhancement module)

Komyo Kitagawa, Kogyo, K.K.:

Alcolyzer DPA-2*
 Breath Alcohol Meter PAM 101B*

Lifeloc Technologies, Inc. (formerly Lifeloc, Inc.)

Wheat Ridge, CO:

Life Loc PBA 3000
 PBA 3000-B
 PBA 3000-P*
 PBA 3000-C
 Alcohol Data Sensor
 Phoenix
 Phoenix 6.0
 EV 30
 FC 10
 FC 20

Lion Laboratories, Ltd., Cardiff, Wales, UK

Alcolmeter Model:

Auto-Alcolmeter*
 300
 400
 400+ (aka: Intoxilzyer 240 in the U.S.)
 SD-2*
 SD-5 (aka: S-D5 in the U.S.)
 EBA*

Intoxilyzer Model:

200
 200D
 1400
 5000 CD/FG5
 5000 EN

Luckey Laboratories, San Bernardino, CA

Alco-Analyzer Model:

Mobat Sober-Meter-SM II
 1000*
 2000*

Medi-Scan, Inc., Denver, CO

BreathScan

National Draeger, Inc., Durango, CO

Alcotest Model:

7010*
 7110*
 7110 MKIII
 7110 MKIII-C

³ Han International does not market or sell devices directly in the US market. Other devices manufactured by Han International are listed under AK Solutions, Inc. and Q-3 Innovations, Inc.

7410
7410 Plus
7410 Screener
9510
6510
6810

Breathalyzer Model:

900*
900A*
900BG*
7410
7410-II

National Draeger, Inc., Pittsburgh, PA
Alcotest**National Patent Analytical Systems, Inc., Mansfield, OH**

BAC DataMaster (with or without the Delta-1 accessory)
BAC Verifier DataMaster (with or without the Delta-1 accessory)
DataMaster cdm (with or without the Delta-1 accessory)
DataMaster DMT

Omicron Systems, Palo Alto, CA

Intoxilyzer 4011*
Intoxilyzer 4011AW*

PAS Systems International, Inc., Fredericksburg, VA

PAS IIIa
PAS Vr

Plus 4 Engineering, Minturn, CO

5000 Plus 4*

Q3 Innovations, Inc., Independence, IA⁴

AlcoHAWK Precision
AlcoHAWK Slim
AlcoHAWK Elite
AlcoHAWK ABI
AlcoHAWK Micro
AlcoHAWK PRO
AlcoHAWK PT500

RepCo Marketing, Raleigh, NC

Alco Tec III
AlcoTec Breath-Alcohol Tester
Breath Alcohol Tester Model BT-2
Breath Alcohol Tester Model BT-3

Seju Co. of Taejeon, Korea

Safe-Slim

Seres, Paris, France

Alco Master
Alcopro

Siemans-Allis, Cherry Hill, NJ

Alcomat*
Alcomat F*

Smith and Wesson Electronics, Springfield, MA**Breathalyzer Model:**

900*
900A*
1000*
2000*
2000 (Non-Humidity Sensor)*

SoundOff, Inc., Hudsonville, MI

Alco-Check

Alco-Check II
AlcoData
Alco Screen 1000
Digitox D.O.T.
Preliminary Breath Test II
Seres Alco Master
Seres Alcopro

Stephenson Corp.

Breathalyzer 900*

Takai-Denshi Inc., Tokyo, Japan:

ALC-PRO II (US)

Team Building Systems, Inc., Houston, TX

BreathScan

U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA

Alco-Analyzer 1000
Alco-Analyzer 2000
Alco-Analyzer 2100

Verax Systems, Inc., Fairport, NY

BAC Verifier*
BAC Verifier Datamaster
BAC Verifier Datamaster II*

Nonmobile only**Decator Electronics**

Alco-Tector model 500*

Draeger Safety, Inc.

Alcotest Model 9510

Intoximeters, Inc.

Photo Electric Intoximeter*
Intoximeter Model—Alcomonitor
Intoximeter Model—EC/IR II (enhanced with serial number 10,000 or higher)

Lion Laboratories, Ltd.

Auto-Alcolmeter*

Luckey Laboratories

Alco-Analyzer Model—1000*
Alco-Analyzer Model—2000*

U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA

Alco-Analyzer 1000
Alco-Analyzer 2000

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-1621. Filed for public inspection August 28, 2009, 9:00 a.m.]

Integrated Human Immunodeficiency Virus (HIV) Planning Council; Public Meeting

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Tuesday, September 15, 2009, from 9 a.m. until 2 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

⁴ The AlcoHAWK ABI is the same device as that listed under Han International as the "ABI" and is manufactured for Q-3 Innovations by Han International. The AlcoHAWK PRO is the same device as the AlcoMate marketed and sold by AK Solutions, and also manufactured by Han International.

Persons with a disability who desire to attend the meeting, and require an auxiliary aid, service or other accommodation to do so, should also contact Joseph Pease at the previously listed number or at V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-1622. Filed for public inspection August 28, 2009, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The contractors referenced 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.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Barlow Projects, Inc. and James Barlow, Individually	2000 Vermont Drive Fort Collins, CO 80525	7/29/2009

SANDI VITO,
Secretary

[Pa.B. Doc. No. 09-1623. Filed for public inspection August 28, 2009, 9:00 a.m.]

DEPARTMENT OF STATE

Bureau of Charitable Organizations; Cease and Desist Order

In the Matter of DIRECT2TROOPS, USA2TROOPS and all known and unknown officers, directors, principals, shareholders, agents, employees and independent contractors and any entities created by the principal actors after the date of issuance of this order; and MICHAEL MOVE, a/k/a STEVE GOVE a/k/a STEEVE GOVE and AMANDA MOVE a/k/a JES GOVE a/k/a CHRISTI GOVE and any other known and unknown aliases used by these individuals are ordered to cease and desist from soliciting charitable contributions in this Commonwealth until such time as DIRECT2TROOPS, USA2TROOPS and all known and unknown officers, directors, principals, shareholders, agents, employees and independent contractors and any entities created by the principal actors after the date of issuance of this order; and MICHAEL MOVE, a/k/a STEVE GOVE a/k/a STEEVE GOVE; and AMANDA MOVE a/k/a JES GOVE a/k/a CHRISTI GOVE and any other known and unknown aliases used by these individuals respond to the Bureau of Charitable Organizations'

requests for information and duly register or provide information that they are excluded or exempt from registration under the Solicitation of Funds for Charitable Purposes Act (10 P. S. §§ 162.1—162.24).

Persons may obtain a copy of the order by writing to Doreen Harr, Investigator, Department of State, Bureau of Charitable Organizations, 212 North Office Building, Harrisburg, PA 17120.

PEDRO A. CORTÉS,
Secretary

[Pa.B. Doc. No. 09-1624. Filed for public inspection August 28, 2009, 9:00 a.m.]

Bureau of Commissions; Elections and Legislation

The State Plan Advisory Board (Board) has amendments to the announcement published in the 39 Pa.B. 4693 (August 15, 2009) the meeting will be held in Room 302, Third Floor, North Office Building, Harrisburg, PA 17120 on Wednesday, September 9, 2009, commencing at 10 a.m. The agenda will include discussion of the Board's achievements and updates. Additionally the new members will be introduced to the Board, and the Secretary of the Commonwealth will address the members.

PEDRO A. CORTÉS,
Secretary

[Pa.B. Doc. No. 09-1625. Filed for public inspection August 28, 2009, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Meetings Scheduled

The Aviation Advisory Committee (AAC) will hold a meeting on Tuesday, September 1, 2009, from 11 a.m. to 3 p.m. in Conference Room 8N1 on the 8th Floor of the Commonwealth Keystone Building, Harrisburg, PA. For more information, contact the Executive Secretary of AAC, Patrice Bratcher at (717) 783-2026 or by means of e-mail at pbratcher@state.pa.us.

The Pedalcycle and Pedestrian Advisory Committee (PPAC) will hold a meeting on Thursday, September 17, 2009, from 1 p.m. to 3:30 p.m. in Conference Room 125C of the Commonwealth Keystone Building, Harrisburg, PA. For more information, contact the PPAC Administrator, Gary Modi at (717) 783-1990 or by means of e-mail gmodi@state.pa.us.

The Motor Carrier Safety Advisory Committee (MCAC) will hold a meeting on Thursday, September 24, 2009, from 11:30 a.m. to 3 p.m. at the Turnpike Commission Building, Harrisburg, PA. For more information, contact the MCAC Administrator, Nicole Cristini at (717) 772-2511 or by means of e-mail ncristini@state.pa.us.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 09-1626. Filed for public inspection August 28, 2009, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On August 18, 2009, the Environmental Quality Board (Board) accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board Policy for Processing Petitions—Statement of Policy). The petition, submitted by the Lycoming Creek Watershed Association, requests the redesignation of the main stem of Lycoming Creek (source to Long Run; and Long Run to the mouth; in Tioga and Lycoming Counties) from Cold Water Fishes (CWF) and Warm Water Fishes (WWF), respectively, to High Quality (HQ); and Roaring Branch (source to confluence with Lycoming Creek; Tioga County) from HQ-CWF to Exceptional Value (EV). Under 25 Pa. Code § 93.4d(a) (relating to processing petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for Lycoming Creek and Roaring Branch will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition is available to the public by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and is accessible on the Department's web site at <http://www.depweb.state.pa.us>. (DEP Keywords: "EQB" ("EQB Meeting/Agendas/Handouts/Minutes; August 18, 2009").

JOHN HANGER,
Chairperson

[Pa.B. Doc. No. 09-1627. Filed for public inspection August 28, 2009, 9:00 a.m.]

FISH AND BOAT COMMISSION

Classification of Wild Trout Streams; Addition of Walker Run, Luzerne County

Under 58 Pa. Code § 57.11 (relating to listing of wild trout streams), it is the policy of the Fish and Boat Commission (Commission) to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The Commission's Fisheries Management Division maintains the list of wild trout streams. The Executive Director, with the approval of the Commission, will from time-to-time publish the list of wild trout streams in the *Pennsylvania Bulletin*. The listing of a stream section as a wild trout stream is a biological designation that does not determine how it is managed. The Commission relies upon many factors in determining the appropriate management of streams.

At the next Commission meeting on October 5 and 6, 2009, the Commission will consider adding Walker Run, Luzerne County, from the headwaters downstream to the mouth, to the list. Fisheries Management Area 4 surveyed Walker Run in 2006, and the Division of Environmental Services resurveyed Walker Run in 2009. Both

surveys found wild brown trout, and the Division of Environmental Services' survey found both fingerlings and multiple year classes.

Persons with comments, objections or suggestions concerning the classification of the stream listed may submit them in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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

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

[Pa.B. Doc. No. 09-1628. Filed for public inspection August 28, 2009, 9:00 a.m.]

Lake Erie Commercial Fishing; 2009 Revised Total Allowable Catch for Yellow Perch

The Executive Director (Director) of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 69.31(c) (relating to seasons), previously established that the 2009 total allowable commercial catch for yellow perch from this Commonwealth waters of Lake Erie is 30,000 pounds. See 39 Pa.B. 1277 (March 7, 2009). Section 69.31(c) provides that after the announcement, the Director may, from time to time, revise the total allowable catch for the year if the Director determines that the conditions so warrant.

When the Director originally set the total allowable catch for yellow perch at 30,000 pounds, the Director did so in anticipation that the quota allocated to this Commonwealth through the Lake Erie Committee of the Great Lakes Fishery Commission would be reduced by about 16%. The Director also determined at the time that there was little chance that the 30,000 pounds would be attained by the commercial fishing licensees. However, the Commonwealth's share of the 2009 yellow perch quota (693,090 pounds) was not reduced, and it is likely that the 30,000-pound quota will be attained by the end of August. In light of these conditions, the Director has determined that it is reasonable to increase the total allowable catch for yellow perch by 10,000 pounds for the remainder of the season. The commercial fishing season for yellow perch on Lake Erie is accordingly January 1 until the date the Director determines that 40,000 pounds of yellow perch probably have been taken by commercial fishing interests fishing in this Commonwealth waters of Lake Erie. With this increase, the share allocated to Commonwealth's commercial fishing interests is less than 6% of the total allocated to the Commonwealth.

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

[Pa.B. Doc. No. 09-1629. Filed for public inspection August 28, 2009, 9:00 a.m.]

Proposed Special Regulation Redesignation; Fishing Creek, Columbia County

The Fish and Boat Commission (Commission) has approved guidelines with regard to encouraging public participation on possible changes to the designation of streams, stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream, stream section or lake under special regulations ordinarily will be published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meeting on October 5 and 6, 2009, the Commission will consider redesignating the following stream section as a water subject to special fishing regulations under 58 Pa. Code Chapter 65, effective upon publication in the *Pennsylvania Bulletin*:

58 Pa. Code § 65.6. Delayed Harvest Artificial Lures Only (DHALO) Areas.

The Commission will consider removing the following stream section currently regulated and managed as DHALO area:

County	Water on which located	Description
Columbia	Fishing Creek	From the upstream Richard Kriebel property line downstream to a point located 180 yards upstream from the Benton Borough line, a distance of 0.7 mile

At this time, the Commission is soliciting public input concerning the previous redesignation. Persons with comments, objections or suggestions concerning the redesignation are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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

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

[Pa.B. Doc. No. 09-1630. Filed for public inspection August 28, 2009, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The following meetings of the Health Care Cost Containment Council (Council) have been scheduled: Wednesday, September 2, 2009, Data Systems Committee—10 a.m.; Education Committee—1 p.m.; Audit Committee—4 p.m. and Thursday, September 3, 2009, Executive Committee—9 a.m.; Council Meeting—10 a.m. Additional Council meetings are scheduled for November 3 and 4, 2009. The meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons in need accommodations due to a disability and want to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101 or call (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

DAVID H. WILDERMAN,
Acting Executive Director

[Pa.B. Doc. No. 09-1631. Filed for public inspection August 28, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 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.

Reg. No.	Agency/Title	Close of the Public Comment Period	IRRC Comments Issued
7-434	Environmental Quality Board Environmental Laboratory Accreditation 39 Pa.B. 3051 (June 20, 2009)	7/20/09	8/19/09

**Environmental Quality Board
Regulation #7-434 (IRRC #2770)**

Environmental Laboratory Accreditation

August 19, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the June 20, 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 (Board) to respond to all comments received from us or any other source.

1. Records.—Clarity.

Several sections of this regulation require record retention or recording of information. However, it is unclear what method of retention or recording the Board requires and the duration of the required retention is not set forth. The final-form regulation should clarify these requirements. The concern applies to several subsections, including § 252.304(b)(3)(vi)(E) and (F), 252.306(f)(2)(ii)(C), (4)(v), (5)(iii)(v), (6)(iv), (h)(2) and (4), 252.404(c)(1)(iii) and (vii), (2)(ii) and (iv) and 252.706(a).

2. Section 252.304. Personnel requirements.—Reasonableness; Clarity.

Subsection (b)(3)(vi)(E)

This subsection allows lab methods used prior to January 1, 2005, to be exempt in certain circumstances from the initial demonstration of capability. How did the Board determine this was an appropriate date?

Subsection (b)(3)(vi)(F)

This subsection requires labs to retain “all data necessary” to reproduce the initial demonstration of capability. What types of data would meet this requirement? The final-form regulation should clarify the Board’s intent.

Subsection (b)(3)(vi)(G)(I)

Under this subsection, a new employee in a work cell must work with an experienced analyst. However, it is not clear how long this must occur. The final-form regulation should clearly state how long an experienced analyst must work with a new work cell employee.

Subsection (b)(3)(vi)(G)(II)

This subsection mentions “acceptable” quality control performance checks. This term is vague. The final-form regulation should specify what the Board considers “acceptable.”

3. Section 252.306. Equipment, supplies and reference materials.—Reasonableness; Clarity.

Subsection (f)(9)(i)

In this subsection, what does the Board consider an “appropriate” method for checking delivery volumes of mechanical volumetric dispensing devices? This term is vague. The Board should delete this term or set forth the “acceptable” methods.

Subsection (h)(6)

This subsection refers to a “Department approved procedure” to reevaluate and validate certain materials used past their expiration date. The final-form regulation

should set forth this procedure or provide a citation to an existing procedure that will be used.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-1632. Filed for public inspection August 28, 2009, 9:00 a.m.]

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy, or you can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
7-431	Environmental Quality Board Oil and Gas Wells	8/14/09	9/17/09

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-1633. Filed for public inspection August 28, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Colonial Senior Living of Western PA, LLC

Colonial Senior Living of Western PA, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Village at Pennwood in Pittsburgh, PA. The initial filing was received on August 18, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of 1984 (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. 09-1634. Filed for public inspection August 28, 2009, 9:00 a.m.]

Application for Voluntary Surrender of Pennsylvania Certificate of Authority Filed by Capital Health Plans, Inc.

Capital Health Plans, Inc., a domestic risk assuming preferred provider organization which is not a licensed insurer, has submitted an application for approval to surrender its Insurance Department (Department) Certificate of Authority. Persons wishing to comment on the grounds of public or private interest concerning the surrender, are invited to submit a written statement to the Department within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1635. Filed for public inspection August 28, 2009, 9:00 a.m.]

Wayne Crecelius; Prehearing

**Appeal of Wayne Crecelius; Consent Order;
Doc. No. CO09-04-021**

A prehearing telephone conference initiated by this office is scheduled for September 2, 2009, at 10 a.m. in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or intervention, if any, must be filed with the Hearings Administrator at the previous address on or before August 21, 2009. Answers to petitions to intervene, if any, shall be filed on or before September 1, 2009.

On or before August 21, 2009, each party shall file a prehearing statement with the Administrative Hearings Office which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

A written request for continuance of the scheduled prehearing telephone conference and hearing, for good cause will be considered by the Presiding Officer. Prior to requesting a continuance, a party must contact the opposing party. All continuance requests must indicate whether the opposing party objects to a continuance.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Analyst at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1636. Filed for public inspection August 28, 2009, 9:00 a.m.]

Independence Blue Cross; Blue Cross Nongroup Special Care Hospital Program (11-P-09); Rate Filing

On August 10, 2009, Independence Blue Cross filed for an increase in its nongroup Special Care Hospital rates in its five-county Southeastern Pennsylvania service area. The proposed 37.04% increase will affect 5,800 contracts and generate an additional \$2,600,000 annually. The requested effective date of this change is January 1, 2010.

Unless formal administrative action is taken prior to November 12, 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. 09-1637. Filed for public inspection August 28, 2009, 9:00 a.m.]

Independence Blue Cross; Community Rated Basic Blue Cross Hospital Adjustment (12-P-09); Rate Filing

On August 10, 2009, Independence Blue Cross filed for an increase in its community rated Basic Blue Cross hospital rates in its five-county Southeastern Pennsylvania service area. The proposed 13.12% increase will affect 300 contracts and generate an additional \$500,000 annually. The requested effective date of this change is January 1, 2010.

Unless formal administrative action is taken prior to November 12, 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. 09-1638. Filed for public inspection August 28, 2009, 9:00 a.m.]

Independence Blue Cross; Nongroup Basic Blue Cross Hospital Program (10-P-09); Rate Filing

On August 10, 2009, Independence Blue Cross filed for an increase in its nongroup Basic Blue Cross Hospital rates in its five-county Southeastern Pennsylvania service area. The proposed 36.83% increase for the non-HCTC eligible product and proposed 43.37% increase for the HCTC eligible product will affect 2,500 contracts and generate an additional \$3,600,000 annually. The requested effective date of this change is January 1, 2010.

Unless formal administrative action is taken prior to November 12, 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. 09-1639. Filed for public inspection August 28, 2009, 9:00 a.m.]

Notice to Medical Malpractice Insurance Carriers and Self-Insured Health Care Providers

Insurance companies that offer basic limits medical malpractice coverage are required to report medical malpractice claims information to the Insurance Department (Department) for those insured who are subject to the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910). Organizations and physicians that self-insure their medical malpractice exposures are also required to report this claims information. These reports are required under section 743 of the MCARE.

The claims information must be reported to MCARE and to the Department. The following calendar year 2008 claims information is due to the Fund and the Department by October 15, 2009:

- The aggregate amount of premium earned.
- The aggregate amount of losses paid.
- The aggregate amount of losses incurred.
- The aggregate amount of loss reserves outstanding.
- The aggregate amount of loss adjustment expenses paid.
- The aggregate amount of loss adjustment expenses incurred.
- The aggregate amount of loss adjustment expense reserves outstanding.
- A table showing separately, by accident year and county, the number of claims first reported (or arising) in 2008.
- A table showing separately by accident year and disposition (that is, judgment of arbitration panel, judgment of court, settlement or other) the number of claims closed by county (or disposed) in 2008.
- A separate table for each type of disposition previously identified; showing for claims closed (or disposed) in 2008 separately by accident year; the number of claims closed (or disposed) with payment; the total losses incurred for those claims closed with payment; and the basic coverage premiums collected.

Reports must be submitted as an Excel spreadsheet. A letter has been mailed instructing medical malpractice carriers to submit their 2008 data.

Medical malpractice carriers who have not received a letter should contact Bojan Zorkic, Actuarial Associate, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-6968, bzorkic@state.pa.us. Questions should be directed to Bojan Zorkic.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1640. Filed for public inspection August 28, 2009, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error Act (40 P. S. § 1303.303), enacted on March 20, 2002, announces a meeting of the Authority's Board to be held at the Harrisburg Area Community College, One HACC Drive, Harrisburg, PA at 10 a.m. on Tuesday, September 8, 2009.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,
Executive Director

[Pa.B. Doc. No. 09-1641. Filed for public inspection August 28, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by September 14, 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 the approval of the right and privilege to *discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.*

A-2009-2124277. Faye A. Wise (2480 Leaman Road, Ronks, Lancaster County, PA 17572)—discontinuance of service and cancellation of her Certificate of Public Convenience as a common carrier by motor vehicle at A-00122530, to transport persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to other points in Pennsylvania, and return.

A-2009-2124280. Scalp Level-Paint Volunteer Fire Company and Windber Volunteer Fire Company #1, Inc., t/d/b/a Northern EMS (1620 Somerset Avenue, Windber, Somerset County, PA 15963), a corporation of the Commonwealth—for the discontinuance of service and cancellation of its Certificate of Public Convenience as a common carrier by motor vehicle at A-00115215, to transport persons in paratransit service, between points in the Boroughs of Windber, Paint, Central City, Indian Lake, Hooversville and Benson and the Townships of Paint, Ogle, Shade, Stoney Creek and Conemaugh, all located in Somerset County, and the Borough of Scalp Level and the Township of Adams, located in Cambria County, and from points in said territory, to other points in Pennsylvania, and return.

A-2009-2124281. Mary E. Russell (39 Chickadee Circle, Leola, Lancaster County, PA 17540), for the discontinuance of service and cancellation of her Certificate of Public Convenience as a common carrier, by motor vehicle at A-00123112, authorizing the transportation of persons in paratransit service, from points in the County of Lancaster to other points in Pennsylvania, and return; limited to the transportation of persons whose personal convictions prevent them from owning or operating motor vehicles.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1642. Filed for public inspection August 28, 2009, 9:00 a.m.]

Smart Meter Technology Procurement and Installation Plans

M-2009-2123948, Duquesne Light Company—Petition for approval of its Smart Meter Technology Procurement and Installation Plan. Under the Pennsylvania Public Utility Commission's (Commission) Order, entered June 24, 2009, comments addressing the Smart Meter Plan are to be filed by September 25, 2009. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served to the petitioner and the Administrative Law Judge on or before September 25, 2009. The documents filed in support of the petition 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 petitioner's business address.

Petitioner: Duquesne Light Company

Through and By Counsel: Gary A. Jack, 411 Seventh Avenue, Pittsburgh, PA 15219

The following is the initial prehearing conference notice in this proceeding. Petitions for Intervention should be filed with the Secretary and a copy served to the Administrative Law Judge on or before September 25, 2009.

By the Commission

JAMES J. MCNULTY,
Secretary

Notice

This is to inform you that an initial prehearing conference on the previously-captioned case will be held as follows:

Date: Wednesday, October 7, 2009

Time: 10 a.m.

Location: 11th Floor Hearing Room—
PITTSBURGH PARTIES
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Location: Hearing Room 5—
HARRISBURG PARTIES
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, PA

Presiding: Administrative Law Judge
Robert P. Meehan
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

Persons with a disability, who wish to attend the hearing, the Commission may be able to make arrangements for their special needs. Call the scheduling office at the Commission at least 5 business days prior to the hearing to submit a request.

For individuals requiring an interpreter to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to the hearing to submit a request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

[Pa.B. Doc. No. 09-1643. Filed for public inspection August 28, 2009, 9:00 a.m.]

Smart Meter Technology Procurement and Installation Plans

M-2009-2123950, First Energy (MetEd, Penelec, and Penn Power)—Petitions for approval of their Smart Meter Technology Procurement and Installation Plans. Under the Pennsylvania Public Utility Commission's (Commission) Order, entered June 24, 2009, comments addressing the Smart Meter Plan are to be filed by September 25, 2009. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served to the petitioner and the Administrative Law Judge on or before September 25, 2009. The documents filed in support of the petition 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 petitioner's business address.

Petitioner: First Energy Company

Through and By Counsel: Bradley A. Bingaman, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19612-6001

The following is the initial prehearing conference notice in this proceeding. Petitions for Intervention should be filed with the Secretary and a copy served to the Administrative Law Judge on or before September 25, 2009.

By the Commission

JAMES J. MCNULTY,
Secretary

Notice

This is to inform you that an initial prehearing conference on the previously-captioned case will be held as follows:

Type: Initial Prehearing Conference
Date: Tuesday, September 29, 2009
Time: 1 p.m.
Location: Hearing Room 2
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Presiding: Administrative Law Judge
Susan D. Colwell
P. O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 783-5452
Fax: (717) 787-0481

Persons with a disability, who wish to attend the hearing, the Commission may be able to make arrangements for their special needs. Call the scheduling office at the Commission at least 5 business days prior to the hearing to submit a request.

For individuals requiring an interpreter to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the

scheduling office at the Commission at least 10 business days prior to the hearing to submit a request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

[Pa.B. Doc. No. 09-1644. Filed for public inspection August 28, 2009, 9:00 a.m.]

Smart Meter Technology Procurement and Installation Plans

M-2009-2123944, PECO Energy Company—Petition for approval of its Smart Meter Technology Procurement and Installation Plan. Under the Pennsylvania Public Utility Commission's (Commission) Order, entered June 24, 2009, comments addressing the Smart Meter Plan are to be filed by September 25, 2009. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served to the petitioner and the Administrative Law Judge on or before September 25, 2009. The documents filed in support of the petition 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 petitioner's business address.

Petitioner: Peco Energy Company

Through and By Counsel: Anthony E. Gay, Peco Energy Company, 2301 Market Street S23-1, and P. O. Box 8699, Philadelphia, PA 19101-8699

The following is the initial prehearing conference notice in this proceeding. Petitions for Intervention should be filed with the Secretary and a copy served to the Administrative Law Judge on or before September 25, 2009.

By the Commission

JAMES J. MCNULTY,
Secretary

Notice

This is to inform you that an initial prehearing conference on the previously-captioned case will be held as follows:

Type: Initial Prehearing Conference
Date: Tuesday, September 29, 2009
Time: 10 a.m.
Location: Hearing Room 3
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Presiding: Administrative Law Judge
Marlane R. Chestnut
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
Telephone: (215) 560-2105
Fax: (215) 560-3133

Persons with a disability, who wish to attend the hearing, the Commission may be able to make arrangements for their special needs. Call the scheduling office at the Commission at least 5 business days prior to the hearing to submit a request.

For individuals requiring an interpreter to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to the hearing to submit their request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

[Pa.B. Doc. No. 09-1645. Filed for public inspection August 28, 2009, 9:00 a.m.]

Smart Meter Technology Procurement and Installation Plans

M-2009-2123945, PPL Electric Utilities Corporation—Petition for approval of its Smart Meter Technology Procurement and Installation Plan. Under the Pennsylvania Public Utility Commission's (Commission) Order, entered June 24, 2009, comments addressing the Smart Meter Plan are to be filed by September 25, 2009. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served to the petitioner and the Administrative Law Judge on or before September 25, 2009. The documents filed in support of the petition 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 petitioner's business address.

Petitioner: PPL Electric Utilities Corporation

Through and By Counsel: Paul E. Russell, Associate General Counsel, Two North Ninth Street, Allentown, PA 18101

The following is the initial prehearing conference notice in this proceeding. Petitions for Intervention should be filed with the Secretary and a copy served to the Administrative Law Judge on or before September 25, 2009.

By the Commission

JAMES J. MCNULTY,
Secretary

Notice

This is to inform you that an initial prehearing conference on the previously-captioned case will be held as follows:

Type: Initial Prehearing Conference
Date: Tuesday, September 29, 2009
Time: 10 a.m.
Location: Hearing Room 2
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Presiding: Administrative Law Judge
Wayne L. Weisman
P. O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 783-5452
Fax: (717) 787-0481

Persons with a disability, who wish to attend the hearing, the Commission may be able to make arrangements for their special needs. Call the scheduling office at the Commission at least 5 business days prior to the hearing to submit a request.

For individuals requiring an interpreter to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to the hearing to submit their request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

[Pa.B. Doc. No. 09-1646. Filed for public inspection August 28, 2009, 9:00 a.m.]

Smart Meter Technology Procurement and Installation Plans

M-2009-2123951, West Penn Power Company—Petition for approval of its Smart Meter Technology Procurement and Installation Plan. Under the Pennsylvania Public Utility Commission's (Commission) Order, entered June 24, 2009, comments addressing the Smart Meter Plan are to be filed by September 25, 2009. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served to the petitioner and the Administrative Law Judge on or before September 25, 2009. The documents filed in support of the petition 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 petitioner's business address.

Petitioner: West Penn Power Company

Through and By Counsel: John L. Munsch, 800 Cabin Hill Drive, Greensburg, PA 15601-1689

The following is the initial prehearing conference notice in this proceeding. Petitions for Intervention should be filed with the Secretary and a copy served to the Administrative Law Judge on or before September 25, 2009.

By the Commission

JAMES J. MCNULTY,
Secretary

Notice

This is to inform you that an initial prehearing conference on the previously-captioned case will be held as follows:

Date: Wednesday, September 30, 2009.
Time: 10 a.m.
Location: 11th Floor Hearing Room—
PITTSBURGH PARTIES
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Date: Wednesday, September 30, 2009.

Location: Hearing Room 3—
HARRISBURG PARTIES
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, PA

Presiding: Administrative Law Judge
Mark A. Hoyer
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

Persons with a disability, who wish to attend the hearing, the Commission may be able to make arrangements for their special needs. Call the scheduling office at the Commission at least 5 business days prior to the hearing to submit a request.

For individuals requiring an interpreter to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to the hearing to submit a request.

- Scheduling Office: (717) 787-1399
 - Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988
- [Pa.B. Doc. No. 09-1647. Filed for public inspection August 28, 2009, 9:00 a.m.]

Telecommunications Services

A-2009-2125041. Cooperative Communications, Inc. Application of Cooperative Communications, Inc. for approval to offer, render, furnish or supply telecommunications services to the public as a Competitive Local Exchange Carrier in the service territory of The United Telephone Company of Pennsylvania, d/b/a Embarq Pennsylvania.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before September 14, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Cooperative Communications, Inc.

Through and By Counsel: Dennis Linken, Stryker Tams & Dill, 2 Penn Plaza East, Newark, NJ 07105, (973) 491-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1648. Filed for public inspection August 28, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
August 6, 2009

Commissioners Present: James H. Cawley, Chairperson, Tyrone J. Christy, Vice Chairperson, Kim Pizzingrilli, Wayne E. Gardner, Robert F. Powelson

In re: Capital Telecommunications, Inc.;
Doc. Nos. A-310084 and A-310084F0002

Tentative Order

By the Commission:

Capital Telecommunications, Inc. (Capital) is a reseller of interexchange toll services and a competitive local exchange carrier certificated at A-310082 and A-310082F0002, respectively. Capital has failed to file its 2007 Annual Reports under section 504 of the Public Utility Code. 66 Pa.C.S. § 504. Specifically, 66 Pa.C.S. § 504 provides that:

The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce.

Commission staff's several attempts to reach Capital by mail and phone to file the missing report have been unsuccessful. Telephone calls to the last known business address of Capital reveals that the number is not a properly working number and no information is available for any new phone numbers. In addition, we are not aware that Capital has any current customers in Pennsylvania, and Capital was never assigned any NXX codes.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506 and 3301. Based on the above facts, we believe it is appropriate to revoke Capital's certificates of public convenience without the necessity of a formal complaint. For these reasons, we tentatively conclude that revocation of Capital's certificates of public convenience under 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Capital seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The revocation of Capital Telecommunications, Inc.'s certificates of public convenience are hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. The absence of the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificates of public convenience held by Capital Telecommunications, Inc. at

A-310084 and A-310084F0002 shall be canceled, and Capital Telecommunications, Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1649. Filed for public inspection August 28, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
August 6, 2009

Commissioners Present: James H. Cawley, Chairperson, Tyrone J. Christy, Vice Chairperson, Kim Pizzingrilli, Wayne E. Gardner, Robert F. Powelson

In re: Eastern Telephone Systems, Inc.;
Doc. No. A-310082

Tentative Order

By the Commission:

Eastern Telephone Systems, Inc. (Eastern) is a reseller of interexchange toll services certificated at A-310082. Eastern has failed to file its 2007 Annual Report pursuant to section 504 of the Public Utility Code. 66 Pa.C.S. § 504. Specifically, 66 Pa.C.S. § 504 provides that:

The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce.

Commission staff's several attempts to reach Eastern by mail and phone to file the missing report have been unsuccessful. Telephone calls to the last known business address of Eastern reveals that the number is not a properly working number and no information is available for any new phone numbers.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders, including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506 and 3301. Based on the above facts, we believe it is appropriate to revoke Eastern's certificate of public convenience without the necessity of a formal complaint. For these reasons, we tentatively conclude that revocation of Eastern's certificate of public convenience under 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Eastern seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The revocation of Eastern Telephone Systems, Inc.'s certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also

cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. The absence of the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Eastern Telephone Systems, Inc. at A-310082 shall be canceled, and Eastern Telephone Systems, Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1650. Filed for public inspection August 28, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
August 6, 2009

Commissioners Present: James H. Cawley, Chairperson, Tyrone J. Christy, Vice Chairperson, Kim Pizzingrilli, Wayne E. Gardner, Robert F. Powelson

In re: Quick Tel, Inc.;
Doc. No. A-311086

Tentative Order

By the Commission:

Quick Tel, Inc. (Quick Tel) is a reseller of interexchange toll services certificated at A-311086. Quick Tel has failed to file its 2007 Annual Report pursuant to section 504 of the Public Utility Code. 66 Pa.C.S. § 504. Specifically, 66 Pa.C.S. § 504 provides that:

The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce.

Commission staff's several attempts to reach Quick Tel by mail and phone to file the missing report have been unsuccessful. Telephone calls to the last known business address of Quick Tel confirmed that the number is disconnected and no information is available for any new phone numbers.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders, including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506 and 3301. Based on the above facts, we believe it is appropriate to revoke Quick Tel's certificate of public convenience without the necessity of a formal complaint. For these reasons, we tentatively conclude that revocation of Quick Tel's certificate of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of

penalties under section 3301, in lieu of cancellation, if Quick Tel seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The revocation of Quick Tel, Inc.'s certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. The absence of the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by Quick Tel, Inc. at A-311086 shall be canceled, and Quick Tel, Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1651. Filed for public inspection August 28, 2009, 9:00 a.m.]

STATE BOARD OF BARBER EXAMINERS

**Bureau of Professional and Occupational Affairs v.
Jeffrey A. Thomas, Sr.; Doc. No. 1273-42-2009**

On July 7, 2009, Jeffrey A. Thomas, Sr., license no. BL049409L, of Philadelphia, Philadelphia County, was suspended under the Order of the Court of Common Pleas of Philadelphia County dated June 24, 2009, which the Court issued under section 4355 of the Domestic Rela-

tions Code (relating to denial or suspension of licenses). The suspension is effective immediately.

Persons may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Barber Examiners, P. O. Box 2649, Harrisburg PA 17105-2649.

L. ANTHONY SPOSSEY,
Chairperson

[Pa.B. Doc. No. 09-1652. Filed for public inspection August 28, 2009, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v.
Julie Thi Le; Doc. No. 0562-45-2008**

On July 15, 2009, Julie Thi Le license no. CO258798, of Upper Darby, Delaware County, PA, was revoked and ordered to pay a civil penalty of \$1,000, because she obtained her license as a cosmetologist by dishonest and unethical means.

Persons may obtain a copy of the order by writing to David Markowitz, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This order represents the State Board of Cosmetology (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 their Board with a copy of the petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

JANET G. M. SANKO,
Chairperson

[Pa.B. Doc. No. 09-1653. Filed for public inspection August 24, 2009, 9:00 a.m.]

