

PENNSYLVANIA BULLETIN

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Department of Education
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Department of General Services
Department of Health
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Department of Revenue
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Administrators

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No. 411, February 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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Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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

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THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 4 AND 7]

Proposed Amendments to Pa.Rs.Crim.P. 409, 414,
424, 454, 456 and 706

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules of Criminal Procedure 409, 414, 424, 454, 456 and 706 that would add a provision to these rules providing for the imposition of a fee for issuance of an installment payment plan. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the Committee's considerations in formulating this proposal. Note that the Committee's *Report* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Reports*.

The text of the proposed amendments to the Rules precedes the *Report*. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

Anne T. Panfil, Chief Staff Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
5035 Ritter Road, Suite 100
Mechanicsburg, PA 17055
fax: (717) 795-2106
e-mail: criminal.rules@pacourts.us

no later than Friday, April 10, 2009.

*By the Criminal Procedural
Rules Committee*

D. PETER JOHNSON,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 4. PROCEDURES IN SUMMARY CASES PART B(1). Procedures When Citation is Issued to Defendant

Rule 409. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the citation; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the citation or after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3).

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant must sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly.

(2) The issuing authority may issue a warrant for the arrest of the defendant as provided in Rules 430 and 431 if the amount forwarded with the plea is less than the amount of the fine and costs specified in the citation.

(3) Restrictions on the acceptance of guilty plea by mail:

(a) The issuing authority shall not accept a guilty plea that is submitted by mail when the offense carries a mandatory sentence of imprisonment.

(b) In those cases in which the charge carries a possible sentence of imprisonment, the issuing authority may accept a guilty plea submitted by mail.

(c) In any case in which the issuing authority does not accept a guilty plea submitted by mail, the issuing authority shall notify the defendant (1) that the guilty plea has not been accepted, (2) to appear personally before the issuing authority on a date and time certain, and (3) of the right to counsel. Notice of the rejection of the guilty plea by mail shall also be provided to the affiant.

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2), the issuing authority shall:

(1) advise the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

(2) determine by inquiring of the defendant that the plea is voluntarily and understandingly entered;

(3) have the defendant sign the plea form with a representation that the plea is entered voluntarily and understandingly;

(4) impose sentence, or, in cases in which the defendant may be sentenced to intermediate punishment, the issuing authority may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment; and

(5) provide for installment payments when a defendant who is sentenced to pay a fine and costs is without the financial means immediately to pay the fine and costs.

(D) When authorized by the president judge, the issuing authority may impose a reasonable fee for the issuance of an installment payment plan pursuant to paragraph (C)(5) not to exceed the amount provided for by 42 Pa.C.S. § 1725.1(c)(5).

Comment

The rule was amended in 2007 to make it clear (1) that a defendant may not enter a guilty plea by mail to an offense that carries a mandatory sentence of imprisonment, and (2) in those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and the fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and (B).

The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2007 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea. Paragraph (D) would permit the issuing authority to delay proceedings until the defendant's eligibility has been determined.

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

The amount of an installment payment plan fee permitted by paragraph (D) may be increased as provided by law. See 42 Pa.C.S. § 1725.1. Each county should establish local procedures to ensure adequate notice and uniform application of this fee and any increases. See also Rules 414, 424, 454, 456, and 706.

For procedure upon default in payment of the fine or costs, see Rule 456.

For appeal procedures in summary cases, see Rules 460, 461 and 462.

For procedures regarding arrest warrants, see Rules 430 and 431.

With regard to the defendant's right to counsel and waiver of counsel, see Rules 121 and 122.

Official Note: Previous Rule 59 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 75. Present Rule 59 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 409 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007[.] ; **amended** , **2009, effective** , **2009.**

* * * * *

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

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

Final Report explaining the August 7, 2003 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4289 (August 30, 2003).

Final Report explaining the January 18, 2007 amendments to paragraphs (B)(3) and (C)(4) published at with the Court's Order at 37 Pa.B. 760 (February 17, 2007).

Report explaining the proposed amendments adding paragraph (D) concerning imposition of installment payment plans published at 39 Pa.B. 990 (February 21, 2009).

PART B(2). Procedures When Citation Filed

Rule 414. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the summons; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the summons or after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3).

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant must sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly.

(2) The issuing authority may issue a warrant for the arrest of the defendant as provided in Rules 430 and 431 if the amount forwarded with the plea is less than the amount of the fine and costs specified in the summons.

(3) Restrictions on the acceptance of guilty plea by mail:

(a) The issuing authority shall not accept a guilty plea that is submitted by mail when the offense carries a mandatory sentence of imprisonment.

(b) In those cases in which the charge carries a possible sentence of imprisonment, the issuing authority may accept a guilty plea submitted by mail.

(c) In any case in which the issuing authority does not accept a guilty plea submitted by mail, the issuing authority shall notify the defendant (1) that the guilty plea has not been accepted, (2) to appear personally before the issuing authority on a date and time certain, and (3) of the right to counsel. Notice of the rejection of the guilty plea by mail shall also be provided to the affiant.

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2) the issuing authority shall:

(1) advise the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

(2) determine by inquiring of the defendant that the plea is voluntarily and understandingly entered;

(3) have the defendant sign the plea form with a representation that the plea is entered voluntarily and understandingly;

(4) impose sentence, or, in cases in which the defendant may be sentenced to intermediate punishment, the issuing authority may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment; and

(5) provide for installment payments when a defendant who is sentenced to pay a fine and costs is without the financial means immediately to pay the fine and costs.

(D) When authorized by the president judge, the issuing authority may impose a reasonable fee for the issuance of an installment payment plan pursuant to paragraph (C)(5) not to exceed the amount provided for by 42 Pa.C.S. § 1725.1(c)(5).

COMMENT

The rule was amended in 2007 to make it clear (1) that a defendant may not enter a guilty plea by mail to an offense that carries a mandatory sentence of imprisonment, and (2) in those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and the fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and (B). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2007 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea. Paragraph (D) would permit the issuing authority to delay proceedings until the defendant's eligibility has been determined.

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

The amount of an installment payment plan fee permitted by paragraph (D) may be increased as provided by law. See 42 Pa.C.S. § 1725.1. Each county should establish local procedures to ensure adequate notice and uniform application of this fee and any increases. See also Rules 409, 424, 454, 456 and 706.

For procedure upon default in payment of the fine or costs, see Rule 456.

For appeal procedures in summary cases, see Rules 460, 461, and 462.

For arrest warrant procedures, see Rules 430 and 431.

With regard to the defendant's right to counsel and waiver of counsel, see Rules 121 and 122.

Official Note: Previous rule, originally numbered Rule 136, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 64 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 84. Present Rule 64 adopted July 12, 1985, effective January 1, 1986;

amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 414 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007[.] ; amended , 2009, effective , 2009.

* * * * *

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Final Report explaining the January 18, 2007 amendments to paragraphs (B)(3) and (C)(4) published at with the Court's Order at 37 Pa.B. 760 (February 17, 2007).

Report explaining the proposed amendments adding paragraph (D) published at 39 Pa.B. 990 (February 21, 2009).

PART C. Procedures in Summary Cases When Complaint Filed

Rule 424. Guilty Pleas.

(A) A defendant may plead guilty by:

(1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the summons; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the summons or after receipt of notice that a guilty plea by mail has not been accepted by the issuing authority pursuant to paragraph (B)(3).

(B) When the defendant pleads guilty pursuant to paragraph (A)(1):

(1) The defendant must sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly.

(2) The issuing authority may issue a warrant for the arrest of the defendant as provided in Rules 430 and 431 if the amount forwarded with the plea is less than the amount of the fine and costs specified in the summons.

(3) Restrictions on the acceptance of guilty plea by mail:

(a) The issuing authority shall not accept a guilty plea that is submitted by mail when the offense carries a mandatory sentence of imprisonment.

(b) In those cases in which the charge carries a possible sentence of imprisonment, the issuing authority may accept a guilty plea submitted by mail.

(c) In any case in which the issuing authority does not accept a guilty plea submitted by mail, the issuing authority shall notify the defendant (1) that the guilty plea has not been accepted, (2) to appear personally before the issuing authority on a date and time certain,

and (3) of the right to counsel. Notice of the rejection of the guilty plea by mail shall also be provided to the affiant.

(C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph (A)(2), the issuing authority shall:

(1) advise the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

(2) determine by inquiring of the defendant that the plea is voluntarily and understandingly entered;

(3) have the defendant sign the plea form with a representation that the plea is entered voluntarily and understandingly;

(4) impose sentence, or, in cases in which the defendant may be sentenced to intermediate punishment, the issuing authority may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment; and

(5) provide for installment payments when a defendant who is sentenced to pay a fine and costs is without the financial means immediately to pay the fine and costs.

(D) When authorized by the president judge, the issuing authority may impose a reasonable fee for the issuance of an installment payment pursuant to paragraph (C)(5) not to exceed the amount provided for by 42 Pa.C.S. § 1725.1(c)(5).

Comment

The rule was amended in 2007 to make it clear (1) that a defendant may not enter a guilty plea by mail to an offense that carries a mandatory sentence of imprisonment, and (2) in those cases in which the offense carries a possible sentence of imprisonment, the issuing authority has the discretion whether or not to accept a guilty plea submitted by mail.

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph (C) when the defendant returns the written guilty plea and the fine and costs in person to the issuing authority's office pursuant to paragraphs (A)(1) and (B). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (C)(4) was added in 2007 to permit an issuing authority to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing, especially when the defendant appears personally to enter a guilty plea. Paragraph (D) would permit the issuing authority to delay proceedings until the defendant's eligibility has been determined.

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

The amount of an installment payment plan fee permitted by paragraph (D) may be increased as provided by law. See 42 Pa.C.S. § 1725.1. Each county should establish local procedures to ensure adequate notice and uniform application of this fee and any increases. See also Rules 409, 414, 454, 456 and 706.

For procedure upon default in payment of the fine or costs, see Rule 456.

For appeal procedures in summary cases, see Rules 460, 461 and 462.

For procedures regarding arrest warrants, see Rules 430 and 431.

With regard to the defendant's right to counsel and waiver of counsel, see Rules 121 and 122.

Official Note: Previous rule, originally numbered Rule 140, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 69 September 18, 1973, effective January 1, 1974; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 69 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 424 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007[.] ; **amended , 2009, effective , 2009.**

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Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

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

Final Report explaining the August 7, 2003 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4289 (August 30, 2003).

Final Report explaining the January 18, 2007 amendments to paragraphs (B)(3) and (C)(4) published at with the Court's Order at 37 Pa.B. 760 (February 17, 2007).

Final Report explaining the proposed amendments adding paragraph (D) published at 39 Pa.B. 990 (February 21, 2009).

PART E. General Procedures in Summary Cases

Rule 454. Trial in Summary Cases.

(A) Immediately prior to trial in a summary case:

(1) the defendant shall be advised of the charges in the citation or complaint;

(2) if, in the event of a conviction, there is a reasonable likelihood of a sentence of imprisonment or probation, the defendant shall be advised of the right to counsel and

(a) upon request, the defendant shall be given a reasonable opportunity to secure counsel, or

(b) if the defendant is without financial resources or is otherwise unable to employ counsel, counsel shall be assigned as provided in Rule 122; and

(3) the defendant shall enter a plea.

(B) If the defendant pleads guilty, the issuing authority shall impose sentence. If the defendant pleads not guilty, the issuing authority shall try the case in the same manner as trials in criminal cases are conducted in the courts of common pleas when jury trial has been waived; however, in all summary cases arising under the Vehicle Code or local traffic ordinances, the law enforcement officer observing the defendant's alleged offense may, but shall not be required to, appear and testify against the defendant. In no event shall the failure of the law enforcement officer to appear, by itself, be a basis for dismissal of the charges against the defendant.

(C) The attorney for the Commonwealth may appear and assume charge of the prosecution. When the violation of an ordinance of a municipality is charged, an attorney representing that municipality, with the consent of the attorney for the Commonwealth, may appear and assume charge of the prosecution. When no attorney appears on behalf of the Commonwealth, the affiant may be permitted to ask questions of any witness who testifies.

(D) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial, except as provided in paragraph (E).

(E) If the defendant may be sentenced to intermediate punishment, the issuing authority may delay imposing sentence pending confirmation of the defendant's eligibility for intermediate punishment.

(F) At the time of sentencing, the issuing authority shall:

(1) if the defendant's sentence includes restitution, a fine, or costs, state the date on which payment is due. If the defendant is without the financial means to pay the amount in a single remittance, the issuing authority may provide for installment payments and shall state the date on which each installment is due;

(2) advise the defendant of the right to appeal within 30 days for a trial de novo in the court of common pleas, and that if an appeal is filed:

(a) the execution of sentence will be stayed and the issuing authority may set bail or collateral; and

(b) the defendant must appear for the de novo trial or the appeal may be dismissed;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period, and advise that, if the defendant fails to appear on that date, a warrant for the defendant's arrest will be issued; and

(4) issue a written order imposing sentence, signed by the issuing authority. The order shall include the information specified in paragraphs (F)(1) through (F)(3), and a copy of the order shall be given to the defendant.

(G) When authorized by the president judge, the issuing authority may impose a reasonable fee for issuance of an installment payment plan pursuant to this rule. The fee shall not exceed the amount permitted by 42 Pa.C.S. § 1725.1(c)(5).

Comment

No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial.

See *Alabama v. Shelton*, 535 U.S. 654 (2002), *Scott v. Illinois*, 440 U.S. 367 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25 (1972). See Rules 121 and 122.

The affiant may be permitted to withdraw the charges pending before the issuing authority. See Rule 457 (Withdrawal of Charges in Summary Cases).

Paragraph (F)(2)(b) is included in the rule in light of *North v. Russell*, 427 U.S. 328 (1976). For the procedures for taking, perfecting, and handling an appeal, see Rules 460, 461, and 462.

As the judicial officer presiding at the summary trial, the issuing authority controls the conduct of the trial generally. When an attorney appears on behalf of the Commonwealth or on behalf of a municipality pursuant to paragraph (C), the prosecution of the case is under the control of that attorney. When no attorney appears at the summary trial on behalf of the Commonwealth, or a municipality, the issuing authority may ask questions of any witness who testifies, and the affiant may request the issuing authority to ask specific questions. In the appropriate circumstances, the issuing authority may also permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the issuing authority.

Although the scheduling of summary trials is left by the rules to the discretion of the issuing authority, it is intended that trial will be scheduled promptly upon receipt of a defendant's plea or promptly after a defendant's arrest. When a defendant is incarcerated pending a summary trial, it is incumbent upon the issuing authority to schedule trial for the earliest possible time.

When the defendant was under 18 years of age at the time of the offense, if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority may not conduct the trial, but must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

Under paragraph (F)(2)(a), the issuing authority should explain to the defendant that if an appeal is filed, any sentence, including imprisonment, fines, or restitution, will be stayed.

When setting the specific date for the defendant to appear for execution of a sentence of imprisonment pursuant to paragraph (F)(3), the issuing authority should set the earliest possible date for sentencing after the appeal period expires.

When a defendant has waived the stay of the sentence of imprisonment pursuant to Rule 461, the issuing authority may fix the commencement date of the sentence to be the date of conviction, rather than after the 30-day stay period has expired. The defendant, of course, still would be able to pursue an appeal under Rules 460—462.

For the statutory authority to sentence a defendant to pay a fine, see 42 Pa.C.S. § 9726.

For the statutory authority to sentence a defendant to pay restitution, see 42 Pa.C.S. § 9721(c) and 18 Pa.C.S. § 1106(c). See also 18 Pa.C.S. § 1106(c)(2)(iv), which prohibits the court from ordering the incarceration of a defendant for failure to pay restitution if the failure results from the defendant's inability to pay.

Before imposing both a fine and restitution, the issuing authority must determine that the fine will not prevent the defendant from making restitution to the victim. See 42 Pa.C.S. §§ 9726(c)(2) and 9730(b)(3).

Paragraph (E) permits an issuing authority to delay imposing sentence in summary cases in order to investigate a defendant's eligibility for intermediate punishment. For example, under 42 Pa.C.S. § 9763 and § 9804, defendants may be sentenced to intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension) but only if they meet certain eligibility requirements, such as undergoing a drug and alcohol assessment. Often this information will not be available to the issuing authority at the time of sentencing.

The amount of an installment payment plan fee permitted by paragraph (G) may be increased as provided by law. See 42 Pa.C.S. § 1725.1. Each county should establish local procedures to ensure adequate notice and uniform application of this fee and any increases. See also Rules 409, 414, 424, 456 and 706.

See Rule 456 for the procedures when a defendant defaults in the payment of restitution, fines, or costs.

A defendant should be encouraged to seek an adjustment of a payment schedule for restitution, fines, or costs before a default occurs. See Rule 456(A).

Official Note: Rule 83 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; Comment revised April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; Comment revised February 13, 1998, effective July 1, 1998; renumbered Rule 454 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; amended March 26, 2004, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007[.] ; **amended** , **2009, effective** , **2009.**

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Committee Explanatory Reports:

Final Report explaining the October 28, 1994 amendments published with the Court's Order at 24 Pa.B. 5841 (November 26, 1994).

Final Report explaining the April 18, 1997 Comment revision cross-referencing new Rule 87 published with the Court's Order at 27 Pa.B. 2119 (May 3, 1997).

Final Report explaining the October 1, 1997 amendments to paragraph (E) and the Comment concerning the procedures at the time of sentencing published with the Court's Order at 27 Pa.B. 5414 (October 18, 1997).

Final Report explaining the February 13, 1998 Comment revision concerning questioning of witnesses published with the Court's Order at 28 Pa.B. 1127 (February 28, 1998).

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

Final Report explaining the February 28, 2003 amendments published with the Court's Order at 33 Pa.B. 1326 (March 15, 2003).

Final Report explaining the August 7, 2003 changes to the Comment concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

Final Report explaining the March 26, 2004 changes concerning *Alabama v. Shelton* published with the Court's Order at 34 Pa.B. 1929 (April 10, 2004).

Final Report explaining the January 18, 2007 amendments adding paragraph (E) concerning intermediate punishment published with the Court's Order at 37 Pa.B. 760 (February 17, 2007).

Final Report explaining the proposed amendments adding paragraph (G) concerning installment payment plan fees published at 39 Pa.B. 990 (February 21, 2009).

Rule 456. Default Procedures: Restitution, Fines, and Costs.

(A) When a defendant advises the issuing authority that a default on a single remittance or installment payment of restitution, fines, or costs is imminent, the issuing authority may schedule a hearing on the defendant's ability to pay. If a new payment schedule is ordered, the order shall state the date on which each payment is due, and the defendant shall be given a copy of the order.

(B) If a defendant defaults on the payment of fines and costs, or restitution, as ordered, the issuing authority shall notify the defendant in person or by first class mail that, unless within 10 days of the date on the default notice, the defendant pays the amount due as ordered, or appears before the issuing authority to explain why the defendant should not be imprisoned for nonpayment as provided by law, a warrant for the defendant's arrest may be issued.

(C) If the defendant appears pursuant to the 10-day notice in paragraph (B) or following an arrest for failing to respond to the 10-day notice in paragraph (B), the issuing authority shall conduct a hearing to determine whether the defendant is financially able to pay as ordered.

(1) Upon a determination that the defendant is financially able to pay as ordered, the issuing authority may impose any sanction provided by law.

(2) Upon a determination that the defendant is financially unable to pay as ordered, the issuing authority may order a schedule or reschedule for installment payments, or alter or amend the order as otherwise provided by law.

(3) At the conclusion of the hearing, the issuing authority shall:

(a) if the issuing authority has ordered a schedule of installment payments or a new schedule of installment payments, state the date on which each installment payment is due;

(b) advise the defendant of the right to appeal within 30 days for a hearing de novo in the court of common pleas, and that if an appeal is filed:

(i) the execution of the order will be stayed and the issuing authority may set bail or collateral; and

(ii) the defendant must appear for the hearing de novo in the court of common pleas or the appeal may be dismissed;

(c) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

(d) issue a written order imposing sentence, signed by the issuing authority. The order shall include the infor-

mation specified in paragraphs (C)(3)(a) through (C)(3)(c), and a copy of the order shall be given to the defendant.

(D) When authorized by the president judge, the issuing authority may impose a reasonable fee for issuance of an installment payment plan pursuant to this rule. The fee shall not exceed the amount permitted by 42 Pa.C.S. § 1725.1(c)(5).

[(D)] (E) A defendant may appeal an issuing authority's determination pursuant to this rule by filing a notice of appeal within 30 days of the issuing authority's order. The appeal shall proceed as provided in Rules 460, 461 and 462.

Comment

The purpose of this rule is to provide the procedures governing defaults in the payment of restitution, fines, and costs.

Although most of this rule concerns the procedures followed by the issuing authority after a default occurs, paragraph (A) makes it clear that a defendant should be encouraged to seek a modification of the payment order when the defendant knows default is likely, but before it happens. For fines and costs, see 42 Pa.C.S. § 9730(b)(3).

An issuing authority may at any time alter or amend an order of restitution. See 18 Pa.C.S. § 1106(c)(2) and (3).

When a defendant defaults on a payment of restitution, fines, or costs, paragraph (B) requires the issuing authority to notify the defendant of the default, and to provide the defendant with an opportunity to pay the amount due or appear within 10 days to explain why the defendant should not be imprisoned for nonpayment. Notice by first class mail is considered complete upon mailing to the defendant's last known address. See Rule 430(D).

If the defendant is under 18 years of age, the notice in paragraph (B) must inform the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. § 6302, definition of "delinquent act," paragraph (2)(iv), and the case will proceed pursuant to the Rules of Juvenile Court Procedure and the Juvenile Act instead of these rules.

If the defendant is 18 years or older when the default in payment occurs, the issuing authority must proceed under these rules.

Pursuant to paragraph (C), the issuing authority must conduct a default hearing when a defendant responds to the 10-day notice as provided in paragraph (B), or when the defendant is arrested for failing to respond to the 10-day notice. If the default hearing cannot be held immediately, the issuing authority may set bail as provided in Chapter 5 Part C.

Under paragraph (C)(1), when the issuing authority determines that a defendant is able to pay as ordered, the issuing authority may, as provided by law, impose imprisonment or other sanctions. In addition, delinquent restitution, fines, or court costs may be turned over to a private collection agency. See 42 Pa.C.S. §§ 9730(b)(2) and 9730.1(a).

When a defendant is in default of an installment payment, the issuing authority on his or her own motion or at the request of the defendant or the attorney for the Commonwealth must schedule a rehearing to determine the cause of the default. Before an issuing authority may

impose a sentence of imprisonment as provided by law for nonpayment of restitution, fines, or costs, a hearing or rehearing must be held whenever a defendant alleges that his or her ability to pay has been diminished. See 42 Pa.C.S. § 9730(b). See also Rules 121 and 122 (dealing with the right to counsel).

When a rehearing is held on a payment schedule for fines or costs, the issuing authority may extend or accelerate the payment schedule, leave it unaltered, or sentence the defendant to a period of community service, as the issuing authority finds to be just and practicable under the circumstances. See 42 Pa.C.S. § 9730(b)(3).

The amount of an installment payment plan fee permitted by paragraph (D) may be increased as provided by law. See 42 Pa.C.S. § 1725.1. Each county should establish local procedures to ensure adequate notice and uniform application of this fee and any increases. See also Rules 409, 414, 424, 454 and 706.

This rule contemplates that when there has been an appeal pursuant to paragraph **[(D)] (E)**, the case would return to the issuing authority who presided at the default hearing for completion of the collection process.

Nothing in this rule is intended to preclude an issuing authority from imposing punishment for indirect criminal contempt when a defendant fails to pay fines and costs in accordance with an installment payment order, 42 Pa.C.S. §§ 4137(a)(4), 4138(a)(3), and 4139(a)(3), or fails to pay restitution, 42 Pa.C.S. § 4137(a)(3). Separate Rules of Criminal Procedure govern contempt adjudications. See Chapter 1 Part D.

Official Note: Adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; rescinded October 1, 1997, effective October 1, 1998. New Rule 85 adopted October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 456 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004; amended March 3, 2004, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005[.]; **amended** , **2009, effective** , **2009.**

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Committee Explanatory Reports:

Final Report explaining the new rule published with the Court's Order at 27 Pa.B. 5414 (October 18, 1997).

Final Report explaining the July 2, 1999 amendments to paragraph (C) published with the Court's Order at 29 Pa.B. 3718 (July 17, 1999).

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

Final Report explaining the August 7, 2003 changes to the Comment concerning failure to pay and juveniles published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

Final Report explaining the March 3, 2004 amendment to paragraph (B) published with the Court's Order at 34 Pa.B. 1561 (March 20, 2004).

Final Report explaining the April 1, 2005 Comment revision concerning application of the Juvenile Court Procedural Rules published with the Court's Order at 35 Pa.B. 2213 (April 16, 2005).

Final Report explaining the proposed amendments adding new paragraph (D) concerning the imposition of a fee for issuance of an installment plan published at 39 Pa.B. 990 (February 21, 2009).

CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART A. Sentencing Procedures

Rule 706. Fines or Costs.

(A) A court shall not commit the defendant to prison for failure to pay a fine or costs unless it appears after hearing that the defendant is financially able to pay the fine or costs.

(B) When the court determines, after hearing, that the defendant is without the financial means to pay the fine or costs immediately or in a single remittance, the court may provide for payment of the fines or costs in such installments and over such period of time as it deems to be just and practicable, taking into account the financial resources of the defendant and the nature of the burden its payments will impose, as set forth in paragraph (D) below.

(C) The court, in determining the amount and method of payment of a fine or costs shall, insofar as is just and practicable, consider the burden upon the defendant by reason of the defendant's financial means, including the defendant's ability to make restitution or reparations.

(D) In cases in which the court has ordered payment of a fine or costs in installments, the defendant may request a rehearing on the payment schedule when the defendant is in default of a payment or when the defendant advises the court that such default is imminent. At such hearing, the burden shall be on the defendant to prove that his or her financial condition has deteriorated to the extent that the defendant is without the means to meet the payment schedule. Thereupon the court may extend or accelerate the payment schedule or leave it unaltered, as the court finds to be just and practicable under the circumstances of record. When there has been default and the court finds the defendant is not indigent, the court may impose imprisonment as provided by law for nonpayment.

(E) When authorized by the president judge, the court may impose a reasonable fee for issuance of an installment payment plan pursuant to this rule. The fee shall not exceed the amount permitted by 42 Pa.C.S. § 1725.1(c)(5).

Comment

See generally *Commonwealth ex rel. Benedict v. Cliff*, 451 Pa. 427, 304 A.2d 158 (1973).

The amount of an installment payment plan fee permitted by paragraph (E) may be increased as provided by law. See 42 Pa.C.S. § 1725.1. Each county should establish local procedures to ensure adequate notice and uniform application of this fee and any increases. See also Rules 409, 414, 424, 454 and 456.

Under this rule, when a defendant fails to pay the fine and costs, the common pleas court judge may issue a bench warrant for the collection of the fine and costs. When a "failure to pay" bench warrant is issued, the bench warrant must be executed by a police officer following the procedures set forth in Rule 431(C)(1)(c) and (C)(2), or, if the defendant is unable to pay, the police officer must proceed as provided in Rule 150 (Bench Warrants).

Nothing in this rule is intended to abridge any rights the Commonwealth may have in a civil proceeding to collect a fine or costs.

For suspension of Acts of Assembly, see Rule 1101(F).

Official Note: Rule 1407 approved July 23, 1973, effective 90 days hence; renumbered Rule 706 and amended March 1, 2000, effective April 1, 2001; Comment revised March 9, 2006, effective August 1, 2006[.]; **amended , 2009, effective , 2009.**

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Committee Explanatory Reports:

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

Final Report explaining the March 9, 2006 Comment revision concerning fine and cost warrants published with the Court's Order at 36 Pa.B. 1396 (March 25, 2006).

Final Report explaining the proposed amendments adding paragraph (E) concerning installment payment fees published at 39 Pa.B. 990 (February 21, 2009).

REPORT

Proposed Amendments to Pa.Rs.Crim.P. 409, 414, 424, 454, 456 and 706

ISSUANCE OF INSTALLMENT PLANS FEES

The Committee is planning to propose to the Supreme Court amendments to Rules of Criminal Procedure 409, 414, 424, 454, 456 and 706 that would add a provision to these rules providing for the imposition of a fee for issuance of an installment payment plan. The need for these amendments was suggested to the Committee in communications from several judicial districts questioning whether the Criminal Rules authorized such fees.

The Criminal Rules permit both the magisterial district judges and the common pleas court judges to establish installment payment plans when defendants are without the financial means to pay the full amount of their fines, costs, and restitution in a single remittance. Because of the added costs to the judicial districts to administer these installment payment plans, some judicial districts have implemented a modest fee for the issuance of these plans relying on the provisions of 42 Pa.C.S. § 1725.1(c)(5). Section 1725.1(c)(5) provides

(c) Unclassified costs or charges.—Subject to subsection (f), the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

(5) Any other issuance not otherwise provided for in this subsection. \$10.00.¹

Some of the Criminal Rules include provisions for the imposition of reasonable charges related to the administration of programs established pursuant to the rules. For example, Rule 316 (Conditions of the Program) permits, as a condition of an ARD program, "the imposition of a reasonable charge relating to the expense of administering the program," and Rule 535 (Receipt for Deposit;

¹ The Act 2001-113 added paragraph (f) that provides "Annual increase in costs.—Beginning on January 1, 1994, and each January 1 thereafter, the costs under subsections (a), (b) and (c) shall be increased by the percentage of increase in the Consumer Price Index for Urban Workers for the immediate preceding calendar year which shall be published in the Pennsylvania Bulletin annually by the Supreme Court on or before the preceding November 30. This subsection shall expire January 1, 2001." The Pennsylvania Supreme Court, by order dated Oct. 3, 2007, adopted the Financial Regulations promulgated by the Court Administrator to implement Act 2001-113, 42 Pa.C.S. § 1725.1(f), effective immediately, which included an increase of this fee to \$15.00.

Return of Deposit) permits the imposition of reasonable costs "of administering the percentage cash bail program." The purpose of the authorized charges is to help defray the judicial districts' expenses for the administration of these programs, programs that are established as a benefit to the defendants.

The Committee, in discussing the need for the fees for the issuance of payment plans, understands that Section 1725.1(c)(5) of Title 42 imposes a limitation on the amount of such fees. The Committee also recognized that there is some confusion concerning whether this statutory provision even permits such fees. In view of this, we agreed that the Criminal Rules should be amended to permit the imposition of fees for the issuance of payment plans and to make it clear that the amount of these fees are limited by the statute.

Accordingly, the Committee is proposing a new fee provision be added to all the Criminal Rules that provide for installment payments: the guilty plea rules, Rules 409, 414 and 424; the summary trial rule, Rule 454; the summary default rule, Rule 456; and the court case fine and cost rule, Rule 706. The new provision that would require the president judge to authorize the fee before a judge may impose the fee. The amount of the fee may not be more than what is provided by 42 Pa.C.S. § 1725.1(c)(5).

The Comment to each rule would be revised to include an explanation that the amount of the fee may be raised only when Section 1725.1 raises the amount. In addition, to insure that defendants are adequately advised concerning the costs for having the judge issue an installment plan, the Comment cautions the judicial districts that there must be adequate notice of the fee and any changes to the fee.

[Pa.B. Doc. No. 09-290. Filed for public inspection February 20, 2009, 9:00 a.m.]

[234 PA. CODE CH. 5]

Proposed Amendments to Pa.Rs.Crim.P. 590 (Pleas and Plea Agreements)

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 590 to provide for more detailed standards regarding the areas of inquiry that are required to be part of all guilty plea colloquies. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the Committee's considerations in formulating this proposal. Note that the Committee's *Report* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Reports*.

The text of the proposed amendments to the rules precedes the *Report*. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments or objections concerning this proposal in writing to the Committee through counsel,

Anne T. Panfil, Chief Staff Counsel
 Supreme Court of Pennsylvania
 Criminal Procedural Rules Committee
 5035 Ritter Road, Suite 100
 Mechanicsburg, PA 17055
 fax: (717) 795-2106
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no later than Friday, April 10, 2009.

By the Criminal Procedural Rules Committee

D. PETER JOHNSON,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 5. PRETRAIL PROCEDURES IN COURT CASES

PART G. Plea Procedures

Rule 590. Pleas and Plea Agreements.

* * * * *

(3) Guilty Pleas.

(a) The judge may refuse to accept a plea of guilty or nolo contendere, and shall not accept it unless the judge determines after inquiry of the defendant that the plea is voluntarily and understandingly tendered. **[Such inquiry shall appear on the record.]**

(b) To ensure that the defendant understands the full impact and consequences of the plea, and is willing to enter that plea, the following information shall be elicited as part of an oral examination on the record:

- (i)** confirmation of the identity of the defendant;
- (ii)** the defendant's capacity to comprehend and communicate in the proceedings;
- (iii)** the defendant's understanding of the nature and elements of the charges to which he or she is pleading guilty or nolo contendere, as well as the maximum sentences, including fines, for the offenses charged and any applicable mandatory sentence;
- (iv)** the factual basis for the plea; and
- (v)** the defendant's satisfaction with the representation afforded by his or her attorney.

(c) In addition to the information required to be elicited under paragraph (b), the following information shall be elicited, either orally or in writing, on the record:

- (i)** the defendant's understanding that he or she has certain rights with regard to the charges, including but not limited to the filing and litigation of pretrial motions; the right to counsel; the right to trial by jury before twelve jurors the defendant would assist in selecting; the right to challenge potential jurors; the requirement of a unanimous verdict; that he or she is presumed innocent and can only be found guilty if the prosecution proves guilt beyond a reasonable doubt; that he or she has the right to cross-examine the prosecution witnesses; and the right to call his or her own witnesses; and

(ii) the defendant's understanding that, if the judge accepts the plea and finds the defendant guilty, the defendant's right to appeal is limited to the legality of the sentence, the voluntariness of the plea, and the jurisdiction of the court.

(d) Counsel for the defendant shall certify on the record, either orally or in writing, that he or she has had the opportunity to discuss the case with the defendant, and that the defendant has been advised of his or her rights and the effects of entry of a plea of guilty or nolo contendere.

(e) The judge may permit the attorney for the Commonwealth or defendant's attorney to conduct the examination of the defendant pursuant to paragraph (A)(3)(b). The judge shall be present during this examination.

(B) PLEA AGREEMENTS.

* * * * *

(2) The judge shall conduct a separate inquiry of the defendant on the record to determine whether the defendant understands and voluntarily accepts the terms of the plea agreement on which the guilty plea or plea of nolo contendere is based, and that the judge is not bound by the terms of the tendered plea agreement unless the judge accepts the plea agreement.

* * * * *

Comment

The purpose of paragraph (A)(2) is to codify the requirement that the judge, on the record, ascertain from the defendant that the guilty plea or plea of nolo contendere is voluntarily and understandingly tendered. On the mandatory nature of this practice, see *Commonwealth v. Ingram*, 455 Pa. 198, 316 A.2d 77 (1974); *Commonwealth v. Campbell*, 451 Pa. 198, 304 A.2d 121 (1973); *Commonwealth v. Jackson*, 450 Pa. 417, 299 A.2d 209 (1973).

Paragraph (A)(3) was added in 2009 to provide further instructions to judges accepting pleas of guilty or nolo contendere. Under *Commonwealth v. Willis*, 471 Pa. 50, 369 A.2d 1189 (1977), and *Commonwealth v. Dilbeck*, 466 Pa. 543, 353 A.2d 824 (1976), judges are required to make inquiry on the record into six areas, at a minimum, to ensure that a defendant is entering the plea voluntarily and understandingly. Paragraphs (A)(3)(b) and (c) elaborate on these areas of inquiry.

Paragraph (A)(3)(b) recognizes that certain elements of the colloquy are so critical to assuring the judge that the defendant understands the plea and that the colloquy is in compliance with this rule that the inquiry must be performed orally on the record.

Paragraph (A)(3)(c) requires two additional areas of inquiry. Nothing in the rule would preclude the use of a written colloquy for inquiry into these areas that is read, completed, signed by the defendant, and made part of the record of the plea proceedings. Similarly, areas of inquiry not listed in the rule but that the court deems necessary for the acceptance of the plea may be addressed in a written colloquy. The written colloquy may have to be supplemented by some on-the-record oral examination. Its use would not, of course, change any other requirements of law, including these rules, regarding the prerequisites of a valid guilty plea or plea of nolo contendere.

Some areas of inquiry that require oral inquiry do not necessarily need to be performed as a direct examination of the defendant. For example, the factual basis of the plea and the nature of the charges are case-specific and therefore an oral inquiry must be conducted into the specific facts of the case. This may be accomplished by the defendant confirming on the record a recitation of the facts by the attorney for the Commonwealth or defense counsel. In such a situation, however, the judge must be assured that the defendant fully understands and agrees with such a recitation.

Paragraph (A)(3)(d) requires that, in addition to the colloquy conducted of the defendant, counsel for the defendant also must certify on the record that the defendant has been fully advised of the nature and effects of his or her plea.

The court may inquire of counsel for the defendant if he or she knows of any reason why the defendant cannot voluntarily and understandingly giving up his or her rights and pleading guilty or nolo contendere.

Similarly, paragraph (B)(1) requires that counsel for the defendant and for the Commonwealth state on the record the terms of any plea agreement. Under paragraph (B)(2), the defendant's understanding of the terms of the agreement also must be elicited. This inquiry should include discussion of whether the court is bound by the agreement, the ability to withdraw the plea if it is not accepted, and that no coercion or other promises outside of the plea agreement have led to the defendant's willingness to enter a plea.

[It is difficult to formulate a comprehensive list of questions a judge must ask of a defendant in determining whether the judge should accept the plea of guilty or a plea of nolo contendere. Court decisions may add areas to be encompassed in determining whether the defendant understands the full impact and consequences of the plea, but is nevertheless willing to enter that plea. At a minimum the judge should ask questions to elicit the following information:

- (1) Does the defendant understand the nature of the charges to which he or she is pleading guilty or nolo contendere?
- (2) Is there a factual basis for the plea?
- (3) Does the defendant understand that he or she has the right to trial by jury?
- (4) Does the defendant understand that he or she is presumed innocent until found guilty?
- (5) Is the defendant aware of the permissible range of sentences and/or fines for the offenses charged?
- (6) Is the defendant aware that the judge is not bound by the terms of any plea agreement tendered unless the judge accepts such agreement?]

* * * * *

It is advisable that the judge conduct the examination of the defendant. However, paragraph (A)(3)(e) [does not prevent] authorizes the judge to permit defense counsel or the attorney for the Commonwealth [from conducting] to conduct part or all of the examination of the defendant [, as permitted by the judge. In

addition, nothing in the rule would preclude the use of a written colloquy, that is read, completed, signed by the defendant, and made part of the record of the plea proceedings. This written colloquy would have to be supplemented by some on-the-record oral examination. Its use would not, of course, change any other requirements of law, including these rules, regarding the prerequisites of a valid guilty plea or plea of nolo contendere].

* * * * *

Paragraph (C) reflects a change in Pennsylvania practice, [which] that formerly required the judge to convene a panel of three judges to determine the degree of guilt in murder cases in which the imposition of a sentence of death was not statutorily authorized. **The 2008 amendment to paragraph (C) and the Comment recognizes the Commonwealth's right to have a jury determine the degree of guilt following a plea of guilty to murder generally. See Article I, § 6 of the Pennsylvania constitution that provides that "the Commonwealth shall have the same right to trial by jury as does the accused." See also *Commonwealth v. White*, 589 Pa. 642, 910 A.2d 648 (2006).**

Official Note: Rule 319(a) adopted June 30, 1964, effective January 1, 1965; amended November 18, 1968, effective February 3, 1969; paragraph (b) adopted and title of rule amended October 3, 1972, effective 30 days hence; specific areas of inquiry in *Comment* deleted in 1972 amendment, reinstated in revised form March 28, 1973, effective immediately; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; paragraph (c) added and *Comment* revised May 22, 1978, effective July 1, 1978; *Comment* revised November 9, 1984, effective January 2, 1985; amended December 22, 1995, effective July 1, 1996; amended July 15, 1999, effective January 1, 2000; renumbered Rule 590 and *Comment* revised March 1, 2000, effective April 1, 2001; **amended September 18, 2008, effective November 1, 2008; amended , 2009, effective , 2009.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the September 18, 2008 amendments to paragraph (C) concerning juries determining degree of guilt published with the Court's Order at 38 Pa.B. 5431 (October 4, 2008).

Report explaining the proposed changes to subparagraph (A)(3) concerning plea colloquies published at 39 Pa.B. 993 (February 21, 2009).

REPORT

Proposed Amendments to Pa.Rs.Crim.P. 590

GUILTY PLEA COLLOQUY

The Committee began examining guilty plea colloquy practice as a result of the opinion in *Commonwealth v. Fowler*, 893 A.2d 758 (2006), that discussed the contents of a guilty plea colloquy that are necessary for the plea to be accepted as voluntary. In a concurring opinion, Judge Klein criticizes the majority for not enforcing the requirement, derived from *Commonwealth v. Willis*, 369 A.2d 1189 (Pa. 1977), that the colloquy include six areas of inquiry. The list of these six items is included in the Rule 590 Comment, as well as a cross-reference to the *Willis* case. The Committee also received anecdotal reports that some courts were not eliciting all of this required information, thereby calling into question the providency of the pleas taken.

Initially, the Committee considered recommending moving these six areas of inquiry from the Comment into the text of Rule 590 to emphasize their mandatory nature. However, the Committee recognized that this relatively simple proposal raised more complex questions regarding the standardization of colloquy procedures, especially with regard to the use of written colloquy forms and the extent to which the colloquy must be performed orally.

The Committee, after conducting a statewide survey of colloquy practice, noted the wide divergence in guilty plea colloquy practice throughout the Commonwealth. At first, the Committee considered attempting to create a uniform statewide guilty plea colloquy form that would ensure that the minimum requirements for a provident plea are met. Ultimately, the Committee concluded that practice with regard to written guilty plea colloquies was too diverse to capture in a single form that was still efficient to use. Rather than trying to create a single form that would be applicable to all counties, the Committee concluded that the better option would be to provide fuller guidance as to the elements that should be included in every colloquy.

To that end, the Committee developed a list of the mandatory colloquy components that would be included in the text of Rule 590. The current list of six mandatory colloquy items would be expanded upon and augmented to include a more detailed description of the areas of inquiry that the six areas of inquiry in the Rule 590 Comment are intended to encompass, and that are needed to ensure that the defendant is pleading voluntarily and understandingly.

In developing this proposal, some Committee members expressed the concern that the proposal could be interpreted to require an extensive oral colloquy of each element of the list. Such an interpretation would tie judges' hands and require a far more extensive colloquy than is necessary to ensure that a valid plea has been entered. Therefore, the Committee concluded that the rule should explicitly provide which mandatory items of the colloquy have to be done orally and which could be handled either orally or by a written colloquy form.

To accomplish this, a new paragraph (3)(b) would be added to Rule 590 setting forth the five areas of inquiry that must be conducted orally on the record. The items that are required to be elicited orally relate to confirming the defendant's identity, his or her capacity to understand the nature of the proceedings; the nature, elements, and factual basis of the charges; and his or her satisfaction with his or her representation. New paragraph (3)(c) would set forth two broad areas of inquiry that, while mandatory, may be addressed either orally or through a written colloquy form, and on the record. These two areas concern the defendant's understanding of the full panoply of rights that he or she will be giving up if the plea is accepted. One of the elements of the original list of six areas of inquiry, the advice to the defendant that the judge is not bound by the terms of any plea agreement unless the judge accepts the agreement, has been included in paragraph (B) that relates to plea agreements. Taken together, this new expanded list contains all of the original six areas of inquiry, augmented to provide more detailed instructions as to the composition of the colloquy.

The Comment language has been revised to reflect these changes and emphasize that the main purpose of the colloquy is to assure that the plea is entered providently and provide some detail as to how the colloquy requirements might be applied. For example, one area of oral inquiry in which more detailed instructions are

provided is that of the factual basis for the plea. Rather than requiring the defendant to provide an oral description of the facts of the case, the rule would permit an oral recitation by the district attorney or defense counsel confirmed by the defendant.

[Pa.B. Doc. No. 09-291. Filed for public inspection February 20, 2009, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Rules of the Court of Common Pleas; Rules Doc.
No. DJ-2009-3; No. RD-2009-1 PJ

Order of Court

And Now, to-wit, this 30th day of January, 2009, pursuant to action of the Board of Judges, the within new local Rule 1901.1: Magisterial District Courts: Termination of Inactive Summary Cases is adopted, effective thirty (30) days after Publication in the *Pennsylvania Bulletin*.

By the Court

HONORABLE DONNA JO MCDANIEL,
President Judge

Rule 1901.1. Magisterial District Courts: Termination of Inactive Summary Cases

(a) Prior to June 30th of every calendar year, each magisterial district court of the Fifth Judicial District shall prepare and submit to the District Court Administrator a list of every summary case filed with the magisterial district court wherein:

(1) the docket discloses that there has been no action or proceeding other than the filing of a not found return on a warrant for a continuous period of three (3) years or more; and

(2) the docket discloses that there is no case balance, as no monetary funds were ever received as collateral or partial payment of fines, costs or restitution.

(b) Each case entered on the list shall include the case caption, docket number and charge.

(c) Upon receipt of a summary case list, the District Court Administrator, with the approval of the President Judge, shall cause the list to be published, pursuant to All.C.R.Crim.P. 114.1, on two (2) separate dates, with a notice of the President Judge's intention to dismiss the listed cases due to inaction thirty (30) days from the final publication, and that a party to a listed case may file, at the Minor Judiciary Docket, in the Department of Court Records, Civil Division, written objection to termination of a case, setting forth good cause as to why the case should not be dismissed.

(d) Each magisterial district judge shall notify the District Court Administrator, in writing, of any case wherein action has transpired to bring the prosecution to a conclusion from the time of submitting the list to the District Court Administrator and the set date for dismissal so that such case may be deleted from the list.

(e) The President Judge shall make a ruling as to any written objection to the termination filed before the set date for dismissal.

(f) On the set date of dismissal, the President Judge shall enter an order of court setting forth and dismissing such summary cases submitted by the magisterial district court for which no good cause was demonstrated nor action taking place to bring the prosecution to a conclusion.

(g) A copy of the Court's order will be forwarded to the magisterial district court and said court shall make the following entry on the respective docket for each dismissed case: "Dismissed—Local Rule 1901.1" and place a copy of the Court's order in the magisterial district court file.

(h) The District Court Administrator shall file proofs of notice by publication and court orders at the Minor Judiciary Docket.

(i) Any matter terminated after notice by publication may be reinstated by the President Judge after dismissal upon written application for good cause shown unless such application is filed after the documents relating to the matter have been disposed of pursuant to applicable record retention schedule established by or pursuant to law.

Comment: Nothing in this rule is intended to preclude a magisterial district court from providing a list to an affiant of the affiant's inactive cases to facilitate prompt disposition of summary cases prior to the magisterial district court seeking termination pursuant to this rule.

[Pa.B. Doc. No. 09-292. Filed for public inspection February 20, 2009, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CLINTON COUNTY

Order Amending Rules 206.4(c), 208.2(d), 208.2(e),
208.3(a), 1028(c), 1034(a) and 1035.2(a); No.
114-09

Order

And Now, this 2nd day of February, 2009, *It Is Hereby Ordered* that the Clinton County Rules of Civil Procedure, adopted January 19, 2008, and published in the *Pennsylvania Bulletin*, Vol. 39, No. 5, on January 31, 2009, are *Amended* to reflect that Rules 206.4(c), 208.2(d), 208.2(e), 208.3(a), 1028(c), 1034(a) and 1035.2(a) will be effective immediately upon publishing on the Unified Judicial System (UJS) portal.

By the Court

J. MICHAEL WILLIAMSON,
President Judge

[Pa.B. Doc. No. 09-293. Filed for public inspection February 20, 2009, 9:00 a.m.]

ERIE COUNTY

**In the Matter of the Revision and Restatement of
the Rules 308 and 2056; Civil Procedure; Civil
Division; No. 90060; Court Order 2008**

Order

And Now, this 19th day of December, 2008, Rules 308 and 2056 of the Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania are rescinded, effective 30 days after publication in the *Pennsylvania Bulletin*.

ELIZABETH K. KELLY,
President Judge

[Pa.B. Doc. No. 09-294. Filed for public inspection February 20, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 139]

Prohibited Phrases

The Insurance Department (Department) rescinds Chapter 139 (relating to prohibited phrases) as set forth at 38 Pa.B. 1960 (April 26, 2008).

Statutory Authority

The rescission is adopted under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 422 and 412) and section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b).

Comments and Response

Notice of proposed rulemaking was published at 38 Pa.B. 1960 with a 30-day comment period. No comments were received during the 30-day comment period. During its regulatory review, the Independent Regulatory Review Commission (IRRC) did not submit comments to the Department.

Affected Parties

The rescission of the regulations affect insurers doing the business of insurance in this Commonwealth.

Fiscal Impact

There is no fiscal impact as a result of the rescission.

Paperwork

The rescission will affect all licensed insurers domiciled in this Commonwealth, but no additional paperwork requirements will be imposed.

Effectiveness/Sunset Date

The rescission will become effective upon final-form publication in the *Pennsylvania Bulletin*. As this is a rescission, no sunset date has been assigned.

Contact Person

Questions regarding this final-form rulemaking, should be directed to Peter J. Salvatore, Regulatory Coordinator, Bureau of Administration, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

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 April 16, 2008, to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee (Committees). In addition to the submitted the proposed rulemaking, IRRC has provided the Commission and the

Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing these final-form regulations, the Department considered all comments received from IRRC, the Committees and the public. These final-form regulation were deemed approved by the Committees on November 5, 2008. In accordance with section 5(g) of the Regulatory Review Act, the rescission of the regulations was deemed approved by IRRC effective November 5, 2008.

Findings

The Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as amended 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.

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

Order

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

(a) The regulations of the Department, 31 Pa. Code, are amended by rescinding §§ 139.1—139.3 to read as set forth at 38 Pa.B. 1960.

(b) The Commissioner shall submit this order and 38 Pa.B. 1960 to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Commissioner shall certify this order and 38 Pa.B. 1960 and deposit them with the Legislative Reference Bureau as required by law.

(d) The rescission of the regulations adopted by this order shall take effect upon final publication in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

Fiscal Note: Fiscal Note 11-237 remains valid for the final adoption of the subject regulations.

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

[Pa.B. Doc. No. 09-295. Filed for public inspection February 20, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 229]

Interstate Motor Carrier Safety Requirements

The Department of Transportation (Department), under the authority contained in 75 Pa.C.S. §§ 4704 and 6103 (relating to inspection by police or Commonwealth personnel; and promulgation of rules and regulations by department) proposes to amend Chapter 229 (relating to interstate motor carrier safety requirements) to read as set forth in Annex A.

Purpose of Chapter

The purpose of Chapter 229 is to prescribe the minimum requirements and qualifications for drivers, vehicles and other matters relating to the interstate operation of commercial vehicles.

Purpose of the Proposed Amendments

The purpose of these proposed amendments is to ensure that Pennsylvania's regulations are identical to, or have the same effect as, the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations as required to participate in the Motor Carrier Safety Assistance Program, a Federal funding source administered by the Federal Motor Carrier Safety Administration Program.

Summary of Significant Amendments

These proposed amendments will incorporate by reference into Chapter 229 the following provisions of 49 CFR Parts 382, 385, 387, 390—393, 395 and 396.

Persons and Entities Affected

These proposed regulations will affect all motor carriers and drivers who operate in interstate commerce.

Fiscal Impact

Implementation of these regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These regulations will not impose any additional costs on the regulated community.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of these proposed amendments, on February 10, 2009, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees (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. 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 amendments within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of comments recommendation, or objections.

Sunset Provisions

The Department will make these proposed amendments effective upon publication in final-form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are required to participate in the Federal Motor Carrier Safety Assistance Program. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Daryl R. St. Clair within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Daryl R. St. Clair, Bureau of Maintenance and Operations, 400 North Street, 6th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120, (717) 787-6899.

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-413. No fiscal impact; (8) recommends adoption.

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind Subchapters B—J as follows:

§§ 229.21, 229.22, 229.31, 229.32, 229.41—229.44, 229.51—229.54, 229.61—229.66, 229.71 and 229.81—229.85 which appear in 67 Pa. Code pages 229-7—229-12, serial pages (251037)—(251042).

§§ 229.101—229.111, 229.121—229.128, 229.131—229.135, 229.141—229.144, 229.151—229.153, 229.161—229.163 and 229.171—229.181 which appear in 67 Pa. Code pages 229-14—229-22, serial pages (251044)—(251050) and (265935) and (265936).

§§ 229.191—229.193, 229.201, 229.202, 229.208, 229.210—229.223, 229.231—229.243, 229.251—229.254, 229.261—229.263, 229.271, 229.272, 229.281—229.299, 229.301, 229.311—229.314 and 229.321—229.325 which appear in 67 Pa. Code pages 229-25—229-40, serial pages (251055)—(251060), (265937), (265938) and (251063)—(251070).

§§ 229.331 and 229.341—229.348 which appear in 67 Pa. Code pages 229-40—229-43, serial pages (251070)—(251073).

§§ 229.361—229.371 which appear in 67 Pa. Code pages 229-43—229-46, serial pages (251073), (251074), (265939) and (265940).

§§ 229.381—229.391 which appear in 67 Pa. Code pages 229-47—229-49, serial pages (251077)—(251079).

§§ 229.431 and 229.432 which appear in 67 Pa. Code pages 229-49 and 229-50, serial pages (251079) and (251080).

§§ 229.451—229.453 which appear in 67 Pa. Code pages 229-50—229.52, serial pages (251080)—(251082).

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 229. INTERSTATE MOTOR CARRIER SAFETY REQUIREMENTS

Subchapter A. GENERAL

§ 229.1. General information and requirements.

(a) Purpose. This chapter prescribes the minimum requirements and qualifications for drivers, vehicles and other matters relating to the interstate operation of commercial motor vehicles. Much of this chapter incorporates by reference provisions of 49 CFR Parts [390—397] 382, 385, 387 and 390—396. Appropriate parts may be obtained from the following:

* * * * *

(4) Commercial Vehicle Safety Alliance, 1101 17th Street NW, Suite 803, Washington, DC 20036.

* * * * *

(c) [Title and name changes. In order to reconcile differences between this chapter and the incorporated sections of Federal regulations and to effectuate their joint enforcement, the following words and phrases will be substituted for the language of the Federal regulations as follows:

A reference to the Department of Transportation means the Pennsylvania Department of Transportation.

(d)] Forms and documents. References to forms in the Federal regulations incorporated by reference will be replaced by the appropriate forms prescribed by the Department of Transportation.

§ 229.2. Scope.

(a) Except as otherwise provided, this chapter applies to [vehicles, including motor vehicles and combinations of vehicles, and drivers of motor vehicles engaged in interstate commerce if the registered gross weight of the vehicle or combination of vehicles exceeds 17,000 pounds] commercial motor vehicles engaged in interstate commerce.

* * * * *

[(c) This chapter does not apply to systematic inspections of drivers of or vehicle types as follows:

- (1) Farm trucks not required to be registered.
(2) Special mobile equipment.
(3) Implements of husbandry.]

§ 229.3. Definitions.

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

[Bus—A motor vehicle as defined in 75 Pa.C.S. § 102 (relating to definitions).

Business district—The term as defined in 75 Pa.C.S. § 102.

Department—The Department of Transportation of the Commonwealth.

Driveaway-towaway operation—49 CFR 390.5 (relating to definitions) incorporated by reference.

Driver—49 CFR 390.5 incorporated by reference.

Full trailer—The term as defined in 75 Pa.C.S. § 102.

Gross weight—The term as defined in 75 Pa.C.S. § 102.

Interstate commerce—Trade, traffic or transportation of property or persons by highway between a place within this Commonwealth and a place in another state or between a place in one state and a place in another state with transportation by highway through this Commonwealth.

Lightweight vehicle—A motor vehicle, other than a vehicle that is being used to transport passengers for hire; or a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded under 49 CFR 177.823 (relating to marking and placarding motor vehicles) that was one of the following:

(i) Manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of 17,000 pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of 17,000 pounds or less, in the case of an articulated vehicle.

(ii) Manufactured before January 1, 1972, and has a gross weight including its load and the gross weight of a vehicle being towed by the motor vehicle of 17,000 pounds or less.

Motor carrier—49 CFR 390.5 incorporated by reference.

Motor carrier vehicle—The term as defined in 75 Pa.C.S. § 102.

Pole trailer—49 CFR 390.5 incorporated by reference.]

Qualified Commonwealth [employe] employee—[A Commonwealth employe designated by the Department who is authorized to inspect vehicles, drivers, documents, equipment and loads, or cargo as provided in 75 Pa.C.S. §§ 4704 and 8302 (relating to inspection by police or department personnel; and powers and duties of department)] The term as defined in 75 Pa.C.S. § 102 (relating to definitions).

[Radar detector—49 CFR 390.5 (relating to definitions) incorporated by reference.

Residence district—The term as defined in 75 Pa.C.S. § 102.

Semitrailer—The term as defined in 75 Pa.C.S. § 102.

Truck—The term as defined in 75 Pa.C.S. § 102.

Truck tractor—49 CFR 390.5 (relating to definitions) incorporated by reference.

Vehicle—The term as defined in 75 Pa.C.S. § 102.]

§ 229.4. [General applicability] (Reserved).

[49 CFR 390.3 (relating to general applicability) incorporated by reference.]

§ 229.5. [Vehicles used for purposes other than as defined] (Reserved).

[49 CFR 390.33 (relating to vehicles used for purposes other than as defined) incorporated by reference.]

§ 229.6. [Motor carrier to require observance of driver regulations] (Reserved).

[49 CFR 390.11 (relating to motor carrier to require observance of driver regulations) incorporated by reference.]

§ 229.7. [Aiding or abetting violations] (Reserved).

[49 CFR 390.13 (relating to aiding or abetting violations) incorporated by reference.]

§ 229.8. [Additional equipment and accessories] (Reserved).

[49 CFR 390.19 (relating to additional equipment and accessories) incorporated by reference.]

§ 229.9. [Marking of motor vehicles] (Reserved).

[49 CFR 390.21 (relating to marking of commercial motor vehicles) incorporated by reference.]

§ 229.10. [Relief from hours-of-service regulations—disasters] (Reserved).

[49 CFR 390.23 (relating to relief from hours-of-service regulations—disasters) incorporated by reference.]

§ 229.11. [Copies of records or documents] (Reserved).

[49 CFR 390.31 (relating to copies of records or documents) incorporated by reference.]

§ 229.12. [Certificates, reports and records: falsification, reproduction or alteration] (Reserved).

[49 CFR 390.35 (relating to certificates, reports, and records: falsification, reproduction, or alteration) incorporated by reference.]

§ 229.13. [Violation and penalty] (Reserved).

[49 CFR 390.37 (relating to violation and penalty) incorporated by reference.]

§ 229.14. Adoption of portions of 49 CFR by reference.

The Department incorporates by reference the following portions of 49 CFR (relating to transportation, subject to §§ 229.3 and 229.15 (relating to definitions; and additions or modifications to 49 CFR).

(1) Part 382 (relating to controlled substances and alcohol use and testing).

(2) Part 385 (relating to safety fitness procedures).

(3) Part 387 (relating to minimum levels of financial responsibility for motor carriers).

(4) Part 390 (relating to Federal motor carrier safety regulations; general).

(5) Part 391 (relating to qualifications of drivers and longer combination vehicle (LCV) driver instructors).

(6) Part 392 (relating to driving of commercial motor vehicles).

(7) Part 393 (relating to parts and accessories necessary for safe operation).

(8) Part 395 (relating to hours of service of drivers).

(9) Part 396 (relating to inspection, repair, and maintenance).

§ 229.15. Additions or modifications to 49 CFR.

A reference to special agent includes a police officer or a qualified Commonwealth employee.

§ 229.16. Adoption of out-of-service criteria.

The out-of-service criteria contained in the North American Standard Out-Of-Service Criteria is incorporated by reference.

§ 229.17 Adoption of interpretation of Federal Motor Carrier Safety Regulations.

The Department hereby adopts, as statements of policy, interpretations of the Federal Motor Carrier Safety Regulations as published by the Federal Motor Carrier Safety Administration for those parts enumerated in § 229.14 (relating to adoption of portions of 49 CFR by reference).

[Pa.B. Doc. No. 09-296. Filed for public inspection February 20, 2009, 9:00 a.m.]

[67 PA. CODE CH. 231]

Intrastate Motor Carrier Safety Requirements

The Department of Transportation (Department), under the authority contained in 75 Pa.C.S. §§ 4704 and 6103 (relating to inspection by police or Commonwealth personnel; and promulgation of rules and registrations by department) proposes to amend Chapter 231 (relating to intrastate motor carrier safety requirements) to read as set forth in Annex A.

Purpose of Chapter

The purpose of Chapter 231 is to prescribe the minimum requirements and qualifications for drivers, vehicles and other matters relating to the intrastate operation of commercial vehicles.

Purpose of the Proposed Amendments

The purpose of these proposed amendments to Chapter 231 is to ensure that Pennsylvania's regulations are identical to, or have the same effect as, the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations as required to participate in the Motor Carrier Safety Assistance Program, a Federal funding source administered by the Federal Motor Carrier Safety Administration Program.

Summary of Significant Amendments

These proposed amendments will incorporate by reference into Chapter 231 the following provisions of 49 CFR Parts 382, 385, 390—393, 395 and 396.

Persons and Entities Affected

These proposed regulations will affect all motor carriers and drivers who operate in intrastate commerce.

Fiscal Impact

Implementation of these proposed regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These proposed regulations will not impose any additional costs on the regulated community.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 § P.S. 745.5(a)), the Department submitted a copy of these proposed regulations, on February 10, 2009, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees (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. 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 amendments within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of comments recommendation, or objections.

Sunset Provisions

The Department will make these proposed amendments effective upon publication in final-form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are required to participate in the Federal Motor Carrier Safety Assistance Program. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Daryl R. St. Clair within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Daryl R. St. Clair, Bureau of Maintenance and Operations, 400 North Street, 6th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120, (717) 787-6899.

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-414. No fiscal impact; (8) recommends adoption.

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind Subchapters B—J as follows:

§§ 231.21—231.25, 231.31, 231.32, 231.41—231.44, 231.61—231.66, 231.71 and 231.81—231.85 which appear in 67 Pa. Code pages 231-5—231-11, serial pages (198297)—(198303).

§§ 231.101—231.111, 231.121—231.127, 231.131—231.135, 231.141—231.144, 231.151—231.153, 231.161—231.163 and 231.171—231.181 which appear in 67 Pa. Code pages 231-13—231-18, serial pages (198305)—(198308) and (265941) and (265942).

§§ 231.201—231.223, 231.231—231.243, 231.251—231.254, 231.271, 231.272, 231.281—231.299, 231.301 and 231.311—231.314 which appear in 67 Pa. Code pages 231-20—231-29, serial pages (198312)—(198321).

§§ 231.331 and 231.341—231.347 which appear in 67 Pa. Code pages 231-29—231-36, serial pages (198321)—(198328).

§§ 231.361—231.367 which appear in 67 Pa. Code pages 231-36—231-38, serial pages (198328)—(198330).

§§ 231.381—231.392 which appear in 67 Pa. Code pages 231-38 and 231-39, serial pages (198330) and (198331).

§ 231.411 which appears in 67 Pa. Code pages 231-39 and 231-40, serial pages (198331) and (198332).

§§ 231.451—231.453 which appear in 67 Pa. Code pages 231-40—231-42, serial pages (198332)—(198334).

Appendices (A) and (B) which appear in 67 Pa. Code pages 231-42—231-59 serial pages (198334)—(198351).

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 231. INTRASTATE MOTOR CARRIER SAFETY REQUIREMENTS

Subchapter A. GENERAL

§ 231.1. General information and requirements.

(a) *Purpose.* The purpose of this chapter is to prescribe the minimum requirements and qualifications for drivers, vehicles and other matters relating to the intrastate operation of commercial motor vehicles. Much of this chapter incorporates by reference 49 CFR [390—397] **Parts 382, 385 and 390—396 and the North American Standard Out-of-Service Criteria.** Appropriate parts may be obtained from the following:

* * * * *

(4) Commercial Vehicle Safety Alliance, 1101 17th Street NW, Suite 803, Washington, DC 20036.

* * * * *

(c) *Title and name changes.* To reconcile differences between this chapter and the incorporated sections of Federal regulations and to effectuate their joint enforcement, **except in 49 CFR Part 382 (relating to controlled substances and alcohol use and testing),** the following words and terms, **unless the context clearly indicates otherwise,** shall be substituted for the language of the Federal regulations as follows:

(1) Reference to the Department of Transportation means the **Pennsylvania Department of Transportation.**

(2) Reference to the [**Director means the**] **Secretary means the Secretary of the Pennsylvania Department of Transportation.**

(3) Reference to [the Regional Highway Administrator means the Secretary] special agent includes a police officer or a qualified Commonwealth employee.

(4) Reference to Department means the Pennsylvania Department of Transportation.

(5) Reference to school bus means the term as defined in 75 Pa.C.S. § 102 (relating to definitions).

(6) Reference to Director, Office of Bus and Truck Standards and Operations (MC PSD) means Director of the Bureau of Driver Licensing of the Commonwealth.

(7) Reference to State Director or Division Administrator, FMCSA means the Director of the Bureau of Driver Licensing of the Commonwealth.

(8) Reference to Medical Program Specialist, FMCSA field service center means the Medical Unit of the Bureau of Driver Licensing of the Commonwealth.

* * * * *

§ 231.2. Scope.

(a) Except as otherwise provided, this chapter applies to [vehicles, including buses, motor vehicles and combinations of vehicles; and to drivers of buses or motor vehicles engaged in intrastate commerce if the registered gross weight of the vehicle or combination of vehicles exceeds 17,000 pounds] commercial motor vehicles and school buses engaged in intrastate commerce.

* * * * *

[(c) This chapter does not apply to the following classes of vehicles and their drivers:

- (1) Farm trucks not required to be registered.
- (2) Special mobile equipment.
- (3) Implements of husbandry.

(d) Subchapters B and E (relating to qualifications of drivers; and hours of service of drivers) do not apply to drivers of farm trucks whether or not required to be registered and not carrying hazardous materials in an amount and type which require the vehicle to be placarded or marked under regulations promulgated under 75 Pa.C.S. §§ 8301—8308 (relating to hazardous materials transportation).

(e) This chapter does not apply to maintenance mechanics driving vehicles as part of their duties related to routine road tests or other maintenance tests provided the mechanic operates the vehicle within 25 air miles of the maintenance facility to which he is assigned.]

§ 231.3. Definitions.

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

[*Bus*—The term as defined in 75 Pa.C.S. § 102 (relating to definitions).

Business district—49 CFR 390.12 (relating to business districts) incorporated by reference.

Department—The Department of Transportation of the Commonwealth.

Driveaway-towaway operation—49 CFR 390.9 (relating to driveaway-towaway operation) incorporated by reference.

Driver—The term as defined in 75 Pa.C.S. § 102.

Full trailer—49 CFR 390.7 (relating to full trailer) incorporated by reference.

Gross weight—The term as defined in 75 Pa.C.S. § 102.

Interstate commerce—Trade, traffic or transportation of property or persons by highway between a place in this Commonwealth and a place in another state or between a place in one state and a place in another state with transportation by highway through this Commonwealth.

Intrastate commerce—The trade, traffic or transportation of property or persons by highway between places within this Commonwealth.

Lightweight vehicle—A motor vehicle, other than a vehicle that is being used to transport passengers for hire; or a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded under 49 CFR 177.823 that was one of the following:

(i) Manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of 17,000 pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of 17,000 pounds or less, in the case of an articulated vehicle.

(ii) Manufactured before January 1, 1972, and has a gross weight including its load and the gross weight of the vehicle being towed by the motor vehicle, of 17,000 pounds or less.

Motor carrier—49 CFR 390.15 (relating to motor carrier) incorporated by reference.

Motor carrier vehicle—The term as defined in 75 Pa.C.S. § 102.

Pole trailer—49 CFR 390.8 (relating to pole trailer) incorporated by reference.]

Qualified Commonwealth [employe] employee—[A Commonwealth employe designated by the Department who is authorized to inspect vehicles, drivers, documents, equipment and loads, or cargo as provided in 75 Pa.C.S. §§ 4704 and 8302 (relating to inspection by police or Commonwealth personnel; and powers and duties of department).] The term as defined in 75 Pa.C.S. § 4102 (relating to definitions).

[*Radar detector*—49 CFR 390.5 (relating to definitions) incorporated by reference.

Residence district—49 CFR 390.13 (relating to residence district) incorporated by reference.]

School bus—The term as defined in 75 Pa.C.S. § 102.

[*Secretary*—The Secretary of the Department.

Semitrailer—49 CFR 390.6 (relating to semitrailer) incorporated by reference.

Truck—The term as defined in 75 Pa.C.S. § 102.

Truck tractor—49 CFR 390.5 (relating to truck tractor) incorporated by reference.

Vehicle—The term as defined in 75 Pa.C.S. § 102.]

§ 231.4. [Other terms] (Reserved).

[49 CFR 390.28 (relating to other terms) incorporated by reference.]

§ 231.5. [Vehicles used for purposes other than as defined] (Reserved).

[49 CFR 390.31 (relating to vehicles used for purposes other than as defined) incorporated by reference.]

§ 231.6. [Motor carrier to require observance of driver regulations] (Reserved).

[49 CFR 390.32 (relating to motor carrier to require observance of driver regulations) incorporated by reference.]

§ 231.7 Adoption of portions of 49 CFR by reference.

The Department incorporates by reference the following portions of 49 CFR (relating to transportation), subject to §§ 231.3 and 231.8 (relating to definitions; and additions or modifications to 49 CFR).

(1) Part 382 (relating to driver drug and alcohol testing).

(2) Part 385 (relating to safety fitness procedures).

(3) Part 390 (relating to Federal motor carrier safety regulations; general).

(4) Part 391 (relating to qualifications of drivers).

(5) Part 392 (relating to driving of motor vehicles).

(6) Part 393 (relating to parts and accessories necessary for safe operation).

(7) Part 395 (relating to hours of service for drivers).

(8) Part 396 (relating to inspection, repair and maintenance).

§ 231.8 Additions or modifications to 49 CFR.

As stated in § 231.7 (relating to adoption of portions of 49 CFR by reference), this chapter generally incorporates 49 CFR Parts 382, 385, 390, 391, 392, 393, 395 and 396. The following modifications, additions and deletions to those parts apply:

(1) The definition of "commercial motor vehicle" in 49 CFR 390.5 (relating to definitions) is modified to read as follows:

Commercial motor vehicle—A motor vehicle or combination used on a highway in intrastate commerce to transport passengers or property when the vehicle meets one of the following conditions:

(i) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 17,001 pounds or more, whichever is greater.

(ii) Is designed or used to transport more than eight passengers (including the driver) for compensation.

(iii) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.

(iv) Is a school bus.

(v) Is transporting hazardous materials which is required to be placarded in accordance with Department regulations.

(2) 49 CFR 390.3 (relating to general applicability) is modified by deleting subsection (f)(1) and (2).

(3) 49 CFR 390.19 (relating to motor carrier identification report) is deleted in its entirety.

(4) 49 CFR 390.21 (relating to marking of CMVs) is deleted in its entirety.

(5) 49 CFR 391.2 (relating to general exceptions) is modified to add an exemption for an inspection mechanic who is performing a road test as required under Chapter 175 (relating to vehicle equipment and inspection) from the requirements of 49 CFR Part 391 (relating to qualifications of drivers and longer combination vehicle (LCV) driver instructors).

(6) 49 CFR 391.2 is modified to add an exemption from the requirements of 49 CFR Part 391 for regularly employed drivers of State and local governments and agencies of State and local government.

(7) 49 CFR 391.11(b)(4) (relating to general qualifications of drivers) is modified to exempt school bus drivers who are required to comply with the medical regulations in Chapter 71 (relating to school bus drivers).

(8) 49 CFR Part 391 is modified by adding the following exemption regarding drivers regularly employed as of September 23, 1995, and the parameters for the exemption:

(i) A regularly employed driver as of September 23, 1995, who cannot meet the physical qualifications requirements of 49 CFR Part 391, will be considered to be qualified to operate in intrastate commerce if certified by the medical examiner and motor carrier in accordance with this section. The driver shall be considered qualified only until the existing unqualifying medical or physical condition significantly worsens or a new unqualifying medical or physical condition develops subsequent to September 23, 1995.

(ii) The motor carrier's certification shall be based on a review of the driver's past driving safety record and accident history. The motor carrier's certification must be on a form prescribed by the Department and will be valid for a period commensurate with the period of the medical examiner's certificate issued in accordance with this chapter.

(iii) A copy of the medical examiner's initial certificate establishing a driver's qualification under this section and annotated in accordance with subparagraph (iv), the most current biannual medical examiner's certificate and the most current certification by the employing motor carrier that the driver is qualified to operate in intrastate commerce shall be maintained in the driver's qualification file for the entire period of the driver's term of employment and for an additional 2 years after termination of employment.

(iv) If the medical examiner determines that the driver is only qualified to drive in intrastate commerce in accordance with the requirements in this paragraph, the medical examiner's certificate re-

quired under 49 CFR 391.43 (relating to medical examination; certificate of physical examination) must display the statement "Medically qualified to operate in intrastate commerce only."

(9) 49 CFR 391.67 is modified to reference "16 years of age or older" rather than "18 years of age or older."

(10) 49 CFR 391.11(b)(1) is deleted.

(11) 49 CFR 391.47(e) (relating to resolution of conflicts of medical evaluation) is modified to reference Chapter 491 (relating to administrative practice and procedure) instead of § 386.13(a).

(12) 49 CFR 391.47(f) is modified to read as follows:

(f) *Status of driver.* Once a petition for review of a decision of the Director of the Bureau of Driver Licensing is submitted, the driver shall be deemed disqualified until the Pennsylvania Secretary of Transportation makes a determination or orders otherwise.

(13) 49 CFR 390.27 (relating to locations of motor carrier safety service centers) is amended to read as follows:

390.27 Address of the Medical Unit of the Bureau of Driver Licensing

The mailing address for the Medical Unit is PENNDOT, Bureau of Driver Licensing, Medical Unit, 1101 South Front Street, 3rd Floor, Harrisburg, PA 17104-2516.

(14) 49 CFR 385.1 (relating to purpose and scope) is modified to add an exemption for farmers from the requirements of Part 385 (relating to safety fitness procedures).

§ 231.9 Adoption of out-of-service criteria.

The out-of-service criteria contained in the North American Standard Out-Of-Service Criteria is incorporated by reference.

§ 231.10 Adoption of interpretation of Federal Motor Carrier Safety Regulations.

The Department hereby adopts, as statements of policy, interpretations of the Federal Motor Carrier Safety Regulations as published by the Federal Motor Carrier Safety Administration for those parts enumerated in § 231.7 (relating to adoption of portions of 49 CFR by reference).

[Pa.B. Doc. No. 09-297. Filed for public inspection February 20, 2009, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 437a]

Vendor Permission to Conduct Business Prior to Certification or Registration

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 1321 (relating to additional licenses and permits and approval of agreements), pro-

poses to amend Chapter 437a (relating to vendor certification and registration) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking amends § 437a.9 (relating to permission to conduct business prior to certification or registration) which allows a vendor to provide goods or services to a slot machine applicant or licensee while the vendor's application for certification or registration is being reviewed. Under this amendment, the vendor would have to cease providing goods or services if it receives a Notice of Recommendation for Denial of its application from the Office of Enforcement Counsel.

Explanation of Amendments to Chapter 437a

Currently, a vendor may request permission to provide goods or services to a slot machine applicant or licensee while the application is being reviewed.

Under this proposed rulemaking, if the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to a vendor applicant that has received this permission, the applicant will have to cease providing goods or services to the slot machine applicant or licensee. The Bureau of Licensing will also notify the affected slot machine applicants or licensees that they may no longer do business with the vendor applicant.

Affected Parties

This proposed rulemaking will affect applicants for vendor certification or registration that have been granted permission to provide goods or services to a slot machine applicant or licensee while the applicant or licensee's application is being reviewed. It may also affect slot machine applicants and licensees.

Fiscal Impact

Commonwealth

The proposed rulemaking will have no fiscal impact on the Board or other agencies of the Commonwealth.

Political Subdivisions

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

Private Sector

Vendors who have been granted permission to provide goods or services while their application is being reviewed could lose that privilege. If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to a vendor applicant, the applicant will have to cease providing goods or services to an applicant for or holder of a slot machine license.

Similarly, the slot machine applicant or licensee will have to find a different vendor to provide the goods or services that the vendor applicant had been providing.

General Public

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

Paperwork requirements

No new reporting or paperwork requirements are created by this rulemaking. Issuing a Notice of Recommendation for Denial to an applicant is part of the current application process.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-97.

Contact Person

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

Regulatory Review

In accordance with section 5(a) and (f) of the Regulatory Review Act (71 P. S. §§ 745.5(a) and (b), on February 5, 2009, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form, to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*, and to the Independent Regulatory Review Commission (IRRC). In accordance with section 5(f) of the act (71 P. S. § 745.5(f)), the Board will submit the proposed rulemaking and the required material to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee no later than the second Monday after the date by which both committee designations have been published in the *Pennsylvania Bulletin*. A copy of this material is available to the public upon request and is available on the Board's web site at www.pgcb.state.pa.us.

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

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-97. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 437a. VENDOR CERTIFICATION AND REGISTRATION

§ 437a.9. Permission to conduct business prior to certification or registration.

* * * * *

(b) **If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for certification or registration authorized to conduct business with a slot machine applicant or licensee under subsection (a), the applicant for certification or registration shall immediately cease conducting business with the slot machine applicant or licensee.**

(c) When the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for certification or registration authorized to conduct business with a slot machine applicant or licensee under subsection (a), the Bureau of Licensing will notify the slot machine applicant or licensee that the authorization for the applicant for certification or registration to conduct business with the slot machine applicant or licensee under subsection (a) has been rescinded and that the slot machine applicant or licensee shall immediately cease conducting business with the applicant for certification or registration.

(d) Permission to conduct business under this section will be for 6 months.

[(c)] (e) The Board may extend the relief for additional 6-month periods upon a showing of good cause by the slot machine applicant or licensees.

[Pa.B. Doc. No. 09-298. Filed for public inspection February 20, 2009, 9:00 a.m.]

STATE BOARD OF CHIROPRACTIC

[49 PA. CODE CH. 5]

Needle Acupuncture

The State Board of Chiropractic (Board) proposes to amend § 5.81(1)(xv) (relating to unprofessional and immoral conduct) to read as set forth in Annex A.

Effective date

The amendment will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The amendment is authorized under sections 302(3), 506(a)(4) and 506(a)(11) of the Chiropractic Practice Act (act) (63 P. S. §§ 625.302(3), 625.506(a)(4) and 625.506(a)(11)).

Background and Need for the Amendment

Section 102 of the act (63 P. S. § 625.102) generally defines chiropractic as a branch of the healing arts dealing with the relationship between the articulations of the vertebral column, as well as other articulations, and the neuro-musculo-skeletal system and the role of these relations in the restoration and maintenance of health. This definition explicitly excludes surgery from the scope of chiropractic practice. Without statutory support for the practice of needle acupuncture to be considered part of the practice of chiropractic (as it is in some other jurisdictions), the Board previously prohibited its licensees from advertising or practicing needle acupuncture. Because the Board may take disciplinary action against a licensee who has displayed misconduct in the practice of chiropractic or committed unprofessional conduct, the Board achieved this prohibition by defining misconduct to include advertising or practicing needle acupuncture.

Under the Acupuncture Registration Act (63 P. S. §§ 1801—1806.1), a qualified person may become registered to practice acupuncture by the State Board of Medicine or the State Board of Osteopathic Medicine. Unlike dentists, podiatrists and veterinarians as provided in section 3(h) of the Acupuncture Registration Act (63

P. S. § 1803(h)), a chiropractor seeking to practice acupuncture must become registered with one of these medical boards under the Acupuncture Registration Act and be subject to regulation of that medical board. Although it is not the practice of chiropractic, the Board sees no compelling basis to prohibit the practice of acupuncture by a licensed chiropractor who is registered with a medical board to practice acupuncture and is acting in accordance with that medical board's regulations concerning the practice of acupuncture.

Description of the Proposed Amendments

The proposed rulemaking would amend § 5.81(1)(xv). A licensee who is registered to do so by the State Board of Medicine or the State Board of Osteopathic Medicine and acting in accordance with the act and regulations of the appropriate medical board would not be subject to the prohibition against advertising or practicing needle acupuncture.

Fiscal Impact and Paperwork Requirements

The proposed amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendment will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 11, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, by mail at P. O. Box 2649, Harrisburg, PA 17105-2649, or by e-mail at st-chiro@state.pa.us, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-4317 (Needle acupuncture), when submitting comments.

JONATHAN W. MCCULLOUGH, D. C.,
Chairperson

Fiscal Note: 16A-4317. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF CHIROPRACTIC

Subchapter H. DISCIPLINARY ACTION

§ 5.81. Unprofessional and immoral conduct.

A licensee who engages in unprofessional or immoral conduct is subject to disciplinary action in accordance with section 506 of the act (63 P. S. § 625.506).

(1) Unprofessional conduct includes the following.

* * * * *

(xv) Practicing or advertising needle acupuncture, **unless the licensee is registered to do so by the State Board of Medicine or the State Board of Osteopathic Medicine and acting in accordance with the Acupuncture Registration Act (63 P. S. §§ 1801—1806.1) and regulations of the State Board of Medicine in §§ 18.11—18.18 (relating to registration and practice of acupuncturists) or regulations of the State Board of Osteopathic Medicine in §§ 25.301—25.308 (relating to registration and practice of acupuncturists).**

* * * * *

[Pa.B. Doc. No. 09-299. Filed for public inspection February 20, 2009, 9:00 a.m.]

STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

[49 PA. CODE CH. 39]

Continuing Education

The State Board of Examiners of Nursing Home Administrators (Board) proposes to amend § 39.61 (relating to requirements), to read as set forth in Annex A. The proposed amendment would clarify, update and expand on the continuing education requirements.

A. Effective Date

The proposed amendment will be effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*.

B. Statutory Authority

The Board has authority to adopt regulations pertaining to continuing education under sections 4(c) and 9(b) of the Nursing Home Administrators License Act (act) (63 P. S. §§ 1104(c) and 1109(b)).

C. Background and Need for Amendments

Section 9(b) of the act requires licensees to complete continuing education as a condition of biennial renewal. The proposed amendments to § 39.61 clarify, update, and expand on the continuing education clock hour requirements.

D. Description of Proposed Amendments

The proposed amendment to § 39.61(b) clarifies that the 48 required continuing education clock hours must be completed in courses preapproved by the National Association of Boards of Examiners of Long-Term Care Administrators (NAB) or the Board, except in limited circumstances, including serving as an instructor or authoring an article, or when a course is approved retroactively under subsection (c)(5) for those continuing education courses that have not been preapproved.

Currently, there are restrictions placed on the number of continuing education clock hours that may be completed based on the modality of instruction. For example, licensees are required to take at least 24 hours in lecture or computer interactive courses; and licensees are permitted to take a maximum of 24 clock hours through college or university courses and a maximum of 12 hours in correspondence courses. The Board believes that these restrictions are outdated and should be lifted. The proposed amendment would permit licensees to take all 48 clock hours in any of the various modalities, including lecture, college or university, computer interactive, distance learning or correspondence courses, so long as the courses are approved by NAB or the Board.

In addition, the Board is proposing an amendment to increase the amount of time, from 30 days to 60 days, that a licensee would have in which to gain Board approval for authoring an article on long-term care after publication or for attending programs which have not been preapproved by NAB or the Board. Section 39.61(c)(5) would also raise the maximum number of clock hours that may be awarded for attending programs which have not been preapproved by NAB or the Board, from 6 to 12, so long as the licensee submits the required documentation to the Board within 60 days of attending the program.

Finally, § 30.61(f) would be amended to clarify that when the Board determines that a licensee requesting a waiver has not met the "illness, emergency or hardship" standard for grant of a waiver, the Board may elect to grant the licensee an extension of time to complete the continuing education clock hours.

E. Fiscal Impact

The proposed amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

F. Paperwork Requirements

The proposed amendment will impose no additional paperwork requirements upon the Commonwealth or its political subdivisions or the private sector.

G. Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 11, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. 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 objec-

tions to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Roberta Silver, Board Counsel, State Board of Examiners of Nursing Home Administrators, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-6212 (Continuing Education) when submitting comments.

BARRY S. RAMPER, II,
Chairperson

Fiscal Note: 16A-6212. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

CLOCK HOURS REQUIREMENT

§ 39.61. Requirements.

(a) A licensee shall complete at least 48 clock hours of **continuing education** during the preceding biennial period.

(b) [**Of the 48 hours required, the following apply:**] All continuing education clock hours shall be completed in courses preapproved by NAB or the Board, except as provided in subsection (c)(2)—(5).

(c) **Of the 48 clock hours required, the following apply:**

(1) [**At least 24 hours shall be taken in lecture or computer interactive courses approved by NAB or the Board.**]

(2) **Up to 24 clock hours may be taken through college or university courses, including distance learning, approved by NAB or the Board.] Up to 48 clock hours may be taken in lecture, college or university, computer interactive, distance learning or correspondence courses preapproved by NAB or the Board.**

[(3)] (2) A maximum of 12 clock hours may be [**taken in the following categories:**

(i) **Individual study using NAB or Board-approved correspondence courses.**

(ii) **Serving] earned by serving** as an instructor of a NAB or Board-approved continuing education program or **as an instructor of** a college or university course **approved by NAB or the Board.** Instructors may earn 1 clock hour for each hour of instruction up to 12 clock hours.

[(4) Authoring] (3) Clock hours may be earned by authoring an article on long-term care[.] as follows:

(i) Authors whose articles relating to long-term care are published in professional journals may earn 3 clock hours per article, up to a maximum of 12 clock hours per biennium.

(ii) Additional credit per article, up to 12 of the required clock hours, may be awarded based on the complexity of the subject matter or work.

(iii) In exceptional circumstances, when the article is published in a refereed journal, and the subject matter or work is complex, a licensee may be awarded up to 24 clock hours.

(iv) Published articles used for continuing education credit shall be submitted to the Board within **[30] 60** days of publication. Upon review of the published article, the Board will determine the appropriate number of clock hours to be awarded based upon the complexity of the subject matter or work.

(4) Up to 24 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

[(6)] (5) A maximum of **[6] 12** clock hours may be awarded retroactively for attending programs, to include lectures, and college or university courses, which have not been preapproved. The attendee shall submit a written request for approval within **[30] 60** days of attending the program and document attendance. The attendee shall demonstrate to the Board's satisfaction that the

programs meet the requirements of §§ 39.14(a)(2) and 39.51 (relating to approval of programs of study; and standards for continuing education programs).

[(c)] (d) A licensee who obtains a license after the biennial period begins shall complete a prorated amount of clock hours equal to 2 clock hours per month through the end of the biennial period. For the purpose of calculating the number of clock hours required, partial months shall count as whole months.

[(d)] (e) A licensee suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

[(e)] (f) A licensee who cannot meet the continuing education requirement due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver. The request **[shall] must** explain why compliance is impossible, and include appropriate documentation. Waiver requests will be evaluated by the Board on a case-by-case basis. **When the Board determines that a licensee has not met the illness, emergency or hardship requirement for the grant of a waiver, the Board may grant an extension of time for the licensee to complete the continuing education requirement.**

[(f)] (g) A licensee will not be credited for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

[Pa.B. Doc. No. 09-300. Filed for public inspection February 20, 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 General Services

The Executive Board approved a reorganization of the Department of General Services effective February 4, 2009.

The organization chart at 39 Pa.B. 1009 (February 21, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-301. Filed for public inspection February 20, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD [4 PA. CODE CH. 9]

Reorganization of the Department of Labor and Industry

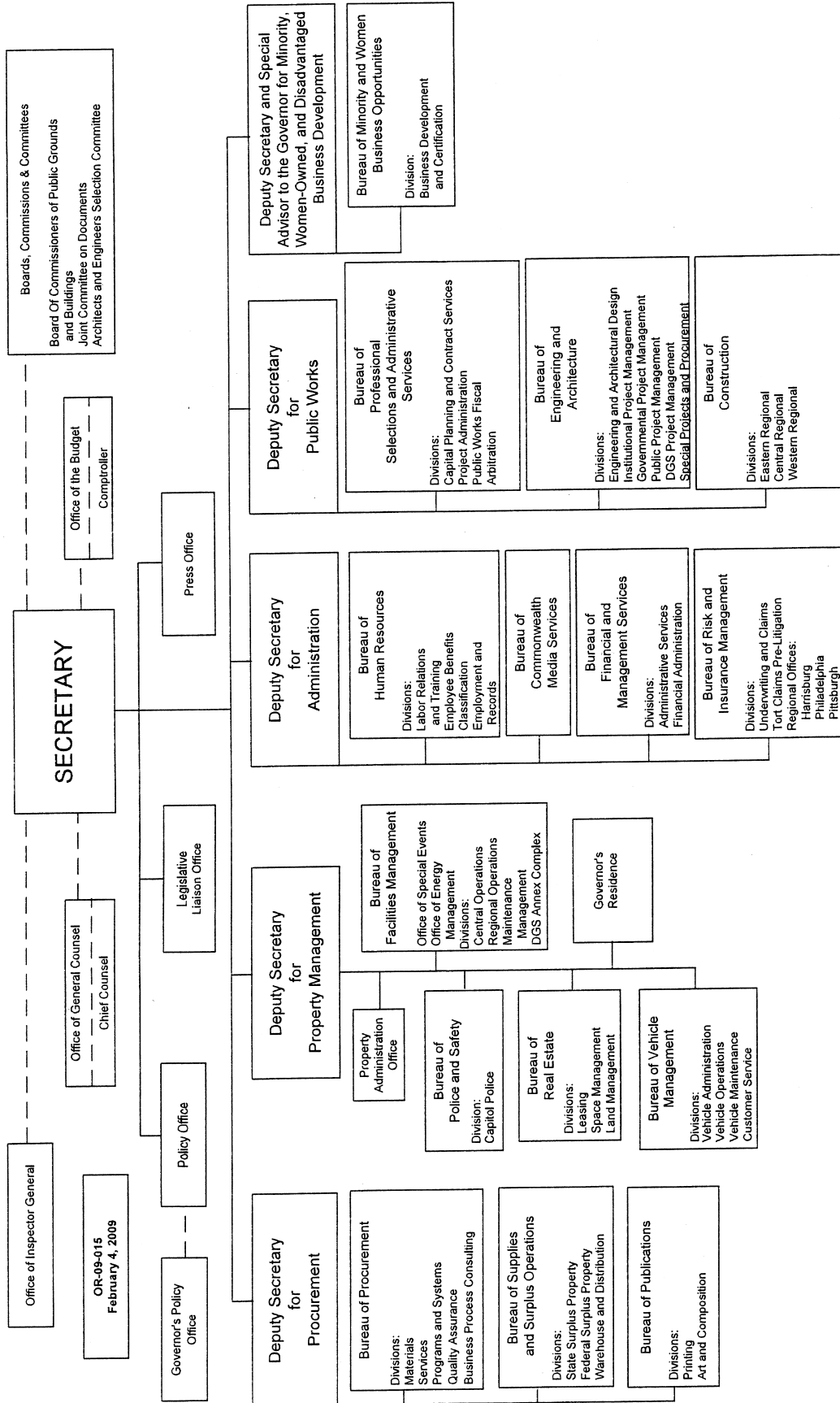
The Executive Board approved a reorganization of the Department of Labor and Industry effective February 4, 2009.

The organization chart at 39 Pa.B. 1010 (February 21, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

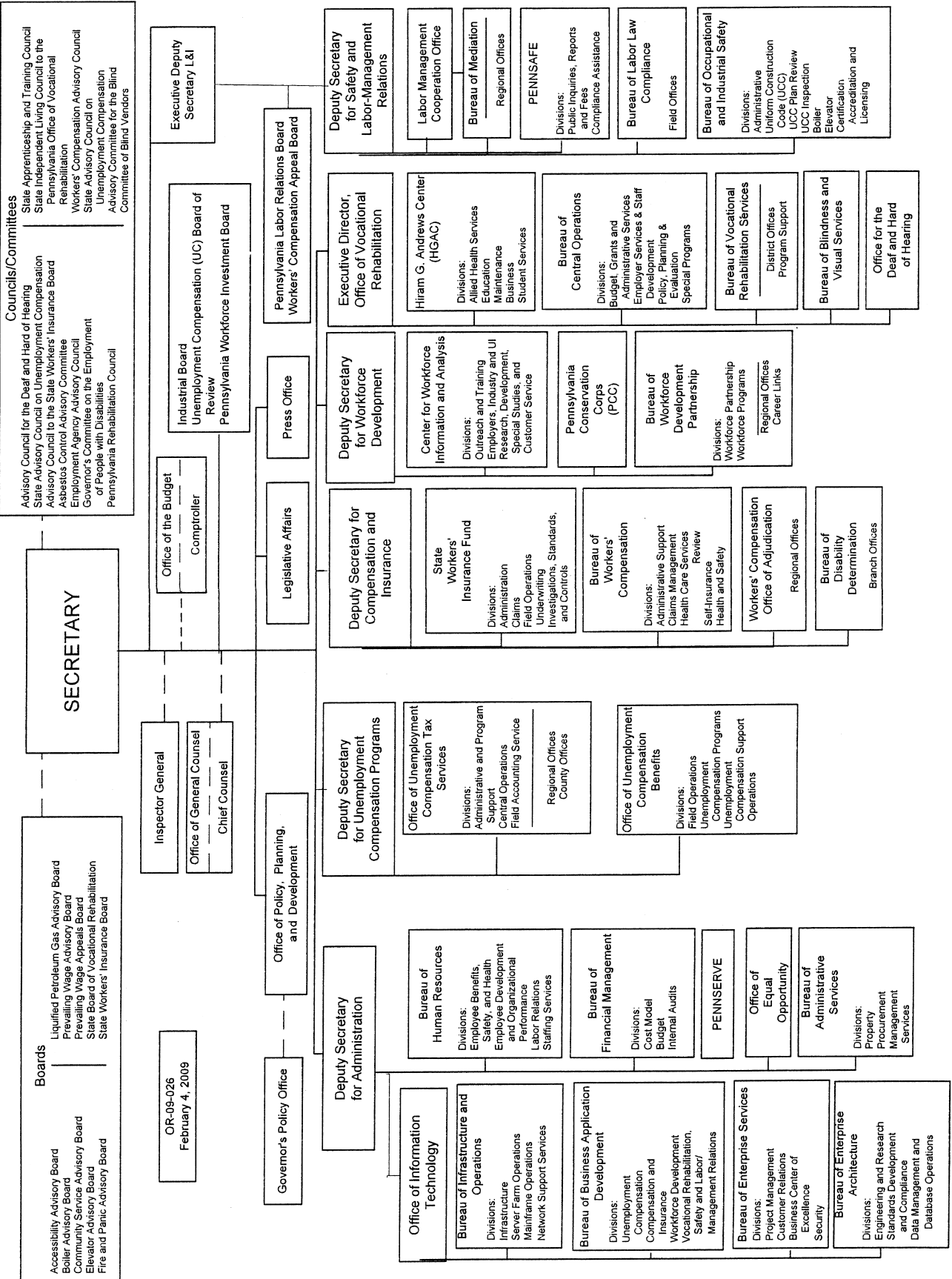
(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania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

[Pa.B. Doc. No. 09-302. Filed for public inspection February 20, 2009, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES



DEPARTMENT OF LABOR AND INDUSTRY



Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 3270, 3280 AND 3290]

Reporting Lost Child

Scope

These statements of policy apply to child day care centers, group child day care homes and family child care homes.

Purpose

The purpose of these statements of policy is to provide direction to child care facilities regarding reporting an incident when a child in the care of the facility is lost, missing, left behind or unattended.

Discussion

The Department of Public Welfare's (Department) regulations for child care facilities require that the facility operator shall report incidents involving inpatient hospitalization or emergency room treatment of a child receiving care at the facility, the death of a child receiving care at the facility and a facility fire that requires the service of a fire department (see 55 Pa. Code §§ 3270.20, 3280.19 and 3290.17 (relating to reporting injury, death or fire)). The intent of those regulations is to require a facility operator to inform a child's parent and the Department of high risk incidents that occur at the facility which could negatively impact children who receive care at the facility.

Supervision of children is basic to the prevention of harm. A parent contracts with a child care facility to supervise a child and keep the child from harm. However, incidents occur at child care facilities that pose a risk to the health and safety of a child. These types of incidents include a child who is lost or missing from the facility, a left-behind child on a facility field trip when the rest of the group returns to the facility and also a child left alone in a closed facility when the facility is closed for the day. Sometimes, the Department becomes aware of incidents through complaints filed by law enforcement officials, parents, community professionals or witnesses to the incident. Occasionally, the facility operator reports the incident to the Department.

If the Department is advised of a lost or left-behind child incident, Department staff will investigate the incident to assess compliance with the regulations appropriate to the facility. The Department can then assess the risk to children and make a determination of the steps necessary to protect the health and safety of the children in the facility. If the Department is not aware of the incident, the high risk condition may continue and worsen over time.

To protect the health and safety of children in care at the facility, the Department has determined that a child care facility operator shall report to the child's parent and to the Department when one of the following occurs:

- (1) A child receiving care in the facility is lost or missing from the facility.
- (2) A child in the care of the facility is left behind on a facility excursion.
- (3) A child receiving care in the facility is left unattended in the facility when the facility is closed.

The facility shall report the incident in accordance with the reporting requirements provided in the child care facility regulations relating to reporting injury, death or fire in §§ 3270.20, 3280.19 and 3290.17.

Effective Date

These statements of policy are effective April 22, 2009.

Contact Person

The contact person for these statements of policy is Tamula Ferguson, Division of Regulatory Administration, Bureau of Certification Services, Office of Child Development and Early Learning, (717) 346-9320

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-BUL-080. No fiscal impact; (8) recommends adoption.

(Editor's Note: Title 55 of the Pa. Code is amended by adding statements of policy in §§ 3270.20a, 3280.19a and 3290.17a to read as set forth in Annex A.)

Annex A

TITLE 55. PUBLIC WELFARE

PART V. CHILDREN, YOUTH AND FAMILIES MANUAL

Subpart D. NONRESIDENTIAL AGENCIES, FACILITIES AND SERVICES

ARTICLE I. LICENSING/APPROVAL

CHAPTER 3270. CHILD DAY CARE CENTERS

GENERAL REQUIREMENTS

§ 3270.20a. Reporting injury, death or fire—statement of policy.

The facility operator shall make reports to a child's parent and to the Department in accordance with § 3270.20 (relating to reporting injury, death or fire) if one or more of the following occurs:

- (1) A child receiving care in the facility is lost or missing from the facility.
- (2) A child in the care of the facility is left behind on a facility excursion.
- (3) A child receiving care in the facility is left unattended in the facility when the facility is closed.

CHAPTER 3280. GROUP CHILD DAY CARE HOMES

GENERAL REQUIREMENTS

§ 3280.19a. Reporting injury, death or fire—statement of policy.

The facility operator shall make reports to a child's parent and to the Department in accordance with § 3280.19 (relating to reporting injury, death or fire) if one or more of the following occurs:

- (1) A child receiving care in the facility is lost or missing from the facility.
- (2) A child in the care of the facility is left behind on a facility excursion.
- (3) A child receiving care in the facility is left unattended in the facility when the facility is closed.

**CHAPTER 3290. FAMILY CHILD DAY CARE
HOMES****GENERAL REQUIREMENTS****§ 3290.17a. Reporting injury, death or fire—state-
ment of policy.**

The facility operator shall make reports to a child's parent and to the Department in accordance with § 3290.17 (relating to reporting injury, death or fire) if one or more of the following occurs:

- (1) A child receiving care in the facility is lost or missing from the facility.
- (2) A child in the care of the facility is left behind on a facility excursion.
- (3) A child receiving care in the facility is left unattended in the facility when the facility is closed.

[Pa.B. Doc. No. 09-303. Filed for public inspection February 20, 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 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending February 10, 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

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-2-2009	Marquette Savings Bank Erie Erie County	3801 Sterrettania Road Millcreek Township Erie County	Opened

Branch Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-2-2009	Jersey Shore State Bank Jersey Shore Lycoming County	<i>Into:</i> 2050 North Atherton Street State College Centre County <i>From:</i> 1665 North Atherton Place State College Centre County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-3-2009	Lafayette Ambassador Bank Easton Northampton County	215 Robinson Avenue Pen Argyl Northampton County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
10-22-2008	Viriva Community Credit Union Philadelphia Philadelphia County	157 York Road Warminster Bucks County	Opened

Branch Relocations

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
2-4-2009	Belco Community Credit Union Harrisburg Dauphin County	<i>To:</i> 1063 York Road Gettysburg Adams County <i>From:</i> 39 North Washington Street Gettysburg Adams County	Filed

Change of Principal Place of Business

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
2-6-2009	Viriva Community Credit Union Philadelphia Philadelphia County	<i>To:</i> 157 York Road Warminster, PA 18974 Bucks County <i>From:</i> 1423 Spruce Street Philadelphia, PA 19102 Philadelphia County	Effective

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. 09-304. Filed for public inspection February 20, 2009, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Announces Eligible Partnerships; Postsecondary Grant Application; Guidelines for Assistance for Regular and Special Education; Mathematics and/or Science Teachers to Become "Highly Qualified" as Defined by No Child Left Behind

The Department of Education (Department) has established grant application guidelines to provide direction to eligible partnerships for submitting applications targeting assistance for regular and/or special education teachers to become highly qualified in the core academic subjects of mathematics and science, as defined by No Child Left Behind. An eligible partnership that receives a grant under these guidelines shall limit its programs to those that provide an innovative approach for current regular and/or special education classroom teachers teaching in a high need local educational agency (LEA) to demonstrate content mastery to become highly qualified in the core academic subjects of mathematics and science. Approximately \$2.3 million is available on a competitive basis under this e-Grant application for up to three funding cycles beginning in spring 2009 and ending September 30, 2011. A maximum per participant cost is established by the application guidelines for each of the possible ways for assisting teachers to become highly qualified.

1. *Eligibility Requirements*

An eligible partnership shall include at a minimum:

1. A Pennsylvania-based institution of higher education (IHE) which is approved by the Department to prepare teachers;
2. A Pennsylvania-based IHE that has arts and sciences faculty; and
3. At least one high-need LEA included on the "List of LEAs That Meet the 'High Need' Definition In No Child Left Behind." A high need LEA:
 - Serves not fewer than 10,000 children from families with incomes below the poverty line; or

- Not less than 20% of the children served by the agency are from families with incomes below the poverty line

and

- For which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or
- For which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing (Section 2102(3)).

Other partners may include:

1. other LEAs;
2. an elementary or secondary school;
3. other educational service agency or nonprofit cultural or educational organization;
4. teacher organizations;
5. principal organizations; or
6. businesses.

Each partnership must designate an IHE education as the fiscal agent to execute a contract or memorandum of understanding on behalf of the partnership with the Commonwealth.

2. *Application Deadline*

E-grant applications are due by 5 p.m., Friday, April 3, 2009.

3. *How to Apply*

The Department has implemented an internet-based e-Grant system that requires eligible applicants to apply for funding online. The e-Grants system is available at egrants.ed.state.pa.us/. After logging into the system, click on Eligible Partnerships Postsecondary Grant. Grant application guidelines are available at www.pde.state.pa.us/. Once on the Department's web page click on: the Teaching tab, Act 48/Continuing Professional Education, Eligible Partnerships Program.

4. Questions Concerning the Grant Application

Questions concerning the grant application should be addressed to Jamal Wakeem, Division of Teacher Quality, Bureau of School Leadership and Teacher Quality, Department of Education, 333 Market Street, Third Floor, Harrisburg, PA 17126-0333, (717) 525-5559, TDD (717) 783-8445.

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

[Pa.B. Doc. No. 09-305. Filed for public inspection February 20, 2009, 9:00 a.m.]

Proposed Grant Application by Department of Education under Part B of the Individuals with Disabilities Education Act for Federal Fiscal Year 2009

Public comment is invited regarding the Department of Education's (Department) proposed grant application and revisions to policies and procedures under Part B of the Individuals with Disabilities Education Act (IDEA-B). The annual grant application provides assurances that the State's policies and procedures in effect are consistent with the Federal requirements to ensure that a free appropriate public education is made available to all children with a disability from age 3 to 21, including children who have been suspended or expelled from school. The current policies and procedures are available for viewing at <http://www.pde.state.pa.us> (see "PreK-12 School," go to "Special Education," go to "Grants and Funding," go to IDEA-B Policies and Procedures 2008).

Section 300.165 of 34 CFR requires that the State provide notice, an opportunity for public comment and conduct public hearings. Each State must publish the proposed IDEA-B application and modified policies and procedures related to IDEA-B. Copies of the proposed grant application and modifications to the policies and procedures are available by viewing the draft documents on <http://www.pattan.net/regsforms/IDEA2004.aspx>, or contacting Nancy Zeigler at (717) 783-6134. Alternative formats of the documents (such as, Braille, large print, cassette tape) can be made available to members of the public upon request. Moreover, public comment is welcomed in alternative formats such as Braille, taped comments and telephone comments for the disabled.

Persons who are disabled and wish to submit comments by telephone, contact Nancy Zeigler.

Written comments will be received until May 1, 2009. The written comments should be directed to Patty Todd, Special Education Adviser, Bureau of Special Education, Department of Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126-0333.

Additionally, opportunity for oral testimony will be held by the Department, Bureau of Special Education, for individuals wishing to present oral testimony on the proposed IDEA-B application and modifications to policies and procedures. One written copy of oral testimony at the time of presentation would be appreciated. Presentations should be limited to 15 minutes.

Dates, locations and times for oral testimony regarding the proposed grant application and revised policies and procedures are as follows:

March 30, 2009	PaTTAN-Pittsburgh 3190 William Pitt Way Pittsburgh, PA (3 p.m.—7 p.m.)
April 1, 2009	PaTTAN-Harrisburg 6340 Flank Drive Harrisburg, PA (3 p.m.—7 p.m.)
April 2, 2009	PaTTAN-King of Prussia 200 Anderson Road King of Prussia, PA (3 p.m.—7 p.m.)

To schedule an opportunity to present oral testimony, or if you are a person with a disability and wish to attend the public testimony, and require an accommodation to participate in the proceedings, call Nancy Zeigler at (717) 783-6134 no later than March 27, 2009.

Following receipt of all written and oral comments, the Department will consider all comments and make any necessary modifications to the proposed grant application and to the proposed policies and procedures before submission of the grant application to the Secretary of the United States Department of Education.

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

[Pa.B. Doc. No. 09-306. Filed for public inspection February 20, 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>
PA-0063223 (Single-Family Residence)	Martha J. Vetter 1562 River Road Damascus, PA 18415-3003	Damascus Township Wayne County	Delaware River 1A	Y
PA0061212 (Minor Sewage)	Mik-Joan, Inc. 655 Route 61 Orwigsburg, PA 17961	North Manheim Township Schuylkill County	Mahannon Creek 03A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0028720 (Sew)	Reading Regional Airport Authority 2501 Bernville Road Reading, PA 19605-9611	Berks County Bern Township	Schuylkill River 3-C WWF	Y
PA0033766 (Sew)	North Heidelberg Sewer Company 231 East 2nd Street P. O. Box 609 Bernville, PA 19506-9300	Berks County Jefferson and Heidelberg Townships	Northkill Creek 3-C CWF	Y

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

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

PA0052906, Industrial Waste, SIC 4953, **Montenay Montgomery Limited Partnership**, 1155 Conshohocken Road, Conshohocken, PA 19428-1028. This existing facility is located in Plymouth Township, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge stormwater from a resource recovery facility in Plymouth Township, Montgomery County.

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

The proposed effluent limits for Outfall 001 are based on an average flow of a stormwater event and are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
Chemical Oxygen Demand				Report	
Total Dissolved Solids				Report	
Oil and Grease				Report	
Barium, Total				Report	
Cadmium, Total				Report	
Chromium, Total				Report	
Lead, Total				Report	
Mercury, Total				Report	
Magnesium, Total				Report	
Selenium, Total				Report	
Silver, Total				Report	
Ammonia				Report	
Arsenic, Total				Report	
Cyanide, Total				Report	
Nitrate and Nitrite as N				Report	
Iron, Dissolved				Report	
Total Organic Carbon				Report	
pH (Standard Units)				Report	

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

1. Change in Ownership.
2. Stormwater Requirements.

The EPA waiver is in effect.

PA0052434, Sewage, SIC 4952, **Coventry Crossing, LP**, 4900 South Broad Street, Philadelphia, PA 19112. This proposed facility is located in Chester Heights Borough, **Delaware County**.

Description of Proposed Activity: renewal of an NPDES permit to discharge treated sewage from Coventry Crossing Apartments STP.

The receiving stream, UNT to West Branch of Chester Creek, is in the State Water Plan Watershed 3G and is classified for: TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA Main System is located on Chester Creek and is 5.2 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.04 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	3.3		10	20
(11-1 to 4-30)	6.7		20	40
TSS	3.3		10	20
NH ₃ -N				
(5-1 to 10-31)	0.6		1.7	3.4
(11-1 to 4-30)	1.7		5.1	10.2
Phosphorus, Total				
(Years 1—2)			Monitor and Report	Monitor and Report
(Years 3—5)				
(5-1 to 10-31)	0.3		1.0	2.0
(Years 3—5)				
(11-1 to 4-30)	0.7		2.0	4.0
Fecal Coliform			# 200/100 ml	# 1,000/100 ml
Dissolved Oxygen				6.0 (Instantaneous Minimum)

NOTICES

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum (mg/l)</i>
TRC			0.04	0.1
pH			6.0 to 9.0 Standard Units at all times	

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

1. Operator Notification.
2. Abandon STP when Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Small Stream Discharge.
7. Change of Ownership.
8. Chlorine Minimization.
9. Proper Sludge Disposal.
10. I-Max Limits.
11. 2/Month Monitoring.
12. Operator Education.
13. Laboratory Certification.
14. Fecal Coliform Reporting.

PA0052787, Sewage, SIC 4952, **Quakertown United Mennonite Church**, 180 Thatcher Road, Quakertown, PA 18951. This proposed facility is located in Richland Township, **Bucks County**.

Description of Proposed Activity: renewal of an NPDES permit to discharge 1,250 gpd of treated sewage into the Tohickon Creek.

The receiving stream, Tohickon Creek, is in the State Water Plan Watershed 2D and is classified for: TSF. The nearest downstream public water supply intake for PA American Company is located on Delaware River and is 28.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1,250 gpd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅					
(5-1 to 10-31)			15		30
(11-1 to 4-30)			25		50
pH			Within limits of 6.0 to 9.0 Standard Units at all times		
Total Suspended Solids			30		60
Fecal Coliform			200 #col/100 ml		1,000 # col/100 ml
Total Residual Chlorine			1.0		2.0
Phosphorus as P			0.5		1.0
Ammonia as N					
(5-1 to 10-31)			2.5		5.0
(11-1 to 4-30)			7.5		15.0
Dissolved Oxygen			3.0 (Minimum)		

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

1. Discharge to Special Protection Waters.

PA0057606, Sewage, SIC 4953, **Upper Salford Township**, P. O. Box 100, Salfordville, PA 18958-0100. This facility is located in Upper Salford Township, **Montgomery County**.

This application is for renewal of an NPDES permit to discharge treated sewage from the Upper Salford Township Farmhouse STP in Upper Salford Township, Montgomery County.

The receiving stream, a UNT to Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for WWF and MF.

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

Parameters	Concentration (mg/l)		
	Average Monthly	Average Weekly	Instantaneous Maximum
CBOD ₅			
(5-1 to 10-31)	15		30
(11-1 to 4-30)	25		50
Total Suspended Solids	30		60
Ammonia as N			
(5-1 to 10-31)	5.0		10.0
(11-1 to 4-30)	15.0		30.0
Phosphorus as P			
(4-1 to 10-31)	Monitor and Report		
Fecal Coliform	200 #/100 ml		
Dissolved Oxygen	4.0 Minimum at all times		
pH (Standard Units)	Within Limits of 6.0 to 9.0 Standard Units at all times		
Total Residual Chlorine	0.7		1.4

The EPA waiver is in effect.

PA0058025, Sewage, SIC 4953, **Upper Salford Township**, P. O. Box 100, Salfordville, PA 18958-0100. This proposed facility is located in Upper Salford Township, **Montgomery County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge treated sewage from the Upper Salford Township Park STP. It is located at the intersection of Schwenksville and Salford Station Roads in Upper Salford Township, Montgomery County.

The receiving stream, a UNT to Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for: WWF and MF.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0015 mgd:

Parameters	Concentration (mg/l)		
	Average Monthly	Average Weekly	Instantaneous Maximum
CBOD ₅	10		20
Total Suspended Solids	10		20
Ammonia as N	3.0		9.0
Phosphorus as P	Monitor and Report		
Fecal Coliform	200 #/100 ml		
Dissolved Oxygen	4.0 Minimum at all times		
pH (Standard Units)	Within Limits of 6.0 to 9.0 Standard Units at all times		
Total Residual Chlorine	0.5		1.2

The EPA waiver is in effect.

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

PA#0060747, Industrial, SIC 3087, **AMETEK**, 42 Mountain Avenue, Nesquehoning, PA 18240-2201. This existing facility is located in Nesquehoning Borough, **Carbon County**.

Description of Proposed Activity: Renewal of NPDES Permit.

The receiving stream, Nesquehoning Creek, is in the State Water Plan Watershed 02B and is classified for: CWF. The nearest downstream public water supply intake for the Lehighon Water Authority is located on the Lehigh River approximately 9 miles below the point of discharge.

The proposed effluent limits for Outfall 001 (contact cooling water) based on a design flow of 0.0718 mgd are as follows:

Parameter	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
BOD ₅		21.9			30
Oil and Grease		24.4	15		
TSS		16.0			
pH	Within the range of 6.0 to 9.0 Standard Units at all times				
Total Residual Chlorine			1.2		2.8
Temperature (year 5)			Report (° F)		

The proposed effluent limits for Outfall 002 (stormwater) are as follows:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD ₅				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Total Suspended Solids (TSS)				Report
Total Kjeldahl Nitrogen (TKN)				Report
Total Phosphorus				Report
Iron (dissolved)				Report

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

1. Controlling chemical additives usage rates.
2. Requirements applicable to stormwater outfalls along with identified best management practices.

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

Application No. PA 0261271, Sewage, **David E. Graham**, 117 Valentine Acres Road, Clearville, PA 15535. This facility is located in Southampton Township, **Bedford County**.

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

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

The proposed effluent limits for Outfall 001 for a design flow of 0.0004 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Total Suspended Solids	30	60
NH ₃ -N		
(5-1 to 10-31)	5.0	10
(11-1 to 4-30)	15.0	30
pH	From 6.0 to 9.0 inclusive	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a Geometric Average	
(10-1 to 4-30)	2,000/100 ml as a Geometric Average	

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

The EPA waiver is in effect.

Application No. PA 0034011, Amendment No. 1, Sewage, **Bedford Materials Company**, 7676 Allegheny Road, Manns Choice, PA 15550. This facility is located in Napier Township, **Blair County**.

Description of activity: The application is for an amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, UNT Raystown Branch Juniata River, is in Watershed 11-C, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Bedford Water Company is located on the Raystown Branch Juniata River, approximately 1.5 miles downstream. The discharge is not expected to affect the water supply.

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

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
Total Phosphorus	2.0	4.0
Total Residual Chlorine	0.5	1.63
Dissolved Oxygen	Minimum of 5.0 at all times	
pH	From 6.0 to 9.0 inclusive	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a Geometric Average	
(10-1 to 4-30)	2,000/100 ml as a Geometric Average	

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

- Monitoring stormwater Outfalls 002 and 003 is required annually.

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

The EPA waiver is not in effect.

Application No. PA 0088285, Amendment No. 1, CAFO, Kreider Farms (Kreider Dairy Farm), 1461 Lancaster Road, Manheim, PA 17545.

Kreider Farms has submitted an NPDES permit amendment application for the Penn Township Farm, an existing dairy and layer operation in Penn Township, **Lancaster County**. The CAFO is situated near a UNT of Chickies Creek, which is classified as a WWF. The CAFO currently has a target animal population of approximately 5,605 animal equivalent units (AEUs) but has proposed an expansion of the layer operation. The proposal includes replacing four existing layer barns with four new layer barns to increase the total number of layers on the operation by approximately 1.1 million. No significant changes are proposed for the dairy operation. After the expansion is complete, the operation will house approximately 9,546 AEUs.

The draft permit amendment and existing permit are on file at the Southcentral Regional Office of the Department of Environmental Protection (Department).

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

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit amendment. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

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

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

PA0097667, Sewage, Imperial Business Parks, LP, 101 International Drive, Oakdale, PA 15071. This application is for renewal of an NPDES permit to discharge treated sewage from Imperial Business Parks STP in North Fayette Township, **Allegheny County**.

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

Outfall 001: existing discharge, design flow of 0.006 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0095621, Sewage, Ashville Borough, P. O. Box 165, Ashville, PA 16613. This application is for renewal of an NPDES permit to discharge treated sewage from Ashville Borough STP in Ashville Borough, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Clearfield Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Shawville Power Plant.

Outfall 001: existing discharge, design flow of 0.05 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)				
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0093840, Sewage, **Allegheny County Department of Parks**, 542 Forbes Avenue, Room 211, Pittsburgh, PA 15219. This application is for renewal of an NPDES permit to discharge treated sewage from Round Hill Park STP in Elizabeth Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Douglass Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority-McKeesport.

Outfall 001: existing discharge, design flow of 0.0035 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	6.5			13.0
(11-1 to 4-30)	19.5			39.0
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)				
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0093891, Sewage, **Deer Creek Drainage Basin Authority**, P. O. Box 148, 945 Little Deer Creek Valley Road, Russellton, PA 15976. This application is for renewal of an NPDES permit to discharge treated sewage from Hampshire Estates STP in West Deer Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Dawson Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Fox Chapel Water Authority.

Outfall 001: existing discharge, design flow of 0.04 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	5.0			10.0
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)				
Total Residual Chlorine	0.11			0.26
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0093211, Sewage, **Menallen Township Sewer Authority**, 427 Searights Hebert Road, Uniontown, PA 15401-5137. This application is for renewal of an NPDES permit to discharge treated sewage from Buffington Sewage Treatment Plant in Menallen Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Dunlap 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 Brownsville Water Company.

Outfall 001: existing discharge, design flow of 0.2 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	8.5	12.8		17.0
(11-1 to 4-30)	25.0	38.0		50.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0028223, Sewage, **Municipal Authority of the City of Corry**, 36 West Main Street, Corry, PA 16407. This existing facility is located in City of Corry, **Erie County**.

Description of existing Activity: Renewal of an existing NPDES permit to discharge treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Emlenton Water Company is located on the Allegheny River and is approximately 110 miles below point of discharge.

The receiving stream, Hare Creek, is in Watershed 16-B and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.5 mgd.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
CBOD ₅					
(5-1 to 10-31)	291	437	10	15	20
(11-1 to 4-30)	729	1,167	25	40	50
Total Suspended Solids	876	1,314	30	45	60
NH ₃ -N					
(5-1 to 10-31)	52		1.8		3.6
(11-1 to 4-30)	127		5.4		10.8
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a Geometric Average			
(10-1 to 4-30)		2,000/100 ml as a Geometric Average			
Total Phosphorus	XX		XX		XX
Total Copper	0.58	0.86	0.020	0.030	0.040
Total Residual Chlorine			0.4		1.2
Dissolved Oxygen			Minimum of 7.0 mg/l at all times		
pH			6.0 to 9.0 Standard Units at all times		

XX—Monitor and report on monthly DMRs.

The EPA waiver is not in effect.

Special Conditions:

1. CSOs.
2. Effluent Chlorine Optimization and Minimization.
3. WET Testing.
4. CSO-Related bypass authorization.
5. Stormwater outfall requirements (003 and 006—008).

PA0035289, Sewage, **Jack Berkovitz, d/b/a/ Imperial Development Company**, 6315 Forbes Avenue, Suite 123, Pittsburgh, PA 15217. This existing facility is located in Pine Township, **Mercer County**.

Description of Existing Activity: New NPDES permit to discharge treated sewage from an existing mobile home park.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Salvation Army Camp Allegheny is located on the Slippery Rock Creek and is approximately 24 miles below point of discharge.

The receiving stream, the UNT to Wolf Creek, is in Watershed 20-C and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0145 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	10.0		20
(11-1 to 4-30)	25.0		50
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	
Total Residual Chlorine	1.0		2.3
Dissolved Oxygen		minimum of 3.0 mg/l at all times	
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

WQM Permit No. 2209401, Sewerage, **Gratz Borough Municipal Authority**, P. O. Box 276, Gratz, PA 17030-0276. This proposed facility is located in Gratz Borough, **Dauphin County**.

Description of Proposed Action/Activity: Construction/Operation of new SBR wastewater treatment facility, to replace existing treatment facility, at existing site.

WQM Permit No. 3186401, Amendment 09-1, Sewerage, **Huntingdon Borough**, 530 West Washington Street, P. O. Box 592, Huntingdon, PA 16652-0592. This proposed facility is located in Smithfield Township, **Huntingdon County**.

Description of Proposed Action/Activity: Upgrades to the existing wastewater treatment facility.

WQM Permit No. 3808403, Sewerage, **HMS Host Corporation**, P. O. Box 8, Middletown, PA 17057. This proposed facility is located in South Londonderry Township, **Lebanon County**.

Description of Proposed Action/Activity: Replacement of treatment facilities.

WQM Permit No. 3685414, Amendment 09-1, Sewerage, **New Holland Borough**, 436 East Main Street, New Holland, PA 17557. This proposed facility is located in Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Improvements to their existing wastewater treatment plant to meet new Nitrogen NPDES limits.

WQM Permit No. 2809401, Sewerage, **Antrim Township Municipal Authority, Antrim Township Municipal Building**, 10655 Antrim Church Road, Greencastle, PA 17225. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Construction of 4,700 feet of gravity sewer with associated manholes and demolition of existing lift station No. 4.

WQM Permit No. 0771402, Amendment 09-1, Sewerage, **Borough of Tyrone**, 1100 Logan Avenue, Tyrone, PA 16686. This proposed facility is located in Snyder Township, **Blair County**.

Description of Proposed Action/Activity: Improvements to their existing wastewater treatment plant to meet the Pennsylvania Chesapeake Bay Tributary Strategy.

WQM Permit No. 3896403, Amendment 09-1, Sewerage, **City of Lebanon**, 2311 Ridgeview Road, Lebanon, PA 17042. This proposed facility is located in North Cornwall Township, **Lebanon County**.

Description of Proposed Action/Activity: Improvements to their existing wastewater treatment plant to meet the Pennsylvania Chesapeake Bay Tributary Strategy.

WQM Permit No. 3109401, Sewerage, **Spring Creek Joint Sewer Authority**, P. O. Box 373, Three Springs, PA 17264. This proposed facility is located in Clay Township, **Huntingdon County**.

Description of Proposed Action/Activity: Application for construction/operation of additions and alterations to the WWTF.

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

WQM Permit No. 2009402, Sewerage, **Amendment No. 1, Vernon Township Sanitary Authority**, 16678 McMath Avenue, Meadville, PA 16335. This proposed facility is located in Vernon Township, **Crawford County**.

Description of Proposed Action/Activity: The South Watson Run sewage treatment plant is proposing to correct an organic overload by replacement of the existing coarse bubble diffusers in the aeration tanks with fine bubble diffusers and requesting an organic loading rerating.

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>
PAI011509007	Wesley Sessa/Maureen Noonan 1226 Warwick Furnace Road Pottstown, PA 19465-8903	Chester	East Nantmeal Township	South Branch French Creek EV

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030609001	George C. Grampp 366 Landis Store Road Boyertown, PA 19512	Berks	District Township	UNT to Oysterville Creek EV
PAI034409001	Pennsylvania Electric Company 2800 Pottsville Pike P. O. Box 16001 Reading, PA 19612-6001	Mifflin	Oliver Township	UNT to Musser Run HQ-CWF
PAI036703003-1	Timothy Pasch 2645 Carnegie Road York, PA 17402	York	Windsor Township	Kreutz Creek WWF

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

Somerset County Conservation District, Somerset County Agriculture Center, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814) 445-4652.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055608005	The Buncher Company 1300 Penn Avenue Suite 300 Pittsburgh, PA 15222	Somerset	Jefferson Township	Kooser Run HQ-CWF

Central Office: Bureau of Abandoned Mine Reclamation, 400 Market Street, Floor 5, P. O. Box 8476, Harrisburg, PA 17105-8476.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI101009001	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311	Butler County	Muddy Creek Township	Bear Run to Muddy Creek HQ-CWF

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

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

**STATE CONSERVATION COMMISSION
NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

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

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Heckenluber's Turkey Farm 413 Heckenluber Road Biglerville, PA 17307	Adams	23	319	Turkey	NA	Renewal

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

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

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

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

The permit application and any related documents are on file at the office listed before the application and are

available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 3609501 , Public Water Supply.
Applicant P.C.S. Chandaga
Municipality Penn Township
County Lancaster
Responsible Official P.C.S. Chadaga 1300 Market Street Suite 201 P. O. Box 622 Lemoyne, PA 17043-0622
Type of Facility Public Water Supply

Consulting Engineer Charles A. Kehew II, P. E.
James R. Holley & Assoc., Inc.
18 South George Street
York, PA 17401

Application Received: January 20, 2009

Description of Action Installation of pressure filtration
at the Penn Valley MHP.

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

Application No. 4909501—Construction, Public Water Supply.

Applicant **Cherokee Pharmaceuticals, LLC**

Township or Borough Riverside Borough
County **Northumberland**

Responsible Official Justin D. Noll
Plant Manager
Cherokee Pharmaceuticals, LLC
P. O. Box 367
100 Avenue C
Riverside, PA 17868

Type of Facility Public Water
Supply—Construction

Consulting Engineer Dana Pizarro, P. E.
O'Brien and Gere Engineers, Inc.
512 East Township Line Road
Two Valley Square
Suite 120
Blue Bell, PA 19422

Application Received February 3, 2009

Description of Action Addition of new chemicals and
delivery equipment for TOC
removal.

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

Permit No. 0209502, Public Water Supply.

Applicant **Municipal Authority of the Borough of West View**
210 Perry Highway
Pittsburgh, PA 15229

Township or Borough Neville Township

Responsible Official Joseph A. Dinkel
Executive Director of Operations
Municipal Authority of the
Borough of West View
210 Perry Highway
Pittsburgh, PA 15229

Type of Facility Water treatment plant

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
P. O. Box 200
Indianola, PA 15051

Application Received Date February 2, 2009

Description of Action Construction of an anhydrous
ammonia feed system
(chloramination) at the
Authority's existing water
treatment plant.

Permit No. 0409501, Public Water Supply.

Applicant **Beaver Falls Municipal Authority**
1425 8th Avenue
P. O. Box 400
Beaver Falls, PA 15010

Township or Borough Marion, New Sewickley and
Rochester Townships
Beaver County
Rochester Borough
Beaver County
Zelienople Borough
Butler County

Responsible Official James Riggio
General Manager
Beaver Falls Municipal
Authority
1425 8th Avenue
P. O. Box 400
Beaver Falls, PA 15010

Type of Facility Pump station and waterline

Consulting Engineer Michael Baker Jr., Inc.
4301 Dutch Ridge Road
Beaver, PA 15009

Application Received Date February 2, 2009

Description of Action Construction of the Deer Lane
pump station and 10.75 miles of
transmission pipeline to supply
the Borough of Zelienople.

Permit No. 1109501, Public Water Supply.

Applicant **Jackson Township Water Authority**
2949 William Penn Avenue
Johnstown, PA 15909

Township or Borough Jackson Township

Responsible Official John Wallet, Secretary
Jackson Township Water
Authority
2949 William Penn Avenue
Johnstown, PA 15909

Type of Facility Water treatment system

Consulting Engineer Hegemann and Wray Consulting
Engineers
429 Park Avenue
Cresson, PA 16630

Application Received Date January 29, 2009

Description of Action Water system improvements
(Swigle Mountain Road) which
include a pumping facility
upgrade, a new 278,000 gallon
water storage tank and water
distribution main.

MINOR AMENDMENT

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

Application No. 6509501MA, Minor Amendment.

Applicant	Municipal Authority of Westmoreland County 124 Park and Pool Road New Stanton, PA 15672
Township or Borough	City of Greensburg
Responsible Official	Christopher Kerr Resident Manager Municipal Authority of Westmoreland County 124 Park and Pool Road New Stanton, PA 15672
Type of Facility	Water storage tank
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive Somerset, PA 15501
Application Received Date	February 4, 2009
Description of Action	Cleaning and painting of the Cabin Hill water storage tank.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific

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

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Colondale at Schenksville, Borough of Schwenksville, **Montgomery County**. Kelly Lee Kinkaid, P. G., Liberty Environmental, Inc., 50 North 5th Street, 5th Floor, Reading, PA 19601, Ron Gardner, The Colondale, LLC, 300 Perkiomen Avenue, Schwenksville, PA 19473 on behalf of Joseph Cimerola, The Colondale, LLC, 300 Perkiomen Avenue, Schwenksville, PA 19473 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by the release of No. 4 fuel oil. The property currently operates as a senior assisted living and memory care center and is intended to continue to be used in this matter.

Baker Petrolite Eddystone, Eddystone Borough, **Delaware County**. Steven Gerritsen, SE Technologies, LLC, 98 Vanadium Road, Bridgeville, PA 15017 on behalf of Lacy Rosson, Baker Petrolite Corporation, 12645 West Airport Boulevard, Sugarland, TX 77478 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of other organics. Land use and zoning within the site area is industrial and property use will remain industrial into the foreseeable future.

Pete's Express Car Wash, East Norriton Township, **Montgomery County**. Richard Werner, Environmental Consulting, Inc., East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Peter Altriner, Stonycreek Partners, LP, 500 West Lancaster Avenue, Strafford, PA 19087 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by the release of leaded gasoline. The present day use is an automated car wash facilities know as Pete's Express Car Wash. A summary of the Notice of Intent to Remediate was reported to have been published in the *Montgomery Life* on January 16, 2009.

MUNICIPAL WASTE GENERAL PERMITS

Applications Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM040. Tully Environmental, Inc., 127-50 Northern Boulevard, Flushing, NY 11368-1520.

The Department of Environmental Protection (Department), Bureau of Waste Management has received an application for General Permit Number WMGM040. The application is for the processing of sewage sludge, generated by municipal sewage collection and treatment systems or treatment works, by lime-stabilization for land application for reclamation purposes. The Department determined the application to be administratively complete on February 6, 2009.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in obtaining more information about the general permit application may contact the Division at (717) 787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

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

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 No. 39-318-118: American Atelier, Inc. (301 North Front Street, Allentown, PA 18102) for their facility in Allentown, **Lehigh 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 American Atelier, Incorporated (301 North Front Street, Allentown, PA 18102) for their facility in Allentown, Lehigh County. The facility currently has a State-only permit No. 39-00082. This Plan Approval No. 39-318-118 will be incorporated into the companies Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 39-318-118 is for the relocation of their existing facility to a new location located on 2132 Downyflake Lane in Allentown. The company wants move and replace some of the old booths with new booths. VOC emissions from the plant will remain under 50 tpy threshold limit, 12-month rolling sum. Particulate emissions will not exceed 0.02 gr/dscf. The company shall be subject to and comply with 25 Pa. Code § 129.52 for VOC emission limits. The company shall be subject to and comply with 25 Pa. Code §§ 129.101—129.107. 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 a dry filters. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating re-

restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, 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 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.: 39-318-118.

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. The 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.

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

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

40-399-063: Acton Industries (100 Thompson Street, Pittston, PA 18640) for installation of a new wet etch film line at their facility in Jenkins Township, **Luzerne County**.

40-302-172: SCI Dallas (1000 Follies Road, Dallas, PA 18612) for modification of their existing boilers at their facility in Jackson Township, **Luzerne County**.

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

24-161B: Greentree Landfill Gas Company, LLC (Tower Road, Brockway, PA 15824) for construction of two natural gas compressor engines to replace the existing two compressor engines for boosting natural gas production into the custody transfer point in Horton Township, **Elk County**. This is a State-only facility.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

40-317-032A: Mission Foods—GRUMA Corp. (15 Elmwood Avenue, Mountaintop, PA 18707) for modification and operation of snack processing operations at their facility in Wright Township, **Luzerne County**. The chip line consists of a three pass toaster oven, the fryer and a recuperative oxidizer to control emissions from the frying operation. The company has requested to modify operating permit condition related to recuperative oxidizer. The company has requested to change the operating temperature of oxidizer from a minimum of 1,400° F to 1,100° F. The main purpose of oxidizer is to remove oily mist and associated odor generated during frying operations and to maintain frying oil temperature at a desired level. Expected total PM and VOCs emissions will be 0.1 tpy and 0.56 tpy respectively from the oxidizer. The company will operate the facility and maintain the sources in accordance with the good engineering practices to assure proper operation of sources. 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.

48-310-078: Haines & Kibblehouse, Inc.—A. B. E. Materials—Easton (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) for construction and operation of a particle separation box and baghouse at its facility in Lower Mount Bethel Township, **Northampton County**. This facility is not a Title V facility. The company will install the separation equipment with baghouse and wet suppression system to control emission into the atmosphere. The facilities main emissions are PM. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations within all applicable air quality requirements.

48-302-104: Reliant Energy Mid-Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317-7625) for installation of a test control device on each of the two main boilers (Units 1 and 2) at the Portland Generating Station in Upper Mt. Bethel Township, **Northampton County**. The installation includes an adsorbent (activated carbon) injection system on each boiler for the control of mercury emissions. The system will include a storage silo and pneumatic conveying lines. The boilers are subject to the Department of Environmental Protection's (Department) mercury reduction regulations that become effective January 1, 2010. The plan approval will include monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements. The facility is currently covered by the Title V Operating Permit No. 48-00006. The parts of the plan approval, which Reliant and the Department determine are required to achieve the mercury reductions required by Chapter 123, will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

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

67-03153A: Keener Coatings, Inc. (3711 Board Road, York, PA 17406) for construction of two coating booths at their facility in Manchester Township, **York County**. The operation of both coating booths is estimated to increase VOCs and HAPs by less than 22 tons and 10 tpy,

respectively. The plan approval will include monitoring, work practice standards, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

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

17-00001D: Reliant Energy Mid-Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) for installation of activated carbon injection (ACI) systems on all four utility boilers, a flue gas desulfurization (FGD) system and associated fabric collector on the combined exhaust of boilers 3 and 4, and construction of associated material handling sources and installation of associated fabric collectors at their Shawville Plant in Bradford Township, **Clearfield County**. This facility, following the proposed construction and installation, will remain as a major facility for air contaminant emissions. The proposed construction and installation is subject to the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12. This project will emit up to 2.83 tons of PM, 0.90 ton of PM10 in any 12-consecutive month period.

This proposed project is not subject to PSD requirements. However, since exit velocity and exit temperature for the main stacks would change due to the proposed project, Reliant has submitted modeling in order to show that the proposed project would not cause a National Ambient Air Quality Standard (NAAQS) to be exceeded. The modeling analysis utilized AERMOD (version 07026). AERMOD was listed as a preferred model in 40 CFR Part 51, Appendix W (Guideline on Air Quality Models) on November 9, 2005. As of December 9, 2006, AERMOD is fully promulgated as a replacement to ISC3, in accordance with CFR Part 51, Appendix W. The air quality modeling analysis estimates that the proposed project will not cause air pollution in violation of the CO, NO₂, PM10 or SO₂ NAAQS.

The Department of Environmental Protection's (Department) review of the information provided by Reliant indicates that the sources at the facility will comply with all air quality requirements, including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12 pertaining to air contamination sources and the emission of air contaminants. Based on this finding, the Department intends to issue a plan approval for the proposed construction, installation, and operation of the sources and control devices. Additionally, if the Department determines that the proposed sources and the air cleaning devices are operating in compliance with the plan approval conditions, the conditions established in the plan approval will be incorporated into the Title V operating permit via an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements.

1. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the ACI system storage silo shall be controlled by a Griffin (or equivalent*) model 54-LS (or equivalent*) fabric collector.

* Any equivalent make or model fabric collector shall be designed in accordance with the specifications included in the plan approval application. The permittee shall submit to the Department for approval the specific make and model of the fabric collector within 30 days of issuing

the purchase order for the fabric collector by submitting the appropriate pages of the plan approval application.

2. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the FGD system shall be controlled as follows:

Lime storage silo—Griffin (or equivalent*) model 54-LS (or equivalent*) fabric collector

Flyash recycle day bin—R. Smith/S & L fabric collector

Flyash recycle day bin vacuum system—R. Smith/S&L fabric collector

Flyash/FGD waste storage silo—R. Smith/S & L fabric collector

Flyash/FGD waste vacuum system—R. Smith/S & L fabric collector

* Any equivalent make or model fabric collector shall be designed in accordance with the specifications included in the plan approval application. The permittee shall submit to the Department for approval the specific make and model of the fabric collector within 30 days of issuing the purchase order for the fabric collector by submitting the appropriate pages of the plan approval application.

3. Upon installation and operation of the FGD system, the air contaminant emissions from boilers 3 and 4 and any additional air contaminants in the boilers' flue gas resulting from the FGD system shall be controlled by a Babcock and Wilcox (or equivalent*) fabric collector.

* Any equivalent make or model fabric collector shall be designed in accordance with the specifications included in the plan approval application. The permittee shall submit to the Department for approval the specific make and model of the fabric collector within 30 days of issuing the purchase order for the fabric collector by submitting the appropriate pages of the plan approval application.

4. Under 40 CFR 52.21(b)(3)(vi) and 25 Pa. Code § 127.207, upon installation and operation of the FGD system, the total combined PM and PM10 emissions from all four boilers shall not exceed 682.6 tons and 517.3 tons, respectively, in any 12-consecutive month period.

5. Under 25 Pa. Code §§ 131.2 and 131.3 and 40 CFR 50.6, upon installation and operation of the FGD system, the total combined emission of CO from boilers 1 and 2 shall not exceed 0.020 pound per million Btu in any one hour block average period.

6. Under 25 Pa. Code §§ 131.2 and 131.3 and 40 CFR 50.6, upon installation and operation of the FGD system, the total combined emission of CO from boilers 3 and 4 shall not exceed 0.020 pound per million Btu in any one hour block average period.

7. Under 25 Pa. Code §§ 131.2 and 131.3 and 40 CFR 50.4 and 50.5, upon installation and operation of the FGD system, the total combined emission of SO_x from boilers 3 and 4 shall not exceed 2.2 pounds per million Btu in any three hour block average period.

8. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the PM concentration from the ACI system storage silo exhaust shall not exceed 0.01 gr/dscf.

9. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the PM concentration from each FGD system exhaust shall not exceed 0.01 gr/dscf.

10. Under 25 Pa. Code § 123.1 and the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall keep and maintain an operable water truck onsite to water the roadways and disposal area associated with the

ACI system and FGD system. For paved roadways, the water truck shall flush and sweep or vacuum the roadways. Watering/cleaning shall be performed to prevent PM from becoming airborne and shall be sufficient to ensure compliance with the requirements of 25 Pa. Code § 123.1. In addition, the permittee shall implement any effective winterization measures necessary to render this water truck capable of use under all weather conditions.

11. The permittee shall keep on hand a quantity of spare fabric collector bags of at least 20% of the fabric collectors' capacities in order to be able to immediately replace any bags requiring replacement due to deterioration.

12. The air compressors supplying air to the fabric collectors shall be equipped with an air dryer and oil trap.

13. The permittee shall inspect each fabric collector on at least a semi-annually basis. In addition, the permittee shall perform maintenance as necessary.

14. The permittee shall keep records of the date and time of each watering/cleaning of roadways and the disposal area. These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

15. The permittee shall keep records of the results of each semi-annual inspection of each fabric collector. In addition, the records shall include all maintenance actions performed. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

16. The permittee shall install and maintain instrumentation to continuously and accurately measure the pressure drop across each fabric collector and the actual pressure drop shall be displayed on a continuous basis.

17. The permittee shall keep records of the pressure drop across each fabric collector at least once each week, and shall record the corrective actions taken if the pressure drop is outside the fabric collector's designed pressure range. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

18. The permittee shall keep records of the supporting calculations on a monthly basis for PM and PM10 emissions from all four boilers to verify compliance with the PM and PM10 emission limitations in any 12-consecutive month period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

19. The permittee shall keep records of the supporting calculations on a monthly basis for the CO emissions from boilers 1 and 2 to verify compliance with the CO emissions limitations in any 1 hour block average period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

20. The permittee shall keep records of the supporting calculations on a monthly basis for the CO emissions from boilers 3 and 4 to verify compliance with the CO emissions limitations in any 1 hour block average period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

21. The permittee shall keep records of the supporting calculations on a monthly basis for the SO_x emissions from boilers 3 and 4 to verify compliance with the SO_x

emissions limitations in any 3 hour block average period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

22. The permittee shall submit reports to the Department on a semi-annual basis that include the supporting calculations to verify compliance with the PM and PM10 emissions limitations for all four boilers in any 12-consecutive month period. The semi-annual reports shall be submitted to the Department no later than March 1 (for January 1 through December 31 of the previous year) and September 1 (for July 1 of the previous year through June 30 of the current year).

23. Under 25 Pa. Code §§ 131.2 and 131.3 and 40 CFR 50.6, upon installation of the FGD system, the velocity of the flue gas exiting the stack associated with boilers 1 and 2 shall not go below the following levels.

Up to 50% boiler capacity, 84.6 feet per second

50% up to 75% boiler capacity, 114.8 feet per second

75% up to 100% boiler capacity, 128.6 feet per second

24. Under 25 Pa. Code §§ 131.2 and 131.3 and 40 CFR 50.6, upon installation of the FGD system, the velocity of the flue gas exiting the stack associated with boilers 3 and 4 shall not go below the following levels.

Up to 50% boiler capacity, 45.6 feet per second

50% up to 75% boiler capacity, 59.4 feet per second

75% up to 100% boiler capacity, 68.9 feet per second

25. Under 25 Pa. Code §§ 131.2 and 131.3 and 40 CFR 50.6, upon installation of the FGD system, the temperature of the flue gas exiting the stack associated with boilers 3 and 4 shall not go below 160° F.

26. Upon installation of the FGD system, the permittee shall install and maintain instrumentation to continuously and accurately measure the stack flue gas velocity of each stack associated with the boilers and the actual velocity shall be displayed on a continuous basis.

27. Upon installation of the FGD system, the permittee shall install and maintain instrumentation to continuously and accurately measure the stack flue gas temperature of the stack associated with boilers 3 and 4 and the actual temperature shall be displayed on a continuous basis.

28. Upon installation of the FGD system, the permittee shall keep records of the velocity of each stack flue gas associated with the boilers at least once each week. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

29. Upon installation of the FGD system, the permittee shall keep records of the temperature of the stack flue gas associated with boilers 3 and 4 at least once each week. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

30. No physical changes shall be made to the continuous emission monitoring systems associated with the boilers without the permittee first having received written approval for the change from the Department.

31. The conditions contained in Plan Approval 17-00001C and Title V operating permit TVOP 17-00001 remain in effect unless superseded or amended by conditions contained in this plan approval (17-00001D). If there is a conflict between a condition contained in this plan approval and a condition contained in Plan Approval

17-00001C or Title V operating permit TVOP 17-00001, the permittee shall comply with the condition contained in this plan approval.

Copies of the application and the modeling analysis used in the evaluation of the application are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling Kathy Arndt at (570) 327-3693.

Interested persons may submit written comments, suggestions to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period should include the name, address and telephone number of the commentator, identification of proposed Plan Approval 17-00001D and a concise statement regarding the relevancy of the information or objections to the issuance of the plan approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, where the Department determines that notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact the Department or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

26-00451E: Consol Docks, Inc. (1000 Consol Energy Drive, Canonsburg, PA 15317-6506) for construction of on-ground stockpiling, recovery and transfer equipment (Phase II) at Alicia Coal Transshipment facility in Luzerne Township, **Fayette County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, notice is hereby given that the Department of Environmental Protection (Department) intends to issue Plan Approval PA- 26-00451E to allow the construction of onground stockpiling, recovery and transfer equipment (Phase II) at Alicia Coal Transshipment facility located in Luzerne Township, Fayette County.

Emissions from the facility are estimated to be 20.28 tons of PM10 per year. The proposed facility is subject to the applicable requirements of 25 Pa. Code Chapter 127, related to construction, modification, reactivation and operation of sources. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

Special Conditions

1. This Plan Approval authorizes the construction of a new onground stockpiling, reclaim and transfer system and a new barge unloading system at the existing Alicia Transshipment Facility in Luzerne Township, Fayette

County. The stockpile system will consist of two transfer conveyors, two concrete stacking tubes, one coal stockpile, two sets of vibratory underground reclaim feeders and one reclaim conveyor. The barge unloading system will consist of a barge unloading crane with clamshell bucket, a bin with feeder and a barge transfer conveyor. This Plan Approval authorizes the owner/operator the allowable throughput of 12,500,000 tpy through this facility.

2. Per 25 Pa. Code § 123.1(a), there shall be no visible fugitive emissions from this facility at any time, except those that are a direct result of stockpiling or use of roads. Per 25 Pa. Code § 123.1(c), permittee shall take all reasonable actions to prevent PM arising from stockpiling or use of roads from becoming airborne. Per 25 Pa. Code § 123.2, visible fugitive emissions shall not cross permittee's property line at any time.

3. A road sweeper and/or a pressurized water truck shall be available to the site and shall be used for dust suppression purposes. In-plant roads and areas of vehicle traffic shall be watered, as needed on a preventative basis, and earth or other material transported from the site shall be removed promptly such that visible fugitive emissions do not cross the property line in accordance with 25 Pa. Code §§ 123.1 and 123.2. Other methods of dust control shall be used when weather conditions make in-plant road watering hazardous, as necessary, to prevent visible fugitive emissions from crossing the property line in accordance with 25 Pa. Code §§ 123.1 and 123.2.

4. The conveying equipment and front-end loaders used to stockpile, transfer and load coal shall maintain a minimal amount of drop height at all times so as to prevent fugitive emissions. The use of heavy equipment (such as, high-lifts, bulldozers, and the like) to move coal shall be limited to clean up around the underground feeders.

5. The coal transfer points and conveyors shall be fully enclosed.

6. Water sprays shall be installed on all transfer points, and stockpile and be operated as needed when the facility is in operation. The plant shall not be operated in the event that the dust suppression systems are incapable of operation, unless coal moisture content makes operation of water sprays unnecessary.

7. The Owner/Operator shall use existing or man-made wind barriers, where possible, to prevent fugitive emissions from crossing the property line.

8. The first 500 feet inplant roads shall be paved and maintained so as to prevent fugitive emissions from crossing the property line.

9. The Owner/Operator shall post the following:

10. A speed limit of 15 mph or less on all inplant roads.

11. A requirement stating, "All loaded trucks entering or exiting the plant property shall be properly tarpaulin covered."

12. Coal stockpiling operations shall occur in those areas delineated in the site plan from which coal can be reclaimed through the underground feeders and which are within the effective range of the fixed water spray heads.

13. The Department may require additional controls and/or practices based on evaluation of the operation after start-up.

14. A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodors are

detectable outside the property of the person on whose land the source is being operated.

15. Owner/operator shall perform a daily inspection of the facility for the presence of fugitive or malodorous emissions. If such emissions are noted, immediate actions shall be taken to correct them.

16. Owner/operator shall maintain records of all malodor, fugitive and visible emissions inspections performed. Records shall include date, time, name and title of the observer, whether malodor, fugitive and visible emissions were observed and any corrective action was taken. Records shall be maintained onsite for a minimum of 5 years.

17. The Owner/Operator shall maintain records of the 12-month rolling total or the following:

18. Tons of coal delivered to the Facility.

19. Tons of coal shipped from the Facility.

20. The records shall be maintained onsite for a minimum of 5 years, and shall be made available to the Department upon request.

21. The permittee shall report each malfunction that may result in an emissions increase to the Department. For purposes of this condition a malfunction is defined as any sudden, infrequent, and not reasonably preventable failure of air pollution control or process equipment; or, operating in a nonpermitted manner.

22. When the malfunction poses an imminent and substantial danger to the public's health and safety or potential harm to the environment, the permittee shall report the incident to the Department within 1 hour.

23. The report shall describe the:

24. Name and location of the facility;

25. Nature and cause of the malfunction;

26. Time when the malfunction or breakdown was first observed;

27. Expected duration of excess emissions; and

28. Estimated rate of emissions.

29. The owner or operator shall notify the Department immediately when corrective measures have been accomplished.

30. Unless otherwise required by specific reporting requirements, any malfunction that is not subject to the notice requirements of paragraph a of this permit condition, shall be reported to the Department within 24 hours (or the next business day) by telephone and within 5 days by mail of discovery. The report shall contain the same information required by subsection b.1-5.

31. Upon determination by the Owner/Operator that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection.

32. Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall submit a State-only Operating Permit application at least 60 days prior to the expiration date of the Plan Approval.

33. Coal will neither be delivered to nor shipped from the facility by truck under normal operations. The De-

partment may authorize limited trucking operations in emergencies on a case-by-case basis.

34. Coal stockpiling operations shall occur in those areas delineated in the site plan (Drawing No. PER-402A) from which coal can be reclaimed through the underground feeders and which are with the effective range of the fixed water spray heads.

35. If the construction is not commenced within 18-months of issuance of this Plan Approval, or if there is more than an 18-month lapse in construction, a new Plan Approval application shall be submitted.

General Conditions

36. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA).

37. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority.

38. This plan approval authorizes temporary operation of the sources covered by this plan approval provided the following conditions are met.

39. When construction, installation, modification or re-activation is being conducted, the permittee should provide written notice to the Department of the completion of the activity approved by this plan approval and the permittee's intent to commence operation at least 5 working days prior to the completion of said activity. The notice shall state when the activity will be completed and when the permittee expects to commence operation. When the activity involves multiple sources on different time schedules, notice is required for the commencement of operation of each source.

40. Under 25 Pa. Code § 127.12b(d), temporary operation of the sources to facilitate the shakedown of sources and air cleaning devices, to permit operations pending the issuance of a permit under 25 Pa. Code Chapter 127, Subchapter F or G (relating to operating permits; and Title V operating permits) or to permit the evaluation of the air contaminant aspects of the source.

41. This plan approval authorizes a temporary operation period not to exceed 180 days from the date of commencement of operation, provided the Department receives notice from the permittee under paragraph (a), previously.

42. The permittee may request an extension of the 180-day shakedown period if further evaluation of the air contamination aspects of the sources is necessary. The request for an extension should be submitted, in writing, to the Department at least 15 days prior to the end of the initial 180-day shakedown period and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance, and the reasons compliance has not been established. This temporary operation period will be valid for a limited time and may be extended for additional limited periods, each not to exceed 180-days.

43. The notice submitted by the permittee under subpart a, prior to the expiration date of the plan approval, shall modify the plan approval expiration date on page 1

of this plan approval. The new plan approval expiration date shall be 180 days from the date of commencement of operation.

44. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department.

45. The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in paragraph a. of this condition.

46. Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act.

47. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval. Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

48. If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for departmental action, a request for the extension should be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension should include the following:

49. A justification for the extension,

50. A schedule for the completion of the construction.

If construction has not commenced before the expiration of this plan approval, then a new plan approval application must be submitted and approval obtained before construction can commence.

51. If the construction, modification or installation is not commenced within 18-months of the issuance of this plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (related to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted.

52. This plan approval may not be transferred from one person to another except when a change of ownership is demonstrated to the satisfaction of the Department and the Department approves the transfer of the plan approval in writing.

53. Section 127.12a (relating to compliance review) applies to a request for transfer of a plan approval. A compliance review form shall accompany the request.

54. This plan approval is valid only for the specific source and the specific location of the source as described in the application.

55. Under 35 P.S. § 4008, no person shall hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty authorized under the APCA.

56. The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

57. Nothing in this plan approval condition shall limit the ability of the Environmental Protection Agency (EPA) to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA.

58. This plan approval may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

59. The permittee constructs or operates the source subject to the plan approval in violation of the act, the CAA, the regulations promulgated under the act or the CAA, a plan approval or permit or in a manner that causes air pollution.

60. The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

61. The permittee fails to submit a report required by this plan approval.

62. The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder.

63. The permittee, or any other person, may not circumvent the new source review requirements of 25 Pa. Code Chapter 127, Subchapter E by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.

64. No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors.

65. Reports, test data, monitoring data, notifications shall be submitted to the:

Regional Air Program Manager
Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222

66. If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Noor Nahar, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA, 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

The comments must be received prior to the close of business 30 days after the date of this publication.

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

42-174F: Rustick, LLC—McKean County Landfill (19 Ness Lane, Kane, PA 16735) for expansion of the landfill (cells 10—19) in Sergeant Township, **McKean County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. 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. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

- Annually, the permittee shall calculate the year-end gas generation rate in accordance with 40 CFR 60.755(a)(1)(ii) using known year-to-year solid waste acceptance rates. Also, the permittee shall estimate the next year-end gas generation rate using projected solid waste acceptance rates. The permittee shall compare both rates to the installed control devices maximum gas capacity. The permittee shall submit a report containing the calculated year-end and the estimated next year-end gas generation rates by June 30 until such time as the plan approval for the next control device has been submitted. This report may be submitted as part of the Solid Waste Annual Operating Report; however, a copy needs to go to Air Quality. Once the calculated year-end or the estimated next year-end gas generation rate exceeds 80% of the existing control devices maximum gas capacity from the report due June 30, the permittee shall submit a new plan approval application, within 60-days of the report above, for installation of an additional control device that will control LFG above the permitted capacity as stipulated under this plan approval (2,050 cfm).

- A completed plan approval application shall be submitted no later than June 30, 2013, which correlates to when the facility should achieve greater than 80% of the permitted flare capacity of 2,050 cfm (> 1,640 cfm). Also if the calculated LFG generation rate is less than 70% of the permitted flare capacity, then the submittal date maybe extended by 1 year.

- The facility shall have in place approved additional control devices prior to the landfill exceeding its currently permitted flare capacity of 2,050 cfm. Currently this projected compliance date is December 31, 2014.

- The applicable conditions from the Title V Operating Permit 42-00174 issued on October 10, 2007, for the landfill and the flares (550 cfm enclosed and 1,500 cfm enclosed) shall remain applicable to the existing landfill and its expansion.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 08218: Growmark, Inc. (Pier 122 South, Philadelphia, PA 19148) for installation of a 2 million tpy dry bulk materials handling process in the City of Philadelphia, **Philadelphia County**. The process includes a Barge Unloading Station, a Receiving Hopper for Truck Loading, a Transfer Tower/Elevator, Material Conveyance and Dry Bulk Storage Piles. The process will have potential PM10 emissions of 13.3 tpy. The plan approval will contain operating, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

AMS 09006: Naval Support Activity (700 Robins Avenue, Philadelphia, PA 19111-5098 to replace to two existing boilers with two 32.65 mmBtu/hr Cleaver Brooks boilers firing No. 6 oil/natural gas in the City of Philadelphia, **Philadelphia County**. The new boilers will have the following combined potential annual emissions: 67 tons of CO, 28.61 tons of PM. The Facility will be limited to less than 25 tons of NOx and 100 tons of SOx emissions per year. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

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

48-00091: PPL Generation—PPL Lower Mount Bethel Energy, LLC (6079 DePues Ferry Road, Bangor, PA 18013) for operation of two natural gas-fired, combined cycle electric generating turbines at their facility in Lower Mount Bethel Township, **Northampton County**. This facility is currently operating under Operating Permit 48-328-004A. The permit requirements shall be included in the new Title V 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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

17-00001: Reliant Energy, Mid-Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) for renewal of their Title IV Phase II, acid rain permit for their Shawville electric generating station in Bradford Township, **Clearfield County**. This Title V facility is subject to the Acid Rain Requirements of Title IV of the Federal Clean Air Act and 25 Pa. Code § 127.531. Phase II is a continuation of the

Acid Rain Program and it became effective on January 1, 2000, for SO₂ and NO_x. The proposed Title IV Phase II, renewal permit will be valid from January 1, 2008, through December 31, 2012. The Title IV Phase II permit establishes SO_x allowances for the station's four utility boilers. It also includes NO_x alternative contemporaneous annual emission limitations of 0.524 lb/mmBtu of heat input for boiler No. 1, 0.542 lb/mmBtu for boiler No. 2, and 0.45 lb/mmBtu of heat input for boilers Nos. 3 and 4, as part of the Phase II NO_x averaging plan, under 40 CFR 76.11, to average the NO_x emissions with two units from the Portland, PA plant (Northeast Region), all four units at the Shawville, PA plant and three units at the Titus, PA plant (Southcentral Region). The Reliant representative to contact regarding this operating permit is Joseph DeGangi, Director—PJM East Operations, Reliant Energy Mid-Atlantic Power Holdings, LLC, 121 Champion Way, Suite 200, Canonsburg, PA 15317.

Intent to Issue Operating Permits 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.

40-00048: Reading Materials, Inc. (2052 Lucon Road, Skippack, PA 19474) for operation of a rock crushing operation and associated air cleaning devices at their Pikes Creek Crushing Plant in Leman Township, **Luzerne County**. This action is a renewal of the State-only (Natural 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.

40-00053: Barletta Materials and Construction, Inc. (P. O. Box 550, Tamaqua, PA 18252) for operation of a batch asphalt plant and associated air cleaning devices at their facility in Hazle Township, **Luzerne 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.

40-00101: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104) for operation of a batch asphalt plant and associated air cleaning devices at their facility in Jenkins Township, **Luzerne County**. This action is to issue a 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.

40-00108: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104) for operation of for operation of a rock crushing operation and associated air cleaning devices at their facility in Jenkins Township, **Luzerne County**. This action is a renewal of the State-only (Natural 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.

45-00019: Haines and Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) for operation of a rock crushing operation and associated air cleaning devices at their

Locust Ridge Quarry in Tobyhanna Township, **Monroe County**. This action is a renewal of the State-only (Natural 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.

52-00002: Eureka Stone Quarry, Inc. (P. O. Box 249, Chalfont, PA 18914) for operation of a rock crushing operation and batch asphalt plant with associated air cleaning devices at their facility in Milford Borough, **Pike 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.

64-00013: Leeward Asphalt, LLC (2052 Lucon Road, Skippack, PA 19474) for operation a batch asphalt plant and associated air cleaning devices at their facility in Palmyra Township, **Wayne County**. This facility is currently operating under Operating Permit 64-303-009. The permit requirements shall be included in the new State-only (Natural 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.

64-00014: Reading Materials, Inc. (2052 Lucon Road, Skippack, PA 19474) for operation of a rock crushing operation and associated air cleaning devices at their Atkinson Materials facility in Palmyra Township, **Wayne County**. This facility is currently operating under Operating Permit 64-310-013. The permit requirements shall be included in the new State-only (Natural 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.

66-00005: Reading Materials, Inc. (2052 Lucon Road, Skippack, PA 19474) for operation of a rock crushing operation and associated air cleaning devices at their Hilltop Quarry in Falls Township, **Wyoming County**. This facility is currently operating under Operating Permit 66-310-004A. The permit requirements shall be included in the new State-only (Natural 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.

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

41-00058: Charles Construction Co. (838 East Central Avenue, Jersey Shore, PA 17740) for their Jersey Shore Asphalt Plant in the Limestone Township, **Lycoming County**. The facility's main sources include one asphalt furnace, two heaters, four aboveground storage tanks with a liquid capacity greater than 2,000 gallons, one drum-mix asphalt plant. The facility has the potential to emit PM₁₀, NO_x, CO, VOCs and combined and individual HAPs emissions below the major thresholds. The facility has taken a synthetic minor restriction to limit the SO_x emissions below the major threshold. The proposed 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, New Source Review Chief, (814) 332-6940.

10-00107: Napco Incorporated—Valencia (125 McFann Road, Valencia, PA 16059) to issue a renewal of the State-only Synthetic Minor Operating Permit for the facility which coats metal coils used for architectural metal in Middlesex Township, **Butler County**. The primary processes at the facility are space heaters, tank heaters, primary and finish applications, conversion coating, lime handling and a maintenance degreaser. The VOC emissions from the coating operations are limited to 9 lbs/hr and 39.42 tpy. The facility individual HAP emissions are limited to 9.9 tpy and the combined HAP emissions are limited to 24.9 tpy. The VOC and HAP emissions from the coating process (including the drying ovens and quench process for each line) are controlled by a thermal oxidizer.

25-00946: PSB Industries, Inc. (1202 West 12th Street, Erie, PA 16501) for re-issuance of the Natural Minor Operating Permit for operation of their facility's air contamination sources consisting of: 5.6 mmBtu/hr Miscellaneous Natural Gas Space Heaters, Sand Blast Booth, Glass Bead Blast Room, Paint Booth for surface coating metal products and two parts washers in the City of Erie, **Erie County**.

42-00197: Atlas Pipeline McKean, Inc.—Irishtown Plant (309 San Road, Lewis Run, PA 16738) for re-issuance of the Natural Minor Operating Permit for operation of their facility's air contamination sources consisting of: a 275 mmBtu/hr natural gas Reboiler, two 384 hp Compressor Engines, one 272 hp compressor engine and one 425 hp compressor engine in the Township of Lafayette, **McKean County**. The facility is subject to 40 CFR Part 60, subpart KKK and subpart VV pertaining to VOC equipment leak check.

42-00181: Elkhorn Gas Processing, LLC (P. O. Box 60B, Kinuza Road, Warren, PA 16365) for issuance of a Natural Minor Operating Permit for the Lewis Run Facility in Bradford Township, **McKean County**. The primary activity at this site is the operation of a natural gas processing plant. The facility's primary emission sources include an oil medium heater, two natural gas fired compressor engine, a glycol regenerator (Dehydrator), equipment leaks (VOC emissions) and product storage tanks and loading.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401

Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department

at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the

request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

32990109 and NPDES Permit No. PA0235148. Bedrock Mines, LP, 111 Freeport Road, Pittsburgh, PA 15215, transfer of an existing bituminous surface and auger mine from Walter L. Houser Coal Co., Inc. located in Washington Township, **Indiana County** affecting 59.9 acres. Receiving streams: UNTs to/and Sugarcamp Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 2, 2009.

32020105 and NPDES Permit No. N/A. T & D Kraynak Mining Corp., 3266 Firetower Road, Mahaffey, PA 15757, renewal of Coal Permit, Grant and Green Townships, **Indiana County**. Receiving streams: Little Mahoning Creek and tributaries to Little Mahoning Creek, classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 2, 2009.

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

03040101 and NPDES Permit No. PA0250597. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Renewal application for reclamation only of a bituminous surface mine, located in Gilpin Township, **Armstrong County**, affecting 62.1 acres. Receiving streams: UNTs to Allegheny River, classified for the

following use: WWF. The potable water supply intake within 10 miles downstream from the point of discharge is Freeport Water Company. Renewal application received January 29, 2009.

03090101 and NPDES Permit No. PA0251277. TRI-R, Inc. (P. O. Box 627, Clarion, PA 16214-0627). Application for commencement, operation and reclamation of a bituminous surface mine, located in Madison Township, **Armstrong County**, affecting 117.2 acres. Receiving streams: Redbank Creek and UNTs to Redbank Creek, classified for the following use: TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received January 29, 2009.

03803044 and NPDES Permit No. PA0126375. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Renewal application for continued operation and reclamation of an existing bituminous surface mine, located in East Franklin Township, **Armstrong County**, affecting 97.9 acres. Receiving stream: UNT to Limestone Run, classified for the following use: WWF. The potable water supply intake within 10 miles downstream from the point of discharge is West Penn Water Company. Renewal application received February 3, 2009.

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

17090102 and NPDES No. PA0257052. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Commencement, operation and restoration of a bituminous surface auger, blasting mine in Decatur Township, **Clearfield County**, affecting 259.4 acres. Receiving streams: Little Laurel Run, UNTs to Little Laurel Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 23, 2009.

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

54830207R5. Blaschak Coal Corp., (P. O. Box 12, Mahanoy City, PA 17948), renewal of an existing anthracite coal refuse reprocessing, refuse disposal and preparation plant operation in Mahanoy Township, **Schuylkill County** affecting 280.0 acres, receiving stream: none. Application received January 29, 2009.

54820203R5 and NPDES Permit No. PA0612286. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), renewal of an existing anthracite coal refuse reprocessing operation for reclamation activities only in Hegins and Porter Townships, **Schuylkill County** affecting 200.0 acres, receiving stream: East Branch Rausch Creek. Application received February 4, 2009.

54830101R5 and NPDES Permit No. PA0595624. K & K Coal Company, (133 Valley Furnace Avenue, Port Carbon, PA 17965), renewal of an existing anthracite surface mine and coal refuse disposal operation in Blythe Township, **Schuylkill County** affecting 176.0 acres, receiving stream: UNT to Schuylkill River. Application received February 4, 2009.

54870101R4 and NPDES Permit No. PA0593842. Kuperavage Enterprises, Inc., (P. O. Box 99, Middleport, PA 17953), renewal of an existing anthracite surface mine and refuse disposal operation in Blythe Township, **Schuylkill County** affecting 638.0 acres, receiving stream: UNT to Schuylkill River. Application received February 4, 2009.

54870102R4 and NPDES Permit No. PA0593923. Joe Kuperavage Coal Company, (916 Park Avenue, Port Carbon, PA 17965), renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 106.1 acres, receiving stream: UNT to East Branch Schuylkill River. Application received February 4, 2009.

54921601R3. Gale Mining Company, (1441 Oak Road, Pottsville, PA 17901), renewal of an existing anthracite coal preparation plant operation in Rush Township, **Schuylkill County** affecting 10.3 acres, receiving stream: none. Application received February 4, 2009.

Noncoal Applications Received

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

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

* The parameter is applicable at all times.

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

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

37030305. Glacial Sand and Gravel Co. (P. O. Box 1022, Kittanning, PA 16201). Renewal of NPDES Permit No. PA0242543, Plain Grove Township, **Lawrence County**. Receiving streams: UNT to Jamison Run, Jamison Run to Slippery Rock Creek, classified for the following use: CWF. There is no potable surface water supply intake within 10 miles downstream. NPDES Renewal application received February 4, 2009.

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

08090301 and NPDES No. PA0257036. E. A. Ward Excavating, Inc. (R. R. 3, Box 244, Troy, PA 16947). Commencement, operation and restoration of a bituminous surface large noncoal (shale) mine in West Burlington Township, **Bradford County**, affecting 26.6 acres. Receiving streams: UNT to Sugar Creek, classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. Application received January 8, 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.

E46-1036. David's Bridal, 1001 Washington Street, Conshohocken, PA 19428, Whitmarsh Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

David's Bridal Levee Construction and Site Improvement Project

To construct and maintain an approximately 225-foot long, 3.75-foot high seawall levee along the Schuylkill River (WWF, MF) associated with the proposed David's Bridal parking lot modification project. The work also includes the construction and maintenance of an outfall structure.

The project is located approximately 570 feet southeast of the intersection of Elm and Lee Streets in Whitmarsh Township, Montgomery County (Norristown, PA USGS Quadrangle N: 13.41 inches; W: 5.14 inches).

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E35-423. Lower Lackawanna Valley Sewer Authority, P. O. Box 67, Coxton Road, Duryea, PA 18642, in Old Forge Borough, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain the following water obstructions and encroachments associated with the St. Johns Creek Interceptor/Combined Sewer Outfall (CSO) Replacement Project: 1) the placement of fill in approximately 0.5 acre of the floodplain and floodway of St. Johns Creek (CWF). The fill has a maximum depth of 9 feet and is supported by a 230-foot long retaining wall having a maximum height of 9 feet. The fill is associated with proposed CSO which consists of a regulating chamber, disinfecting chamber, chemical building, concrete outfall channel and other appurtenant works. 2) The relocation of an existing sanitary sewer interceptor consisting of the construction of approximately 3,475 feet of new pipe varying in size from 12-inch diameter to 36-inch diameter PVC pipe in the floodway and floodplain of St. Johns Creek (CWF). The project includes 4 sanitary sewerline crossings of St. Johns Creek. 3) The construction of approximately 3,300-foot long, 12-foot wide access road in the floodway and floodplain of St. Johns Creek (CWF). The access road runs parallel with the interceptor and includes 4 road crossings of St. Johns Creek (Scranton, PA Quadrangle Latitude: 41° 22' 28"; Longitude: 75° 44' 37").

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

E21-407: Lower Allen Township, 2233 Gettysburg Road, Camp Hill, PA 17011, Cedar Spring Run Trailhead, Lower Allen Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 6-foot wide by 1.5-foot high trail and associated improvements in a channel beneath a railroad culvert and the floodway of a UNT to Cedar Run (CWF) for the purpose of providing access and a trail for area residents located at a point downstream of Gettysburg Road (Lemoyne, PA Quadrangle N: 18.69 inches; W: 6.30 inches, Latitude: 40° 13' 40.5"; Longitude: 76° 55' 12.4") in Lower Allen Township, Cumberland County.

E21-410: (Corrected Notice) Fuller Lake Swimming Area Expansion, Department of Conservation and Natural Resources, Bureau of State Parks, P. O. Box 8451, Harrisburg, PA 17105-8451, Cooke Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To fill and maintain Fuller Lake's swimming area in order to expand the 5-foot and 8-foot deep swimming areas by placing rock and aggregates and sand on top of said rock, located in Pine Grove State Park (Dickinson, PA Quadrangle N: 6.45 inches; W: 7.36 inches, Latitude: 40° 02' 07.81"; Longitude: 77° 18' 9.28") in Dickinson Township, Cumberland County.

E22-543: Lower Paxton Township, George Wolfe, Township Manager, 425 Prince Street, Harrisburg, PA 17109, George Park M Street realignment, Lower Paxton Township, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To: (1) construct and maintain a 47.0-foot long, 36-inch RCP in a UNT to Beaver Creek (WWF) temporarily impacting 0.03 acre of PEM wetland and permanently impacting 0.07 acre of PEM wetland; (2) construct and maintain sidewalks and the realignment of M Street; and (3) place and maintain approximately 420 cubic yards of fill in the floodway of a UNT to Beaver Creek (WWF). The project is located at the intersection of Nyes Road and M Street (Harrisburg East, PA Quadrangle N: 12.5 inches; W: 5.0 inches, Latitude: 40° 19' 01"; Longitude: 76° 46' 55") in Lower Paxton Township, Dauphin County. The project purpose is to improve sight distances and safety for traffic and to provide safe pedestrian access to George Park. The permittee is required to provide a minimum of 0.03 acre of additional wetland to the existing 0.80 acre of replacement PEM wetlands onsite.

E07-425: Altoona City Authority, 20 Greenwood Road, Altoona, PA 16602-7114, Mill Run Water Quality Enhancement and Beautification Project, Logan Township, **Blair County**, United States Army Corps of Engineers, Baltimore District.

To relocate and maintain an approximately 700-foot long channel of a UNT to Mill Run (HQ-CWF) to enhance the water quality located just upstream of the PA 36 culvert (Altoona, PA Quadrangle N: 6.10 inches; W: 9.40 inches, Latitude: 40° 32' 02"; Longitude: 78° 26' 44") in Logan Township, Blair County.

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

E02-1304-A2. Sports and Exhibition Authority, The Regional Enterprise Center, 425 Sixth Avenue, Suite 2750, Pittsburgh, PA 15219. To amend original permit with construction of walkways, retaining walls a platform and riprap on the left bank of the Allegheny River in the City of Pittsburgh, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh East, PA Quadrangle N: 12.8 inches; W: 16.6 inches, Latitude: 40° 26' 40"; Longitude: 79° 59' 40").

The applicant proposes to amend Permit No. E02-1304 to include the construction and maintenances of at-grade walkways, walkway structures, retaining walls, a receiving platform and rip rap slope protection in the channel and along the left bank of the Allegheny River (WWF) for the purpose of constructing a Riverfront Park for the existing David Lawrence Convention Center. The project is located along the Tenth Street Bypass between the existing Ninth Street Bridge and the existing Conrail Bridge and will impact approximately 1,400.0 linear feet of stream channel.

E04-324. Norfolk Southern Railway Company, 1200 Peachtree Street, Box 184, Atlanta, GA 30309. To construct two additional mooring cells in Conway Borough, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District (Beaver, PA Quadrangle N: 8.5 inches; W: 0.6 inch, Latitude: 40° 40' 19"; Longitude: 80° 15' 16"). The applicant proposes to construct and maintain two additional 17 foot diameter mooring cells (Cells 3 and 4) in the channel and along the right bank of the Ohio River (WWF), to operate and maintain the two existing 17 foot diameter mooring cells (Cells 1 and 2) in the channel and along the right bank of said stream and to perform maintenance dredging (345.0 ft. long by 90.0 ft wide) in the channel and along the right bank of said stream around the mooring cells for the purpose of allowing safer access for barges and a more efficient way to unload barges. The project is located at the Conway Rail Yard near River Mile 22.5 and will impact approximately 350.0 linear feet of stream channel.

E65-927. Pucketa & Chartiers Watershed Assn., P. O. Box 2801, Lower Burrell, PA 15068. To construct and maintain pedestrian footbridge and stream improvements in City of Lower Burrell, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (New Kensington East, PA Quadrangle N: 17.55"; W: 12.8", Latitude: 40° 35' 48"; Longitude: 79° 43' 02"). The applicant proposes:

1. To construct and maintain a pedestrian footbridge with a span of 40'; with access provided by a 20' ramp. Underclearance of the structure during the 100 year flood is shown as 1.5'
2. To construct and maintain stream improvements consisting of eight cross veins and three j-hook veins of either rock or log construction.
3. To regrade and maintain approximately 400' of stream channel.
4. To stabilize the area by planting vegetation in the riparian zone.

A total stream impact of 1,475' is proposed, all in Chartiers Creek. The project is located in "Wolfpak Park."

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

E10-435. Community Development Corporation of Butler County, 122 Woody Drive, Butler, PA 16001. Pullman Center Business Park, in Butler Township and City of Butler, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Butler, PA Quadrangle N: 41° 51' 00"; W: 79° 54' 29").

To install and maintain a 42-inch diameter stormwater outfall, concrete endwall and rock riprap outlet protection apron along the right bank of Connoquenessing Creek approximately 1,150 feet upstream of the SR 3001 bridge for the discharge of stormwater from the proposed Pullman Center Business Park commercial/industrial development expansion on the former Trinity Industries, Inc. (aka Pullman Standard) site along SR 3001.

E37-179. Lawrence County, 430 Court Street, New Castle, PA 16101. T-593 Nashua Road Across Shenango River, in Pulaski Township, **Lawrence County**, United States Army Corps of Engineers, Pittsburgh District (Edinburg, PA Quadrangle N: 41° 04' 52"; W: 80° 23' 44").

To remove the existing structure and to construct and maintain a steel plate girder bridge having a clear normal span of 140 feet and an underclearance of 14.7 feet across the Shenango River on T-593, Nashua Road, approximately 2 miles west of SR 18.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D46-346. South Gulph Road Stormwater Basin 1 Dam. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676. To construct, operate and maintain South Gulph Road Stormwater Basin 1 Dam across a tributary to Frog Run (WWF), impacting 0 wetlands and 750 feet of stream, for the purpose of stormwater management (Norristown, PA Quadrangle N: 14.0 inches; W: 15.65 inches) in Upper Merion Township, **Montgomery County**.

D21-176A. Fish and Boat Commission, 450 Robinson Lane, Bellefonte, PA 16823. To modify, operate and maintain Opossum Lake Dam across Opossum Creek (HQ-CWF), temporarily impacting 0.03 acre of palustrine emergent wetlands, permanently impacting 0.03 acre palustrine emergent wetlands and 53.0 feet of stream, for the purpose of removing the existing spillway then construct and maintain a 4 cycle labyrinth concrete spillway, extend the outlet conduit and replace the existing toe drains (Plainfield, PA Quadrangle N: 18.0 inches; W: 3.6 inches) in Lower Franklin Township, **Cumberland County**.

D23-036. Earles Lake Dam. Green Countrie Village Homeowners Association, 213 Earles Lane, Newtown Square, PA 19073. To modify, operate and maintain Earles Lake Dam across a tributary to Darby Creek (CWF), for the purpose of modifying an existing recreational dam to pass the 100-year design storm (Valley Forge, PA Quadrangle N: 1.7 inches; W: 2.1 inches) in Newtown and Radnor Townships, **Delaware County**.

ACTIONS

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

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

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

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania 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.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063819 (Industrial Waste)	Lafayette College Plant Operations Building Easton, PA 18042	Easton City Northampton County	Bushkill Creek 01F	Y
PA0053872 (Sewage)	Red Hill Water Authority P. O. Box 26 Red Hill, PA 18076	Lehigh County Upper Milford Township	UNT to Perkiomen Creek 03E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0081825 (Sew)	Betty Nelson 14 Tip Top Circle Carlisle, PA 17015	Cumberland County Lower Frankford Township	Conodoguinet Creek 7-B WWF	Y
PA0086428 (Sew)	Mazza Vineyards, Inc. 2775 Lebanon Road Manheim, PA 17545	Lancaster County Rapho Township	Chickies Creek 7-G WWF	Y
PA0084778 (Sew)	Granville Township Municipal Authority 100 Helen Street Lewistown, PA 17044	Mifflin County Oliver Township	Strodes Run 12-A HQ-CWF	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>
PA0215929 Sewage	Walter L. Houser 13448 SR 422 Suite 1 Kittanning, PA 16201	Indiana County Washington Township	Mudlick Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0220876	Identification Systems, Inc. 10043 Peach Street Girard, PA 16417	Elk Creek Township Erie County	East Branch of Conneaut Creek 15-CC	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. PA0244449, Industrial Waste, **FPL Energy Marcus Hook, LP**, 100 Green Street, Marcus Hook, PA 19061. This proposed facility is located in Marcus Hook Borough, **Delaware County**.

Description of Proposed Action/Activity: Approval for the issuance of an NPDES permit to discharge cooling tower blowdown from the Marcus Hook Generating Station to Delaware River Estuary-Zone 4 in Watershed 3G.

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

NPDES Permit No. PA0001627-A1, Industrial Waste, **Orion Power Midwest, LP**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This existing facility is located in Springdale Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit amendment issuance to incorporate conditions of the settlement agreement of an NPDES permit appeal.

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

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

WQM Permit No. 2174406, Amendment 08-1, Sewage, **Borough of Carlisle**, 53 West South Street, Carlisle, PA 17013. This proposed facility is located in Carlisle Borough, **Cumberland County**.

Description of Proposed Action/Activity: Amendment approval for the construction/operation of sewerage facilities consisting of: Mechanical screen and vortex grit chamber with grip pump and dewatering screw.

WQM Permit No. 4472401, Amendment 09-1, Sewage, **McVeytown Borough Authority**, P. O. Box 321, McVeytown, PA 17051. This proposed facility is located in McVeytown Borough, **Mifflin County**.

Description of Proposed Action/Activity: Amendment approval for the modification of sewerage facilities consisting of: Conversion of the existing sludge drying bed to liquid sludge storage tank.

WQM Permit No. 2292405, Amendment 08-1, Sewage, **Millersburg Area Authority**, 101 West Street, Millersburg, PA 17061. This proposed facility is located in Millersburg Borough, **Dauphin County**.

Description of Proposed Action/Activity: Amendment approval for the construction of sewerage facilities consisting of: Headworks building, mechanical influent screens, holding tank for hauled-in waste, piping and chemical feed equipment for Phosphorus removal and replacement of existing influent pumps.

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

WQM Permit No. 0208408, Sewerage, **The Pittsburgh Water and Sewer Authority**, Penn Liberty Plaza 1, 1200 Penn Avenue, Second Floor, Pittsburgh, PA 15222-4745. This proposed facility is located in the City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sanitary sewer extension to serve the Pittsburgh Casino.

WQM Permit No. 6308405, Sewerage, **Peters Creek Sanitary Authority**, 3515 Washington Avenue, P. O. Box 3, Finleyville, PA 15332. This proposed facility is located in Peters Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers to serve the Orchard Hill Plan of Lots.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 4607006	Finland Mennonite Church 1685 Upper Ridge Road Pennsburg, PA 18073-2429	Montgomery	Marlborough Township	Macoby and Unami Creeks TSF-HQ-TSF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Hatfield Township Montgomery County Hilltown Township Bucks County	PAG200 4608094	Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406	West Branch Neshaminy Creek TSF	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>
Limerick Township Montgomery County	PAG200 4608106	Vincent Mazzamuto 51 Heffner Road Limerick, PA 19468	Mingo Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Brookhaven Borough Delaware County	PAG200 2303053-R	Pulte Homes 1100 Northbrook Drive Suite 200 Trevose, PA 19053	Ridley Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Archbald Borough Lackawanna County	PAG2003509002	PEI Power Corporation Attn: Thomas Kukosky 170 Power Boulevard Archbald, PA 18403	Tributary to Lackawanna River CWF	Lackawanna County Conservation District (570) 281-9495
Plains Township Luzerne County	PAG2004008027	Geisinger Wyoming Valley Medical Center Attn: Richard Hardy 1000 East Mountain Boulevard Wilkes-Barre, PA 18711	Mill Creek CWF	Luzerne County Conservation District (570) 674-7991
City of Nanticoke Hanover Township Luzerne County	PAG2004008031	Earth Conservancy Attn: Michael Dziak 101 South Main Street Ashley, PA 18706	Espy Run CWF	Luzerne County Conservation District (570) 674-7991
Bethlehem Township Northampton County	PAG2004808020	Senick, Inc. Attn: John J. Senick 1623 Freemansburg Avenue Bethlehem, PA 18020-6399	Lehigh River WWF	Northampton County Conservation District
Lower Paxton Township Dauphin County	PAG2002208042	Lower Paxton Township Authority 425 Prince Street Suite 139 Harrisburg, PA 17109	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Ontelaunee Township Berks County	PAG2000608073	Jonathan Simon Royal Green, LLC P. O. Box 9 Temple, PA 19560	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Bethel Township Berks County	PAG2000608069	Joseph Horning 901 South College Street Myerstown, PA 17067	Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Lower Allen Township Cumberland County	PAG2002108029	Russ Burnell West Shore School District 507 Fishing Creek Road New Cumberland, PA 17070	UNT to Yellow Breeches CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Lawrence County Neshannock Township	PAG2063708010	Neshannock School District Attn: Dr. Mary Todora 3834 Mitchell Road New Castle, PA 16105	Neshannock Creek CWF	Lawrence County Conservation District (727) 652-4512

*General Permit Type—PAG-3**Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAR802210	Wilkes-Barre/Scranton International Airport 100 Terminal Road Avoca, PA 18641	Spring Brook Creek CWF and Lidy Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
PAR202210	Indalex, Inc. 330 Elmwood Road Mountaintop, PA 18707	Highway drainage on Elmwood Road to Bow Creek	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
PAR123505	The Hershey Company West Hershey Plant 1033 Old West Chocolate Avenue Hershey, PA 17033	Spring Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
PAR123555	Dean Dairy Holdings, LLC— d/b/a Swiss Premium Diary, LLC 2401 Walnut Street Lebanon, PA 17042-9444	Snitz Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-8**Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
PAG086116	Worthington West Franklin Joint Municipal Authority 102 West Main Street Worthington, PA 16262	West Franklin Township	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania 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

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

Operations Permit No. 0909501 issued to **Yorkshire Meadows Condominium Association**, 975 Easton Road, Warrington, PA 18976 (PWSID No. 1090101) Solebury Township, **Buck County** on January 30, 2009,

for the operation of Facilities approved under construction permit No. 0907524 for an arsenic treatment.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerston Avenue, Harrisburg, PA 17110.

Operations Permit issued to **Gettysburg Municipal Authority**, 7010019, Cumberland Township, **Adams County** on January 30, 2009, for the operation of facilities approved under Construction Permit No. 0107509 MA.

Operations Permit issued to **The Bethel Point Foundation, d/b/a Hill Farm Estates**, 7380002, North Annville Township, **Lebanon County** on January 29, 2009, for the operation of facilities approved under Construction Permit No. 3808503.

Operations Permit issued to **Northwestern Lancaster County Authority**, 7360164, Penn Township, **Lancaster County** on January 29, 2009, for the operation of facilities approved under Construction Permit No. 3608526 MA.

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

Permit No. 0208509, Public Water Supply.

Applicant	Pittsburgh Water and Sewer 1200 Penn Avenue 2nd Floor Pittsburgh, PA 15222
Borough or Township County	City of Pittsburgh Allegheny
Type of Facility	Water treatment plant
Consulting Engineer	Camp, Dresser & McKee, Inc. 2740 Smallman Street Pittsburgh, PA 15222
Permit to Construct Issued	January 8, 2009

Permit No. 0208504, Public Water Supply.

Applicant	Municipal Authority of the Borough of Oakmont 721 Allegheny Avenue Oakmont, PA 15139
Borough or Township County	Oakmont Borough Allegheny
Type of Facility	Water treatment plant
Consulting Engineer	NIRA Consulting Engineers, Inc. 950 Fifth Avenue Coraopolis, PA 15108
Permit to Construct Issued	January 20, 2009

Operations Permit issued to **Indian Lake Borough**, 1301 Causeway Drive, Central City, PA 15926, (PWSID No. 4560025) Indian Lake Borough, **Somerset County** on January 20, 2009, for the operation of facilities approved under Construction Permit No. 5605502MA.

Permit No. 0208516MA, Minor Amendment, Public Water Supply.

Applicant

Pennsylvania American Water Company
800 West Hersheypark Drive
P. O. Box 888
Hershey, PA 17033

Borough or Township
County

Bethel Park Borough
Allegheny

Type of Facility

Rocky Ridge Tank No. 3

Consulting Engineer

Permit to Construct
Issued

January 27, 2009

Permit No. 0208517MA, Minor Amendment, Public Water Supply.

Applicant

Pennsylvania American Water Company
800 West Hersheypark Drive
P. O. Box 888
Hershey, PA 17033

Borough or Township
County

Monongahela Borough
Washington

Type of Facility

Main Street Tank

Consulting Engineer

Permit to Construct
Issued

January 27, 2009

Permit No. 0208518MA, Minor Amendment, Public Water Supply.

Applicant

Pennsylvania American Water Company
800 West Hersheypark Drive
P. O. Box 888
Hershey, PA 17033

Borough or Township
County

Union Township
Washington

Type of Facility

Finleyville Tank No. 1

Consulting Engineer

Permit to Construct
Issued

January 27, 2009

Permit No. 0208515MA, Minor Amendment, Public Water Supply.

Applicant

Pennsylvania American Water Company
800 West Hersheypark Drive
P. O. Box 888
Hershey, PA 17033

Borough or Township
County

Mt. Pleasant Township
Washington

Type of Facility

Mt. Pleasant water storage tank and waterlines.

Consulting Engineer

Permit to Construct
Issued

January 27, 2009

Permit No. 2608506MA, Minor Amendment, Public Water Supply.

Applicant

Nemacolin Woodlands, Inc.
1001 LaFayette Drive
Farmington, PA 15330

Borough or Township

Wharton Township

County **Fayette**
 Type of Facility Interconnection with National Pike Water Authority
 Consulting Engineer McMillen Engineering
 115 Wayland Smith Drive
 Uniontown, PA 15401
 Permit to Operate Issued January 27, 2009

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

Wellhead Protection Program Approval issued to **Volant Borough**, Box 96, Main Street, Volant, PA 16156, PWSID No. 6370042, Volant Borough, **Lawrence County** on February 5, 2009.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Newberry Township	1915 Old Trail Road Etters, PA 17319	York County

Plan Description: Dubbers Lane Sewer Extension, Department of Environmental Protection Code No. A3-67945-330-3m: The approved plan provides for a public sewer extension to serve 18 existing single-family residential dwellings and two service laterals to two existing vacant lots. Total estimated sewage flows are 5,000 gpd (20 EDU's) and they will be tributary to the Newberry Township Wastewater Treatment Plant. The proposed extension is located on Dubbers Lane and Stillhouse Road, just east of Valley Green Road in Newberry Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Spring Grove Borough	1 Campus Avenue Spring Grove, PA 17362	York County

Plan Description: Sanitary Sewer Main Replacement, Department of Environmental Protection Code No. B1-67956-ACT: The approved plan provides for the replacement of two 8 inch parallel interceptors with approximately 830 linear feet of a single 12 inch sewer line that will connect directly into the Spring Grove Borough Wastewater Treatment Plant. The proposed project is located at the end of Constitution Avenue in Spring Grove Borough, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Morris Township	P. O. Box 281 Alexandria, PA 16611	Huntingdon County

Plan Description: The approved plan provides for the construction of 31 single-family homes using individual onlot sewer systems and wells. The project is located off of SR 45. The plan was approved with the following conditions:

1. During the permitting of individual sewage disposal systems on each of these lots, the local agency through one of their sewage enforcement officers needs to conduct a percolation test that is in complete compliance with Chapter 73, § 73.15 requirements. This additional percolation data is to be used to size absorption areas for the sewage systems that are permitted by the local agency. The percolation tests provided with the planning module were not performed until a "stabilized rate" was achieved, with the exception of percolation test number 63 located on lot number 5. Achieving a stabilized rate when performing a percolation test is required by Chapter 73, § 73.15 (7)(i) of the Department of Environmental Protection's (Department) regulations.

2. This site has mapped sinkholes and the potential exists for unmapped sinkholes on this site. A 100 foot horizontal isolation distance must be maintained from the perimeter of the aggregate in the absorption area to the lip of any sinkholes that exist on the site in accordance with Chapter 73, § 73.13(c)(8).

3. As a reminder, Chapter 73, § 73.15(7)(iv) states: "When a percolation test hole is dry at the end of a 10 minute testing interval, that hole may not be used in the calculation of the arithmetic average percolation rate. If 1/3 or more of the percolation test holes are dry at the end of a 10 minute testing interval, the proposed absorption area may not be designed or installed over these holes unless the local agency determines that an anomaly caused the fast percolation rate and a retest of the area is within acceptable percolation rate limits. If no anomaly is discovered, the local agency may accept the percolation test results from the remaining holes if the results are supplemented with the results of additional percolation testing conducted outside of the area in which the dry percolation holes were found." Extra care should be taken when encountering "dry holes" while conducting percolation testing.

The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Hanover Township	Hanover Township 2731 SR 18 Hookstown, PA 15050	Beaver County

Plan Description: The approved plan provides for construction of a 400 gpd single-residence sewage treatment plant to serve the Jericho single-family home. The property is located 130 Chiccarello Drive. The proposed discharge point is a UNT to Traverse Creek, classified as a HQ-CWF. Any required NPDES Permits or WQM Permits

must be obtained in the name of the applicant as appropriate. The Department of Environmental Protection's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Edgmont Township	100 Gradyville Road P. O. Box 267 Gradyville, PA 19039	Delaware County

Plan Description: On February 6, 2009, the Southeast Regional Office approved the Act 537 sewage facilities plan update for Edgmont Township, Delaware County (APS ID 500868 AUTH ID 712662). The Act 537 plan update focused on the Crum Creek District of the Township.

Approval of the plan, as supplemented and amended, is hereby granted subject to the following conditions. The approved plan provides for the following:

1. The Township will become a member of the CDCA. Upon attaining membership in the CDCA, the Township will be authorized to convey up to a total of 350,000 gpd annual average sewage flow through CDCA's sewage conveyance system to DELCORA's wastewater treatment facility. This capacity will be allocated to the Township's Crum Creek District.

2. The Township commits to have DELCORA construct the following sewage collection and conveyance facilities in accordance with the MOU, and the schedule set forth below, to provide for the collection and conveyance of sewage from the Township as provided in Paragraph 1. The construction of these facilities is necessary for implementation of the plan:

a. The District A sewer service area is depicted on the *Master Sanitary Sewer Plan*.

District A includes the Edgmont Country Fair development and is improved with a movie theater, commercial, retail and light industrial uses. Sewage facilities proposed for this district include gravity sewer segments along North Crum Road that will enable this district to drain to Newtown Township's proposed Pump Station 2. Sewage facilities for this district shall be completed as soon as practicable but no later than February 28, 2011. The three large volume community onlot sewage disposal currently serving this district will be phased out as a result of the plan's implementation.

b. The District B sewer service area is depicted on the *Master Sanitary Sewer Plan*.

District B includes a mix of residential, retail and commercial uses. Sewage facilities proposed for this district include gravity sewers that will be installed in Eagleview Drive, Columbus Lane, Papa Boulevard, Newton Terrace and West Chester Pike. These facilities will enable District B to drain to Newtown Township's proposed Pump Station 2. Sewage facilities for this district shall be completed as soon as practicable but no later than February 28, 2011. The community land application systems currently serving the Eagleview and Eagleview II (a.k.a. Arbors at Edgmont) developments will be phased out as a result of the plan's implementation.

c. The District C sewer service area is depicted on the *Master Sanitary Sewer Plan*.

District C includes a mix of mostly retail and commercial uses, with some residential uses. This district is currently served by inadequate onlot sewage disposal systems. Sewage facilities proposed for this district include gravity sewers along Miller Road and West Chester Pike. These gravity sewers will drain to a proposed pump station that will be located along West Chester Pike, near the Chester County line. The pump station will have average daily flows of 27,563 gpd and will convey sewage to the gravity sewers that will be installed in West Chester Pike as part of the improvements proposed for District B. Sewage facilities for this district shall be completed as soon as practicable but no later than February 28, 2011.

d. The District D sewer service area is depicted on the *Master Sanitary Sewer Plan*.

District D includes the Castle Rock community. This district is currently served by inadequate onlot sewage disposal systems. Sewage facilities proposed for this district include low pressure sewers that will be installed in Castle Rock Road, Ridge Road, Oak Circle, Chestnut Road, Walnut Road, Locust Road and Spruce Road. The low-pressure system will connect to the gravity sewers that will be installed in West Chester Pike as part of the improvements proposed for District B. Sewage facilities for this district shall be completed as soon as practicable but no later than February 28, 2011.

e. The District E sewer service area is depicted on the *Master Sanitary Sewer Plan*.

District E includes the Runnymede Farm, Addison Court, Dream Valley, Springton Chase, Roscommon and Winderly residential communities. Sewage facilities proposed for this district include gravity sewers that will be installed along Crum Creek. These facilities will enable District E to drain to Newtown Township's proposed Pump Station 4. Sewage facilities for this district shall be completed as soon as practicable but no later than February 28, 2014. Three community land application systems currently serving this district will be phased out as a result of the plan's implementation.

3. CDCA has committed to construct improvements to CDCA's Crum Creek Interceptor in accordance with the Supplemental Agreement, the CDCA Improvement Program and Trunkline Assessment and the Coordination Letter. These improvements will be carried out consistent with the requirements of Article V of the Supplemental Agreement. These improvements are required as a result of the additional flow originating in Edgmont, Newtown and Upper Providence Townships that will be conveyed through the interceptor. CDCA will coordinate the construction of these improvements with its member municipalities' need for capacity in the interceptor in accordance with the Coordination Letter.

Before constructing or operating the sewage facilities set forth in this approved plan, including proposed trunkline improvements, the Township, CDCA and DELCORA must, as applicable, secure Clean Streams Law permits and any other permits or approvals that are needed from the Department.

The Township must submit a copy of a finalized, signed and executed intermunicipal agreement between the Township and Newtown Township and a copy of a finalized, signed and executed agreement between the

Township and DELCORA with The Clean Streams Law permit application for the Township's proposed sewage facilities.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Newtown Township	209 Bishop Hollow Road Newtown Square, PA 19073	Delaware County

Plan Description: On February 6, 2009, the Southeast Regional office approved the Act 537 sewage facilities plan update for Newtown Township, Delaware County (APS ID 459295 AUTH ID 694369). The Act 537 plan update focused on the Crum Creek basin portion of the Township.

Approval of the plan, as supplemented and amended, is hereby granted subject to the following conditions. This approval provides for the following:

4. The Township will become a member of the CDCA. Upon attaining membership in the CDCA, the Township will be authorized to convey up to a total of 976,000 gpd annual average sewage flow through CDCA's sewage conveyance system to the Delaware County Regional Authority's (DELCORA) wastewater treatment facility. This capacity will be allocated to the Crum Creek basin portion of the Township.

5. The Township will ensure that the Newtown Township Municipal Authority (Authority) will construct the following sewage collection and conveyance facilities, in accordance with the schedule set forth below, to provide for collection and conveyance of sewage from the Township as provided in Paragraph 1:

a. Phase 1:

i. The Phase 1 service area is depicted on the plan titled "Option Two Preferred Alternative." The Phase 1 service area will be connected to public sewers as soon as practicable, but in no case later than February 28, 2012. The Phase 1 service area includes the Echo Valley neighborhood, Episcopal Academy, the DuPont Ashford development and the northwest portion of the Township.

ii. The Echo Valley Neighborhood will be served by low-pressure sewers.

iii. The Authority will construct Pump Station 1 by March 31, 2010. Pump Station 1 will be located near the western property line of the Ashford development and will have a capacity of 224,000 gpd annual average flow. Pump Station 1 will receive flows from the Phase 1 service area. The pump station will convey flows to an existing gravity sewer in Ellis Road, which is tributary to the Camelot Pump Station.

iv. The existing Camelot Pump Station will be expanded to a capacity of 670,000 gpd per day annual average flow by March 31, 2010. The Camelot Pump Station will receive additional flows from Pump Station 1 and the BPG property.

b. Phase 1A :

i. The Phase 1A service area is depicted on the plan titled "Option Two Preferred Alternative." The Phase 1A service area will be connected to public sewers as soon as practicable, but in no case later than February 28, 2012. The Phase 1A service area includes the Florida Park neighborhood, the Marville development, the Old Masters Golf Course, the Newtown Business campus and the western portion of the Township.

ii. The Florida Park neighborhood will be served by low-pressure sewers.

iii. The Authority will construct Pump Station 2 by March 31, 2010. Pump Station 2 will be located at West Chester Pike and the Crum Creek and will have a capacity of 378,000 gpd annual average flow. This pump station will receive flows from the Phase 1A service area and from the West Chester Pike area of Edgmont Township. Pump Station 2 will convey flows to an existing gravity sewer in Stoney Brook Boulevard, which is tributary to the proposed Pump Station 3.

iv. The Authority will convert the Springton Pointe Wastewater Treatment Facility into a pump station by March 31, 2010. This facility will be called Pump Station 3. Pump Station 3 will have a capacity of 413,000 gpd annual average flow. This pump station will receive flows from the area formerly tributary to the Springton Pointe Wastewater Treatment Facility and from Pump Station 2. Pump Station 3 will convey flows to an existing CDCA manhole located at the intersection of Route 252 and Media Line Road.

c. Phase 2:

i. The Phase 2 service area is depicted on the plan titled "Option Two Preferred Alternative". The Phase 2 service area includes the southwest corner of the Township and consists of 2 separate service areas. The area bound by Bishop Hollow Road, Gradyville Road and Stoney Brook Boulevard area will be served by public sewers as soon as practicable but no later than February 28, 2017. The remainder of the Phase 2 service area will be served by public sewers as soon as practicable but no later than February 28, 2019.

ii. The Authority will construct Pump Station 4 by March 31, 2010. Pump Station 4 will be located near the Township's borders with Upper Providence and Edgmont Townships and will have a capacity of 243,000 gpd annual average flow. This pump station will receive flows from Llanbolen Lane, Bishop Hollow Road, Sleepy Hollow Drive, Springton Pointe Drive, Frog Hollow Drive and a portion of Gradyville Road. This pump station will also receive flows from the Gradyville Road area of Edgmont Township. Pump Station 4 will convey flows to an existing CDCA manhole located at the intersection of Route 252 and Media Line Road.

6. CDCA has committed to construct improvements to CDCA's Crum Creek Interceptor in accordance with the Supplemental Agreement, the CDCA Improvement Program and Trunkline Assessment and the Coordination Letter. These improvements will be carried out consistent with the requirements of Article V of the Supplemental Agreement. These improvements are required as a result of the additional flow originating in Edgmont, Newtown and Upper Providence Townships that will be conveyed through the interceptor. CDCA will coordinate the construction of these improvements with its member municipalities' need for capacity in the interceptor in accordance with the Coordination Letter.

Before constructing or operating the sewage facilities set forth in this approved plan, including proposed trunkline improvements, the Township, Authority and CDCA must, as applicable, secure Clean Streams Law permits from the Department.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Upper Providence Township	935 North Providence Road Media, PA 19063	Delaware County

Plan Description: On February 6, 2009, the Southeast Regional office approved the Act 537 sewage facilities plan update for Upper Providence Township, Delaware County (APS ID 35417 AUTH ID 708185). The Act 537 plan update focused on the Crum and Ridley Creeks Districts of the Township.

Approval of the plan, as supplemented and amended, is hereby granted subject to the following conditions. This approval provides for the following:

7. Two sanitary sewer districts will be created in the northern portion of the Township. The Crum Creek district will be tributary to the CDCA sewage conveyance system. The Ridley Creek district will be tributary to the Little Washington Wastewater Company (LWWC) Media Wastewater Treatment Facility. Both the Ridley Creek district and the Crum Creek District are depicted on the plan titled "Act 537 Update Option One."

8. The Ridley and Crum Creeks districts will be further divided into a total of 9 sub districts. These areas are currently inadequately served by onlot sewage disposal systems. The districts are described in Attachment 19 of the plan and depicted on the plan titled *Potential Sanitary Sewer District Areas Plan*.

9. Up to 213,413 gallons of sewage per day is authorized to be conveyed from the new connections in the Ridley Creek district to the LWWC Media Wastewater Treatment Facility.

10. The Township will become a member of the CDCA. Upon attaining membership in the CDCA, the Township will be authorized to convey up to a total of 479,070 gpd annual average sewage flow through CDCA's sewage conveyance system to the Delaware County Regional Authority (DELCOA's) wastewater treatment facility. This capacity will be allocated to the Crum Creek basin region of the Township.

11. The Township will assure that the Upper Providence Township Sewer Authority (Authority) will construct the following sewage facilities. All facilities are depicted on the plan titled Act 537 Update Option One, prepared by Kelly & Close Engineers, dated March 28, 2008:

a. The Authority will divert flows from the Winter Street Pump Station, which is tributary to the LWWC Media Wastewater Treatment Facility, to CDCA's conveyance facilities by January 31, 2010. The Authority will install approximately 200 feet of force main from Brave's Trail Lane to existing sewers in Farnum Road to accomplish this diversion.

b. The Authority will construct low-pressure sanitary sewer systems consisting of individual grinder pumps and laterals, shared low-pressure sewers and gravity sewers. Each of the nine sewer subdistricts will be served by its own low-pressure system. The Authority will assume ownership of the low-pressure systems, including individual grinder pumps. Sewage facilities that are component parts of the systems shall be completed beginning January 31, 2010, with a final completion date for all the systems of January 31, 2018.

c. The Geist View Drive Pump Station will serve the Watermill area and will have an annual average capacity of 40,000 gpd. This pump station will be tributary to CDCA's conveyance system. Sewage facilities shall be completed as soon as practicable but no later than January 31, 2014.

d. The Lavin Tract Pump Station will have an annual average capacity of 213,413 gpd. This pump station will convey flows to the LWWC Media Wastewater Treatment Facility. Sewage facilities shall be completed as soon as practicable but no later than January 31, 2010.

12. CDCA has committed to construct improvements to CDCA's Crum Creek Interceptor in accordance with the Supplemental Agreement, the CDCA Improvement Program and Trunkline Assessment and the Coordination Letter. These improvements will be carried out consistent with the requirements of Article V of the Supplemental Agreement. These improvements are required as a result of the additional flow originating in Edgmont, Newtown and Upper Providence Townships that will be conveyed through the interceptor. CDCA will coordinate the construction of these improvements with its member municipalities' need for capacity in the interceptor in accordance with the Coordination Letter.

Before constructing or operating the sewage facilities set forth in this approved plan, including proposed trunkline improvements, the Township, Authority and CDCA must, as applicable, secure Clean Streams Law permits from the Department. A copy of the new Service Agreement between the Authority and the LWWC must be submitted with The Clean Streams Law permit application for the Lavin Tract Pump Station.

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 poten-

tial 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.

Anro, Inc., Easttown Township, **Chester County**. James F. Mullan, P.E., Hocage Consulting, Inc., 987 Haddon Avenue, Collingswood, NJ 08108 on behalf of Dave Spinelli, ANRO, Inc., 222 Lancaster Avenue, Devon, PA 19333 has submitted a Remedial Investigation/Cleanup Report and Risk Assessment concerning remediation of site groundwater contaminated with MTBE, No 2 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Wawa Food Market 186, East Norrtion, **Montgomery County**. Matthew Winters, Wawa, Inc., 260 West Baltimore Pike, Wawa, PA 19063 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with pesticides. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Bristol Dry Cleaners, Bristol Township, **Bucks County**. Steven F. Coe, Brown Environmental Services Corporation, 301 South State Street, Suite S201, Newtown, PA 18940 behalf of Roman Iwaskiw, Brown Environmental Services Corporation, 301 South State Street, Suite S201, Newtown, PA 18940 has submitted a Remedial Investigation/Cleanup Report and Risk Assessment Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Union Court Condominiums, West Chester Borough, **Chester County**. Richard Ley, RML Environmental, 1375 Steeple Chase Road, Downingtown, PA 19335 on behalf of Edward Cunius, Union Court Condominiums, 616 East Barnard Street, West Chester, PA 19382 has submitted a Final Report concerning remediation of site soil contaminated with inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Logan Square, Norristown Borough, **Montgomery County**. Thomas Brady, PT Consultants, 629 Creek Road, Bellmawr, NJ 08031, Jason Free, PT Consultants, 629 Creek Road, Bellmawr, NJ 08031 on behalf of Charles Gallub, Johnson & Markley Redevelopment, LP, 204 Harding Road, Bellmawr, NJ 08031 has submitted a Final Report concerning remediation of site soil contaminated with No. 4 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Sun Malvern Tanker Spill Site, East Whiteland Township, **Chester County**. Krista Snyder, Groundwater

and Environmental Service, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, Martin Liebhardt, Sunoco, Inc. (R & M), 350 Eagleview Boulevard, Suite 300, Exton, PA 19341 on behalf of Tony Baonte, Liberty Property Trust, LP, 500 Clearfield Parkway, Malvern, PA 19355 has submitted a Final Report concerning remediation of site groundwater sand soil contaminated with unleaded gasoline, MTBE and BTEX. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Mark II Associates, Property, Folcroft Borough, **Delaware County**. Terence O'Reilly, TriState Environmental Management Services, Inc., 368 Dunksferry Road, Bensalem, PA 19020, Eduard Eichen, The Oak Group, Inc., Waterfront Technology Center, 200 Federal Street, Suite 300, Camden, NJ 08103 has on behalf of Cynthia Ray, Mark II Associates, Inc., 266 South Street, Philadelphia, PA 19103 has submitted a Remedial Investigation/Risk Assessment and Final Report concerning remediation of site groundwater and soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

1574 Bristol Pike Site, Bensalem Township, **Bucks County**. Terry Harris, Boucher & James Inc., Fountainville Professional Building, 1456 Ferry Road, Building 500, Doylestown, PA 18901 on behalf of Chris Mazullo, Mazmar, LLC, 77 West Court Street, Doylestown, PA 18901 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with benzene, MTBE. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Pete's Express Car Wash, East Norriston Township, **Montgomery County**. Richard Werner, Environmental Consulting, Inc., East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Peter Altringer, Stonycreek Partners, LP, 500 West Lancaster Avenue, Strafford, PA 19087 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with leaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Lehigh County Authority Park Pump Station, Jefferson Street and Park Drive, Allentown City, **Lehigh County**. Shane McDonald and Carlo DiTullio, Malcolm Pirnie, Inc., 640 Freedom Business Center, Suite 310, King of Prussia, PA 19406 have submitted a Final Report (on behalf of their client, Lehigh County Authority, P. O. Box 3348, 1053 Spruce Street, Allentown, PA 18106-0348), concerning the remediation of soil and groundwater found to have been impacted by No. 2 fuel oil as a result of an accidental release from an 8,000 gallon underground storage tank. The report was submitted to document attainment of the Statewide Health Standard for soil and groundwater. A public notice regarding the submittal of the Final Report was published in *The Morning Call* on January 7, 2009.

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

Amber Trucking Diesel Spill, Marion Township, **Berks County**. Marshall Geoscience, Inc., 170 East First Avenue, Collegetown, PA 19426, on behalf of Douglas S. and Donna M. Cummings, 4 Charming Forge Road,

Womelsdorf, PA 19567 and Amber Trucking, Inc., 301 South Soderquist Road, Turlock, CA 95380-5133 submitted a Final Report concerning remediation of site soils contaminated with diesel fuel released during a vehicle accident. The Final 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. The site will remain residential.

Armstrong World Industries/Lancaster's Northwest Gateway, City of Lancaster and Manheim Township, **Lancaster County**. ARM Group, P. O. Box 797, Hershey, PA 17033, on behalf of EDC Finance Corporation, 100 South Queen Street, Lancaster, PA 17608-1558, submitted a Final Report concerning remediation of site soils on the college parcel contaminated with VOCs, SVOCs and metals. The report 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.

Wills Property, Harris Township, **Centre County**. Blazosky Assoc., Inc., 2525 Green Tech Drive, Suite D, State College, PA 16803 on behalf of Terry Wills, 203 Homestead Lane, Boalsburg, PA 16827 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Former TRW Danville Site, Danville Borough, **Montour County**, Northrop Grumman Corporation, 1840 Century Park East, Los Angeles, CA 90067 has submitted a Remedial Investigation Report, Risk Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with PCBs, solvents, BTEX, PHCs and PAHs. 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:

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

OIP Pizza, Williamsburg Borough, **Blair County**. Mounain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of George Camaroto, OIP Pizza, 417 West 2nd Street, Williamsburg, PA 16693 submitted a Final Report concerning remediation of site soils contaminated with heating oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on February 4, 2009.

Former Exxon Station No. 2-4627, Bedford Township, **Bedford County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of C. David Stahl, 5624 Business Route 220, Bedford, PA 15522 and Exxon Mobil Corporation, 7715 Crittenden Street, No. 309, Philadelphia, PA 19118-4421, submitted a Remedial Investigation Report, Risk Assessment Report, Cleanup Plan and Final Report concerning remediation of site soils and groundwater contaminated with BTEX. The combined report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection, February 4, 2009.

Columbia Petroleum Corporation York Facility, West Manchester Township, **York County**. Earth Tech, 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of Richland Partners, LLC, P. O. Box 659, Douglassville, PA 19518 and Apple Hill Business Advisors, Inc., 33 North 2nd Street, Harrisburg, PA 17101 submitted a Final Report concerning remediation of site soils and groundwater contaminated with leaded gasoline, unleaded gasoline, kerosene, diesel fuel and waste oil from a loading rack. The Final Report demonstrated attainment of the Resi-

dential Statewide Health Standard and was approved by the Department of Environmental Protection on February 5, 2009.

PPL Distribution Pole No. 49389S26254, Salisbury Township, **Lancaster County**. PPL Services Corporation, Two North Ninth Street, Allentown, PA 18101-1179, submitted a Final Report concerning remediation of site soil contaminated with PCB Oil. The report was submitted within 90 days of the release and demonstrated attainment of the Residential Statewide Health Standard. The report was approved by the Department of Environmental Protection on February 5, 2009.

MUNICIPAL WASTE GENERAL PERMITS

Applications Withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM029. Valley Forge Land Clearing and Wood Recycling, 1330 Charlestown Road, Phoenixville, PA 19460.

The applicant has requested that the application for a general permit for the processing and beneficial use of wood and timber waste (that is, tree stumps, roots, grubbing material, and the like) to create mulch for commercial purposes at the proposed Donegal facility, located in Elizabethtown Township, Lancaster County be withdrawn. The withdrawal of the application was effective February 9, 2009.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit No. 300725. Aqua Pennsylvania, Inc., (Neshaminy Landfill), 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3420. This permit is for a 10-year renewal for the existing solid waste permit for the continuing operation at the Neshaminy Residual Waste Landfill, a captive Class III residual waste facility, located in Middletown Township, **Bucks County**. The permit was issued by the Southeast Regional Office on January 23, 2009.

Permit No. 301299. Aqua Pennsylvania, Inc., (Pickering Creek Landfill), 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This permit is for a 10-year renewal for the existing solid waste permit for the continuing operation at the Pickering Creek Residual Waste Landfill, a captive Class III residual waste facility, located in Schuylkill Township, **Chester County**. The permit was issued by the Southeast Regional Office on January 23, 2009.

Permit No. 300997. Aqua Pennsylvania, Inc., (Foxcroft Landfill), 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3420. This permit is for a 10-year renewal for the existing solid waste permit for the continuing operation at the Foxcroft Residual Waste Landfill, a captive Class III residual waste facility, located in Marple Township, **Delaware County**. The permit was issued by the Southeast Regional Office on January 23, 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.

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

54-323-003GP4: First Quality Nonwovens (101 Green Mountain Road, Hazleton, PA 18202) on January 30, 2009, to install and operate a burn off oven at their site in East Union Township, **Schuylkill County**.

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

GP3-57-07: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) on January 28, 2009, to construct and operate a portable nonmetallic mineral processing plant and associated water spray dust suppression system under the General Plan Approval and/or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-PGPA/GP-3) at their Dushore Materials facility in Cherry Township, **Sullivan County**.

GP9-49-327: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474,) on January 28, 2009, to construct and operate one Caterpillar Model C9 diesel-fired engine with a rating of 275 brake horsepower (bhp), one Caterpillar Model C9 diesel-fired engine with a rating of 335 bhp and one Deutz Model BF6M2012C diesel-fired engine with a rating of 172 bhp under the General Plan Approval and/or General Operating Permit BAQ-GPA/GP-9: Diesel or No. 2 fuel-fired Internal Combustion Engines, at their Dushore Materials facility in Cherry Township, **Sullivan County**.

GP5-41-01B: Chief Gathering, LLC (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on February 9, 2009, to construct and operate a 1,340 brake horsepower natural gas-fired compressor engine, a 375,000 Btu/hr glycol dehydrator and a 750,000 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 their Canoe Run Compressor Station in Mifflin Township, **Lycoming County**.

GP5-41-02B: Chief Gathering, LLC (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on February 9, 2009, to construct and operate a 1,340 brake horsepower natural gas-fired compressor engine, a 375,000 Btu/hr glycol dehydrator and a 750,000 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 their Barto Compressor Station in Penn Township, **Lycoming County**.

GP5-08-04A: Chief Gathering, LLC (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on February 9, 2009, to construct and operate a 1,340 brake horsepower natural gas-fired compressor engine, a 375,000 Btu/hr glycol dehydrator and a 750,000 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 their Bradford Compressor Station in West Burlington Township, **Bradford County**.

GP5-08-02B: Chesapeake Appalachia, LLC (P. O. Box 6070, Charleston, WV 25362) on February 5, 2009, to increase the natural gas throughput in the existing glycol dehydrator from 5 million standard cubic feet per day to 17 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 their Evanchick Compressor Station in Asylum Township, **Bradford County**.

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

GP-10-343A: Sharskin Finishings (670 Mercer Road, Butler, PA 16001) on February 4, 2009, to operate of a burn off oven (BAQ-GPA/GP-4) in Butler, **Butler County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2531.

64-303-012: Hanson Aggregates Pennsylvania (7660 Imperial Way, Allentown, PA 18195) on January 20, 2009, to modify their existing batch asphalt plant to use waste derived liquid fuel at the site in Lake Township, **Wayne County**.

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

08-00010B: Global Tungsten & Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) on February 3, 2009, to construct and operate a new oven, a Precision Quincy Corporation model 92-750-B (AMT Oven, Source ID P149, company ID 001—023) and to install a scrubber, a Bionomic Industries Counter Current Packed Tower with quench, model 8, Series 5000, in their Tungsten Chemical Department No. 001 (Building 10) at their facility in North Towanda Township, **Bradford County**. This is a State-only facility.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

26-00402: Veolia ES Chestnut Valley Landfill, Inc. (P. O. Box 266, McClellandtown, PA 15458-0266) on February 5, 2009, to expand the existing municipal solid waste landfill in German Township, **Fayette County**. Emissions from the facility are estimated to be 21.6 tons NOx per year, 72.1 tons CO per year and 30.9 tons VOCs per year. The proposed facility is subject to the applicable

requirements of 25 Pa. Code; 40 CFR 60, Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills; and 40 CFR 63, Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills. Appropriate restrictions, testing, monitoring, recordkeeping, reporting and work practice standards requirements have been included in the Plan Approval.

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.

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

20-005B: W. L. Dunn Construction Co. (180 North Franklin Street, Cochranon, PA 16314) on January 31, 2009, to modify facilities throughput restrictions to allow the maximum hourly production rate to be averaged over the daily production period and allow for peak production events at facility in East Fairfield Township, **Crawford County**. This is a State-only facility.

42-158L: Temple Inland—Mt. Jewett (147 Temple Drive, Kane, PA 16735) on February 3, 2009, to modify existing PALs facility in Sergeant Township, **McKean County**. This is a Title V facility.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

Date Correction to February 14, 2009, notice:

56-00305A: SG Somerset Power, LLC (94 Spruce Street, Indiana, PA 15701) on February 2, 2009, Plan Approval denied for the SG Somerset Waste Coal Fired Power Generation Facility in Shade Township, **Somerset County**. The plan approval application has been deemed technically deficient. Under section 165(c) of The Clean Air Act, final action on a PSD application must be taken within 1 year of the date it is deemed to be administratively complete. The application was deemed to be administratively complete on February 1, 2008.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-3637.

08-00003: CraftMaster Manufacturing, Inc. (P. O. Box 311, Towanda, PA 18848-0311) on February 6, 2009, to issue a Title V Operating Permit for their following sources at their facility in Wysox Township, **Bradford County**: Line I Felter (Source ID 161P) Scrubber A (control ID D42), Line I Second Stage Dryers (Source ID 161P) Scrubber B (control ID D41) and Line I and II (Source IDs 181P and 182P) Pretrim Saws No. 9 Scrubber (control ID D81). This Title V Operating Permit revision is to extend the PM stack test date for the previously mentioned sources. The Title V operating permit contains

all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

04-00713: US Natural Resources, Inc. (212 State Street, Belle Vernon, PA 15012-1152) on February 5, 2009, to operate a natural gas-fueled fluidized bed dryer controlled by a dust collector (baghouse) at their Ambridge Plant, in Harmony Township, **Beaver County**. The emissions from this facility will be approximately 1 tpy PM and lesser amount of all other pollutants. Applicable Emission Restrictions, Monitoring Requirements, Recordkeeping Requirements, Reporting Requirements and Work Practice Standards have been placed in the permit. This is a renewal of the State-Only Operating Permit issued in 2003.

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

43-00270: CCL Container—Advanced Monobloc Aerosol Division (One Llodio Drive, Hermitage, PA 16148) on February 6, 2009, to operate a can manufacturing facility in the City of Hermitage, **Mercer County**. This re-issuance also incorporated Plan Approval Number 43-270F which authorized the installation of two additional can making lines and the replacement of Catalytic Incinerator No. 2 with a Regenerative Thermal Oxidizer.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

56-00298: Garrett Limestone Co., Inc. (451 Stoytown Road, Suite 104, Somerset, PA 15501-6927) on February 6, 2009, administratively amended its operating permit to revise the responsible official, permit contact and associated telephone numbers for the Romesburg Quarry located in Summit Township, **Somerset County**.

65-00839: Texas Eastern Transmission, LP, (2601 Market Place, Suite 400, Harrisburg, PA 17110) on January 28, 2009, the Title V Operating Permit was administratively amended to correct typographical errors made by the Department of Environmental Protection or the Delmont Station located in Salem Township, Westmoreland County.

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

25-00648: NEPA Energy, LP (10915 Ackerman Lane, Northeast, PA 16428-3828) on February 6, 2009, issued an administrative amendment of the State-only Operating Permit for their facility in North East Township, **Erie County**. The administrative amendment incorporated the plan approval conditions from PA 25-648C and PA 25-648D.

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.

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

41-00055: Hanson Aggregates (PA) Inc. (7660 Imperial Way, Allentown, PA 18195-1040) on February 3, 2009, terminated a State-only operating permit for their Lime Bluff Quarry in Muncy Creek Township, **Lycoming County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

32951301 and GP12-32951301-R15, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Tomas Run Mine in Burrell Township, **Indiana County** to establish an emission inventory at the coal processing and transfer facility for screening, storage pile, wind erosion, truck loading and vehicular traffic on roadways based on peak production of 500,000 annual raw tons of coal. Approval is authorized under General Permit BAQ-GAP/Gp-12 and is required to meet all applicable limitations, terms and conditions of authorization GP12-32951301-R15. Application received January 31, 2008. Permit issued February 2, 2009.

11031301 and NPDES Permit No. PA0235539, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to renew the permit for the Madison Mine in Jackson, Croyle and Cambria Townships, **Cambria County** and related NPDES permit. No additional discharges. Application received July 16, 2008. Permit issued February 4, 2009.

56851303 and NPDES Permit No. PA0215350, RoxCOAL, Inc., (P. O. Box 149, Friedens, PA 15541), to renew the permit for the Barbara No. 1 and No. 2 Mines in Stoneycreek and Brothersvalley Townships, **Somerset County** and related NPDES permit. No additional discharges. Application received January 31, 2007. Permit issued February 6, 2009.

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

56990103 and NPDES Permit No. PA0235172. Future Industries, Inc., P. O. Box 137, Meyersdale, PA 15552, permit revision—land use change on Barry and Diane Bittner property from Forest to Cropland in Brothersvalley Township, **Somerset County**, affecting 34 acres. Receiving streams: UNTs to/and Millers Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received December 10, 2008. Permit issued February 6, 2009.

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

03030105 and NPDES Permit No. PA0250562. Thomas J. Smith, Inc. (2340 Smith Road, Shelocta, PA 15774). Permit renewal for reclamation only of an existing bituminous surface mine, located in Mahoning Township, **Armstrong County**, affecting 154.4 acres. Receiving streams: Cathcart Run and UNTs to Cathcart Run. Application received November 13, 2008. Permit issued January 27, 2009.

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

33020107. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Revision to an existing bituminous strip and auger operation to change the postmining land use from forestland to unmanaged natural habitat on the Robert H. Beatty, Jr. and Nevin H. Delacour properties in Oliver Township, **Jefferson County**. Receiving streams: Hadden Run. Application received November 20, 2008. Permit issued February 2, 2009.

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

54860205R4. Cass Contracting Company, (101 North Centre Street, Pottsville, PA 17901), renewal of an existing anthracite coal refuse reprocessing, refuse disposal and preparation plant operation in Norwegian Township, **Schuylkill County** affecting 33.0 acres, receiving stream: none. Application received November 19, 2007. Renewal issued February 5, 2009.

Noncoal Permits Actions

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

7574SM1 and NPDES Permit No. PA594300. Pennsy Supply Inc., P. O. Box 3331, Harrisburg, PA 17105, renewal of NPDES Permit, Silver Springs Township, **Cumberland County**. Receiving stream: Conodoguinet Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received December 1, 2008. Permit issued February 3, 2009.

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

37860305. Three Rivers Aggregates (P. O. Box 6090, Falmouth, VA 22403) Renewal of existing NPDES Permit No. PA0212032 in Plain Grove Township, **Lawrence County** affecting 103.0 acres. Receiving streams: Taylor Run. Application received December 15, 2008. Permit issued February 4, 2009.

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

8275SM1C and NPDES Permit No. PA0594601. Pennsy Supply, Inc., (P. O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in West Hempfield Township, **Lancaster County**, receiving stream: UNT to Chickies Creek. Application received December 22, 2008. Renewal issued February 4, 2009.

4875SM1A1C5 and NPDES Permit No. PA0612227. Glen-Gery Corp., (P. O. Box 7001, Wyomissing, PA 19610), correction for an existing quarry operation to delete 16.9 acres for a total permitted area of 34.1 acres in York Township, **York County**, receiving stream: UNT to Mill Creek. Application received October 15, 2008. Correction issued February 4, 2009.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

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

26094001. Conquest Seismic Services (504 1st Center, Horseheads, NY 14845). Blasting activity permit for seismic exploration at Necessity 2D, located at Henry Clay Township, **Fayette County**. Duration of blasting is expected to be 2 months. Permit issued February 3, 2009.

63084011. Trumbull Corporation (1020 Lebanon Road, West Mifflin, PA 15122). Blasting activity permit for construction of the Mon/Fayette Expressway Section 51J, located in Centerville Borough, **Washington County**. Duration of blasting is expected to be 1 year. Permit issued February 3, 2009.

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

58094002. John Brainard, (3978 SR 2073, Kingsley, PA 18826), construction blasting for Richard and Betty Jean White Well Site in Auburn Township, **Susquehanna County** with an expiration date of March 31, 2009. Permit issued: February 3, 2009.

39094102. Douglas Explosives, Inc., (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Willow Lane Elementary School in Lower Macungie Township, **Lehigh County** with an expiration date of February 1, 2010. Permit issued: February 4, 2009.

40094103. Austin Powder Northeast, LLC, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for 8th Street Bridge Borrow Pit in Pittston Township, **Luzerne County** with an expiration date of January 31, 2010. Permit issued February 4, 2009.

58094101. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for an oil and gas drill platform in Thompson Township, **Susquehanna County** with an expiration date of February 1, 2010.

66094103. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for a

shale pit in Mehoopany Township, **Wyoming County** with an expiration date of January 31, 2010. Permit issued February 4, 2009.

45094105. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Skyline Heights in Smithfield Township, **Monroe County** with an expiration date of February 2, 2010. Permit issued February 6, 2009.

46094105. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Allentown Road Sewer Interceptor in Franconia Township, **Montgomery County** with an expiration date of January 28, 2010. Permit issued February 6, 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 free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 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.

E23-456. Nolen Investments, LLC, 950 West Valley Forge Road, King of Prussia, PA 19406, Aston Township, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the Courts at Spring Brooke Subdivision, a 146-unit town home residential subdivision situated along a UNT to Baldwin Run which runs along the eastern boundary of the property:

1. To place fill within 0.188 acre of PFO wetlands and approximately 320 feet of watercourse associated with the construction of a roadway, residences and stormwater management. The water resources were determined to be "isolated" by the United States Army Corps of Engineers.

2. To replace the existing 20-ft long 36-in CMP culvert with a 30-ft long 36-in CMP and maintain the crossing as an emergency access road, 0.015 ft² of wetlands will be filled.

3. Approximately 0.114 acre of wetland (PFO) along Baldwin Run will be temporarily impacted for lead remediation. Soil will be stripped and replaced and the area revegetated.

4. A proposed 0.28 acre of wetland replacement is schedule for impacts associated with the proposed subdivision. The construction of the Springbrooke Boulevard stream enclosure without a valid permit will be covered as an after-the-fact permit authorized by Permit E23-467.

5. To place fill and grade within the assumed 100-year floodway of the UNT of Baldwin Run to accommodate building construction.

6. To construct and maintain an unspecified emergency access road from adjoining property.

The project will permanently impact approximately 296 linear feet of stream length and 0.17 acre of wetland. The permittee proposes to construct 0.28 acre of wetland replacement as compensation for wetland impacts not avoided by this project. The project lies to the east of SR 0452 and is approximately 1,250 feet from the intersection of Jefferson Street and SR 0452 in Aston Township, Delaware County (Marcus Hook, PA Quadrangle N: 18.97 inches; W: 7.99 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

E36-809: Elizabethtown Borough, 600 South Hanover Street, Elizabethtown, PA 17022 in Elizabethtown Borough and West Donegal Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 120-foot long by 45-foot wide bridge with a 15-foot underclearance, an 8-inch sanitary sewer line attached to the bridge and a 12-inch water line below the stream across Conoy Creek (TSF) (Elizabethtown, PA Quadrangle Latitude: 40° 08' 33.20"; Longitude: 76° 36' 25.67", North: 3.15"; West: 14.95") and

to construct and maintain a 120-foot long, 30-inch HDPEP culvert crossing of an intermittent UNT to Conoy Creek (TSF) (Elizabethtown, PA Quadrangle Latitude: 40° 08' 29.72"; Longitude: 76° 36' 6.19", North: 3.02"; West: 14.25") associated with the construction of a subdivision known as Conoy Crossing located in Elizabethtown Borough and West Donegal Township, Lancaster County. The project will have a permanent impact on 120 feet of intermittent stream channel.

E28-352: Valley Quarries, Inc., Lee Zimmerman, P. O. Box J, Chambersburg, PA 17201, Quarry Road Fill Site, Guilford Township, **Franklin County,** United States Army Corps of Engineers, Baltimore District.

To fill and maintain the remaining approximate 3.00 acres of a previous 4.74 acre pond at an abandoned limestone quarry with clean fill. The project is located at 169 Quarry Road (Chambersburg, PA Quadrangle N: 9.0 inches; W: 0.5 inch, Latitude: 39° 55' 30"; Longitude: 77° 37' 43") in Guilford Township, Franklin County. The purpose of the project is to reclaim the mine area to eliminate potential health concerns and safety hazards to the community.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E19-274. Kawneer Company, Inc., 500 East 12th Street, P. O. Box 629, Bloomsburg, PA 17815. Culvert Crossing in Town of Bloomsburg, **Columbia County,** United States Army Corps of Engineers, Baltimore District (Bloomsburg, PA Quadrangle Latitude: (40° 59' 47.5"; Longitude: 76° 26' 32.3").

To remove the existing culvert crossing and construct, operate and maintain a new culvert crossing consisting of a 14 foot by 9 foot box culvert with a clear span of 12 feet. The length of the crossing will be 66 feet, not to include the end sections on the inlet and outlet of the structure. This structure will impact less than 100 linear feet of Kinneys Run and will only impact 0.66 acre of total area. This project will not impact any wetlands. This project is located 0.4 mile south on SR 487 from the intersection with SR 0011, travel east on 12th Street to the Kawneer Property. This permit also includes 401 Water Quality Certification.

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

E02-1572. Holdings Acquisition Co., LP, 120 North Shore Drive, Pittsburgh, PA 15212. To construct an amphitheater and boat docking area in the City of Pittsburgh, **Allegheny County,** United States Army

Corps of Engineers, Pittsburgh District (Pittsburgh West, PA Quadrangle N: 13.1 inches; W: 3.25 inches, Latitude: 40° 26' 51"; Longitude: 80° 01' 22"). To construct and maintain an amphitheater on the right bank of the Ohio River (WWF), to remove the existing industrial dock and concrete slope wall along the right bank of said stream, to construct and maintain a rock wall and sheet pile wall combination and their associated fill approximately 1,040 linear feet long, to regrade and maintain the right bank of said stream and to dredge and maintain an area approximately 10,500 square feet to allow for river boat access, for the purpose of constructing the "Rivers Casino" and improving the North Shore Riverfront. The project is located just southwest from the intersection of Reedsdale and Fulton Streets. To compensate for the impacts to the river, the applicant shall construct and maintain a 3,860 square foot shallow habitat mitigation area located in the river on the downstream side of the project.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control (ESCP) Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

<p>ESCP 0809806 Ted Wurfel Chief Gathering, LLC 6051 Wallace Road Ext. Suite 210 Wexford, PA 15090</p>	<p>Bradford County West Burlington and Burlington Townships</p>	<p>UNT to Towanda Creek CWF</p>
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[Pa.B. Doc. No. 09-307. Filed for public inspection February 20, 2009, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: "Technical Guidance"). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2009.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance

DEP ID: 563-2112-203. Title: Boundary Changes to Mining Permits. Description: This guidance substantially revises and renames technical guidance No. 563-2112-203: Insignificant Boundary Corrections for Surface Mining Activities (effective April 7, 1998). The former guidance pertained only to coal surface sites and described the Department's allowance for very small changes to boundaries of a permit area under specific conditions. Since the finalization of the previous guidance, the Department recognized the need to alter the guidance document to accommodate larger scope boundary changes in various types of permits, including both coal and noncoal mining permits. In addition to these changes, the document also includes procedures for the Department to follow to make reasonable changes to existing permits when boundaries are modified and clarifies provisions for public participation and outside agency review of boundary change requests. Notice requesting public comment on the substantive revisions to the guidance document was published at 38 Pa.B. 4583 (August 16, 2008). The Department did not receive comments during the public comment period. Contact: Sharon Hill, Department of Environmental Protection, Bureau of Mining and Reclamation, Rachel Carson State Office Building, 5th Floor, P. O. Box 8461, Harrisburg, PA 17105-8461, shill@state.pa.us. Effective Date: February 21, 2009.

Draft Technical Guidance

DEP ID: 383-2129-004. Title: Policy for Responding to Loss of Positive Pressure Situations in the Distribution System. Description: 25 Pa. Code Chapter 109 Safe Drinking Water Regulations require all public water systems to ensure safe and potable water is continuously

supplied to all users. Any disruption (line breaks, valve repairs, new construction, etc.) of a water distribution system can result in a loss of positive pressure, which may allow contaminants to enter that distribution system. This guidance provides a policy to public water suppliers and Department staff for the evaluation and response to possible contamination of water distribution systems. This guidance provides general policy regarding physical or operational disruptions in the distribution system and the determination of Acute Tier 1 loss of positive pressure situations requiring public notification in the form of a Boil Water Advisory or other water supply warning. This guidance also contains Best Management Practices (BMPs) for water main breaks which result in a loss of positive pressure. These BMPs summarize the water industry standard, found in the American Water Works Association Standard C-651-05, for adequate flushing, disinfection, and microbiological testing in the distribution system following repair activities. Written Comments: Interested persons may submit written comments on this draft technical guidance document by March 23, 2009. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to William Beck, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8774, (717) 783-6865, wibeck@state.pa.us. Contact: Questions regarding the draft technical guidance should be directed to William Beck at (717) 783-6865, wibeck@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

DEP ID: 383-2129-005. Title: Policy for Issuing and Removing Water Supply Warnings. Description: 25 Pa. Code Chapter 109 Safe Drinking Water Regulations require public water suppliers to issue public notifications that include water supply warning during imminent threat situations (also known as Tier 1 situations). This guidance document provides instructions for issuing and removing water supply warnings. This document provides guidance on the following topics: Tier 1 situations, a drinking water standards and health advisory table, drinking water treatment chemicals and associated health effects, and types of water supply warnings. Written Comments: Interested persons may submit written comments on this draft technical guidance document by March 23, 2009. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Deborah Rotz, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8774, (717) 772-2190, drotz@state.pa.us. Contact: Questions regarding the draft technical guidance should be directed to Deborah Rotz at (717) 772-2190, drotz@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-308. Filed for public inspection February 20, 2009, 9:00 a.m.]

Keystone HELP Loan and Rebate Program

The Department of Environmental Protection (Department) announces the opening of a new incentive program for homeowners undertaking energy efficiency projects. The Keystone HELP Loan and Rebate Program, offered in partnership with the Pennsylvania Treasury Department and AFC First Financial Corporation, provides rebates and low-interest loans, enabling Commonwealth homeowners to purchase and install energy efficient equipment or to undertake whole-house improvements that will result in reduced energy consumption.

An eligible applicant must be a resident of this Commonwealth, with a combined household income of no more than \$150,000 per year. The home in which the improvements are installed must be the applicant's primary residence, and be owned and occupied by the applicant. For a Keystone HELP loan, the applicant must demonstrate good credit history and the ability to repay the loan.

The Keystone HELP rebates will be available for the purchase and professional installation of certain qualifying equipment, such as heat pumps, boilers, windows and doors bearing the ENERGY STAR label. Rebate value will be 10% of the total project cost, up to a maximum rebate of \$500. Only projects completed after the program opening date of February 23, 2009, will be eligible.

As an alternative to the rebates, Keystone HELP low-interest loans will be available for the purchase and professional installation of the same projects qualifying under the rebate program. Additionally, projects that meet the criteria for a "whole house energy efficiency project" will be eligible for Keystone HELP loans at a much lower interest rate. Interest rates range from 4.99% to 6.99%, and the maximum loan amount is \$35,000. Only projects initiated after the program opening date of February 23, 2009, will be eligible.

The application forms and program guidelines are available on the program's web site at www.KeystoneHELP.com or on the Department's web site at www.dep.state.pa.us (DEP Keyword: "Residential Energy Efficiency"). Applications are also available from the Department of Environmental Protection, Office of Energy and Technology Deployment, 15th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8772, Harrisburg, PA 17105-8772 or (717) 772-8911. For questions regarding the eligibility of projects, contact David Althoff, Office of Energy and Technology Deployment, at (717) 772-8911 or residentialenergy@state.pa.us before submitting an application.

AFC First Financial Corporation will begin accepting applications on February 23, 2009. Rebates and loans will be awarded to eligible applicants on a first-come, first-served basis. A total of \$1 million is available for rebates this fiscal year. A total of \$16.0 million is available for loans this fiscal year.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-309. Filed for public inspection February 20, 2009, 9:00 a.m.]

Pennsylvania Sewage Advisory Committee; 2009 Meeting Schedule

The Pennsylvania Sewage Advisory Committee will meet on the dates listed. Meetings will begin at 10:30 a.m. and are conducted in the Auditorium or Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

- Wednesday, March 11, 2009—Auditorium, RCSOB
- Wednesday, June 10, 2009—Auditorium, RCSOB
- Wednesday, September 9, 2009—Room 105, RCSOB
- Wednesday, November 18, 2009—Auditorium, RCSOB

The agenda and meeting materials for each meeting will be available on the Public Participation Center of the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keyword: "Participate"). Prior to each meeting, check information on the Department's web site to confirm meeting date, time and location.

Questions concerning these meetings can be directed to John Borland at (717) 787-8184 or jborland@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 787-8184 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-310. Filed for public inspection February 20, 2009, 9:00 a.m.]

Public Notice of Proposed Revisions to Pennsylvania General Permits for Beneficial Use of Exceptional Quality Biosolids by Land Application (PAG-07), Beneficial Use of Biosolids by Land Application (PAG-08) and Beneficial Use of Residential Septage (PAG-09)

In accordance with the provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), on April 3, 2004, the Department of Environmental Protection (Department) issued general permits for use by eligible persons for the following: (1) the beneficial use of exceptional quality biosolids that will be sold, given away or otherwise distributed in a bag or other container or that will be land applied (PAG-07); (2) the beneficial use of biosolids by land application (PAG-08); and (3) the beneficial use of residential septage by land application (PAG-09). These general permits are scheduled to expire on April 3, 2009.

To update and clarify the requirements of the general permits, the Department has revised each general permit. Each general permit now includes definitions for "Food Processing Waste" and "Public Nuisance" and includes restrictions that prohibit the land application of food processing waste mixed with biosolids or residential septage without prior approval from the Department. The general permits also outline specific actions the Department may require which may be necessary to mitigate

odors such as soil incorporation, storage restrictions and more stringent VAR practices. Finally, in PAG-09 relating to residential septage, it is proposed that the land application of septage containing deodorizers or chemical additives be prohibited unless those chemicals have been approved by the Department for the land application of residential septage.

By this notice, the Department is seeking public comment on the revisions made to PAG-07, PAG-08 and PAG-09. Comments may be specific to one of the general permits or generalized to address similar concerns with all three general permits. Comments must be submitted to the Department by March 23, 2009. If there is significant public interest or if requested, the comment period may be extended at the discretion of the Department for an additional 15-day period. Only comments received during the specified comment period will be considered in preparing and issuing the final and revised general permits. If significant issues of public interest are raised, the Department may schedule a public meeting or hearing. Written comments should be submitted to Dennis Wilson at the following address. The Department will also accept comments submitted by e-mail to dwilson@state.pa.us. The Department will not accept comments submitted by facsimile or through voice mail.

Copies of the draft permits are available by contacting the Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Water Management, Rachel Carson State Office Building, P. O. Box 8774, Harrisburg, PA 17105-8774, by means of e-mail to dwilson@state.pa.us or by calling (717) 787-8184. The draft general permits are also available on the Department's web site at www.depweb.state.pa.us (DEP Keyword: "Participate"; then select "Proposals Currently Open for Comment"). Persons with a disability may contact the Department by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDL users) or (800) 654-5988 (voice users).

Following the close of the specified comment period, the Department will review all submitted comments, prepare a comment and response document and finalize the general permits. The current general permits will continue to be in force until formal revision of PAG-07, PAG-08 and PAG-09 is completed and the availability of the finalized general permits is published in the *Pennsylvania Bulletin*.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-311. Filed for public inspection February 20, 2009, 9:00 a.m.]

Small Business Compliance Advisory Committee; Meeting Rescheduled

The January 28, 2009, meeting of the Small Business Compliance Advisory Committee has been rescheduled for March 4, 2009. The meeting will begin at 10 a.m., Delaware Room, 16th floor of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Questions concerning this meeting should be directed to Susan Foster, Air Quality Program Specialist, at (717) 787-7019 or sufoster@state.pa.us.

The agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keyword: "Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 787-7019 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-312. Filed for public inspection February 20, 2009, 9:00 a.m.]

State Board for Certification of Sewage Enforcement Officers; Special Meeting Notice

The State Board for Certification of Sewage Enforcement Officers has scheduled a special Board meeting at 10 a.m. on Friday, March 6, 2009, in the 6th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting will end approximately at 2 p.m. The purpose of this meeting is to address training issues, approve meeting minutes and discuss examination results.

The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keyword: "Participate"). Questions concerning the agenda and meeting materials may be directed to Cheri Sansoni at (717) 772-5158 or csansoni@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Cheri Sansoni at (717) 772-5158 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-313. Filed for public inspection February 20, 2009, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Real Estate for Sale
Allegheny County

State owned real estate for sale in the City of Pittsburgh, Allegheny County, PA. The Department of Services through its broker, GVA Oxford, will accept proposals for the purchase of 1.258-acres +/- of improved land zoned "GT-D" Golden Triangle Subdistrict D located at 300 Liberty Avenue in the City of Pittsburgh. Proposals are

due March 6, 2009. Interested parties wishing to receive a copy of Solicitation No. 94266 should call Randall G. McCombs, GVA Oxford, at (412) 261-0200 or RMcCombs@gvaoxford.com.

JAMES P. CREEDON,
Secretary

[Pa.B. Doc. No. 09-314. Filed for public inspection February 20, 2009, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application for Exception to 28 Pa. Code § 127.32

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 127.32 (relating to written orders):

Altoona Regional Health System
J C Blair Memorial Hospital
Hamot Medical Center
Mercy Hospital
Millcreek Community Hospital
UPMC St. Margaret
UPMC Bedford Memorial
UPMC Braddock

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-315. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of Geisinger Endoscopy & Surgery Centre for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Geisinger Endoscopy & Surgery Centre has requested an exception to the requirement of 28 Pa. Code § 569.35 (relating to general safety precautions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-316. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of Gettysburg Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gettysburg Hospital has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-317. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of Meadville Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Meadville Medical Center has requested an exception to the requirements of 28 Pa. Code § 138.15 (relating to high-risk cardiac catheterizations).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-318. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of The Pain and Surgical Center of Langhorne for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Pain and Surgical Center of Langhorne has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-319. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of Saint Vincent Endoscopy Center, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Saint Vincent Endoscopy Center, LLC has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-320. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of Southwest Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Southwest Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 3.1.1.5 (relating to handwashing stations).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-321. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of UPMC Presbyterian Shadyside for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Presbyterian Shadyside has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.1.2.1 (relating to space requirements for special purpose examination rooms), 2.1-5.5.4.2 (relating to toilets in fluoroscopic room) and 3.7-2.4.2.1 (relating to stepdown recovery room).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-322. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of Uniontown Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Uniontown Hospital has requested an exception to the requirements of 28 Pa. Code §§ 138.15 and 138.18(b) (relating to high-risk cardiac catheterizations; and EPS studies).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and

require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-323. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application of The Western Pennsylvania Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Western Pennsylvania Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.1.2.1(2) (relating to clearances).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-324. Filed for public inspection February 20, 2009, 9:00 a.m.]

Human Immunodeficiency Virus (HIV) Integrated 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, March 10, 2009.

The meeting will be held at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050, from 9 a.m. to 2 p.m.

For additional information, contact Joseph Pease, Department of Health, Bureau of Communicable Diseases,

Division of HIV/AIDS, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Joseph Pease at the previous 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. 09-325. Filed for public inspection February 20, 2009, 9:00 a.m.]

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) (relating to management).

Renaissance Gardens at Maris Grove
115 Brinton Lane
Glen Mills, PA 19342
FAC ID 21670201

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Wyncote Church Home
208 Fernbrook Avenue
Wyncote, PA 19095
FAC ID 232102

Renaissance Gardens at Maris Grove
115 Brinton Lane
Glen Mills, PA 19342
FAC ID 21670201

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.19(b) (relating to windows and windowsills).

St. Joseph's Manor (A d/b/a Entity of HRHS)
1616 Huntingdon Pike
Meadowbrook, PA 19046
FAC ID 451002

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.27 (relating to lounge and recreation rooms).

Kindred Hospital Pittsburgh North Shore
1004 Arch Street
Pittsburgh, PA 15212

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities).

St. Joseph's Manor (A d/b/a Entity of HRHS)
1616 Huntingdon Pike
Meadowbrook, PA 19046
FAC ID 451002

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health

and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-326. Filed for public inspection February 20, 2009, 9:00 a.m.]

Women, Infants and Children Program (WIC); Public Meetings

The Department of Health (Department) has announced three public meetings to receive comments and suggestions about the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

The meetings will be held from 10 a.m. to 3 p.m. at the following locations:

Pittsburgh, PA
Thursday, April 23, 2009
Allegheny County Health Department
Investment Building
6th Floor
239 Fourth Avenue
Pittsburgh, PA 15222

Philadelphia, PA
Wednesday, April 29, 2009
NORTH, Inc.
642 North Broad Street
Suite 101
Philadelphia, PA 19130

Harrisburg, PA
Tuesday, May 5, 2009
Hamilton Health Center
1650 Walnut Street
Harrisburg, PA 17103

The Department invites comments on all aspects of the WIC Program's operations. Persons wishing to provide comments at the public meetings are requested to preregister with the Pennsylvania WIC Program Office by calling Bonnie Mellott, WIC Education/Outreach Coordinator at (717) 783-1289. Those unable to attend are encouraged to submit comments to the Division of Women, Infants and Children (WIC), Department of Health, 2150 Herr Street, 1st Floor, Suite B, Harrisburg, PA 17103-1625. Written comments will be accepted until May 31, 2009.

Written comments and those presented at the meetings will be used in developing the State Plan of Program

Operation and Administration for the WIC Program for the 2010 Federal Fiscal Year, which runs October 1, 2009, to September 30, 2010.

For additional information, or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so contact Bonnie Mellott, WIC Education/Outreach Coordinator at (717) 783-1289 or for speech and/or hearing impaired persons TDD (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

These meetings are subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-327. Filed for public inspection February 20, 2009, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Trauma Disproportionate Share Payments

Purpose of Notice

The Department of Public Welfare (Department) is announcing its intent to amend the payment methodology and the funding available for an additional class of disproportionate share hospital (DSH) payments to hospitals that are accredited by the Pennsylvania Trauma System Foundation (Foundation) as trauma centers.

Level I and Level II Trauma Centers

The Department will allocate 90% of the total available funds to hospitals accredited as Level I and Level II trauma centers by the Foundation. Fifty percent of this amount available for Level I and Level II trauma centers will be distributed equally among Level I and Level II trauma centers. Fifty percent of the total amount available for Level I and Level II trauma centers will be distributed on the basis of each trauma center's percentage of Medical Assistance (MA) and uninsured "Pennsylvania Trauma Outcome Study" (PTOS) trauma cases and patient days compared to the Pennsylvania Statewide total number of MA and uninsured PTOS trauma cases and patient days for Level I and Level II trauma centers. For these payments, the Department will calculate payment to each qualifying hospital accredited as a Level I or Level II trauma center using PTOS data provided by the Foundation. For purposes of calculating the hospital specific portion of the payment, the Department shall count all MA days, uninsured PTOS trauma cases and patient days, irrespective of the home state of the patient.

The Department may use any funds available for trauma disproportionate share payments to make these payments, including any balance of unpaid Level III funds.

West Virginia University Hospital (WVUH) shall be treated as an in-State hospital for purposes of determining WVUH's eligibility for (including its accreditation status) and calculation of the amount of Trauma DSH payments. WVUH data reported to the Foundation shall be included in the previously referenced Pennsylvania Statewide data sets to the extent that WVUH is eligible for payments.

Level III Trauma Centers

A hospital must be accredited by the Foundation as a Level III trauma center to qualify for these DSH payments. The Foundation will accredit Level III trauma centers in accordance with established standards, based upon the guidelines for Level III trauma centers as defined by the American College of Surgeons. In addition to the established standards a hospital shall meet all of the following criteria to qualify for Level III accreditation:

- (1) Provide comprehensive emergency services.
- (2) Have, on an annual basis, at least 4,000 inpatient admissions from its emergency department.
- (3) Be located in a county without an accredited Level I or Level II trauma center.
- (4) Not be located within 25 miles travel distance from a Level I or Level II trauma center.

The Department will allocate the 10% of the total available funds to hospitals accredited as Level III trauma centers. Fifty percent of this amount available for Level III trauma centers will be distributed equally among Level III trauma centers. Fifty percent of the total amount available for Level III trauma centers will be distributed on the basis of each trauma center's percentage of MA and uninsured PTOS trauma cases and patient days compared to the Pennsylvania Statewide total number of MA and uninsured PTOS trauma cases and patient days for Level III trauma centers. For these payments, the Department will calculate payment to each qualifying hospital accredited as a Level III trauma center using PTOS data provided by the Foundation. For purposes of calculating the hospital specific portion of the payment, the Department shall count all MA days, uninsured PTOS trauma cases and patient days, irrespective of the home state of the patient. Payment to each qualifying Level III trauma center may not be greater than 50% of the average Statewide annual payment to a Level II trauma center.

The State General Funds available for these payments will be \$11.597 million.

Fiscal Impact

The Fiscal Year 2008-2009 fiscal impact, as a result of this additional class of DSH payments is \$25.438 million (\$11.597 million in State funds).

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-581. (1) General Fund; (2) Implementing Year 2008-09 is \$11.597M; (3) 1st Succeeding Year 2009-10 is \$12.337M; 2nd Succeeding Year 2010-11 is \$12.337M; 3rd Succeeding Year 2011-12 is \$12.337M; 4th Succeeding Year 2012-13 is \$12.337M; 5th Succeeding Year 2013-14 is \$12.337M; (4) 2007-08 Program \$12.5M; 2006-07 Program \$12.5M; 2005-06 Program \$12.5M; (7) Trauma Centers; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 09-328. Filed for public inspection February 20, 2009, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Gus Bucks Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Gus Bucks.

2. *Price:* The price of a Pennsylvania Gus Bucks instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Gus Bucks instant lottery game ticket will contain one "PLAY AREA" featuring 15 play symbols and their captions and a "FAST PAW BONUS" area. The play symbols and their captions located in the "PLAY AREA" area are: Shoe symbol (SHOE), Cherry symbol (CHR), Bell symbol (BELL), Star symbol (STAR), 7 symbol (SEVN), Diamond symbol (DMND), Coin symbol (COIN), Dollar symbol (DLAR), Gold symbol (GOLD), Bar symbol (BAR), Paw symbol (PAW) and a Gus symbol (GUS). The bonus play symbols and their captions located in the "FAST PAW BONUS" area are: 2X symbol (2TIMES), 4X symbol (4TIMES), NO BONUS (TRY AGAIN) and TRY AGAIN (NO BONUS).

4. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000 and \$100,000. A player can win 1 time on a ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Gus Bucks instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets upon which twelve GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which eleven GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which ten GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which nine GUS (GUS) play symbols appear in the "PLAY AREA" and a 2X (2TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which nine GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which eight GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which seven GUS (GUS) play symbols appear in the "PLAY AREA" and a 4X (4TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$400.

(h) Holders of tickets upon which seven GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which six GUS (GUS) play symbols appear in the "PLAY AREA" and a 2X (2TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which six GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets upon which five GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$40.

(l) Holders of tickets upon which four GUS (GUS) play symbols appear in the "PLAY AREA" and a 2X (2TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$40.

(m) Holders of tickets upon which three GUS (GUS) play symbols appear in the "PLAY AREA" and a 4X (4TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which four GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$20.

(o) Holders of tickets upon which three GUS (GUS) play symbols appear in the "PLAY AREA" and a 2X (2TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$20.

(p) Holders of tickets upon which two GUS (GUS) play symbols appear in the "PLAY AREA" and a 4X (4TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$20.

(q) Holders of tickets upon which three GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$10.

(r) Holders of tickets upon which two GUS (GUS) play symbols appear in the "PLAY AREA" and a 2X (2TIMES) play symbol appears in the "FAST PAW BONUS" area, on a single ticket, shall be entitled to a prize of \$10.

(s) Holders of tickets upon which two GUS (GUS) play symbols appear in the "PLAY AREA," on a single ticket, shall be entitled to a prize of \$5.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

Count The Number Of Gus Symbols In The Play Area And Win Corresponding Prize In Prize Legend. Win With Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 6,000,000 Tickets
2 GUS SYMBOLS	\$5	10	600,000
2 GUS SYMBOLS w/2X	\$10	24	250,000
3 GUS SYMBOLS	\$10	60	100,000
2 GUS SYMBOLS w/4X	\$20	120	50,000
3 GUS SYMBOLS w/2X	\$20	120	50,000
4 GUS SYMBOLS	\$20	60	100,000
3 GUS SYMBOLS w/4X	\$40	300	20,000
4 GUS SYMBOLS w/2X	\$40	300	20,000
5 GUS SYMBOLS	\$40	600	10,000
6 GUS SYMBOLS	\$50	120	50,000
6 GUS SYMBOLS w/2X	\$100	685.71	8,750
7 GUS SYMBOLS	\$100	685.71	8,750
7 GUS SYMBOLS w/4X	\$400	3,429	1,750
8 GUS SYMBOLS	\$400	3,429	1,750
9 GUS SYMBOLS	\$500	3,750	1,600
9 GUS SYMBOLS w/2X	\$1,000	17,143	350
10 GUS SYMBOLS	\$1,000	20,000	300
11 GUS SYMBOLS	\$10,000	600,000	10
12 GUS SYMBOLS	\$100,000	600,000	10

"2X" (2TIMES) = Get a 2X (2TIMES) symbol in the Fast Paw Bonus and win 2 times the prize won in the play area.

"4X" (4TIMES) = Get a 4x (4TIMES) symbol in the Fast Paw Bonus and win 4 times the prize won in the play area. Only the highest prize won will be paid.

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Gus Bucks instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Gus Bucks, prize money from winning Pennsylvania Gus Bucks instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Gus Bucks instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Gus Bucks or through normal communications methods.

STEPHEN H. STETLER,
Acting Secretary

[Pa.B. Doc. No. 09-329. Filed for public inspection February 20, 2009, 9:00 a.m.]

Pennsylvania \$1 Million Nest Egg Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$1 Million Nest Egg.

2. *Price:* The price of a Pennsylvania \$1 Million Nest Egg instant lottery game ticket is \$20.

3. *Play Symbols:* Each Pennsylvania \$1 Million Nest Egg instant lottery game ticket will contain one play area featuring a "GOLDEN NUMBERS" area, a "YOUR NUMBERS" area and a separate "BONUS PLAYS" play area. The play symbols and their captions located in the "GOLDEN NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37

(THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Feather symbol (FEATHER), Gold Bar symbol (GLDBAR) and a Nest Egg symbol (NESTEGG). The play symbols and their captions, located in the "BONUS PLAYS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO), \$50,000 (FTY THO), \$100,000 (ONEHUNTHO) and \$1MILL (ONE MIL).

5. *Prizes:* The prizes that can be won in this game are: \$10, \$20, \$40, \$50, \$100, \$200, \$400, \$500, \$1,000, \$5,000, \$50,000, \$100,000 and \$1,000,000. The \$1,000,000 top prize is paid as a lump-sum, cash payment. A player can win up to 20 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania \$1 Million Nest Egg instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$1,000,000 (ONE MIL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$5,000 (FIV THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the Gold Bar symbol (GLDBAR), on a single ticket, shall be entitled to a prize of \$5,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Nest Egg symbol (NESTEGG), and a prize symbol of \$100 (ONE HUN) appears in ten of the "Prize" areas, and a prize symbol of \$400 (FOR HUN) appears in ten of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$5,000.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Feather symbol (FEATHER), and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the Feather symbol (FEATHER), on a single ticket, shall be entitled to a prize of \$1,000.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the Gold Bar symbol (GLDBAR), on a single ticket, shall be entitled to a prize of \$1,000.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Nest Egg symbol (NESTEGG), and a prize symbol of \$50⁰⁰ (FIFTY) appears in twenty of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the Gold Bar symbol (GLDBAR), on a single ticket, shall be entitled to a prize of \$500.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Nest Egg symbol (NESTEGG), and a prize symbol of \$20⁰⁰ (TWENTY) appears in fifteen of the "Prize" areas, and a prize symbol of \$40⁰⁰ (FORTY) appears in five of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$500.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$200 (TWO HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Feather symbol (FEATHER), and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the Feather symbol (FEATHER), on a single ticket, shall be entitled to a prize of \$200.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the Gold Bar symbol (GLDBAR), on a single ticket, shall be entitled to a prize of \$200.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Nest Egg symbol (NESTEGG), and a prize symbol of \$10⁰⁰ (TEN DOL) appears in twenty of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$200.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Feather symbol (FEATHER), and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the Feather symbol (FEATHER), on a single ticket, shall be entitled to a prize of \$100.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gold Bar symbol (GLDBAR), and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the Gold Bar symbol (GLDBAR), on a single ticket, shall be entitled to a prize of \$100.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BO-

NUS PLAYS" symbols and a prize symbol of \$40⁰⁰ (FORTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Feather symbol (FEATHER), and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the Feather symbol (FEATHER), on a single ticket, shall be entitled to a prize of \$40.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Feather symbol (FEATHER), and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the Feather symbol (FEATHER), on a single ticket, shall be entitled to a prize of \$20.

(z) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "GOLDEN NUMBERS" play symbols or any of the "BONUS PLAYS" symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

When Any Of Your Numbers Match Any Golden Number, Win Prize Shown Under The Matching Number. When Any Of The Bonus Plays Match Any Of Your Numbers, Win Prize Under The Matching Number. Win With Prize(s) Of:

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets:</i>
\$10 × 2	\$20	240,000
\$10 w/FEATHER	\$20	240,000
\$20	\$20	240,000
\$10 × 4	\$40	80,000
\$20 × 2	\$40	40,000
\$20 w/FEATHER	\$40	80,000
\$40	\$40	200,000
\$10 × 5	\$50	40,000
(\$10 × 3) + \$20	\$50	40,000
(\$20 w/FEATHER) + \$10	\$50	24,000
\$50	\$50	56,000
\$10 × 10	\$100	32,000
\$10 w/GOLD BAR	\$100	32,000
\$50 w/FEATHER	\$100	32,000
\$100	\$100	64,000
\$10 × 20	\$200	2,000
NEST EGG w/\$10 × 20	\$200	2,000
\$20 × 10	\$200	2,000
\$20 w/GOLD BAR	\$200	2,000
\$100 w/FEATHER	\$200	2,000
\$200	\$200	2,000
(\$20 × 15) + (\$40 × 5)	\$500	800
NEST EGG w/ (\$20 × 15) + (\$40 × 5)	\$500	800
\$50 × 10	\$500	800
\$50 w/GOLD BAR	\$500	800

When Any Of Your Numbers Match Any Golden Number, Win Prize Shown Under The Matching Number. When Any Of The Bonus Plays Match Any Of Your Numbers, Win Prize Under The Matching Number. Win With Prize(s) Of:

	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets:</i>
\$100 × 5	\$500	6,000	800
\$500	\$500	6,000	800
\$50 × 20	\$1,000	9,231	520
NEST EGG w/\$50 × 20	\$1,000	9,231	520
\$100 × 10	\$1,000	9,231	520
\$100 w/GOLD BAR	\$1,000	9,231	520
\$500 w/FEATHER	\$1,000	9,231	520
\$1,000	\$1,000	9,231	520
NEST EGG w/(\$100 × 10) + (\$400 × 10)	\$5,000	120,000	40
\$500 × 10	\$5,000	120,000	40
\$500 w/GOLD BAR	\$5,000	120,000	40
\$5,000	\$5,000	120,000	40
\$50,000	\$50,000	480,000	10
\$100,000	\$100,000	960,000	5
\$1,000,000	\$1,000,000	960,000	5

Feather (FEATHER) = Win double the prize shown under it.
 Gold Bar (GLDBAR) = Win 10 times the prize shown under it.
 Nest Egg (NESTEGG) = Win all 20 prizes shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$1 Million Nest Egg instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$1 Million Nest Egg, prize money from winning Pennsylvania \$1 Million Nest Egg instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$1 Million Nest Egg instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$1 Million Nest Egg or through normal communications methods.

STEPHEN H. STETLER,
Acting Secretary

[Pa.B. Doc. No. 09-330. Filed for public inspection February 20, 2009, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Allegheny County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 575(b)), the Director of the Bureau of Design makes the following written finding:

The Federal Highway Administration and the Department of Transportation are currently constructing an interchange upgrade project on SR 0885 at Forbes Avenue in the City of Pittsburgh, Allegheny County. The project will require acquisition of the Faleder Monument Company property which is located within the project area and is eligible for listing in the National Register of Historic Places. Therefore, the property qualifies as a section 4(f)/section 2002 resource.

Based upon the studies, there is no feasible and prudent alternative to the proposed action. Mitigation measures will be taken to minimize harm as stipulated in the Level-2 Categorical Exclusion Reevaluation, the Individual Section 4(f) Evaluation and the Memorandum of Agreement.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize such effects.

BRIAN G. THOMPSON, P. E.,
Director
Bureau of Design

[Pa.B. Doc. No. 09-331. Filed for public inspection February 20, 2009, 9:00 a.m.]

Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)) intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcel No. 28, City of Beaver Falls, Beaver County. The parcel contains approximately 3,915+/- square feet of unimproved land located in the 7th Ward, City of Beaver Falls, located at the corner of 4th Avenue and 30th Street (formerly 2920 4th Avenue). The estimated fair market value of the parcel is \$2,000.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to H. Daniel Cessna, P. E., District Executive, Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA, 15017.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 09-332. Filed for public inspection February 20, 2009, 9:00 a.m.]

FISH AND BOAT COMMISSION

Extension of Public Comment Period and Public Meeting

The Fish and Boat Commission (Commission) recently published a notice of proposed rulemaking at 38 Pa. B. 6617 (December 6, 2008), seeking public comments on amendments to 58 Pa. Code §§ 75.1 and 75.2 (relating to endangered species; and threatened species) that list five mussel species as threatened or endangered. Specifically, the Commission proposes to add the Salamander Mussel (*Simpsonaias ambigua*), Rabbitsfoot (*Quadrula cylindrica cylindrica*) and Snuffbox (*Epioblasma triquetra*) to the Pennsylvania endangered species list and to add the Sheepnose (*Plethobasus cyphus*) and Rayed bean (*Villosa fabalis*) to the Pennsylvania threatened species list.

Although it received in excess of 80 comments, the Commission has extended the public comment until March 15, 2009, to allow for additional public involvement. Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, until March 15. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

In addition, the Commission has scheduled a public meeting for March 2, 2009, at 6:30 p.m. to be held at the Kittanning Township Fire Department located at 13126

Route 422 in Kittanning, PA. Following a formal presentation by Commission staff, the public will be invited to comment.

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

[Pa.B. Doc. No. 09-333. Filed for public inspection February 20, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are 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>
16A-4926	State Board of Medicine Nurse Midwife Prescriptive Authority	2/6/09	2/26/09
7-421	Environmental Quality Board Triennial Review of Water Quality Standards	2/6/09	2/26/09
16A-5123	State Board of Nursing Nursing Education Programs Examination Pass Rates	2/6/09	3/19/09
16A-5721	State Board of Veterinary Medicine Professional Conduct	2/6/09	3/19/09
16-40	Department of State Lobbying Disclosure	2/9/09	2/26/09

Final-Omit

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
7-430	Environmental Quality Board Marcellus Shale Well Permit Fees	2/4/09	3/19/09

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-334. Filed for public inspection February 20, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Redomesticate to the Commonwealth of Pennsylvania by Praetorian Insurance Company

Praetorian Insurance Company, an Illinois stock casualty insurance company, has submitted a Plan of Redomestication, whereby it proposes to redomesticate from the State of Illinois to the Commonwealth of Pennsylvania. The filing was made under the requirements set forth under 15 Pa.C.S. §§ 4161 and 4162 (relating to the Business Corporation Law of 1988). Persons wishing to comment on the redomestication 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 the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-335. Filed for public inspection February 20, 2009, 9:00 a.m.]

Application for Approval to Redomesticate to the Commonwealth of Pennsylvania by Redland Insurance Company

Redland Insurance Company, a New Jersey stock casualty insurance company, has submitted a Plan of Redomestication, whereby it proposes to redomesticate from the State of New Jersey to the Commonwealth of Pennsylvania. The filing was made under the requirements set forth under 15 Pa.C.S. §§ 4161 and 4162 (relating to Business Corporation Law of 1988). Persons wishing to comment on the redomestication 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 the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-336. Filed for public inspection February 20, 2009, 9:00 a.m.]

The Prudential Insurance Company of America; Rate Increase Filing for Several LTC Policy Forms; Rate Filing

Prudential is requesting approval to increase the premium on 3,401 Long-Term Care policy forms issued in this Commonwealth. The company is requesting an increase on the following forms: GRP 98720, GRP 98721 and GRP 98722. Prudential is requesting a rate increase of 28% for policies with the optional cash benefit rider while the company is requesting a smaller 18% increase on policies without the optional cash benefit rider.

Unless formal administrative action is taken prior to May 7, 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. 09-337. Filed for public inspection February 20, 2009, 9:00 a.m.]

Senior Health Insurance Company of Pennsylvania; 40% Rate Increase Filing for ATL-LTC-6; Rate Filing

Senior Health Insurance Company of Pennsylvania is requesting a 40% increase on the following form which was originally issued by American Travelers Life Insurance Company: ATL-LTC-6. A total of 2,341 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to May 7, 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. 09-338. Filed for public inspection February 20, 2009, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution #CB-08-347, Dated December 19, 2008. Authorizes the implementation of the Collective Bargaining Agreement between the Commonwealth and Pennsylvania State Education Association, Local Association at Hiram G. Andrews Center effective July 1, 2007 through June 30, 2011.

Resolution #CB-08-348, Dated December 19, 2008. Authorizes the Collective Bargaining Agreement between the Commonwealth and the PSRA, covering the period July 1, 2007, through June 30, 2011.

Governor's Office

Management Directive No. 210.5—The Commonwealth's Enterprise Records Management Program, Amended December 30, 2008.

Management Directive No. 230.9—Acquisition and Payment of Travel Services, Amended January 16, 2009.

Management Directive No. 230.10—Travel and Subsistence Allowances, Amended January 21, 2009.

Management Directive No. 240.12—Commonwealth of Pennsylvania Mobile Devices Security Policy, Amended December 29, 2008.

Management Directive No. 315.1—Calculation and Payment of Statutory Salaries, Amended January 9, 2009.

Administrative Circular No. 08-18—Winterization of State Vehicles and Commonwealth Garage Parking and Hours of Operation, Dated December 12, 2008.

Administrative Circular No. 09-01—Distribution of the 2009-2010 Commonwealth Budget, Dated January 16, 2009.

MARY JANE PHELPS,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 09-339. Filed for public inspection February 20, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Gas Service

A-2009-2089152. Equitable Gas Company. Application of Equitable Gas Company for approval of the abandonment of gas service to 23 field gathering line customers located in Washington County, PA.

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 March 9, 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: Equitable Gas Company

Through and By Counsel: Chad A. Cicconi, Counsel,
225 North Shore Drive, Pittsburgh, PA 15212-5861

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-340. Filed for public inspection February 20, 2009, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by March 9, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-2009-2087225. Dick D. Ramos, t/a Dicky's Xpress Transportation—D.X.T. (374 West 30th Street, Hazletownship, Luzerne County, PA 18202), a corporation of the Commonwealth—persons in paratransit service, from points in the County of Luzerne to points in Pennsylvania, and return.

A-2009-2087249. Valley Paratransit Service, Inc. (110 Industrial Parkway, Sanatoga, Montgomery County, PA 19464), a corporation of the Commonwealth—persons in group and party service in vehicles seating 11-15 passengers, including the driver, between points in the Borough of Pennsburg, Montgomery County, PA, and from points in the Borough of Pennsburg, to points within an airline distance of 50 statute miles from the limits of said borough, and return.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.

A-2009-2088520. Southern Cross Trading, LLC, t/a Lexington Moving and Storage Co. (P. O. Box 20909, York, York County, PA 17402)—household goods in use, between points in the County of York and from points in said county to points in Adams, Cumberland, Dauphin, Lancaster and Perry. *Attorney:* Barbara A. Darkes, McNees, Wallace & Nurick, LLC, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108-1166.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Seyler Trucking, Inc.;
Doc. No. C-2008-2083544*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Seyler Trucking, Inc. (respondent) is under suspension effective October 30, 2007 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 71 Carnation Lane, Mill Hall, PA 17751.
3. That respondent was issued a Certificate of Public Convenience by this Commission on June 5, 1998, at A-00114738.
4. That respondent has failed to maintain evidence of Liability insurance and Cargo insurance on file with this Commission. The penalty is \$250 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$250 and causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which: (1) cancels the Certificate of Public Convenience held by respondent at A-00114738 for failure to maintain evidence of current insurance on file with the Commission; (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint; (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration; and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations **and by paying the \$250 fine** proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer **and receipt of your fine payment**, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-341. Filed for public inspection February 20, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
 December 18, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice-Chairperson; Robert F. Powelson, Commissioner; Kim Pizzingrilli, Commissioner; Wayne E. Gardner, Commissioner

Pennsylvania Public Utility Commission; Law Bureau Prosecutory Staff v. Accxx Communications (2006 Annual Rpt); Doc. No. A-311180; C-2008-2036565

Tentative Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Accxx Communications (the Respondent), a reseller of interexchange toll services carrier certificated at A-311180. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint charged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was not served because there was an insufficient address. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. The Commission used the address provided by the company. However, the company has failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for serving the complaint with the expectation that the company would receive it and thereafter file a response. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent 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 Respondent's failure to file its 2006 Annual Report and upon our inability to serve the Complaint, we conclude that revocation of Accxx Communications's certificate of public convenience 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 Respondent seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. In the absence of the filing of adverse public comment, 20 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 Accxx Communications at A-311180 will be cancelled by the Secretary's Bureau and Accxx Communications's name shall be stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-342. Filed for public inspection February 20, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
December 18, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice-Chairperson; Robert F. Powelson, Commissioner; Kim Pizzingrilli, Commissioner; Wayne E. Gardner, Commissioner

Pennsylvania Public Utility Commission; Law Bureau Prosecutory Staff v. Capsule Communications Inc. (2006 Annual Rpt); Doc. No. A-310915; C-2008-2036568

Tentative Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Capsule Communications Inc. (the Respondent), a reseller of interexchange toll services carrier certificated at A-310915. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint charged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was not served because it was undeliverable as addressed. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. The Commission used the address provided by the company. However, the company has failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for serving the complaint with the expectation that the company would receive it and thereafter file a response. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent 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 Respondent's failure to file its 2006 Annual Report and upon our inability to serve the Complaint, we conclude that revocation of Capsule Communications Inc.'s certificate of public convenience 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 Respondent seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. In the absence of the filing of adverse public comment, 20 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 Capsule Communications Inc. at A-310915 will be cancelled by the Secretary's Bureau and Capsule Communications Inc.'s name shall be stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-343. Filed for public inspection February 20, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
December 18, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice-Chairperson; Robert F. Powelson, Commissioner; Kim Pizzingrilli, Commissioner; Wayne E. Gardner, Commissioner

Pennsylvania Public Utility Commission; Law Bureau Prosecutory Staff v. Expedient Carrier Services (2006 Annual Rpt & TRS Rpts); Doc. No. A-311335F0002; C-2008-2037623

Tentative Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Expedient Carrier Services (the Respondent), a competitive local exchange carrier certificated at A-311335F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report, Telecommunications Relay Service ("TRS") Annual Access Line Summary Report and Telecommunications Relay Service Annual Tracking Report (hereinafter collectively referred to as "Annual Report" and "TRS Reports") were due. The Complaint charged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report and TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report and TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was not served because it was undeliverable as addressed. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report and TRS Reports have not been filed. The Commission used the address provided by the company. However, the company has failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for serving the complaint with the expectation that the company would receive it and thereafter file a response. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent 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 Respondent's failure to file its 2006 Annual Report and upon our inability to serve the Complaint, we conclude that revocation of Expedient Carrier Services's certificate of public convenience 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 Respondent seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. In the absence of filing of adverse public comment within 20 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall be come 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 Expedient Carrier Services at A-311335F0002 will be cancelled by the Secretary's Bureau and Expedient Carrier Services's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services, TRS Reports Section of the Bureau of Fixed Utility Services, and the Assessment Section of the Bureau of Administrative Services.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-344. Filed for public inspection February 20, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
December 18, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice-Chairperson; Robert F. Powelson, Commissioner; Kim Pizzigrilli, Commissioner; Wayne E. Gardner, Commissioner

Pennsylvania Public Utility Commission; Law Bureau Prosecutory Staff v. Group Long Distance, Inc. (2006 Annual Rpt); Doc. No. A-310423; C-2008-2036574

Tentative Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Group Long Distance Inc. (the Respondent), a reseller of interexchange toll services carrier certificated at A-310423. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual

Report was due. The Complaint charged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was not served because it was undeliverable as addressed. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. The Commission used the address provided by the company. However, the company has failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for serving the complaint with the expectation that the company would receive it and thereafter file a response. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent 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 Respondent's failure to file its 2006 Annual Report and upon our inability to serve the Complaint, we conclude that revocation of Group Long Distance, Inc.'s certificate of public convenience 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 Respondent seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. In the absence of the filing of adverse public comment, 20 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 Group Long Distance Inc. at A-310423 will be cancelled by the Secretary's Bureau and Group Long Distance Inc.'s name shall be stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-345. Filed for public inspection February 20, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
December 18, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice-Chairperson; Robert F. Powelson, Commissioner; Kim Pizzingrilli, Commissioner; Wayne E. Gardner, Commissioner

*Pennsylvania Public Utility Commission; Law Bureau
Prosecutory Staff v. Penntel (2006 Annual Rpt);
Doc. No. A-311390; C-2008-2036578*

Tentative Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Penntel (the Respondent), a reseller of interexchange toll services carrier certificated at A-311390. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint charged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was not served because it was unable to be forwarded. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. The Commission used the address provided by the company. However, the company has failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for serving the complaint with the expectation that the company would receive it and thereafter file a response. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent 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 Respondent's failure to file its 2006 Annual Report and upon our inability to serve the Complaint, we conclude that revocation of Penntel's certificate of public convenience 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 Respondent seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. In the absence of the filing of adverse public comment, 20 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 Penntel at A-311390 will be cancelled by the Secretary's Bureau and Penntel's name shall be stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-346. Filed for public inspection February 20, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
December 18, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice-Chairperson; Robert F. Powelson, Commissioner; Kim Pizzingrilli, Commissioner; Wayne E. Gardner, Commissioner

*Pennsylvania Public Utility Commission; Law Bureau
Prosecutory Staff v. Penntel (2006 Annual Rpt & TRS
Rpts); Doc. No. A-311390F0002; C-2008-2036562;*

Tentative Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Penntel (the Respondent), a competitive local exchange carrier certificated at A-311390F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report, Telecommunications Relay Service ("TRS") Annual Access Line Summary Report and Telecommunications Relay Service Annual Tracking Report (hereinafter collectively referred to as "Annual Report" and "TRS Reports") were due. The Complaint charged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report and TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report and TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was not served because no such number/street exists. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report and TRS Reports have not been filed. The Commission used the address provided by the company. However, the company has failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for serving the complaint with the expectation that the company would receive it and thereafter file a response. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent 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 Respondent's failure to file its 2006 Annual Report and upon our inability to serve the Complaint, we conclude that revocation of Penntel's certificate of public convenience 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 Respondent seeks relief from this Tentative Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. In the absence of the filing of adverse public comment within 20 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall be come 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 Penntel at A-311390F0002 will be cancelled by the Secretary's Bureau and Penntel's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services, TRS Reports Section of the Bureau of Fixed Utility Services, and the Assessment Section of the Bureau of Administrative Services.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-347. Filed for public inspection February 20, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held
December 18, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice-Chairperson; Robert F. Powelson, Commissioner; Kim Pizzingrilli, Commissioner; Wayne E. Gardner, Commissioner

Pennsylvania Public Utility Commission; Law Bureau Prosecutory Staff v. Preferred Carrier Services, Inc. (2006 Annual Rpt & TRS Rpts); Doc. No. A-310403F002; C-200802036563

Tentative Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Preferred Carrier Services, Inc. (the Respondent), a competitive local exchange carrier certificated at A-310403F002. In the Complaint,

Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report, Telecommunications Relay Service ("TRS") Annual Access Line Summary Report and Telecommunications Relay Service Annual Tracking Report (hereinafter collectively referred to as "Annual Report" and "TRS Reports") were due. The Complaint charged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report and TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report and TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was not served because they moved and left forwarding no address. To date, more than 20 days later, they moved and left no forwarding address. been filed to the Complaint and the 2006 Annual Report and TRS Reports have not been filed. The Commission used the address provided by the company. However, the company has failed in its responsibility to notify the Commission of any address or phone number changes so there was no reasonable means for serving the complaint with the expectation that the company would receive it and thereafter file a response. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent 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 Respondent's failure to file its 2006 Annual Report and upon our inability to serve the Complaint, we conclude that revocation of Preferred Carrier Services, Inc.'s certificate of public convenience 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 Respondent seeks relief from this Tentative Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. In the absence of the filing of adverse public comment within 20 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 Preferred Carrier Services, Inc. at A-310403F0002 will be cancelled by the Secretary's Bureau and Preferred Carrier Services, Inc.'s name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of

Fixed Utility Services, TRS Reports Section of the Bureau of Fixed Utility Services, and the Assessment Section of the Bureau of Administrative Services.

By the Commission

JAMES J. MCNULTY
Secretary

[Pa.B. Doc. No. 09-348. Filed for public inspection February 20, 2009, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project No. 09-009.P, Miscellaneous Concrete Materials until 2 p.m. on Thursday, March 12, 2009. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available February 24, 2009. Additional information and project listings may be found at www.philaport.com. PRPA is an equal opportunity employer. Contractors must comply with all applicable EEO laws.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 09-349. Filed for public inspection February 20, 2009, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project No. 09-010.P, Vegetation Control Various Piers until 2 p.m. on Thursday, March 17, 2009. The bid documents can be obtained from the Director of

Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available February 24, 2009. Additional information and project listings may be found at www.philaport.com. PRPA is an equal opportunity employer. Contractors must comply with all applicable EEO laws.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 09-350. Filed for public inspection February 20, 2009, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 09-014.7, Rail Track Maintenance Engineer Services and Quarterly Inspection, Various PRPA Piers until 2 p.m. on March 19, 2009. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available February 24, 2009. Additional info at www.philaport.com. Cost of the bid document is \$35 (includes 7% PA Sales Tax) and is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable EEO laws. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held March 5, 2009, 10 a.m. at the PRPA Main office (previous address) Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 09-351. Filed for public inspection February 20, 2009, 9:00 a.m.]

