

PENNSYLVANIA BULLETIN

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Department of Education
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State Board of Cosmetology
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State Conservation Commission
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No. 423, February 2010

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2010.

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THE COURTS

Title 255—LOCAL COURT RULES

ALLEGHENY COUNTY

In Re: Allegheny County Criminal Division Rules of Court Nos. 114.1, 528.1, 547.1 and 575.1; No. AD-2010-34-PJ

Order

And Now, this 25th day of January 2010, it is hereby *Ordered* that the following Rules of Court of the 5th Judicial District of Pennsylvania, Criminal Division, published in the *Pennsylvania Bulletin* at 39 Pa.B. 7103 on December 19, 2009, are hereby rescinded:

Rule 114.1 Orders and Court Notices: Method of Service

Rule 528.1 Motion for Allowance to Post Real Property as Security

Rule 547.1 Issuing Authorities Transmitting Documents

Rule 575.1 Requirements Governing the Physical Characteristics of Court Papers and All Attachments, Supporting Documents and Exhibits

By the Court

DONNA JO McDANIEL,
President Judge

[Pa.B. Doc. No. 10-267. Filed for public inspection February 12, 2010, 9:00 a.m.]

FAYETTE COUNTY

In Re: Fayette County Local Rules 212, 212.1, 212.2, 212.3, 212.4 and 212.5; No. 224 of 2010 GD

Order

And Now, this 26th day of January, 2010, pursuant to Pennsylvania Rule of Civil Procedure 239, it is hereby ordered that Local Rule 212 is hereby amended; and new Local Rules 212.1, 212.2, 212.3, 212.4 and 212.5 are hereby adopted, to read as attached hereto.

The Prothonotary is directed as follows:

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

(2) Two certified copies and diskette of the Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy of the Local Rules shall be sent to the State Civil Procedural Rules Committee.

(4) One certified copy shall be sent to the Fayette County Law Library and the Editor of the *Fayette Legal Journal*.

The amendment and adoption of the above listed rules shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

GERALD R. SOLOMON,
President Judge

Rule 212. Pre-Trial Procedure.

(a) Except in those cases involving compulsory arbitration, there shall be 240 days from the filing of the complaint in which the parties shall complete discovery. Discovery will not be permitted after the 240 day period except by order of Court upon good cause shown.

(b) In those cases where it is apparent that extensive discovery will be required, counsel may present a motion requesting a status conference, or file and present an appropriate motion, with the trial Judge to whom the case has been assigned to establish an alternate discovery time table.

(c) After the time for discovery has expired, or if discovery is completed prior to the expiration of the 240 day period, and Local Rule 212.1 (Pre-trial Statements) has been complied with, any party may file a Certificate of Readiness in accordance with Local Rule 212.2. Written notice shall be given to all parties at least 10 days prior to the filing of the Certificate.

(d) Unless otherwise agreed upon by the parties, or ordered by the Court, all depositions shall be held in Fayette County.

(e) After the close of discovery, if neither party files a Certificate of Readiness, the Prothonotary, after an additional 75 days, shall so notify the trial Judge to place the case on the trial list.

(f) At any time after the close of discovery, the Court may, in its discretion, direct the parties to attend a status conference, or the Court may compel the filing of pre-trial statements, schedule the pre-trial conference, or otherwise intervene to expedite the litigation.

(g) If there is an appeal of the award of arbitrators, this rule shall apply, except that there shall be 60 days from the filing of the appeal in which the parties shall complete discovery.

Rule 212.1. Pre-Trial Statements.

(a) Time tables:

(1) All plaintiffs, within twenty (20) days after the 240 day period, or the extension thereof, shall file their pre-trial statements with the Prothonotary.

(2) All original defendants, within twenty (20) days of the filing of the plaintiff's pre-trial statements, shall file their pre-trial statements with the Prothonotary.

(3) All other parties, within twenty (20) days of the filing of original defendant's pre-trial statements, shall file their pre-trial statements with the Prothonotary.

(b) The pre-trial statement shall contain:

(1) A brief narrative statement of the essential facts upon which liability is asserted or denied.

(2) The legal issues involved and legal authorities relied upon.

(3) A list of the names and addresses of all witnesses the party expects to call, which witnesses shall be classified as liability or damage witnesses.

(4) A specific description of damages.

(i) Any party seeking to recover damages for personal injuries shall attach to their pre-trial statement, if not previously provided to all parties, a written authorization to inspect and make copies of the records and reports of any physician, hospital or clinic by whom or where said party may have been examined, treated or hospitalized for the injuries or disabilities complained of, and covering prior injuries or disabilities where the same may be relevant.

(ii) A list of the damages that the party intends to claim and prove at trial.

(5) The settlement status of the case.

(6) A realistic estimate of the trial time required for presentation of their case, as well as total trial time required.

(7) There shall be attached to the pre-trial statement:

(i) A copy of all reports containing findings or conclusions of any physician who has treated or examined the party or has been consulted in connection with any injuries complained of and whom the party expects to call as a witness at the trial of the case. If timely production of any report is not made, the testimony of such physician shall be excluded at the trial except upon consent of all parties or upon express order of the Court.

(ii) A copy of all reports containing findings or conclusions of any expert who has been consulted in connection with the matters involved in the case and whom the party expects to call as a witness at the trial of the case. If timely production of any report is not made, the testimony of such expert shall be excluded at the trial except upon consent of all parties or upon express order of Court.

(c) Upon failure of any party to file a pre-trial statement within the time required, upon motion the Court may impose the sanctions provided in Pa.R.C.P. Sec. 4019(c). Also, the Court may order other appropriate relief including, but not limited to, the barring of testimony, assessment and awarding of attorney fees, and expenses and costs to opposing counsel.

(d) Counsel shall file supplemental pre-trial statements up to the time of trial as long as such filing does not delay trial. Supplemental statements may include additional claims for damages, additional damage and/or liability witnesses, expert witnesses, and/or exhibits intended to be used at trial.

Rule 212.2. Certificate of Readiness for Pre-Trial Conference.

(a) The Certificate of Readiness for Pre-trial Conference shall be substantially in the form which follows this rule.

(b) If a party objects to the Certificate of Readiness as filed by any party, the objecting party is required to raise these objections before the trial Judge within 10 days of service; otherwise, all parties will be deemed to be in agreement with the statement contained in the Certificate of Readiness.

(c) Objections to the Certificate as filed by opposing counsel shall be presented as a priority motion to the Judge to whom the case is assigned.

(d) Once the Certificate of Readiness has been filed, and the time for objections has expired without an objection having been filed, the Prothonotary shall notify the Judge to whom the case has been assigned that the case is ready to proceed.

(e) There shall be no pre-trial conference in arbitration cases unless the award of arbitrators is appealed.

**IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA**

_____ : Civil Action
 Plaintiff :
 : NO.
 Vs. :
 : JUDGE _____
 Defendant :
 : Jury Trial _____
 : Non-jury Trial _____
 : Arbitration _____

CERTIFICATE OF READINESS

I hereby certify, pursuant to Fayette County Rule of Civil Procedure 212, that the above-captioned case is ready for trial. All pleadings are closed; all witnesses are presently available to appear at trial; all pre-trial statements have been filed; and discovery is complete, except for those depositions to be taken solely for the purpose of being presented at trial. Any such deposition shall be completed prior to trial and a transcript of the deposition shall be submitted to the Court at least five (5) days prior to trial or all objections will be deemed waived.

I further certify that immediately after filing, I will serve a time-stamped copy of this certificate upon all counsel, and/or any unrepresented party.

_____	_____
Print Name	Signature of Counsel
_____	_____
	Representing
_____	_____
_____	_____
Address	Date
_____	_____
Telephone No.	

Rule 212.3. Pre-Trial Conference.

(a) When a case is scheduled for pre-trial conference, it shall not be continued except for just cause and upon order of the pre-trial judge.

(b) The pre-trial conference shall be attended by the attorney who will try the case, or by an attorney who is fully prepared and authorized as to all matters which may reasonably be expected to arise during the conference.

(c) Parties must also be present, except when the real party in interest is an insurance company, a common carrier, corporation or other artificial legal entity, in which instance a representative thereof, other than the attorney, must be present with full authority and power to discuss and settle the case.

(d) The Court shall encourage the amicable settlement of the controversy and the parties and their attorneys shall be prepared to discuss settlement.

(e) The judge presiding at the pre-trial conference shall refer to arbitration all cases where the amount in controversy is found not to exceed the jurisdictional limits of arbitration except where title to lands or tenements may come in question.

(f) If there is not an amicable settlement of the controversy at the pre-trial conference, then the pre-trial judge shall issue a pre-trial adjudication which shall, in the discretion of the judge, control the subsequent course of the action.

Rule 212.4. Discontinuance Payment of Record Costs on Settlement.

Unless all parties agree in writing to the contrary, the settling defendant or defendants in any filed civil action shall pay to the plaintiff record court costs which are specifically defined to be:

- (1) Initial filing fees;
- (2) Service of process fees; and
- (3) Costs to settle and discontinue the docket.

Rule 212.5. Civil Cover Sheet.

No summons, complaint, pleading or other document used to commence a new civil action will be accepted for filing by the Prothonotary unless it is accompanied by a duly completed cover sheet in the format set forth in the form which may be obtained in the Office of the Prothonotary of Fayette County and which can be printed from the web page of the Administrative Office of Fayette County Courts found at <http://www.co.fayette.pa.us>.

[Pa.B. Doc. No. 10-268. Filed for public inspection February 12, 2010, 9:00 a.m.]

LAWRENCE COUNTY

In Re: Administrative Order Designating the District Court Administrator Under Pa.R.J.C.P. 1604(B) to Receive Reports Regarding Adjustment, Progress and Condition of a Child; No. 90003 of 2010, A.D.

Order

And Now, this 26th day of January, 2010, it is *Ordered* and *Decreed* that the Court Administrator of Lawrence County be and hereby is named as the designee to receive reports regarding a child's adjustment, progress and condition pursuant to Pa.R.J.C.P. 1604(B) and 42 Pa.C.S. § 63316.1(b).

The District Court Administrator shall:

(1) submit two certified copies of this Order along with one copy of the same on a computer diskette, CD-ROM, or an electronic copy that complies with the requirements of 1 Pa. Code § 13.11(b)-(f), to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(2) forward one copy of the written notification, received from the Juvenile Court Procedural Rules Committee, providing that this Order is not inconsistent with the Pennsylvania Rules of Juvenile Court Procedure, to the Legislative Reference Bureau; and

(3) contemporaneously with the publishing of this Order in the *Pennsylvania Bulletin*, file one certified copy of this Order with the Administrative Office of Pennsylvania Courts.

This Order shall become effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*. In the interim, the existing local procedure which provided for the filing and proper dissemination of these reports with the Court Administrator of Lawrence County shall remain in full force and effect.

By The Court

DOMINICK MOTTO, P. J.,
President Judge

[Pa.B. Doc. No. 10-269. Filed for public inspection February 12, 2010, 9:00 a.m.]

SUPREME COURT

In Re: Designation of Chair and Vice-Chair of Criminal Procedural Rules Committee; No. 384; Criminal Procedural Rules Doc.

Order

Per Curiam:

And Now, this 27th day of January, 2010, The Honorable Risa Vetri Ferman is hereby designated as Chair and Charles J. Grant, Esquire, as Vice-Chair of the Criminal Procedural Rules Committee.

PATRICIA NICOLA,
Chief Clerk
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-270. Filed for public inspection February 12, 2010, 9:00 a.m.]

In Re: Reappointment to Criminal Procedural Rules Committee; No. 383; Criminal Procedural Rules Doc.

Order

Per Curiam:

And Now, this 27th day of January, 2010, Philip D. Lauer, Esquire, Northampton County, is hereby reappointed as a member of the Criminal Procedural Rules Committee for a term expiring January 1, 2013.

PATRICIA NICOLA,
Chief Clerk
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-271. Filed for public inspection February 12, 2010, 9:00 a.m.]

In Re: Reappointments to the Juvenile Court Procedural Rules Committee; No. 491; Supreme Court Rules Doc.

Order

Per Curiam:

And Now, this 27th day of January, 2010, The Honorable Todd A. Hoover, Dauphin County, and Patricia J. Kennedy, Esquire, Erie County, are hereby reappointed as members of the Juvenile Court Procedural Rules Committee for a term of three years commencing February 1, 2010.

PATRICIA NICOLA,
Chief Clerk
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-272. Filed for public inspection February 12, 2010, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Transfer to Inactive Status

Notice is hereby given that Stephen Nowak a/k/a Stephen L. Nowak having been transferred to disability inactive status in the State of Delaware by Order of the Supreme Court of the State of Delaware dated October 20, 2009, the Supreme Court of Pennsylvania issued an Order on January 26, 2010, transferring Stephen Nowak to inactive status, effective immediately, pursuant to Rule 301(c) Pa.R.D.E (relating to disabled attorneys) for an indefinite period and until further Order of the Supreme Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-273. Filed for public inspection February 12, 2010, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

STATE BOARD OF PHARMACY [49 PA. CODE CH. 27] Continuing Education

The State Board of Pharmacy (Board) amends §§ 27.1 and 27.32 (relating to definitions; and continuing education) to read as set forth in Annex A.

Description and Need for the Rulemaking

Section 3.1 of the Pharmacy Act (act) (63 P. S. § 390-3.1) authorizes the Board to require licensees to complete continuing education and to promulgate regulations to enforce that requirement. The Board has done so by promulgating § 27.32 (relating to continuing education). However, the Board determined that its regulation should be updated and in January of 2008, the Board published proposed rulemaking to make certain updates.

Pharmacists are required to certify proof of completion of continuing education hours on their biennial renewal forms. Every biennial renewal period the Board performs an audit of 5% of the licensee population. Through the course of past audits and resulting disciplinary actions for noncompliance with the regulations, it has come to the Board's attention that not all licensees understand that only courses offered by ACPE-accredited continuing education providers are acceptable continuing education. While § 27.32(h) does permit other non-ACPE accredited providers to apply to the Board for approval, to date the Board has not approved any other continuing education providers. In the past 5 years, the Board has not received an application for approval from a non-ACPE accredited provider of continuing education. Because ACPE is the National accrediting body for pharmacy-related continuing education, a vast majority of providers are ACPE-accredited. Therefore, this rulemaking amends the current regulation to make it clear that, in general, only ACPE-accredited providers of continuing education are acceptable. In addition, the Board reviewed the regulation and determined that other updates are needed, specifically with regard to requiring continuing education in the area of patient safety, requiring applications for program approval to be submitted no less than 60 days prior to the start of the program, and requiring any deficiencies in continuing education hours to be made up within 6 months of notification by the Board.

This rulemaking amends § 27.1 to reflect the change of name for ACPE from the American Council of Pharmaceutical Education to the Accreditation Council for Pharmacy Education. The rulemaking also amends § 27.32 to clarify that, with limited exceptions, the Board only accepts ACPE-accredited providers of continuing education. The rulemaking further amends § 27.32 to delete the term "approved" after ACPE, as ACPE accredits providers instead of approving them.

This rulemaking adds a requirement that 2 of the required 30 hours of continuing education be completed in courses under the ACPE topic designator "Patient Safety." This change will go into effect beginning with the license

period commencing on October 1, 2011. The Board is concerned about medication errors and believes that pharmacists benefit from completing continuing education specific to these types of errors. The public benefits from having pharmacists aware of common errors and ways to prevent them. Recently ACPE introduced new topic designators, which make it easier for licensees and the auditing agents to determine if a course falls under a certain topic. ACPE has indicated that the topic designator "Patient Safety" includes the prevention of healthcare errors, and the elimination or mitigation of patient injury caused by healthcare errors.

The rulemaking codifies the Board's current practice that any pharmacist found to be in noncompliance with the continuing education requirement shall make up the deficiency within 6 months. This provision will not apply to licensees who indicate on the renewal form that they have not met the continuing education requirements, as their licenses would not be renewed until 30 hours of continuing education can be verified. Any pharmacist found to be noncompliant with the continuing education requirements, either through the audit or some other means, will be required to make up the deficiency within 6 months from the notice of deficiency from the Board, notwithstanding any disciplinary action taken for the violation of the continuing education requirements. The Board cannot simply let licensees make up deficient continuing education in place of disciplinary action, for that would encourage licensees to avoid the continuing education obligation until being discovered in an after-the-fact audit and then complete the required continuing education without consequence.

Finally, the rulemaking requires that any application for approval from a continuing education program provider that is not ACPE-accredited be submitted to the Board no less than 60 days prior to the start of the program. This requirement is necessary to give the Board ample time to review a program for equivalency to ACPE standards before the program takes place.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 38 Pa.B. 350 (January 19, 2008) with a 30-day public comment period. The Board received comments from the Pennsylvania Pharmacists Association (PPA), but from no other members of the public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The PPA supported the proposed rulemaking. Other than a language format question that has been resolved by the Legislative Reference Bureau in accordance with standards of the *Pennsylvania Code & Bulletin Style Manual*, the HPLC had no comment.

IRRC questioned what the penalty would be for a licensee who failed within 6 months to make up delinquent contact hours of continuing education, as required in proposed § 27.32(b), and whether such a penalty should be included in the rulemaking. Existing § 27.32(i) provides that a pharmacist who fails to comply with the continuing education requirements, for example, upon

request failing to provide proof of completion of the required amount of continuing education during the biennial period, is subject to disciplinary action. Under § 27.32(b), a licensee who failed to complete the required amount of continuing education shall make up the deficiency within 6 months, regardless of any other sanction imposed. The Board may revoke or suspend the license of a pharmacist who has violated the act or regulations of the Board. Section 5(a)(6) of the act (63 P.S. § 390-5(a)(6)). The Board may impose a civil penalty of up to \$1,000 on any licensee who has violated the act. Section 8(15.1) of the act (63 P.S. § 390-8(15.1)). The result is that a pharmacist who does not complete continuing education when required or does not make up the deficiency timely will be subject to disciplinary action, with the possibility of a suspension of the pharmacist's license and the imposition of a civil penalty. The Board is considering whether it should standardize the amount of a civil penalty for failure to complete continuing education timely. Because a civil penalty may be levied through issuance of a citation under a schedule promulgated by the Commissioner of Professional and Occupational Affairs, the Board will consider doing so in a separate rulemaking.

The Board has not found a need to revise its rulemaking in response to the comments. However, in the course of reviewing these comments, the Board noticed that § 27.32(b) referred to producing certificates upon demand of its "auditing agents" and determined that this should be upon demand simply of the Board's "agents."

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Effective date

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

Statutory Authority

The final rulemaking is authorized under section 3.1 and section 6(k) of the act (63 P.S. § 390-6(k)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 9, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 350, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on November 18, 2009, the final-form rulemaking was approved by the HPLC. On December 9, 2009, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 10, 2009, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Regula-

tory Unit Counsel, Department of State, by mail to P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7156, or st-pharmacy@state.pa.us.

Findings

The Board finds that:

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

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 38 Pa.B. 350.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending §§ 27.1 and 27.32 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

MICHAEL A. PODGURSKI, RPh
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 7272 (December 26, 2009).)

Fiscal Note: Fiscal Note 16A-5417 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY

GENERAL PROVISIONS

§ 27.1. Definitions.

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

ACPE — The Accreditation Council for Pharmacy Education.

* * * * *

RENEWAL OF PHARMACIST LICENSE AND PHARMACY PERMIT

§ 27.32. Continuing education.

(a) The Board will renew the license of a pharmacist who has completed a minimum of 30 contact hours (3 CEU) of continuing education during the preceding biennial renewal period. Beginning with the license period commencing on October 1, 2011, 2 of the required 30 contact hours shall be completed in courses from the ACPE topic designator "Patient Safety." In addition, for licensees with authority to administer injectable medications, biologicals and immunizations in accordance with section 9.2 of the act (63 P.S. § 390-9.2) and § 27.401 (relating to qualifications for authority), at least 2 of the required 30 hours must concern the administration of injectable medications, biologicals and immunizations, including, but not limited to, disease epidemiology, vaccine characteristics, injection technique, emergency response to adverse events and related topics. Except as provided in subsection (h), only continuing education programs offered by ACPE-accredited providers of continuing pharmaceutical education targeted toward pharmacists are acceptable to the Board.

(b) A pharmacist shall prove compliance with subsection (a) by completing and submitting a form provided to the pharmacist by the Board for that purpose with the renewal application. The certificates provided upon completion of an approved program shall be retained by a pharmacist for 2 years after renewal, and shall be produced upon demand by the Board or its agents. The Board will utilize a random audit of 5% of renewals to determine compliance with subsection (a), and may expand the audit if rates of noncompliance at 20% or more of the sample are revealed by the initial audit. Individuals selected for the audit will be required to produce certificates proving the information they provided to the Board on the form submitted with the renewal application. Notwithstanding any disciplinary action taken under subsection (i), a pharmacist found to be in noncompliance with the continuing education requirements shall make up the delinquent contact hours within 6 months of the notice of deficiency from the Board.

(c) Both live and correspondence courses will be accepted by the Board as long as they are offered by approved providers.

(d) An excess of completed contact hours in one renewal period will not be carried over into the next renewal period.

(e) A newly graduated licensee will be exempt from the requirements in subsection (a) for the license renewal immediately following licensure. A reciprocally licensed pharmacist will be required to show compliance with the requirements in subsection (a), but will have the number of hours required to be completed prorated, on a quarterly basis, from the date of licensure to the next date of renewal. For this purpose, each quarter will consist of 3 months, and will be credited for 3.75 contact hours (.375 CEU). The pharmacist will be required to begin accumulating contact hours at the beginning of the next quarter following licensure.

(f) A pharmacist whose license has been suspended or revoked for disciplinary reasons shall comply with continuing education requirements during the period of suspension or revocation, if the pharmacist wants to resume practice or petition for licensure reinstatement at the conclusion of the disciplinary period.

(g) The Board will consider renewing a license without timely filing of the required hours of continuing education on a case by case basis, upon a showing of incapacity, acute illness or other circumstances which reasonably precluded timely compliance. Pharmacists whose licenses are renewed under this subsection will be required to make up the missing hours of continuing education on a schedule determined by the Board, and to pay applicable fees and fines.

(h) Continuing education program providers which are not ACPE-accredited may apply to the Board for approval, and shall make a showing of program accreditation substantially similar to ACPE accreditation standards. Requests for approval shall be submitted to the Board at least 60 days prior to the start date of the program. Retroactive requests for approval will not be considered. The Board will maintain a list of programs approved under this subsection.

(i) A pharmacist who fails to comply with this section, or who submits fraudulent contact hour reports, will be subject to disciplinary action.

[Pa.B. Doc. No. 10-274. Filed for public inspection February 13, 2010, 9:00 a.m.]

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 529]

Temporary Table Game Licensing Regulations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (Act 1) and the specific authority in 4 Pa.C.S. §§ 1317 and 1317.1 (relating to supplier licenses; and manufacturer licenses), adopts temporary regulation in Chapter 529 to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of a new Subpart K entitled Table Games.

Purpose of the Temporary Rulemaking

This temporary rulemaking sets forth requirements related to licensing of table game device manufacturers, manufacturer designees and suppliers and allows the issuance of temporary credentials to gaming employees.

Explanation of Chapter 529

Section 529.1 establishes the requirements related to the issuance of a conditional table game device license to entities that have applied for a table game device manufacturer, manufacturer designee or supplier license.

Act 1 authorizes the conduct of table games in this Commonwealth. As part of Act 1, entities that want to manufacture or supply table game devices are required to obtain a table game device manufacturer, manufacturer designee or supplier license. For entities that are not currently licensed by the Board, this will require the entities to file a manufacturer, manufacturer designee or supplier license application. Typically, these applications can take a year or more to process due to the extensive background investigations that are required. However, slot machine licensees who obtain a table game operation

certificate will need to be able to purchase table game devices in the coming months.

To address this need, the Board has decided that it may issue conditional licenses to table game device manufacturer, manufacturer designee or supplier applicants who meet the requirements contained in § 529.1 (relating to table game devices—conditional licenses). More specifically, these applicants will have to: have submitted a complete licensing application; be licensed in good standing in a jurisdiction that has licensing standards which provide similar safeguards to those in this Commonwealth; have an expression of interest in acquiring the equipment they manufacture or supply from a slot machine applicant or licensee or a manufacturer designee or supplier licensee; have successfully completed a preliminary screening, including a criminal background check; and have paid the applicable application and licensing fee. To date, the Board has determined that New Jersey, Nevada, Mississippi and Louisiana have licensing standards that are equivalent to this Commonwealth.

Table game device manufacturer, manufacturer designee or supplier applicants who meet these requirements will be able to begin to provide table game devices while the review of their license application continues. If however, as part of the continuing investigation, the Office of Enforcement Counsel issues a Notice of Recommendation of Denial, the Bureau of Licensing may rescind the conditional license. If this occurs, the Bureau of Licensing will notify the applicant and all slot machine applicants and licensees and manufacturers, manufacturer designee and supplier licensees that the applicant is no longer authorized to provide table game devices in this Commonwealth. This notice will be sent by registered mail and contain a date after which the applicant will no longer be able to provide table game devices.

Under § 529.2 (relating to temporary credentials for gaming employees), gaming employees who are required to obtain an occupation permit will be able to obtain a temporary credential. This will allow gaming employees in critical positions to work in a licensed facility before their permit is issued.

Affected Parties

Slot machine licensees will benefit from this rulemaking because they will have more sources from whom they may obtain table game devices in a shorter period of time. Applicants for table game device manufacturer, manufacturer designee or supplier licenses will benefit by being able to offer their products in this Commonwealth sooner.

Employees who are required to obtain an occupation permit will be able to obtain a temporary credential which will allow them to work in a licensed facility before their permit is issued.

Fiscal Impact

Commonwealth

The Board does not anticipate that there will be any significant net costs or savings to the Board or any other Commonwealth agency as a result of this rulemaking. This is because the costs associated with the review of applications are recovered from the applicants.

Political Subdivisions

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

Private Sector

This rulemaking will make it easier for slot machine applicants and licensees to obtain table game devices in

the coming months. It will also allow table game device manufacturer, manufacturer designee or supplier applicants to offer their products in this Commonwealth sooner.

Table game device manufacturer, manufacturer designee and supplier applicants will have to complete the applicable existing Board license application forms and pay all of the associated application, investigation and licensing fees. However, there will be no additional forms required or fees imposed in connection with the conditional licenses.

General Public

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

Paperwork requirements

This rulemaking will not require applicants to file any separate or additional application forms or materials to be considered for a conditional license. These applicants will however be required to file the normal applications and related materials for a manufacturer, manufacturer designee or supplier license.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how these temporary regulations might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary 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 #125-111.

Contact Person

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

Regulatory Review

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of: sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P. L. 769, No. 240), referred to as the Commonwealth Documents Law; the Regulatory Review Act (71 P.S. §§ 745.1—745.12); and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P.S. §§ 732-204(b) and 732-301(10)). These temporary regulations shall expire 2 years after publication in the *Pennsylvania Bulletin*.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the Commonwealth Documents Law and sections 204(b) and 301(10) of the Commonwealth Attorney Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

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

(1) The regulations of the Board, 58 Pa. Code, are amended by adding temporary §§ 529.1 and 529.2 to read as set forth in Annex A.

(2) The temporary regulations are effective February 13, 2010.

(3) The temporary regulations will be posted on the Board's web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations shall be subject to amendment as deemed necessary by the Board.

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

GREGORY C. FAJT,
Chairperson

Fiscal Note: 125-111. No fiscal impact; (8) recommends adoption.

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 529. GENERAL LICENSING REQUIREMENTS

Sec.
529.1. Table game devices—conditional licenses.
529.2. Temporary credentials for gaming employees.

§ 529.1. Table game devices—conditional licenses.

(a) The Board may grant an applicant for a table game device manufacturer, manufacturer designee or supplier license a conditional license to conduct table game business in this Commonwealth, prior to licensure.

(b) To be eligible to obtain a conditional table game device license, the applicant for a table game device manufacturer, manufacturer designee or supplier license shall:

(1) Submit a completed manufacturer, manufacturer designee or supplier license application.

(2) Be licensed in good standing to manufacture or provide table game devices in another jurisdiction in the United States or Canada that the Board has determined has licensing standards that are comprehensive and thorough and provide similar adequate safeguards as those required by the act.

(3) Submit a written statement from a slot machine licensee or applicant, a supplier licensee or a manufacturer designee licensee that the slot machine licensee or applicant, the supplier licensee or the manufacturer designee licensee may do business with the applicant for the purpose of purchasing, selling or marketing table game devices.

(4) Pass a preliminary review of the application and criminal history investigation.

(5) Submit full payment for the table game device manufacturer, manufacturer designee or supplier license prior to the issuance of the conditional license.

(c) An applicant for a table game device manufacturer, manufacturer designee or supplier license that has received a conditional license shall provide monthly transaction reports to the Bureau of Licensing by the 20th calendar day of the following month during the period of conditional licensure. The monthly transaction reports must include:

(1) The date table game devices were provided to an applicant or licensee.

(2) A description of the table game devices provided.

(3) The amount paid by the applicant or licensee for the table game devices.

(4) A copy of the invoice for the table game devices.

(d) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for a table game device manufacturer, manufacturer designee or supplier license that has received a conditional license, the Bureau of Licensing may rescind the conditional license issued to the applicant. If the conditional license is rescinded, the applicant shall cease conducting business by the date specified in the notice of the rescission sent to the applicant by the Bureau of Licensing under subsection (e).

(e) When the Bureau of Licensing rescinds a conditional license, the Bureau of Licensing will notify the holder of the conditional license and all slot machine licensees or applicants, supplier licensees and manufacturer designee licensees by registered mail that:

(1) Permission for the applicant to conduct business under subsection (a) has been rescinded.

(2) Slot machine licensees or applicants, supplier licensees and manufacturer designee licensees shall cease conducting business with the applicant by the date specified in the notice.

(f) Pending a hearing on the Notice of Recommendation for Denial, the applicant may not seek or conduct any new business in this Commonwealth and may only complete transactions that were commenced prior to the date specified in the notice of rescission.

§ 529.2. Temporary credentials for gaming employees.

(a) A temporary credential may be issued by the Board to a gaming employee whose investigation for a permit is pending but whose presence is necessary in the licensed facility.

(b) A temporary credential issued under this section shall be void 180 days after the date of issuance.

(c) The Board may extend the expiration date of a temporary credential if the Board determines additional time is needed to complete the investigation for the permit.

[Pa.B. Doc. No. 10-275. Filed for public inspection February 12, 2010, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 92 and 92a]

National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance

The Environmental Quality Board (Board) proposes to rescind 25 Pa. Code Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) and replace it with a new Chapter 92a of the same name. This chapter describes the process that the Department of Environmental Protection (Department) uses to issue National Pollutant Discharge Elimination System (NPDES) permits for point source discharges of treated wastewater and stormwater, to meet the requirements of the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1387) and The Clean Streams Law (35 P.S. §§ 691.1—691.1001). The primary goal of the proposed rulemaking is to reorganize the existing Chapter 92 so that it will be consistent with the organization of the companion Federal regulations as set forth in 40 CFR Part 122 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System). This general reorganization is extensive, and it requires that Chapter 92 be replaced with a new chapter, Chapter 92a, to avoid confusion. A new NPDES permit fee structure designed to cover the Commonwealth's share of the cost of running the NPDES program is being proposed. Several new provisions to incorporate recent new requirements in the Federal program are also proposed. Certain treatment requirements are proposed to be added or reorganized to standardize the Department's approach to discharges of treated sewage and industrial wastewater.

This proposal was adopted by the Board at its meeting of November 17, 2009.

A. Effective Date

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

B. Contact Persons

For further information contact Ronald Furlan, Environmental Program Manager, Division of Planning and Permits, P. O. Box 8774, Rachel Carson State Office Building, Harrisburg, PA 17105-8774 (717) 787-8184 or William S. Cumings, Jr., Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464 (e-mail: wcummings@state.pa.us). Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800)-654-5984 (TDD users) or (800)-654-5988 (voice users). This proposal is available electronically through the DEP Web site at www.depweb.state.pa.us.

C. Statutory Authority

The proposed rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P.S. §§ 691.5(b)(1) and 691.402) which provides for the adoption of regulations necessary for the implementation of The Clean Streams Law and section 1920-A of The Administrative Code of 1929 (71 P.S.

§ 510-20) which authorizes the Board to promulgate rules and regulations to implement the provisions of The Clean Streams Law.

D. Background and Purpose

This proposed rulemaking rescinds Chapter 92 and creates a new Chapter 92a of the same name. The NPDES is the primary means by which pollution from point sources is controlled to protect the water quality of this Commonwealth's rivers and streams, to achieve the requirements of the Federal Clean Water Act and The Clean Streams Law.

The primary goal of the proposed rulemaking is to reorganize the existing NPDES regulations outlined in Chapter 92 so that the organization of the regulations is consistent with the organization of the companion Federal regulations in 40 CFR Part 122. By aligning the State and Federal regulations, it becomes clear where the regulations are identical and where they differ. This will help both Department staff and the regulated community understand the requirements of the program, and where additional or more stringent provisions apply in this Commonwealth. Every effort has been made to revert to the baseline Federal requirements except where additional or more stringent requirements in Chapter 92 were clear, well understood, and have an appropriate basis in The Clean Streams Law or other appropriate basis.

The proposed rulemaking includes a new NPDES permit fee structure that is designed to cover the cost to the Commonwealth for the administration of the NPDES program. The existing \$500 application fee, payable every 5 years would be replaced by a sliding scale of application fees and annual fees based primarily on the size of the point source discharge. The proposed fee structure is projected to produce \$5 million annually, which is the Commonwealth's share of the total estimated annual cost of running the program, compared to the \$0.75 million that is collected per year under the existing fee structure. Also, certain treatment requirements have been added or reorganized to standardize the Department's approach to discharges of treated sewage and industrial wastewater.

The proposed rulemaking also includes new provisions designed to keep the program current with changes at the Federal level. Some of these provisions are needed to ensure continued Federal approval of Pennsylvania's program by the Environmental Protection Agency (EPA). Approval of the final regulation by the EPA is required. These new provisions include requirements related to:

- Stormwater Phase II Final Rule requirements (MS4s and small construction activities)
- Cooling water intake structures—316(b)
- NPDES provisions for applications of pesticides

These new provisions generally are designed to achieve the Federal requirements without any more stringent requirements.

At the July and October 2008 meetings of the WRAC (Water Resources Advisory Committee), the proposal was reviewed, and comments received were resolved. At the October 2008 meeting, the WRAC recommended the proposal for advancement to the Board. At the meeting of the Agricultural Advisory Board on June 17, 2009, the provisions related to Concentrated Animal Feeding Operations (CAFOs), and Concentrated Aquatic Animal Production (CAAP) facilities were considered. Several con-

cerns related to fees for CAFOs were raised, and the fee structure was adjusted in response to these comments.

E. Summary of Regulatory Requirements

Proposed Chapter 92a is organized by subchapters that generally mirror the organization of 40 CFR Part 122 by subparts, and describe each functional step in the permitting process:

A. Definitions and General Program Requirements.

B. Permit Application and Special NPDES Program Requirements.

C. Permits and Permit Conditions.

D. Monitoring and Annual Fees.

E. Transfer, Modification, Revocation, Termination, Reissuance of Permits.

F. Public Participation.

G. Permit Coordination with the Administrator.

H. Civil Penalties for Violations of NPDES Permits.

The following is a summary of the substantive proposed revisions to the content of the regulations, other than those that are wholly new Federal regulations incorporated by reference.

Detailed Description of Proposed Revisions to Chapter 92 Transferred to the Chapter and New Additions

§ 92a.2. Definitions.

This section contains a number of new definitions which do not appear in existing Chapter 92. Among the newly defined terms are: "aquaculture project," "authority," "BOD₅—Biochemical oxygen demand, 5-day," "BTA—Best technology available," "CBOD₅—Carbonaceous biochemical oxygen demand, 5-day," "DMR—Discharge Monitoring Report," "disturbed area," "EHB—Environmental Hearing Board," "EPA," "earth disturbance activity," "entrainment," "expanding facility or activity," "GPD - Gallons per day," "immediate," "impingement," "major amendment," "major facility," "mining activity," "minor amendment," "minor facility," "monthly average discharge limitation," "municipality," "no exposure," "nonpoint source," "permit-by-rule," "privately owned treatment works," "significant biological treatment," "small flow treatment facility," "TMDL—Total Maximum Daily Load," "TSS—Total Suspended Solids," "treatment works" and "weekly average discharge limitation."

A number of definitions in existing § 92.2 will not be transferred. Among the terms proposed not being transferred are: "industrial user," "log sorting and log storage facilities," "minor discharge," "NPDES primary industry categories," "NPDES reporting form," "primary industrial facility," "rock crushing and gravel washing facilities" and "silvicultural point source." Some of the definitions not being transferred are defined in 40 CFR 122.2 (relating to definitions) which would be incorporated by reference under proposed § 92a.3(b)(1).

A small number of definitions from § 92.2 which will be retained in § 92a.2 are revised. These include "BMP—Best management practices," "discharge," "POTWs" and "pollution prevention."

§ 92a.3. Incorporation of Federal regulations by reference.

Existing § 92.2 contains a listing of all Federal regulations relating to the administration of the NPDES program which have been incorporated by reference. This

proposal places the incorporated regulations in the sections of Chapter 92a which correspond to the applicable Federal provision.

For example, the Federal provisions of 40 CFR 122.4 (relating to prohibitions applicable to State NPDES programs, see 123.25) are incorporated by reference in § 92a.5 which also relates to prohibitions. The remaining regulations incorporated into existing § 92.2 will be retained in § 92a.3(a).

§ 92a.4. Exclusions.

Existing § 92.4 outlines the exclusions from permit requirements. Some of those exclusions have no counterpart in the applicable Federal regulation, 40 CFR 122.3(a)—(g) (relating to exclusions), which would be incorporated by reference. The existing Federal exclusion relating to the application of pesticides, 40 CFR 122.3(h) would not be incorporated by reference. Pesticide application requirements would be covered by a permit-by-rule being proposed in § 92a.25. Current exclusions in § 92.4(a)(4) regarding oil and gas activities and conditions relating to indirect discharges in § 92.4(a)(6) will be deleted from the exclusion provisions since they are not included in the Federal exclusion regulation.

§ 92a.5. Prohibitions.

Existing § 92.73 outlines situations where an NPDES permit may not be issued. All but one of the prohibitions are identical to or closely parallel the Federal prohibitions set forth in 40 CFR 122.4. The prohibition which has no Federal counterpart relates to sanitary sewer overflows, § 92.73(8). This provision provides that no permit may be issued for a sanitary sewer overflow, except as provided for in the Federal regulations. This provision has been transferred to § 92a.5(b), except that the qualifier providing for exceptions as provided for in Federal regulations has been deleted.

§ 92a.10. Pollution prevention.

Existing § 92.2b establishes a hierarchy for measures for the environmental management of wastes, in descending order of preference. That hierarchy consists of reuse, recycling, treatment and disposal. This proposal changes this hierarchy by encouraging the consideration of two new measures, process change and materials substitution prior to the consideration of those listed herein.

§ 92a.11. Other chapters applicable.

Existing § 92.17 provides that whenever the application of certain enumerated chapters produces a more stringent effluent limitation than would be produced by application of Federal requirements, the more stringent limitation would apply. This proposal amends this section by adding Chapters 16, 77 and 87—89 which relate to mining activities to the list of chapters to which this section would apply.

§ 92a.12. Treatment requirements.

Provisions of existing § 92.2a and § 92.8a are transferred to this section. The treatment requirements set forth in existing § 92.2a remain largely unchanged except that new Chapters, 16, 77, 87—90 and 102 are being added to the list of chapters to which treatment requirements are applicable. Thus, permittees would be subject to the more stringent of the treatment requirements applicable to activities covered by those chapters, particularly mining activities and erosion and sediment control activities.

Provisions relating to changes in treatment requirements set forth in existing § 92.8a are transferred to

subsections (d)—(f). In subsection (d), the language of existing § 92.8a(a) has been revised by adding a number of chapters to the list of chapters to which revisions may be made which would trigger a notice from the Department to a permittee to respond to those changes. The revision also makes it clearer that it applies to plans or determinations approved by the Department as opposed to whenever the Department adopts a plan or makes a determination which would change or impose additional water quality criteria or treatment requirements.

Existing § 92.8a(c) provides, in part, that whenever a point of projected withdrawal for a new potable water supply not previously considered is identified by “an update to the State Water plan or a river basin commission plan, or by the application for a water allocation permit from the Department,” the Department will notify a discharger of total dissolved solids, nitrite-nitrate nitrogen and fluoride of more stringent effluent limitation needed to protect the point of withdrawal. The quoted language is deleted and replaced with simply “the Department.”

§ 92a.24. *Permit-by-rule for SRSTPs.*

The Department requires that SRSTPs (Single-Residence Sewage Treatment Plants) be designed and constructed consistent with robust technology-based requirements, and these systems inherently have little potential to malfunction or cause environmental harm. The permit-by-rule provision is designed to maximize the effectiveness of the Department’s resources while at the same time minimizing the paperwork burden on permittees without reducing the design, operation, inspection, sampling or reporting requirements for SRSTPs. (Certain effluent quality and sampling and reporting requirements will be moved from the NPDES general permit to a new water quality management general permit for SRSTPs.) The Department does not encourage the installation of SRSTPs, but in some cases they may be the only environmentally-sound option. SRSTPs are expensive, and the permit-by-rule provision is unlikely to result in increased use of these systems. The provision also reduces the time and effort required of the homeowners who own and maintain these systems. The proposed provisions allow the Department to require coverage under a general or individual permit if a noncompliant discharge requires more rigorous controls.

§ 92a.25. *Permit-by-rule for application of pesticides.*

Applications of pesticides on or near surface waters had previously been considered by the EPA as an activity that does not require coverage under an NPDES permit, as provided in 40 CFR 122.3(h). However, based on recent legal developments, the Federal exclusion may no longer be applicable. The United States Court of Appeals for the Sixth Circuit issued a ruling last year vacating the EPA rule exempting pesticide application from NPDES permitting requirements. *National Cotton Council et al. v. EPA* (C.A. 6, No. 06-4630)(Jan. 7, 2009). The EPA has requested the Court to grant it a 2-year stay. The requested stay was granted on June 8, 2009. In the meantime, an industry group has petitioned the court for an *en banc* rehearing of the case. That petition was denied. The industry group then filed a petition for review with the United States Supreme Court. The Supreme Court has yet to determine whether it will accept the petition. In view of the fact that a final rule would become effective near the expiration of the stay, the Board is proposing to provide for such coverage in the Commonwealth’s program. The Board is especially interested in public comment on this issue.

Application of pesticides has the potential to have adverse effects on water quality, and the source could reasonably be described as a point source, so coverage under an NPDES permit is appropriate from that standpoint. The potential adverse, unintended effects of pesticides have long been recognized, and the use and application of pesticides are controlled under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 136—136y). FIFRA requires registration of pesticides, and regulates all aspects of the proper use of restricted-use pesticides. An important goal of FIFRA is to minimize potential impacts on the environment during application. A label instructing the final user on the proper usage of the pesticide is attached to the final product, and if the instructions are not followed, users are liable for any negative consequences.

The Board believes that the application of pesticides has little potential for adverse environmental effects, provided that the pesticides are properly registered, controlled, and applied by trained and certified applicators as per the requirements of FIFRA. Under these conditions, and considering the expected sources as well as the fate and transport profiles of restricted-use pesticides, there should be minimal overlapping or cumulative effects from multiple sources. The Board proposes to authorize the Department to regulate the application of pesticides under a permit-by-rule, as long as the requirements of FIFRA are achieved in full. The proposed provisions would allow the Department to require coverage under a general or individual permit if a noncompliant applicator requires more rigorous controls for any reason.

§ 92a.26 *New or increased discharges, or change of waste streams.*

The appropriate action of a permittee whose wastewater or process change will result in a change in the pollution profile of the treated effluent is clarified. Increases in discharges of permitted pollutants that have no potential to exceed effluent limitations may be initiated without prior approval of the Department, but must be reported within 60 days. Any change in the pollution profile of the effluent that may exceed effluent limitations, or require new effluent limitations, requires prior notification of the Department. The Department determines whether to require a new application from the permittee, depending on the nature of the process change. Under the existing regulation, a new application is required automatically under some conditions. The revised language in proposed subsection (a) allows more flexibility, and limits the burden on both the permittee and the Department by requiring a new application only for the reasons specified in this section.

Proposed subsection (b) requires that a permittee with coverage under a stormwater permit associated with construction activities will notify the Department before excavating or otherwise disturbing land areas that were not identified in the permit application. The Department determines whether to require a new application from the permittee, depending on whether the new earth disturbance is substantial enough to require new or amended permit conditions.

§§ 92a.28 and 92a.62. *Application fees and annual fees.*

The existing \$500 application fee for individual NPDES permits which is payable once every 5 years at the time an application for a new or reissued permit is submitted is proposed to be replaced by a sliding scale of both application and annual fees based primarily on the size of the point source discharge (see Table 1 and Table 2). The

maximum allowable application fee for the 5-year term of a general permit is proposed to be raised from \$500 to \$2,500. Any increase in the fee for a general permit, however, would require a revision to the general permit, and would be subject to public notice and comment separate from this rulemaking.

The Commonwealth has long subsidized the costs of administering the NPDES program and the associated regulation of point source discharges of treated wastewater, but this is no longer financially feasible or environmentally appropriate. The proposed fee structure will cover only the Commonwealth's share of the cost of administering the NPDES permit program (about 40% of the total cost, with the other 60% covered by Federal grant). The proposed fees are still only a minor cost element compared to the cost of operating a sewage or industrial wastewater treatment facility. The artificially low fees that have been charged have been increasingly at odds with the Department's emphasis on Pollution Prevention and nondischarge alternatives. The proposed fee structure will better align the revenue stream with the true cost of point source discharges to surface waters, from both management and environmental standpoints. The sliding-scale fee structure assures that smaller facil-

ities, which may be more financially constrained and also have a lower potential environmental impact, are assessed the lowest fees. The Department's proposal to provide for a permit-by-rule for discharges from SRSTPs, and the application of pesticides under §§ 92a.24 and 92a.25 relieves some permittees of any fee.

The proposed fee structure generally requires application fees for new permits that are twice the fees for reissuance applications and for annual fees, reflecting the greater initial cost of processing a new permit. The annual fees are designed to cover the lesser ongoing costs associated with maintaining the permit coverage, including the cost of compliance inspections, sampling and reports. Setting application fees higher also better compensates the Department for processing applications for new permits that are submitted on a contingency basis, and that may or may not result in a facility being built. Integrating annual fees into the process spreads the cost of the permit over the 5-year permit cycle, and avoids penalizing facilities that may suspend or terminate permit coverage during the cycle. Setting the permit reissuance fee the same as the annual fee means that permittees generally can count on a uniform fee every year when producing the annual budget.

Table 1. Summary of NPDES Application Fees

Applications fees for individual NPDES permits for treated sewage are:

SRSTP	\$100 for new; \$100 for reissuance
Small flow treatment facility	\$250 for new; \$250 for reissuance
Minor facility < 50,000 GPD	\$500 for new; \$250 for reissuance
Minor facility ≥ 50,000 GPD < 1 MGD	\$1,000 for new; \$500 for reissuance
Minor facility with CSO	\$1,500 for new; \$750 for reissuance
Major facility ≥ 1 MGD < 5 MGD	\$2,500 for new; \$1,250 for reissuance
Major facility ≥ 5 MGD	\$5,000 for new; \$2,500 for reissuance
Major facility with CSO	\$10,000 for new; \$5,000 for reissuance

Applications fees for individual NPDES permits for industrial waste are:

Minor facility not covered by an ELG	\$1,000 for new; \$500 for reissuance
Minor facility covered by an ELG	\$3,000 for new; \$1,500 for reissuance
Major facility < 250 MGD	\$10,000 for new; \$5,000 for reissuance
Major facility ≥ 250 MGD	\$50,000 for new; \$25,000 for reissuance
Stormwater	\$2,000 for new; \$1,000 for reissuance

Application fees for individual NPDES permits for other facilities or activities are:

CAFO	\$1,500 for new; \$750 for reissuance
CAAP	\$1,500 for new; \$750 for reissuance
MS4	\$5,000 for new; \$2,500 for reissuance
Mining activity	\$1,000 for new; \$500 for reissuance

Table 2. Summary of NPDES Annual Fees

Annual fees for individual NPDES permits for discharges of domestic sewage are:

SRSTP	\$0
Small flow treatment facility	\$0
Minor facility < 50,000 GPD	\$250
Minor facility ≥ 50,000 GPD < 1 MGD	\$500
Minor facility with CSO	\$750
Major facility ≥ 1 MGD < 5 MGD	\$1,250
Major facility ≥ 5 MGD	\$2,500

Major facility with CSO	\$5,000
Annual fees for individual NPDES permits for discharges of industrial waste are:	
Minor facility not covered by an ELG.....	\$500
Minor facility covered by an ELG	\$1,500
Major facility < 250 MGD	\$5,000
Major facility ≥ 250 MGD.....	\$25,000
Stormwater	\$1,000
Annual fees for individual NPDES permits for other facilities or activities are:	
CAFO.....	\$0
CAAP.....	\$0
MS4	\$500
Mining activity	\$0

NOTES:

- AEU Animal Equivalent Unit
- CAAP Concentrated Aquatic Animal Production
- CAFO Concentrated Animal Feeding Operation.
- CSO Combined Sewer Overflow
- GPD Gallons per Day
- MGD Million Gallons per Day
- MS4 Municipal Separate Storm Sewer System
- SRSTP Single-residence Sewage Treatment plant

The proposed rulemaking provides for a general review of the permit fee structure every 3 years, to assure that the fees continue to cover the cost of maintaining the program.

§ 92a.34. Stormwater discharges.

Under subsection (b), stormwater discharges associated with industrial facilities may qualify for a conditional exclusion from the need for permit coverage under some conditions, including that the discharge of stormwater associated with industrial activities is composed entirely of stormwater uncontaminated by industrial pollutants. This conditional exclusion is not new, and is provided for under Federal regulations at 40 CFR 122.26(g) (relating to stormwater discharges applicable to State NPDES programs, see 123.25). However, under the proposal the Board clarifies that a stormwater discharge to a surface water classified as High Quality Water or Exceptional Value Water under Chapter 93 is not eligible for the conditional exclusion. This clarification is appropriate to assure that any discharges to High Quality Waters or Exceptional Value Waters are nondegrading as per the requirements of Chapter 93.

§ 92a.36. Cooling water intake structures.

Section 316(b) of the Clean Water Act (33 U.S.C.A. § 1326) sets design criteria for cooling water intake structures. The implementation requirements of section 316(b) are still being developed at the Federal level. The Board believes that under the section 316(b) process, the permittee is obligated to have the 316(b)-mandated Best Technology Available (BTA) for any cooling water intake structure, and the Department is required to perform a BTA determination in all cases where the permittee has a cooling water intake structure. The Board, therefore, regards the proposed provisions in § 92a.36 as the minimum requirements of section 316(b) at this point, and it is consistent with what at least one other state has incorporated into its regulations. Section 92a.36 is subject

to revision pending developments at the Federal level as the proposed rulemaking progresses. The Board is particularly interested in receiving comment on this issue.

§ 92a.38. Department action on permit applications.

The Board proposes to list the conditions that would prevent the Department from issuing an NPDES permit to an applicant. These conditions generally are not new or more stringent than provided for in the existing Chapter 92—they are simply organized in one section. However, the Department would now consider Local and County Comprehensive Plans and zoning ordinances when reviewing permit applications, which is not specifically provided for in the existing Chapter 92. This proposed provision is designed to better assure an integrated approach to water resources management. No new specific requirement applies to applicants, but applicants should be motivated to consider how their proposed discharge fits with all applicable plans and ordinances before submitting an application to the Department.

§ 92a.41. Conditions applicable to all permits.

This section generally incorporates all permit conditions applicable to NPDES permits as set forth in 40 CFR 122.41(a)—(m) (relating to conditions applicable to all permits applicable to State programs, see 123.25), which were incorporated into existing § 92.2(b). This section would replace existing § 92.51 (relating to standard conditions in all permits) except as noted.

Existing § 92.51(6) provides “that the discharger may not discharge floating materials, oil, grease, scum, foam, sheen and substances which produce color, taste, turbidity, or settle to form deposits in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water uses to be protected or to human, animal, plant, or aquatic life.” This language paraphrases the requirements of the general water quality criteria in § 93.6 (relating to general water quality criteria). The

qualifier that refers to "amounts sufficient to be . . . inimical to the water uses . . ." is thought to be too cryptic and nebulous to be useful, with the result that even substantial visual or odiferous indicators of problems with effluent quality may be overlooked during an inspection. An unqualified prohibition on most of these listed conditions is appropriate, but minor, transient foaming in effluent is not necessarily an indication of problems with the treatment process. The revised provision prohibits all of these conditions except for foam. "Floating materials" refers to floating solid materials, and foaming would still be considered an unacceptable condition if the foaming is visually objectionable, or persists for any distance away from the immediate vicinity of the discharge. The language of § 92.51(6) is proposed to be clarified in subsection (c).

Section 92a.47. Sewage permit.

Subsection (a) outlines a process requiring that sewage, except that discharged from a CSO, be given a minimum of secondary treatment. By streamlining the technology-based secondary treatment standard (STS) for discharges of treated sewage, and inserting the STS into Chapter 92a, permitting requirements for these facilities would be clarified and standardized. Both 40 CFR Part 133 (relating to secondary treatment regulations) and this proposed subsection define the STS as treatment that will achieve a 30-day average discharge concentration of 25 mg/L Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD₅) and 30 mg/L Total Suspended Solids (TSS), so the basic requirements of the STS would be unchanged and consistent between the Federal and State requirements. Certain exemptions and adjustments provided for in 40 CFR Part 133 would no longer be applicable, because these exemptions and adjustments are outdated and have been misinterpreted in some cases. The STS is 40 years old, and represents a bare bones standard of treatment for sewage treatment facilities. Any competent sewage treatment operation can readily achieve the STS. Under the proposed rulemaking, all discharges of treated sewage would be required to meet the STS.

Two other recurring issues are resolved with the proposed STS:

1. Permit conditions that assure effective disinfection of treated sewage, and implement the water quality criteria for fecal coliform bacteria in Chapter 93 (relating to water quality standards), are standardized.

2. Only facilities that are defined as Publicly-owned Treatment Works (POTWs) are required to meet the 85% pollutant removal efficiency for CBOD₅ and TSS. Certain industrial facilities have very weak influent and, in these cases, removal efficiency is not a valid measure of treatment effectiveness.

The proposed STS requires:

1. Monthly average discharge limitation for CBOD₅ may not exceed 25 mg/L and TSS may not exceed 30 mg/L.

2. Weekly average discharge limitation for CBOD₅ may not exceed 40 mg/L and TSS may not exceed 45 mg/L.

3. On a concentration basis, the monthly average percent removal of CBOD₅ and TSS must be at least 85% for POTW facilities.

4. From May through September, a monthly average discharge limitation for fecal coliform of 200/100 mL as a geometric mean and an instantaneous maximum effluent limitation not greater than 1,000/100 mL

5. From October through April, a monthly average discharge limitation for fecal coliform of 2000/100 mL as a geometric mean and an instantaneous maximum effluent limitation not greater than 10,000/100 mL.

6. Provision for the disposal or beneficial use of sludge.

7. pH: 6 to 9 standard units.

8. Total residual chlorine: 0.5 mg/L.

Subsections (b) and (c) outline a new technology-based tertiary treatment standard (TTS) for discharges of treated sewage. The TTS would apply to all new or expanding discharges of treated sewage to impaired waters where the impairment has been attributed to discharges of treated sewage, or to surface water designated as a High Quality or an Exceptional Value (antidegradation) water. Existing facilities would not be affected until such time as the permittee proposes to expand the facility. The requirement to implement the TTS would be triggered by a proposed expansion of an existing facility that would result either in an increased hydraulic capacity of the facility, or an increase in loading of any pollutant of concern to the affected surface water, or both.

In all cases for point sources, the more stringent of the applicable technology-based effluent limit and the water quality-based effluent limit (WQBEL) is applied. For discharges to impaired or antidegradation waters, the WQBEL is expected to be the governing factor in determining the appropriate effluent limits. However, technology-based requirements should be developed and applied independent of water quality-based requirements. The TTS is a more stringent treatment standard than the secondary treatment standard, and a more stringent technology-based treatment standard is appropriate in water quality-limited surface water segments for several reasons:

- In order to reduce possible disparities in treatment requirements amongst multiple point sources.

- An adequate WQBEL may not be available when it is needed (for example, a sewage treatment plant is proposed for expansion, but the TMDL has not yet been scheduled or completed). Applying a more stringent technology-based standard will minimize possible distortions in the planning and design process that may be introduced when the WQBEL is inadequate or unavailable. The facility may be grossly under-designed, necessitating a costly overhaul of the facility. Applying the TTS in scenarios where advanced treatment clearly will be required will minimize this risk, without increasing the risk that the facility may be over-designed.

- The relationship between the source and an impairment may be reliable, but it may not be effectively tied to any one or more pollutants. An impairment initially attributed to nutrient enrichment may, upon further study or with more data, subsequently be attributed to organic enrichment. Or an impairment that really is due to nutrient enrichment, and that is mitigated with effective nutrient controls, may simply be replaced by an impairment that is attributable to organic enrichment. By assuring a balanced approach to all likely pollutants of concern, vulnerabilities in the WQBEL process can be minimized without undue burden on the permittee.

In addition to all the requirements of the STS, the proposed TTS provides that:

1. Monthly average CBOD₅ and TSS may not exceed 10 mg/L.

2. Monthly average total nitrogen may not exceed 8 mg/L.

3. Monthly average ammonia nitrogen may not exceed 3 mg/L.
4. Monthly average total phosphorus may not exceed 1 mg/L.
5. Dissolved oxygen must be 6 mg/L or greater at all times.
6. Seasonal modifiers may not be applied for tertiary treatment.

These effluent treatment requirements are sufficiently stringent to require advanced treatment as compared to secondary treatment for sewage, but are not state-of-the-art. In impaired or antidegradation waters, treatment at least this stringent will be required.

§ 92a.48. Industrial waste permit.

This section outlines requirements for industrial waste permits. Much of existing § 92.2d (relating to technology-based standards) would be transferred to this section. A new proposed provision would require that industrial discharges of conventional pollutants be assigned technology-based limits of no greater than 50 mg/L CBOD₅ and 60 mg/L TSS. This provision is intended to address situations where the application of certain outdated technology-based requirements for industrial sources may result in inappropriately permissive technology-based effluent limits. For industrial sources, the Federal Effluent Limitation Guideline (ELG) often is the applicable technology-based requirement. In some cases, the Federal ELG is based on units of mass pollutant loading per unit of production, such that a production operation might be assigned a permissible number of pounds of CBOD₅ that may be discharged per unit of production. When converted into concentration units, the effluent limits may be inappropriately permissive (over 100 mg/L CBOD₅). Consequently, proposed subsection (a)(4) would require that all discharges of conventional pollutants from industrial discharges achieve 50 mg/L CBOD₅ and 60 mg/L TSS. Since the great majority of industrial sources of conventional pollutants already meet these treatment requirements, this requirement will affect few industrial facilities. The Board is especially interested in public comment on this issue, and expects to address any concerns from individual facilities in the public notice process.

§ 92a.50. CAAP.

Concentrated aquatic animal production (CAAP) facilities are fish hatcheries or fish farms. The discharge from CAAPs normally is of a high quality with low pollutant concentrations, but the high discharge flows can offset the low concentrations, and still result in high pollutant loadings to the receiving stream. Also, CAAPs may be located on streams designated as High Quality Water in Chapter 93, which sets a higher standard for water quality. Based on experience, the Department has determined that it is less effective to regulate CAAP discharge flows with strict, concentration-based limits for conventional pollutants (CBOD₅ and TSS). Concentration-based limits are assigned for all pollutants of concern, but a Pollution Prevention-based approach is most effective in controlling the primary source of the pollutants in the discharge. The proposed rulemaking requires that all CAAPs develop a Best Management Practice (BMP) plan with the primary goal of minimizing excess fish feed in the system. This has proven to be the best way to mitigate the environmental impact of these facilities, and has other benefits to the facility in terms of reductions in

feed, maintenance, and treatment costs. BMP plans have become established as good practice within the CAAP industry in recent years.

CAAPs may use therapeutic drugs such as antibiotics and fungicides to control disease in the fish population. The proposed rulemaking requires that CAAPs report the use of these drugs at established intervals, and places strong restrictions on the use of therapeutic drugs that may be carcinogenic. The use of these therapeutic drugs generally is safe and of low environmental concern, but tracking use rates will support investigation of any potential environmental impact of the drugs, or allegation of same.

§ 92a.53. Documentation of permit conditions.

This section outlines the minimum content requirements for fact sheets prepared for NPDES permits. A fact sheet is a synopsis of the basis for the issuance of an NPDES permit. It provides information about the facility and the receiving water, describes any technology-based treatment requirements that were applied, and describes how the permit conditions will assure that water quality standards will be achieved in the receiving water. The proposed rulemaking explicitly describes the minimum required content of fact sheets, and makes it clear that these fact sheets are available to the public and other interested agencies upon request.

The existing regulation in § 92.61(c) (relating to public notice of permit application and public hearing) describes a fact sheet that the Department will produce and forward on request. This provision was limited to discharges of 500,000 gallons per day or greater and does not include all of the information that a fact sheet produced under applicable Federal requirements must include. It is not clear that this provision is intended to fulfill the requirements of a fact sheet produced under applicable Federal requirements. To eliminate this confusion and consistent with the overall goal of the reorganized regulation, the proposed rulemaking requires that the Department produce a fact sheet for all discharges. The required contents of the fact sheet more closely tracks the Federal requirements, and is produced in support of the draft permit, the final permit, or both.

§ 92a.75. Reissuance of expiring permits.

The existing provisions in § 92.13 (relating to reissuance or renewal of permits) do not provide adequate guidance regarding administrative extensions of existing permits. The proposed rulemaking limits administrative extensions of existing permits to minor facilities with good compliance histories, and for a period not to exceed 5 years.

§§ 92a.82 and 92a.87. Public notice of permit applications and draft permits; and notice of reissuance of permits.

The requirements for public notice and applications outlined in existing § 92.61 and § 92.67 are being reorganized to describe clearly the information that must be included in public notice postings for applications and draft permits. In the existing regulation, the public notice requirements for applications and draft permits are intermingled and less clearly described. As a result of the proposed amendments, it is now clear that there will be a 30-day period following public notice of draft permits during which persons may submit written comments before the Department makes final determinations. The optional 15-day extension period that is provided for in the existing regulation is retained.

§§ 92a.82(c), 92a.83 and 92a.84(b). *Public notice of permit applications and draft permits; public notice of public hearing; and public notice of general permits.*

The proposed rulemaking more clearly defines the public hearing process. Public hearings can be requested by any interested persons during the public comment period for any draft individual permit or proposed general permit. A hearing will be held if there is significant public interest in a draft or proposed permit and public notice of the hearing will be published at least 30 days in advance.

F. Benefits, Costs and Compliance

Benefits

Chapter 92a will help protect the environment, ensure the public's health and safety, and promote the long-term sustainability of this Commonwealth's natural resources by ensuring that the water quality of the rivers and streams is protected and enhanced. Chapter 92a implements the requirements of the Federal Clean Water Act and The Clean Streams Law for point source discharges of treated wastewater to the rivers and streams of this Commonwealth.

The proposed revision primarily is designed to improve the effectiveness and efficiency of the NPDES permits program. The major problem with the existing Chapter 92 is that it often uses different language than the companion Federal regulation 40 CFR Part 122 to describe requirements, and it is not often clear if Chapter 92 requirements are more stringent than Federal requirements or not. The primary goal of the proposed rulemaking was to rebuild the regulation from scratch, starting with the Federal program requirements, incorporating additional or more stringent requirements only where there was clearly a basis for them. Where feasible, Chapter 92a reverts to Federal terminology and definitions to minimize possible distortions or ambiguity. Superficially, Chapter 92a is not substantially different from Chapter 92 in most areas, but the Board expects that the reorganization of the NPDES regulation will have a substantive positive effect on Pennsylvania's NPDES program. Permittees and other members of the regulated community will find it easier to determine if Pennsylvania has additional requirements compared to Federal requirements. A supplemental benefit is that turnover in permit engineers and writers should be less disruptive, since new staff should find it easier to understand the streamlined regulatory requirements.

The proposed rulemaking also includes new provisions designed to keep the program current with recent changes at the Federal level. Some of these provisions are needed to ensure continued Federal approval of Pennsylvania's NPDES program by the Environmental Protection Agency (EPA).

Compliance Costs

No new requirements are proposed in this proposed rulemaking that would require general increases in personnel complement, skills or certification. The new permit fees are the only broad-based new requirement that would increase costs for permittees, but the fees have been structured to assure that smaller facilities, that are more financially constrained and also have a lower potential environmental impact, are assessed the lowest fees. The cost of securing and maintaining an NPDES permit to discharge to surface waters is small compared to the cost of operating these facilities.

The proposed rulemaking addresses wastewater treatment facilities, including industrial wastewater treatment

facilities, POTWs, and other facilities that treat sanitary wastewater. The treatment requirements of the NPDES regulation affect operational costs to some extent, but the proposed rulemaking does not include any new broad-based treatment requirements that would apply to most facilities. The compliance costs of the proposed rulemaking for most facilities is limited to the revised application and annual fees. Current annual income from NPDES application fees is estimated at \$750,000, with no annual fees, versus a cost of running the program estimated at \$5 million. The new proposed fee structure is designed to return annual income of approximately \$5 million, so that the total additional cost to the regulated community will be approximately \$4.25 million per year. (A summary of the proposed application and annual fee structure is listed in Tables 1 and 2, as presented within this preamble.)

Compliance Assistance Plan

In cases where the receiving water is water quality-limited (impaired), wastewater treatment facilities may be required to upgrade their treatment capabilities. This would involve a significant compliance cost burden related to engineering, construction and operating costs for upgrading the wastewater treatment facility. The Department's Technical and Financial Assistance Program works with the Pennsylvania Infrastructure Investment Authority (PENNVEST) to offer financial assistance to eligible public water systems. This assistance is in the form of a low-interest loan, with some augmenting grant funds for hardship cases. Eligibility is based upon factors such as public health impact, compliance necessity and project/operational affordability. Other potential sources of financial assistance for wastewater treatment facility upgrades are:

- The Water Supply and Wastewater Infrastructure Program (PennWorks), administered by the Pennsylvania Department of Community Development
- The Community Development and Block Grant Program, administered by the Department Pennsylvania Department of Community Development
- The Growing Greener New or Innovative Water/Wastewater Technology Grant program, administered by the Department

Paperwork Requirements

Most permittees will be required to submit annual fees to the Department.

No other new forms, reports or other paperwork are required in this proposed rulemaking, except for certain new requirements for CAAP facilities. CAAPs are fish hatcheries or fish farms. Under this proposed rulemaking, CAAPs would be required to have a written BMP plan to manage feed and nutrients to minimize excess feed that wastes resources and causes pollution without any benefit. Also, therapeutic drug use (that is, fungicides, antibiotics) shall be tracked and reported. The implementation of a BMP plan to manage feed costs and impacts is widely recognized as an appropriate industry practice, and well run facilities already have them in place. Other options that were considered, such as establishing strict mass and concentration-based requirements for discharges of pollutants from CAAPs, were rejected as unnecessary and potentially burdensome. Facilities already are required to secure approval for any discharge of any therapeutic drug that may be detectable in the effluent. The Department generally considers the use of these therapeutic drugs as safe and of low environmental concern, but tracking use

rates will support investigation of any potential environmental impact of the drugs, or allegation of same.

G. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

The proposed rulemaking commits the Department to encourage pollution prevention by providing assistance to the permittee and users of the permittee’s facilities in the consideration of pollution prevention measures such as process changes, materials substitution, reduction in volume of water use, in-process recycling and reuse of water and general measures of “good housekeeping” within the plant or facility. Lesser permit fees are assessed on smaller facilities (facilities with lower hydraulic capacity), which effectively motivates permittees to pursue source reduction by reducing the volume of wastewater that requires treatment. The regulations incorporate the established hierarchy for pollution prevention, in descending order of preference, for environmental management of wastes:

- (1) Process change.
- (2) Materials substitution.
- (3) Reuse.
- (4) Recycling.
- (5) Treatment.
- (6) Disposal.

The requirement that CAAPs implement a BMP plan to manage fish feed rates is a good example of source reduction, or process change, to prevent pollution before it is produced, and to reduce the cost of the operation.

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 27, 2010, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendments, the Department provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed 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 of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. The Board must receive any comments, suggestions or objections by March 15, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by March 15, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by March 15, 2010. A subject heading of the proposal and a return name and address must be included in each transmission. If the sender does not receive an acknowledgement of electronic comments within 2 working days, the comments should be retransmitted to ensure receipt.

JOHN HANGER,
Chairperson

Fiscal Note: 7-443. No fiscal impact; (8) recommends adoption.

Annex A

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

**Subpart C. PROTECTION OF NATURAL
RESOURCES**

ARTICLE II. WATER RESOURCES

CHAPTER 92. (RESERVED)

(Editor’s Note: As part of this proposed rulemaking, the EQB is proposing to rescind Chapter 92 which appears in 25 Pa. Code pages 92-1—92-54, serial pages (271955), (271956), (315447)—(315454), (324877), (324878), (315457)—(315462), (324879)—(324882), (271977), (271978), (336593), (336594), (271981)—(271984), (313603), (313606), (271989)—(271992), (313607), (313608), (343929)—(343932) and (271999)—(272008).)

- Sec.
- 92.1. (Reserved)
- 92.2. (Reserved)
- 92.2a—92.2d. (Reserved)
- 92.3—92.5. (Reserved)
- 92.5a. (Reserved)
- 92.6. (Reserved)
- 92.7. (Reserved)
- 92.8a. (Reserved)
- 92.9. (Reserved)
- 92.11. (Reserved)
- 92.13. (Reserved)
- 92.13a. (Reserved)
- 92.15. (Reserved)
- 92.17. (Reserved)
- 92.21. (Reserved)
- 92.21a. (Reserved)
- 92.22. (Reserved)
- 92.23. (Reserved)

Sec.
 92.25. (Reserved)
 92.31. (Reserved)
 92.41. (Reserved)
 92.51. (Reserved)
 92.52a. (Reserved)
 92.53. (Reserved)
 92.55. (Reserved)
 92.57. (Reserved)
 92.59. (Reserved)
 92.61. (Reserved)
 92.63. (Reserved)
 92.65. (Reserved)
 92.67. (Reserved)
 92.71. (Reserved)
 92.71a. (Reserved)
 92.72a. (Reserved)
 92.73. (Reserved)
 92.75. (Reserved)
 92.77—92.79. (Reserved)
 92.81—92.83. (Reserved)
 92.91—92.94. (Reserved)

CHAPTER 92a. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITTING, MONITORING AND COMPLIANCE

Subchap.	Sec.
A. DEFINITIONS AND GENERAL PROGRAM REQUIREMENTS.....	92a.1
B. PERMIT APPLICATION AND SPECIAL NPDES PROGRAM REQUIREMENTS.....	92a.21
C. PERMITS AND PERMIT CONDITIONS	92a.41
D. MONITORING AND ANNUAL FEES	92a.61
E. TRANSFER, MODIFICATION, REVOCATION AND REISSUANCE, TERMINATION OF PERMITS, REISSUANCE OF EXPIRING PERMITS AND CESSATION OF DISCHARGE	92a.71
F. PUBLIC PARTICIPATION.....	92a.81
G. PERMIT COORDINATION WITH THE ADMINISTRATOR	92a.91
H. CIVIL PENALTIES FOR VIOLATIONS OF NPDES PERMITS	92a.101

Subchapter A. DEFINITIONS AND GENERAL PROGRAM REQUIREMENTS

Sec.	
92a.1.	Purpose and scope.
92a.2.	Definitions.
92a.3.	Incorporation of Federal regulations by reference.
92a.4.	Exclusions.
92a.5.	Prohibitions.
92a.6.	Effect of a permit.
92a.7.	Duration of permits and continuation of expiring permits.
92a.8.	Confidentiality of information.
92a.9.	NPDES permit satisfies other permit requirements.
92a.10.	Pollution prevention.
92a.11.	Other chapters applicable.
92a.12.	Treatment requirements.

§ 92a.1. Purpose and scope.

(a) *Purpose.* The regulatory provisions contained in this chapter implement the NPDES Program by the Department under the Federal Act.

(b) *Scope.* A person may not discharge pollutants from a point source into surface waters except as authorized under an NPDES permit.

§ 92a.2. Definitions.

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

AEU—Animal Equivalent Unit—One thousand pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit, as defined in 3 Pa.C.S. § 503 (relating to definitions).

Administrator—The Administrator of the EPA or an authorized representative.

Agricultural operation—The management and use of farming resources for the production of crops, livestock or poultry as defined in 3 Pa.C.S. § 503.

Agricultural process wastewater—Wastewater from agricultural operations, including from spillage or overflow from livestock or poultry watering systems; washing, cleaning or flushing pens, milkhouses, barns, manure pits; direct contact swimming, washing or spray cooling of livestock or poultry; egg washing; or dust control.

Applicable effluent limitations or standards—State, interstate and Federal effluent limitations or standards to which a discharge is subject under the State and Federal Acts, including, but not limited to, water quality-based and technology-based effluent limitations, standards of performance, toxic effluent standards and prohibitions, BMPs and pretreatment standards.

Applicable water quality standards—Water quality standards to which a discharge is subject under the State and Federal Acts, and regulations promulgated thereunder.

Application—The Department’s form for applying for approval to discharge pollutants to surface waters of this Commonwealth under a new NPDES permit, or reissuance of an existing NPDES permit, or the modification or transfer of an existing NPDES permit.

Aquaculture project—A defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants and animals.

Authority—A body politic and corporate created under 53 Pa.C.S. Chapter 56 (relating to municipal authorities act).

BAT—Best Available Technology Economically Achievable—

(i) The maximum degree of effluent reduction attainable through the application of the best treatment technology economically achievable within an industrial category or subcategory, or other category of discharger.

(ii) The term includes categorical ELGs promulgated by the EPA under section 304(b) of the Federal Act (33 U.S.C.A § 1314(b)).

BOD₅—Biochemical oxygen demand, 5-day—The 5-day measure of the pollutant parameter biochemical oxygen demand.

BMP—Best Management Practices—

(i) Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollutant loading to surface waters of this Commonwealth.

(ii) The term includes treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(iii) The term includes riparian buffers, soil and slope stabilization measures, control of fertilization practices, and other actions and measures designed to reduce erosion and runoff of soil, sediment and pollutants from the land surface during precipitation events; or to reduce the contamination of groundwater with pollutants that may affect surface waters.

(iv) The term includes BMP measures developed under this title to reduce pollutant loading to surface waters.

BTA—Best Technology Available—The combination of technologies and operational practices that achieves the most effective degree of impingement mortality and entrainment reduction applicable to the facility.

CAAP—Concentrated Aquatic Animal Production Facility—A hatchery, fish farm or other facility which meets the criteria in 40 CFR 122.24 (relating to concentrated aquatic animal production facilities (applicable to State NPDES programs, see 123.25)).

CAFO—Concentrated Animal Feeding Operation—A CAO with greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs, or any agricultural operation defined as a large CAFO under 40 CFR 122.23(b)(4) (relating to concentrated animal feeding operations (applicable to State NPDES programs, see 123.25)).

CAO—Concentrated Animal Operation—An agricultural operation that meets the criteria established by the State Conservation Commission in regulations under the authority of 3 Pa.C.S. Chapter 5 (relating to nutrient management and odor management) in Chapter 83, Subchapter D (relating to nutrient management).

CBOD₅—Carbonaceous biochemical oxygen demand, 5-day—The 5 day measure of the pollutant parameter carbonaceous biochemical oxygen demand.

CSO—Combined Sewer Overflow—Any intermittent overflow or other untreated discharge from a municipal combined sewer system (including domestic, industrial and commercial wastewater and stormwater) prior to reaching the headworks of the sewage treatment facility which results from a flow in excess of the dry weather carrying capacity of the system.

Combined sewer system—A sewer system that has been designed to serve as both a sanitary sewer and a storm sewer.

Conventional pollutant—Biochemical oxygen demand, carbonaceous biochemical oxygen demand, suspended solids, pH, fecal coliform, oil or grease.

DMR—Discharge Monitoring Report—The Department or EPA supplied forms for reporting of self-monitoring results by the permittee.

Daily discharge—The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably and accurately represents the calendar day for purposes of sampling:

(i) For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day.

(ii) For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Discharge—An addition of any pollutant to surface waters of this Commonwealth from a point source.

Disturbed area—As defined in Chapter 102 (relating to erosion and sediment control).

Draft permit—A document prepared by the Department indicating the Department's tentative decision to issue or deny, modify, revoke or reissue a permit.

ELG—Effluent Limitations Guideline—A regulation published by the Administrator under section 304(b) of the Federal Act, or by the Department, to revise or adopt effluent limitations.

Earth disturbance activity—As defined in Chapter 102.

Effluent limitation or standard—A restriction established by the Department or the Administrator on quantities, rates and concentrations of chemical, physical, biological and other constituents which are discharged from point sources into surface waters, including BMPs and schedules of compliance.

Entrainment—The incorporation of all life stages of fish and shellfish with intake flow entering and passing through a cooling water intake structure and into a cooling water intake system.

Existing discharge—A discharge that is not a new discharge or a new source.

Expanding facility or activity—Any expansion, modification, process change, or other change to an existing facility or activity which will result in an increased discharge of wastewater flow, or an increased loading of pollutants.

Facility or activity—Any NPDES point source or any other facility or activity including land or appurtenances thereto that is subject to regulation under the NPDES Program.

Federal Act—The Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251–1387) also known as the Clean Water Act or CWA.

GPD—Gallons per day.

Immediate—As soon as possible, but not to exceed 4 hours.

Impingement—The entrapment of all life stages of fish and shellfish on the outer part of the intake structure or against a screening device during periods of intake water withdrawal

Indirect discharger—A discharger of nondomestic wastewater introducing pollutants into a POTW or other treatment works.

Industrial waste—

(i) A liquid, gaseous, radioactive, solid or other substance, not sewage, resulting from manufacturing or industry, or from an establishment, and mine drainage, refuse, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations.

(ii) The term includes all of these substances whether or not generally characterized as waste.

Instantaneous maximum effluent limitation—The highest allowable discharge of a concentration or mass of a substance at any one time as measured by a grab sample.

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

Interstate agency—An agency of two or more states established by or under an agreement or compact, or any other agency of two or more states, having substantial

powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

Large municipal separate storm sewer system—A municipal separate storm sewer system as defined in 40 CFR 122.26(b)(4) (relating to stormwater discharges (applicable to State NPDES programs, see 123.25)).

Livestock—

(i) Animals raised, stabled, fed or maintained on an agricultural operation with the purpose of generating income or providing work, recreation or transportation. Examples include: dairy cows, beef cattle, goats, sheep, swine and horses.

(ii) The term does not include aquatic species.

MGD—Million gallons per day.

MS4—Municipal Separate Storm Sewer System—A municipal separate storm sewer system.

Major amendment—Any amendment to an NPDES permit that is not a minor amendment.

Major facility—A POTW with a design flow of 1.0 MGD or more and any other facility classified as such by the Department in conjunction with the Administrator.

Manure—

(i) Animal excrement, including poultry litter, which is produced at an agricultural operation.

(ii) The term includes materials such as bedding and raw materials which are commingled with that excrement.

Medium municipal separate storm sewer system—A municipal separate storm sewer system as defined in 40 CFR 122.26(b)(7).

Mining activity—A surface or underground mining activity as defined in Chapter 77 or Chapter 86 (relating to noncoal mining; and surface and underground coal mining: general).

Minor amendment—An amendment to an NPDES permit to correct a typographical error, increase monitoring requirements, change interim compliance dates by no more than 120 days, delete an outfall, change a construction schedule for a discharger that is a new source, or to incorporate an approved pretreatment program into an existing permit.

Minor facility—A facility not identified as a major facility.

Monthly average discharge limitation—The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during the calendar month divided by the number of daily discharges measured during the month.

Municipal separate storm sewer system—A separate storm sewer (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) which is all of the following:

(i) Owned or operated by a state, city, town, borough, county, district, association or other public body (created by or under State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management

agency under section 208 of the Federal Act (33 U.S.C.A. § 1288) that discharges to surface waters of this Commonwealth.

(ii) Designed or used for collecting or conveying stormwater.

(iii) Not a combined sewer.

(iv) Not part of a POTW.

Municipality—A city, town, borough, county, township, school district, institution, authority or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

NOI—Notice Of Intent—A complete form submitted for NPDES general permit coverage which contains information required by the terms of the permit and by § 92a.54 (relating to general permits). An NOI is not an application.

NPDES—National Pollutant Discharge Elimination System.

NPDES form—An issued NPDES permit, the application, NOI or any DMR reporting form.

NPDES general permit or general permit—An NPDES permit that is issued for a clearly described category of point source discharges, when those discharges are substantially similar in nature and do not have the potential to cause significant adverse environmental impact.

NPDES permit—An authorization, license, or equivalent control document issued by the Administrator or the Department to implement the requirements of 40 CFR Parts 122—124 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System; state program requirements; and procedures for decision making) and the Federal Act.

New discharger—A building, structure, facility, activity or installation from which there is or may be a discharge of pollutants that did not commence the discharge at a particular site prior to August 13, 1979, which is not a new source, and which has never received a final effective NPDES permit for discharges at that site.

New source—A building, structure, facility, activity or installation from which there is or may be a discharge of pollutants, the construction of which commenced after promulgation of standards of performance under section 306 of the Federal Act (33 U.S.C.A. § 1316) which are applicable to the source.

No exposure—Where industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to stormwater. Industrial materials and activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

Nonconventional pollutant—A pollutant which is not a conventional or toxic pollutant.

Nonpoint source—A pollutant source that is not a point source.

POTWs—Publicly Owned Treatment Works—

(i) A treatment works which is owned by a state or municipality.

(ii) The term includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature.

(iii) The term also includes sewers, pipes or other conveyances if they convey wastewater to a POTW treatment plant.

(iv) The term also means the municipality as defined in section 502(4) of the Federal Act (33 U.S.C.A. § 1362(4)), which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

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

Permit-by-rule—An NPDES permit which a person is deemed to have for the operation of an SRSTP or for the application of pesticides upon compliance with the requirements of § 92a.24 or § 92a.25 (relating to permit-by-rule for SRSTPs; and permit-by-rule for application of pesticides), as applicable.

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

Point source—Any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, CAAP, CAFO, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged.

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

Pollution prevention—Source reduction and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water or other resources, without having significant cross-media impacts.

Privately owned treatment works—Any device or system used to treat wastewater that is not a POTW.

Process wastewater—Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

SRSTP—Single Residence Sewage Treatment Plant—A system of piping, tanks or other facilities serving a single family residence located on a single family residential lot, that solely collects, treats, and disposes of direct or indirect sewage discharges from the residence into surface waters of this Commonwealth.

SSO—Sanitary Sewer Overflow—An overflow of wastewater, or other untreated discharge from a separate sanitary sewer system (which is not a combined sewer system), which results from a flow in excess of the carrying capacity of the system or from some other cause prior to reaching the headworks of the sewage treatment facility.

Schedule of compliance—A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with effluent limitations, prohibitions, other limitations or standards.

Separate storm sewer—A conveyance or system of conveyances (including pipes, conduits, ditches and channels) primarily used for collecting and conveying stormwater runoff.

Setback—A specified distance from the top of the bank of surface waters, or potential conduits to surface waters, where manure and agricultural process wastewater may not be land applied. Examples of conduits to surface waters include, but are not limited to:

(i) Open tile line intake structures.

(ii) Sinkholes.

(iii) Agricultural wellheads.

Sewage—Any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals.

Significant biological treatment—The use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65% removal of BOD₅.

Small flow treatment facility—A treatment works designed to adequately treat sewage flows of not greater than 2,000 gallons per day for final disposal using a stream discharge or other methods approved by the Department.

Small municipal separate storm sewer system—A municipal separate storm sewer system as defined in 40 CFR 122.26(b)(16)—(18).

State Act—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Stormwater—Runoff from precipitation, snow melt runoff and surface runoff and drainage.

Stormwater discharge associated with construction activity—The discharge or potential discharge of stormwater from construction activities, including clearing and grubbing, grading and excavation activities involving:

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

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

Stormwater discharge associated with industrial activity—The discharge from any conveyance that is used for collecting and conveying stormwater and that is directly

related to manufacturing, processing or raw materials storage areas at an industrial plant, and as defined in 40 CFR 122.26(b)(14).

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

TMDL—Total Maximum Daily Load—The sum of individual waste load allocations for point sources, load allocations for nonpoint sources and natural quality and a margin of safety expressed in terms of mass per time, toxicity or other appropriate measures.

TSS—Total Suspended Solids—The pollutant parameter total suspended solids.

Toxic pollutant—Those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, may, on the basis of information available to the Administrator or the Department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in these organisms or their offspring.

Treatment works—Any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement the State and Federal Acts, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from the treatment.

Vegetated buffer—A permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for purposes that include slowing water runoff, enhancing water infiltration and minimizing the risk of any potential pollutants from leaving the field and reaching surface waters.

WETT—Whole Effluent Toxicity Testing—

(i) A test, survey, study, protocol or assessment which includes the use of aquatic, bacterial, invertebrate or vertebrate species to measure acute or chronic toxicity, and any biological or chemical measure of bioaccumulation, bioconcentration or impact on established aquatic and biological communities.

(ii) The term includes any established, scientifically defensible method that is sufficiently sensitive to measure toxic effects.

WQBEL—Water Quality-based Effluent Limitation—An effluent limitation based on the need to attain or maintain the water quality criteria and to assure protection of designated and existing uses.

Water quality standards—The combination of water uses to be protected and the water quality criteria necessary to protect those uses.

Weekly average discharge limitation—The highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during the calendar week divided by the number of daily discharges during that week.

Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

Whole effluent toxicity—The aggregate toxic effect of an effluent measured directly with a WETT.

§ 92a.3. Incorporation of Federal regulations by reference.

(a) The Federal NPDES regulations listed in subsection (b), including all appendices, future amendments and supplements thereto, are incorporated by reference to the extent that these provisions are applicable and not contrary to the law of the Commonwealth. In the event of a conflict between Federal and regulatory provisions of the Commonwealth, the provision expressly set out in this chapter shall be applied unless the Federal provision is more stringent.

(b) The following Federal regulatory provisions in 40 CFR Parts 122, 124 and 125 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System; procedures for decision making; and criteria and standards for the National Pollutant Discharge Elimination system) are incorporated by reference:

(1) 122.2 (relating to definitions) unless the definitions in § 92a.2 (relating to definitions) are different.

(2) 123.25(c) (relating to requirements for permitting).

(3) 124.57(a) (relating to public notice).

(4) 125.1—125.3 (relating to criteria and standards for imposing technology-based treatment requirements under sections 301(b) and 402 of the act).

(5) 125.30—125.32 (relating to criteria and standards for determining fundamentally different factors under sections 301(b)(1)(A), 301(b)(2)(A) and (E) of the act).

(6) 125.70—125.73 (relating to criteria for determining alternative effluent limitations under section 316(a) of the act).

(c) The Federal NPDES regulations listed in §§ 92a.4—92a.6, 92a.8, 92a.21, 92a.22, 92a.32—92a.37, 92a.41—92a.45, 92a.55, 92a.61, 92a.71—92a.74 and 92a.92, including all appendices, future amendments and supplements thereto, are incorporated by reference to the extent that these provisions are applicable and not contrary to the law of the Commonwealth. In the event of a conflict between Federal and regulatory provisions of the Commonwealth, the provision expressly set out in this chapter shall be applied unless the Federal provision is more stringent.

§ 92a.4. Exclusions.

The provisions of 40 CFR 122.3(a)—(g) (relating to exclusions) are incorporated by reference.

§ 92a.5. Prohibitions.

(a) The provisions of 40 CFR 122.4 (relating to prohibitions (applicable to State NPDES programs, see 123.25)) are incorporated by reference.

(b) A permit may not be issued, modified or reissued for a sanitary sewer overflow.

§ 92a.6. Effect of a permit.

The provisions of 40 CFR 122.5 (relating to effect of a permit) are incorporated by reference.

§ 92a.7. Duration of permits and continuation of expiring permits.

(a) NPDES permits must have a fixed term not to exceed 5 years.

(b) The terms and conditions of an expiring permit are automatically continued when the following conditions are met:

(1) The permittee has submitted a timely application for reissuance of an existing permit in accordance with § 92a.75 (relating to reissuance of expiring permits).

(2) The Department is unable, through no fault of the permittee, to reissue or deny a permit before the expiration date of the previous permit.

(c) Permits continued under subsection (b) remain effective and enforceable against the discharger until the Department takes final action on the pending permit application.

§ 92a.8. Confidentially of information.

(a) The provisions of 40 CFR 122.7 (b) (relating to confidentiality of information) are incorporated by reference.

(b) The Department may protect any information, other than effluent data, contained in NPDES forms, or other records, reports or plans pertaining to the NPDES permit program as confidential upon a showing by any person that the information is not a public record for the purposes of section 607 of the State Act (35 P.S. § 691.607). Documents that may be protected as confidential and are not public records are those that if made public would divulge an analysis of chemical and physical properties of coal (excepting information regarding the mineral or elemental content that is potentially toxic in the environment), and those that are confidential commercial information or methods or processes entitled to protection as trade secrets under State or Federal law. If, however, the information being considered for confidential treatment is contained in an NPDES form, the Department will forward the information to the Administrator for concurrence in any determination of confidentiality. If the Administrator does not concur that some or all of the information being considered for confidential treatment merits the protection and notifies the Department in writing, the Department will make available to the public that information determined by the Administrator in consultation with the EPA Office of General Counsel not entitled to protection in accordance with 40 CFR Part 2 (relating to public information).

(c) Information approved for confidential status, whether or not contained in an NPDES form, will be disclosed, upon request, to the Administrator, or an authorized representative, who shall maintain the disclosed information as confidential.

§ 92a.9. NPDES permit satisfies other permit requirements.

An NPDES permit issued for a discharge pursuant to this chapter is the Department permit for purposes of sections 202 and 307 of the State Act (35 P.S. §§ 691.202 and 691.307).

§ 92a.10. Pollution prevention.

(a) The Department will encourage pollution prevention by providing assistance to the permittee and users of the permittee's facilities in the consideration of pollution prevention measures such as process changes, materials substitution, reduction in volume of water use, in-process recycling and reuse of water and general measures of "good housekeeping" within the plant or facility.

(b) The Department will encourage consideration of the following measures, in descending order of preference, for environmental management of wastes:

- (1) Process change.
- (2) Materials substitution.
- (3) Reuse.
- (4) Recycling.
- (5) Treatment.
- (6) Disposal.

§ 92a.11. Other chapters applicable.

To the extent that Chapters 16, 77, 87—91, 93, 95, 96, 102 and 105 pertain to a discharge for which an NPDES permit is required, those chapters govern whenever their application produces a more stringent effluent limitation than would be produced by application of Federal requirements. Effluent limitations resulting from the application of those chapters must be expressed in an NPDES permit issued under this chapter.

§ 92a.12. Treatment requirements.

(a) Specific treatment requirements and effluent limitations for each discharge must be established based on the more stringent of the following:

(1) Requirements specified in Chapters 16, 77, 87—90, 93, 95, 96 and 102.

(2) The applicable treatment requirements and effluent limitations to which a discharge is subject under this chapter and the Federal Act.

(3) The treatment requirements and effluent limitations of this title.

(b) When interstate or international agencies under an interstate compact or international agreement establish applicable effluent limitations or standards for dischargers of this Commonwealth to surface waters that are more stringent than those required by this title, the more stringent standards and limitations apply.

(c) If the Department has confirmed the presence or critical habitat of endangered or threatened species under Federal or State law or regulation, the Department will limit discharges to these waters to ensure protection of these species and critical habitat.

(d) New or changed water quality standards or treatment requirements may result from revisions to Chapters 16, 77, 87—90, 92a, 93, 95, 96 or 102, or other plans or determinations approved by the Department. Upon notice from the Department, a permittee of an affected facility shall promptly take the steps necessary to plan, obtain a permit or other approval, and construct facilities that are required to comply with the new water quality standards or treatment requirements.

(e) Within 180 days of the receipt of the notice, the permittee shall submit to the Department either a report establishing that its existing facilities are capable of meeting the new water quality standards or treatment requirements, or a schedule setting forth the nature and

date of completion of steps that are necessary to plan, obtain a permit or other approval, and construct facilities to comply with the new water quality standards or treatment requirements. The permittee shall comply with the schedule approved by the Department.

(f) Whenever a point of projected withdrawal for a new potable water supply not previously considered is identified by the Department, the Department will notify a discharger if more stringent effluent limitations are needed to protect the point of withdrawal. The discharger shall meet the more stringent effluent limitations in accordance with a schedule approved by the Department. The Department will issue orders directing dischargers to achieve compliance or will impose permit modifications with compliance schedules, when necessary.

Subchapter B. PERMIT APPLICATION AND SPECIAL NPDES PROGRAM REQUIREMENTS

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§ 92a.21. Application for a permit.

(a) The provisions of 40 CFR 122.21(b), (g)(1)—(7), (9)—(13), (h), (i), (j), (k), (l), (m)(1) and (6), (p), (q) and (r) (relating to application for a permit (applicable to State programs, see 123.25)) are incorporated by reference, except as required by the Department.

(b) *Duty to apply.* Persons wishing to discharge pollutants shall file a complete application for an individual permit at least 180 days before the date on which it is desired to commence the discharge of pollutants or within another period of time that the Department determines is sufficient to ensure compliance with the Federal Act and the State Act, including applicable water quality standards and effluent limitations or standards. Persons are not required to submit an application for an individual permit for SRSTPs or for the application of pesticides that are subject to permit-by-rule, provided the requirements of §§ 92a.24 and 92a.25 (relating to permit-by-rule for SRSTPs; and permit-by-rule for application of pesticides) are met.

(c) *Application forms.* Applicants for permits shall submit applications on Department permit application forms. At a minimum, the following are required to be submitted by applicants for a permit, except as otherwise specified:

(1) One original and two copies of the complete application. The Department may require additional copies, if needed to complete the review process

(2) The applicable permit application fee and other fees as set forth in § 92a.28 (relating to application fees).

(3) If required by the application, proof that a written notice of an application has been submitted to the municipality and county in which the activity is or will be located at least 30 days before the Department may take

action on the application. This notice must satisfy the notification requirements of section 1905-A of The Administrative Code of 1929 (71 P. S. § 510-5) and the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11107) if required.

(4) If required by the application, proof that public notice of the application has been published in a newspaper of general circulation in the locality in which the activity is or will be located once a week during a consecutive 4-week period.

(5) A description of the activities conducted by the applicant that require an NPDES permit; name, mailing address and location of the facility; up to four standard industrial codes (SIC) or North American Industry Classification System (NAICS) code that best reflect the principal products or services provided by the facility; the operator's name, address, telephone number, ownership status and entity status; a listing of all Department and EPA environmental quality permits for the facility; a topographic or other map extending 1 mile beyond the boundaries of the facility or activity; and a brief description of the nature of the business.

(6) Documentation that the applicant is in compliance with all existing Department permits, regulations, orders and schedules of compliance, or that any noncompliance with an existing permit has been resolved by an appropriate compliance action or by the terms and conditions of the permit (including a compliance schedule set forth in the permit) consistent with § 92a.51 (relating to schedules of compliance) and other applicable Department regulations.

(d) *Additional information.* The Department may require other information or data needed to assess the discharges from the facility and any impact on receiving waters, and to determine whether to issue an NPDES permit, or what conditions or effluent limitations (including water quality based effluent limitations) to place in the permit. The additional information may include, but is not limited to:

(1) The results of an effluent assessment (or estimate for new dischargers or new sources), including a list of the mass and concentration of pollutants found (or estimated to be for new discharges or new sources) in the wastewater discharge, under Department protocols.

(2) Information and data relating to the biological, physical and chemical characteristics of waters and habitat immediately upstream and downstream of the proposed discharge, performed under a Department-approved protocol.

(3) The results of a waterbody assessment, under Department protocols, setting forth the impact (or potential impact) of the discharges on surface waters of this Commonwealth.

(4) The results of whole effluent toxicity testing, an instream cause/effect survey, or other tests or surveys as needed to determine the impact of a discharge on a waterbody performed under a Department-approved protocol.

(e) *Addresses.* The Department will publish at least annually a list of addresses to which applications and their accompanying papers shall be submitted.

(f) *Supporting documentation.* A person required to file an application shall also file additional modules, forms and applications, and supply data as specified by the Department. Additional modules, forms, applications and data are considered a part of the application.

§ 92a.22. Signatories to permit applications and reports.

The provisions of 40 CFR 122.22 (relating to signatories to permit applications and reports (applicable to State programs, see 123.25)) are incorporated by reference.

§ 92a.23. NOI for coverage under an NPDES general permit.

(a) Eligible dischargers, who wish to be covered by a general permit, shall file a complete NOI as instructed in the NOI. At a minimum, the NOI must identify each point source for which coverage under the general permit is requested; demonstrate that each point source meets the eligibility requirements for inclusion in the general permit; demonstrate that the discharge from the point sources, individually or cumulatively, will not result in a violation of an applicable water quality standard established under Chapter 93 (relating to water quality standards) and include other information the Department may require. By signing the NOI, the discharger agrees to accept all conditions and limitations imposed by the general permit.

(b) If the NOI is acceptable, the Department will process the NOI in accordance with § 92a.54 (relating to general permits).

(c) General permits for POTWs, CSOs, CAFOs, primary industrial facilities, and stormwater discharges associated with industrial activities must require that an NOI be submitted for each reissuance of coverage under the general permit. A general permit for any other category of discharges may be designed to allow discharges to continue to be authorized to discharge without submitting a NOI for each reissuance of coverage under the general permit. The Department will consider the following in deciding whether an NOI must be submitted for each reissuance of coverage under the general permit: the type of discharge; the potential for toxic and conventional pollutants in the discharge; and the estimated number of discharges to be covered by the permit. The public notice of the general permit will provide the reasons for not requiring the NOI.

§ 92a.24. Permit-by-rule for SRSTPs.

(a) *Coverage.* A person is deemed to have an NPDES permit authorizing discharge from an SRSTP provided the following requirements are met:

(1) The person has obtained coverage under the water quality management general permit for small flow treatment facilities under Chapter 91 (relating to water quality provisions).

(2) The SRSTP is designed to adequately treat sewage flows of not greater than 1,000 GPD.

(3) The discharge is not to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards).

(4) The person maintains and operates the SRSTP in compliance with the standards and requirements of the Department contained in approvals issued under Chapter 71 (relating to administration of sewage facilities planning program) and the water quality management general permit issued under Chapter 91.

(b) *Administration of permit-by-rule for SRSTPs.*

(1) *Requiring an individual or general permit.* The Department may revoke or suspend coverage under a permit-by-rule, and require that NPDES permit coverage be obtained under an individual or general NPDES permit, when the permittee has violated one or more

provisions of this title or otherwise is ineligible for coverage under the water quality management general permit for small flow treatment facilities. Upon notification by the Department that coverage under an individual or general NPDES permit is required, the permittee shall submit a complete application or NOI, in conformance with this chapter, within 90 days of receipt of the notification. Failure to submit the required application or NOI within 90 days automatically terminates coverage under the permit-by-rule.

(2) *Termination of coverage under permit-by-rule for SRSTPs.* When an individual permit or approval for coverage under a general NPDES permit is issued for an SRSTP, coverage under the permit-by-rule for SRSTPs is automatically terminated.

§ 92a.25. Permit-by-rule for application of pesticides.

(a) *Coverage.* A person is deemed to have an NPDES permit authorizing application of a pesticide provided the following requirements are met:

(1) The pesticide is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 136—136y), and applied consistent with all applicable requirements of FIFRA.

(2) The pesticide application meets at least one of the following conditions:

(i) The pesticide is applied directly to surface water to control pests. An example is an aquatic pesticide applied to surface water to control mosquito larvae or aquatic weeds.

(ii) The pesticide is applied over or near surface waters to control pests, where a portion of the pesticide will unavoidably be deposited to surface waters in order to target the pests effectively. An example is a pesticide applied over surface water to control insects, or to a field or forest canopy near surface water to control insects or terrestrial vegetation.

(3) The discharge of the pesticide is not associated with any facility or activity related to the manufacture, storage or disposal of the pesticide.

(b) *Administration of permit-by-rule for application of pesticides.*

(1) *Requiring an individual or general permit.* The Department may revoke or suspend coverage under a permit-by-rule, and require that permit coverage be obtained under an individual or general NPDES permit, when the permittee has violated one or more provisions of this title or otherwise is ineligible for coverage under the permit-by-rule. Upon notification by the Department that coverage under an individual or general NPDES permit is required, the permittee shall submit a complete application or NOI, in conformance with this chapter, within 90 days of receipt of the notification. Failure to submit the required application or NOI within 90 days automatically terminates coverage under the permit-by-rule.

(2) *Termination of coverage under permit-by-rule for application of pesticides.* When an individual permit or approval for coverage under a general NPDES permit is issued for a pesticide application, coverage under the permit-by-rule for pesticide application is automatically terminated.

§ 92a.26. New or increased discharges, or change of waste streams.

(a) *Sewage discharges and industrial waste discharges.* Facility expansions or process modifications, which may

result in increases of permitted pollutants that do not have the potential to exceed ELGs or violate effluent limitations specified in the permit, may be initiated by the permittee without the approval of the Department, but shall be reported by submission to the Department of notice of the increased discharges within 60 days. Facility expansions or process modifications, which may result in increases of pollutants that have the potential to exceed ELGs or violate effluent limitations specified in the permit, or which may result in a new discharge, or a discharge of new or increased pollutants for which no effluent limitation has been issued, must be approved in writing by the Department before commencing the new or increased discharge, or change of wastestream. The Department will determine if a permittee will be required to submit a new permit application and obtain a new or amended permit before commencing the new or increased discharge, or change of wastestream.

(b) *Stormwater discharges associated with construction activity.* The permittee shall notify the Department before initiating any new or expanded disturbed area not identified in the permit application. The Department will

determine if a permittee will be required to submit a new permit application and obtain a new or amended permit before initiating the new or expanded disturbed area.

§ 92a.27. Incomplete applications or incomplete NOIs.

The Department will not process an application or NOI that is incomplete or otherwise deficient. An application for an NPDES individual permit is complete when the Department receives an application form and supplemental information completed in accordance with this chapter and the instructions with the application. An NOI to be covered by an NPDES general permit issued by the Department is complete when the Department receives an NOI setting forth the information specified in the NOI and by the terms of the general permit.

§ 92a.28. Application fees.

(a) The application fee is payable to the Commonwealth according to the fee schedule set forth in this section. All flows listed in this section are design flows.

(b) Applications fees for individual NPDES permits for discharges of treated sewage are:

SRSTP	\$100 for new; \$100 for reissuance
Small flow treatment facility	\$250 for new; \$250 for reissuance
Minor facility < 50,000 GPD	\$500 for new; \$250 for reissuance
Minor facility ≥ 50,000 GPD < 1 MGD	\$1,000 for new; \$500 for reissuance
Minor facility with CSO	\$1,500 for new; \$750 for reissuance
Major facility ≥ 1 MGD < 5 MGD	\$2,500 for new; \$1,250 for reissuance
Major facility ≥ 5 MGD	\$5,000 for new; \$2,500 for reissuance
Major facility with CSO	\$10,000 for new; \$5,000 for reissuance

(c) Applications fees for individual NPDES permits for discharges of industrial waste are:

Minor facility not covered by an ELG	\$1,000 for new; \$500 for reissuance
Minor facility covered by an ELG	\$3,000 for new; \$1,500 for reissuance
Major facility < 250 MGD	\$10,000 for new; \$5,000 for reissuance
Major facility ≥ 250 MGD	\$50,000 for new; \$25,000 for reissuance
Stormwater	\$2,000 for new; \$1,000 for reissuance

(d) Application fees for individual NPDES permits for other facilities or activities are:

CAFO	\$1,500 for new; \$750 for reissuance
CAAP	\$1,500 for new; \$750 for reissuance
MS4	\$5,000 for new; \$2,500 for reissuance
Mining activity	\$1,000 for new; \$500 for reissuance

(e) Application fees for transfers of individual permits are:

SRSTP	\$50
Small flow treatment facility	\$100
Other domestic wastewater	\$200
Industrial waste	\$500

(f) Application fees for amendments to individual permits are:

Amendment initiated by Department	No charge
Minor amendment	\$200
Major amendment	Same as reissuance permit fee

(g) NOI fees for coverage under a general permit under § 92a.23 (relating to NOI for coverage under an NPDES general permit) will be established in the general permit, and may not exceed \$2,500. An eligible person shall submit to the Department the applicable NOI fee before the Department approves coverage under the general permit for that person.

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

§ 92a.29. Sewage discharges.

(a) The following additional application requirements apply to new and existing sewage dischargers (including POTWs and privately owned treatment works), as applicable except where aquatic communities are essentially excluded as documented by water quality data confirming the absence of the communities and confirming the lack of a trend of water quality improvement in the waterbody, and provided that the Department has determined that the primary cause of the exclusion is unrelated to any permitted discharge:

(1) The following sewage dischargers shall provide the results of whole effluent toxicity testing to the Department:

(i) Sewage dischargers with design influent flows equal to or greater than 1.0 million gallons per day.

(ii) Sewage dischargers with approved pretreatment programs or who are required to develop a pretreatment program.

(2) In addition to the sewage dischargers in paragraph (1), the Department may require other sewage dischargers to submit the results of toxicity tests with their permit applications, based on consideration of the following factors:

(i) The variability of the pollutants or pollutant parameters in the sewage effluent (based on chemical-specific information, the type of treatment facility and types of industrial contributors).

(ii) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow).

(iii) Existing controls on point or nonpoint sources, including calculations of TMDLs for the waterbody segment, and the relative contribution of the sewage discharger.

(iv) Receiving surface water characteristics, including possible or known water quality impairment, and whether the sewage discharges to an estuary, one of the Great Lakes or a surface water that is classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards).

(v) Other considerations including, but not limited to, the history of toxic impact and compliance problems at the sewage discharge facility, which the Department determines could cause or contribute to adverse water quality impacts.

(3) For sewage dischargers required under paragraph (1) or (2) to conduct toxicity testing, the EPA's methods or other protocols approved by the Department, which are scientifically defensible and sufficiently sensitive to detect

aquatic toxicity and approved by the Department, shall be used. The testing shall have been performed since the last NPDES permit reissuance, or when requested by the Department, whichever occurred later.

(b) CSO dischargers shall submit the following information:

(1) The results of an evaluation determining the frequency, extent and cause of the CSO discharge, including identifying the points of inflow into combined systems.

(2) An evaluation of the water quality impacts of the CSO discharge on receiving waters.

(3) A description of the nine minimum controls (NMCs) described in the EPA publication entitled "Combined Sewer Overflows—Guidance for Nine Minimum Controls" (EPA publication number 832-B-95-003 (September 1995) as amended or updated) used at the facility to minimize or eliminate the CSO discharge impact on receiving water quality.

(4) A long-term control plan (LTCP) to minimize or eliminate the CSO discharge with an implementation schedule.

(5) An update on the progress made with the implementation of the LTCP and future activities with schedules to comply with water quality standards.

§ 92a.30. Industrial waste discharges.

(a) *Existing industrial discharges.* Dischargers of industrial waste from sources other than new sources or new discharges subject to subsection (b), nonprocess wastewater discharges subject to subsection (c), and stormwater discharges associated with industrial activity subject to § 92a.34 (relating to stormwater discharges), shall submit the applicable information required to be submitted under 40 CFR 122.21(g)(1)—(7) and (g)(9)—(13) (relating to application for a permit (applicable to State programs, see 123.25)).

(b) *New sources and new discharges.* Except for new discharges of industrial facilities that discharge nonprocess wastewater subject to subsection (c) and new discharges of stormwater associated with industrial activity subject to § 92a.34, new discharges and new sources applying for NPDES permits shall submit the information required to be submitted, as applicable, under 40 CFR 122.21(k).

(c) *Nonprocess industrial waste discharges.* Except for stormwater discharges associated with industrial activity subject to § 92a.34, industrial waste dischargers applying for NPDES permits that discharge only nonprocess wastewater not regulated by an effluent limitation guideline or new source performance standard shall submit the information required to be submitted, as applicable, under 40 CFR 122.21(h).

§ 92a.31. CAFO.

(a) Except as provided in subsections (b)—(d), each CAFO shall have applied for an NPDES permit on the following schedule, and shall have obtained a permit:

(1) By May 18, 2001, for any CAFO in existence on November 18, 2000, with greater than 1,000 AEUs.

(2) By February 28, 2002, for any other CAFO in existence on November 18, 2000.

(3) Prior to beginning operation, for any new or expanded CAFO that began operation after November 18, 2000, and before October 22, 2005.

(b) A poultry operation that is a CAFO, which is in existence on October 22, 2005, and that is not using liquid manure handling systems, shall apply for an NPDES permit no later than the following, and shall obtain a permit:

(1) By April 24, 2006, for operations with 500 or more AEUs.

(2) By January 22, 2007, for all other operations.

(c) After October 22, 2005, a new operation, and an existing operation that will become a CAFO due to changes in operations such as additional animals or loss of land suitable for manure application, shall do the following:

(1) Apply for an NPDES permit at least 180 days before the operation commences or changes.

(2) Obtain an NPDES permit prior to commencing operations or making changes, as applicable.

(d) Other operations not described in subsections (a)—(c) that will become newly regulated as a CAFO for the first time due to the changes in the definition of a CAFO in § 92a.2 (relating to definitions) shall apply for a permit by April 24, 2006, and obtain a permit.

(e) The NPDES permit application requirements include, but are not limited to, the following:

(1) A nutrient management plan meeting the requirements of Chapter 83, Subchapter D (relating to nutrient management) and approved by the county conservation district or the State Conservation Commission. The plan must include:

(i) Manure application setbacks for the CAFO of at least 100 feet, or vegetated buffers at least 35 feet in width.

(ii) A statement that manure that is stockpiled for 15 consecutive days or longer shall be under cover or otherwise stored to prevent discharge to surface water during a storm event up to and including the appropriate design storm for that type of operation pursuant to § 91.36(a)(1) and (5) (relating to pollution control and prevention at agricultural operations).

(2) An erosion and sediment control plan meeting the requirements of Chapter 102 (relating to erosion and sediment control).

(3) When required under § 91.36(a), a water quality management permit, permit application, approval or engineer's certification, as required.

(4) A preparedness, prevention and contingency plan for pollutants related to the CAFO operation.

(5) A water quality management permit application as required by this chapter and Chapter 91 (relating to general provisions), when treatment facilities that would include a treated wastewater discharge are proposed.

(6) Measures to be taken to prevent discharge to surface water from storage of raw materials such as feed and supplies. These measures may be included in the nutrient management plan.

§ 92a.32. CAAP.

The provisions of 40 CFR 122.24 (relating to concentrated aquatic animal production facilities) are incorporated by reference.

§ 92a.33. Aquaculture projects.

The provisions of 40 CFR 122.25, 125.10 and 125.11 (relating to aquaculture projects (applicable to State

NPDES programs, see 123.25); and criteria for issuance of permits to aquaculture projects) are incorporated by reference.

§ 92a.34. Stormwater discharges.

(a) The provisions of 40 CFR 122.26(a), (b), (c)(1), (d), (e)(1), (3)—(9) and (f)—(g) (relating to stormwater discharges (applicable to State NPDES programs, see 123.25)) and 122.30—122.37 are incorporated by reference.

(b) *No exposure stormwater discharges.* Discharges composed entirely of stormwater are not stormwater discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to stormwater and the discharger satisfies the conditions in 40 CFR 122.26(g). A facility or activity with no stormwater discharges associated with industrial activity may qualify for a conditional exclusion from a permit, provided that the facility or activity does not discharge to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards). To qualify for the conditional exclusion from a permit, the responsible person shall complete, sign and submit to the Department a "No Exposure Certification" at least once every 5 years in lieu of a permit application.

(c) *Municipal separate storm sewer systems.* The operator of a discharge from a large, medium or small municipal separate storm sewer shall submit in its application the information required to be submitted under 40 CFR Part 122 (relating to EPA administered programs: the National Pollutant Discharge Elimination System). Permits for discharges from municipal separate storm sewer systems are not eligible for a "no exposure" conditional exclusion from a permit under subsection (b).

(d) *Stormwater discharges associated with construction activity.* Applicants for individual NPDES permits for the discharge of stormwater associated with construction activity shall submit the information required to be submitted, as applicable, under 40 CFR 122.21(g)(7) (relating to application for a permit (applicable to State programs, see 123.25)) and 122.26(c)(1). In addition, stormwater dischargers shall submit information required in Chapter 102 (relating to erosion and sediment control) as appropriate. Permits for stormwater discharges associated with construction activity are not eligible for a "no exposure" conditional exclusion from a permit under subsection (b).

§ 92a.35. Silviculture activities.

The provisions of 40 CFR 122.27 (relating to silvicultural activities (applicable to State NPDES programs, see 123.25)) are incorporated by reference.

§ 92a.36. Cooling water intake structures.

(a) The provisions of 40 CFR 125.80—125.89 (relating to requirements applicable to cooling water intake structures for new facilities under section 316(b) of the Federal Act) are incorporated by reference.

(b) The location, design, construction and capacity of cooling water intake structures, in connection with a point source, must reflect the BTA for minimizing adverse environmental impacts in accordance with the State Act and section 316(b) of the Federal Act (33 U.S.C.A. § 1326(b)).

(c) The Department will determine if a facility with a cooling water intake structure reflects the BTA for minimizing adverse environmental impacts based on a site-specific evaluation.

§ 92a.37. New sources and new discharges.

The provisions of 40 CFR 122.29 (relating to new sources and new dischargers) are incorporated by reference.

§ 92a.38. Department action on NPDES permit applications.

(a) The Department will not issue an NPDES permit unless the application is complete and the documentation submitted meets the requirements of this chapter. The applicant, through the application and its supporting documentation, shall demonstrate that the application is consistent with:

(1) Plans approved by the Department under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20), wastewater facility capabilities, service areas, selected alternatives and any adverse effects on the environment of reasonably foreseeable future development within the area of the project resulting from construction of the wastewater facility.

(2) Other applicable statutes and regulations administered by the Commonwealth, Federal environmental statutes and regulations, and if applicable, river basin commission requirements created by interstate compact.

(3) Standards established for the wastewater facilities through permits to implement the requirements of 40 CFR Parts 122, 123, 124 (relating to EPA administered permit programs the National Pollutant Discharge Elimination System; State program requirements; and procedures for decision making) and the Federal Act.

(b) The Department will consider local and county comprehensive plans and zoning ordinances developed pursuant to the Pennsylvania Municipalities Planning Code (53 P. S. § 10101—70105) when evaluating NPDES permit applications, provided that the plans are not preempted by State law. The Department may use the plans and ordinances as a basis to support actions on applications, including determining appropriate permit conditions and limitations, and whether or not to issue an NPDES permit.

Subchapter C. PERMITS AND PERMIT CONDITIONS

Sec.	
92a.41.	Conditions applicable to all permits.
92a.42.	Additional conditions applicable to specific categories of NPDES permits.
92a.43.	Establishing permit conditions.
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92a.46.	Site specific permit conditions.
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92a.48.	Industrial waste permit.
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92a.50.	CAAP.
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92a.54.	General permits.
92a.55.	Disposal of pollutants into wells, into POTW or by land application.

§ 92a.41. Conditions applicable to all permits.

(a) Unless indicated otherwise in this section, NPDES permits must include the permit conditions specified in 40 CFR 122.41(a)—(m) (relating to conditions applicable to all permits applicable to State programs, see 123.25) including the following:

- (1) Duty to comply.
- (2) Duty to reapply.

- (3) Need to halt or reduce activity not a defense.
- (4) Duty to mitigate.
- (5) Proper operation and maintenance.
- (6) Permit actions.
- (7) Property rights.
- (8) Duty to provide information.
- (9) Inspection and entry.
- (10) Monitoring and records.
- (11) Signature requirements.
- (12) Reporting requirements.
- (13) Bypass.

(b) The immediate notification requirements of § 91.33 (relating to incidents causing or threatening pollution) supersede the reporting requirements of 40 CFR 122.41 (l)(6).

(c) The discharger may not discharge floating materials, oil, grease, scum, sheen and substances that produce color, taste, odors, turbidity or settle to form deposits.

§ 92a.42. Additional conditions applicable to specific categories of NPDES permits.

The provisions of 40 CFR 122.42 (relating to additional conditions applicable to specific categories of NPDES permits (applicable to State NPDES programs, see 123.25)) are incorporated by reference.

§ 92a.43. Establishing permit conditions.

The provisions of 40 CFR 122.43 (relating to establishing permit conditions (applicable to State NPDES programs, see 123.25)) are incorporated by reference.

§ 92a.44. Establishing limitations, standards, and other permit conditions.

The provisions of 40 CFR 122.44 (relating to establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see 123.25)) are incorporated by reference.

§ 92a.45. Calculating NPDES permit conditions.

The provisions of 40 CFR 122.45 (relating to calculating NPDES permit conditions (applicable to State NPDES programs, see 123.25)) are incorporated by reference.

§ 92a.46. Site-specific permit conditions.

The Department may establish and include in an NPDES permit, any permit condition, as needed on a case-by-case basis, to assure protection of surface waters. These conditions may include a requirement to identify and implement the following:

- (1) BMPs reasonably necessary to achieve effluent limitations or standards or to carry out the purpose and intent of the Federal Act.
- (2) Toxic reduction activities, effluent limitations based on WETT, and other measures that eliminate, or substantially reduce releases of pollutants at their source.

§ 92a.47. Sewage permit.

(a) Sewage, except that discharged from a CSO that is in compliance with subsection (d), shall be given a minimum of secondary treatment. Secondary treatment for sewage is that treatment that includes significant biological treatment and accomplishes the following:

(1) Monthly average discharge limitation for BOD₅ and TSS may not exceed 30 milligrams per liter. If CBOD₅ is specified instead of BOD₅ the limitation may not exceed 25 milligrams per liter.

(2) Weekly average discharge limitation for BOD₅ and TSS may not exceed 45 milligrams per liter. If CBOD₅ is specified instead of BOD₅ the limitation may not exceed 40 milligrams per liter.

(3) On a concentration basis, the monthly average percent removal of BOD₅ or CBOD₅, and TSS, must be at least 85% for POTW facilities.

(4) From May through September, a monthly average discharge limitation for fecal coliform of 200/100 mL as a geometric mean and an instantaneous maximum effluent limitation not greater than 1,000/100 mL

(5) From October through April, a monthly average discharge limitation for fecal coliform of 2000/100 mL as a geometric mean and an instantaneous maximum effluent limitation not greater than 10,000/100 mL.

(6) Provision for the disposal or beneficial use of sludge in accordance with applicable Department regulations.

(7) Compliance with § 95.2(1)—(3) (relating to quality standards and oil-bearing wastewaters).

(8) Compliance with § 92a.48 (b) (relating to industrial waste permit) if chlorine is used.

(b) Sewage, except that discharged from a CSO that is in compliance with subsection (d), or that discharged from a small flow treatment facility, shall be given a minimum of tertiary treatment if either of the following apply:

(1) The discharge from a new source, new discharger, or expanding facility or activity is to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards), or to a surface water or location for which the first intersected perennial stream is classified as a High Quality Water or an Exceptional Value Water.

(2) The discharge from a facility or activity affects surface waters of this Commonwealth not achieving water quality standards, with the impairment attributed at least partially to point source discharges of treated sewage.

(c) Tertiary treatment for sewage is that treatment that meets all of the requirements of secondary treatment, and also accomplishes the following:

(1) Monthly average discharge limitation for CBOD₅ and TSS may not exceed 10 milligrams per liter.

(2) Monthly average discharge limitation for total nitrogen may not exceed 8 milligrams per liter.

(3) Monthly average discharge limitation for ammonia nitrogen may not exceed 3 milligrams per liter.

(4) Monthly average discharge limitation for total phosphorus may not exceed 1 milligram per liter.

(5) Dissolved oxygen must be 6 milligrams per liter or greater at all times.

(6) Seasonal modifiers may not be applied for tertiary treatment.

(d) Dischargers of sewage from a CSO shall implement, as approved by the Department, nine minimum controls (NMCs) and a long-term control plan (LTCP) to minimize or eliminate the CSO discharge impact on the water quality of the receiving surface water.

(e) Discharges from an SSO are prohibited.

(f) When pollutants contributed by indirect dischargers result in interference or pass through, and a violation is likely to recur, a permittee shall develop and implement specific local limits for indirect dischargers and other users, as appropriate, that together with appropriate sewerage facility or operational changes, are necessary to ensure renewed or continued compliance with the plant's NPDES permit or sludge use or disposal practices.

(g) POTWs that serve indirect dischargers shall give notice to the Department in accordance with 40 CFR 122.42(b) (relating to additional conditions applicable to specific categories of NPDES permits (applicable to State NPDES programs, see 123.25)).

§ 92a.48. Industrial waste permit.

(a) Industrial waste regulated by this chapter must meet the following requirements:

(1) EPA-promulgated effluent limitation guidelines established under section 304(b) of the Federal Act (33 U.S.C.A. § 1314(b)).

(2) Compliance with § 95.2 (relating to quality standards and oil-bearing wastewater standards).

(3) For those industrial categories for which no effluent limitations have been established under paragraph (1), Department-developed technology-based limitations established in accordance with 40 CFR 125.3 (relating to technology-based treatment requirements in permits).

(4) For facilities discharging conventional pollutants in industrial waste, the monthly average discharge limitation for BOD₅ and TSS may not exceed 60 milligrams per liter. If CBOD₅ is specified instead of BOD₅, the limitation may not exceed 50 milligrams per liter. More stringent limits may apply based on the requirements of § 92a.12 (relating to treatment requirements).

(b) For facilities or activities using chlorination, the following apply:

(1) If the EPA adopts a National categorical ELG promulgating limits for Total Residual Chlorine (TRC) or free available chlorine for a specific industry or activity under section 301 or 304(b) of the Federal Act (33 U.S.C.A. §§ 1311 and 1314(b)), that ELG constitutes BAT for the industry or activity. If the EPA has not promulgated a National ELG for TRC or free available chlorine for an industry or activity, the Department may develop a facility-specific BAT effluent limitation for TRC. Factors, which will be considered in developing a facility-specific BAT effluent limitation, include the following:

(i) The age of equipment and facilities involved.

(ii) The engineering aspects of the application of various types of control techniques and alternatives to the use of chlorine or reductions in the volume of chlorine used during the disinfection process.

(iii) The cost of achieving the effluent reduction.

(iv) Nonwater quality environmental impacts (including energy requirements).

(v) Other factors the Department deems appropriate.

(2) For facilities where the EPA has not promulgated a National ELG setting forth limits for TRC or free available chlorine for an industry or activity, and the Department has not developed a facility-specific BAT effluent limitation for TRC under the factors in paragraph (1), an effluent limitation for TRC of 0.5 milligrams per liter (30-day average) constitutes BAT.

(3) Facilities using chlorination that discharge to an Exceptional Value Water, or to a High Quality Water where economic or social justification under § 93.4c(b)(1)(iii) (relating to implementation of antidegradation requirements) has not been demonstrated under applicable State or Federal law or regulations, shall discontinue chlorination or dechlorinate their effluents prior to discharge into the waters.

§ 92a.49. CAFO.

NPDES permits for each CAFO must include, but are not limited to, conditions requiring the following:

(1) Compliance with the Nutrient Management Plan, the Preparedness, Prevention and Contingency Plan and the Erosion and Sediment Control Plan.

(2) A separate NPDES permit for stormwater discharges associated with a construction activity meeting the requirements of Chapter 102 (relating to erosion and sediment control) when applicable.

(3) Compliance with 3 Pa.C.S. Chapter 23 (relating to the Domestic Animal Law).

(4) Compliance with § 91.36 (relating to pollution control and prevention at agricultural operations).

(5) Recordkeeping and reporting requirements as described in the permit.

(6) When applicable, effluent limitations and other conditions as required under § 92a.12 (relating to treatment requirements) to meet water quality standards, for treated wastewater discharges.

(7) Measures necessary to prevent the discharge to surface water from storage of raw materials such as feed and supplies, which are not otherwise included in the nutrient management plan.

§ 92a.50. CAAP.

(a) For discharges from a CAAP into a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards), the requirements of § 93.4c (relating to implementation of antidegradation requirements) apply.

(b) Each discharger shall prepare and implement a BMP plan that addresses:

- (1) Solids and excess feed management and removal.
- (2) Proper facility operation and maintenance.
- (3) Nonnative species loss prevention.
- (4) Facility personnel training.

(5) Removal, handling and disposal/utilization of bio-residual solids (sludge).

(c) Permittees shall report any investigational/therapeutic drugs usage as follows:

(1) For investigational/new drugs, the permittee shall provide the Department with an oral notification within 7 days of initiating application of the drug, and a New Drug Usage Report shall be filed monthly.

(2) Changes in or increases in usage rates shall be reported to the Department through both oral notification and written report on the Drug Usage Report Form, quarterly.

(d) Products or chemicals that contain any carcinogenic ingredients are prohibited, except that limited use of those chemicals may be permitted provided that the permittee shall:

(1) Thoroughly investigate the use of alternative chemicals.

(2) Demonstrate that no suitable alternatives are available.

(3) Demonstrate through sampling or calculation that any carcinogen in the proposed chemical will not be detectable in the final effluent, using the most sensitive analytic method available.

§ 92a.51. Schedules of compliance.

(a) With respect to an existing discharge that is not in compliance with the water quality standards and effluent limitations or standards in § 92a.44 or § 92a.12 (relating to establishing limitations, standards and other permit conditions; and treatment requirements), the applicant shall be required in the permit to take specific steps to remedy a violation of the standards and limitations in accordance with a legally applicable schedule of compliance, in the shortest, reasonable period of time, the period to be consistent with the Federal Act. Any schedule of compliance specified in the permit must require compliance with final enforceable effluent limitations as soon as practicable, but in no case longer than 3 years, unless the EHB or any other court of competent jurisdiction issues an order allowing a longer time for compliance.

(b) If the period of time for compliance specified in subsection (a) exceeds 1 year, a schedule of compliance will be specified in the permit that will set forth interim requirements and the dates for their achievement. If the time necessary for completion of the interim requirement such as the construction of a treatment facility is more than 1 year and is not readily divided into stages for completion, interim dates will be specified for the submission of reports of progress towards completion of the interim requirement. For each NPDES permit schedule of compliance, interim dates and the final date for compliance must, to the extent practicable, fall on the last day of the months of March, June, September and December.

(c) Either before or up to 14 days following each interim date and the final date of compliance, the permittee shall provide the Department with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

§ 92a.52. Variances.

Any new or amended Federal regulation enacted after November 18, 2000, which creates a variance to existing NPDES permitting requirements is not incorporated by reference.

§ 92a.53. Documentation of permit conditions.

The Department will prepare a fact sheet on the derivation of the effluent limitations or other conditions and the reasons for the conditions of the draft or final permit, or both. The fact sheet will include:

(1) A brief description of the type of facility or activity being permitted.

(2) The type and quantity of wastewater or pollutants evaluated in the permit.

(3) Documentation that the applicable effluent limitations and standards including a citation of same are considered in development of the draft permit.

(4) Documentation that applicable water quality standards will not be violated.

(5) A brief summary of the basis for the draft permit limitations and conditions including references to applicable statutory or regulatory provisions.

§ 92a.54. General permits.

(a) *Coverage and purpose.* The Department may issue a general permit, in lieu of issuing individual permits, for a clearly and specifically described category of point source discharges, if the point sources meet the following conditions:

(1) Involve the same, or substantially similar, types of operations.

(2) Discharge the same types of wastes.

(3) Require the same effluent limitations or operating conditions, or both.

(4) Require the same or similar monitoring.

(5) Do not discharge toxic or hazardous pollutants as defined in sections 307 and 311 of the Federal Act (33 U.S.C.A. §§ 1317 and 1321) or any other substance that—because of its quantity; concentration; or physical, chemical or infectious characteristics—may cause or contribute to an increase in mortality or morbidity in either an individual or the total population, or pose a substantial present or future hazard to human health or the environment when discharged into surface waters.

(6) Are more appropriately controlled under a general permit than under individual permits, in the opinion of the Department.

(7) Individually and cumulatively do not have the potential to cause significant adverse environmental impact.

(8) Do not discharge to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards).

(b) *Administration of general permits.* General permits may be issued, amended, suspended, revoked, reissued or terminated under this chapter. Issuance of a general permit does not exempt a person from compliance with this title. General permits have a fixed term not to exceed 5 years.

(c) *Department specification.* The Department may specify in the general permit that an eligible person who has submitted a timely and complete NOI is authorized to discharge in accordance with the terms of the permit under one of the following:

(1) After a waiting period following receipt of the NOI by the Department as specified in the general permit.

(2) Upon receipt of notification of approval of coverage under a general permit from the Department.

(d) *Department notification.* The Department will, as applicable, notify a discharger that it is or is not covered by a general permit. A discharger so notified may request an individual permit.

(e) *Denial of coverage.* The Department will deny coverage under a general permit when one or more of the following conditions exist:

(1) The discharge, individually or in combination with other similar discharges, is or has the potential to be a contributor of pollution, as defined in the State Act, which is more appropriately controlled under an individual permit.

(2) The discharger is not, or will not be, in compliance with any one or more of the conditions of the general permit.

(3) The applicant has failed and continues to fail to comply or has shown a lack of ability or intention to

comply with a regulation, permit, schedule of compliance or order issued by the Department.

(4) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.

(5) Categorical point source effluent limitations are promulgated by the EPA for those point sources covered by the general permit.

(6) The discharge is not, or will not, result in compliance with an applicable effluent limitation or water quality standard.

(7) Other point sources at the facility require issuance of an individual permit, and issuance of both an individual and a general permit for the facility would constitute an undue administrative burden on the Department.

(8) The Department determines that the action is necessary for any other reason to ensure compliance with the Federal Act, the State Act or this title.

(9) The discharge would be to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93.

(f) *Requiring an individual permit.* The Department may revoke or terminate coverage under a general permit, and require the point source discharger to apply for and obtain an individual permit for any of the reasons in subsection (e). An interested person may petition the Department to take action under this subsection. Upon notification by the Department under this subsection that an individual permit is required for a point source, the discharger shall submit a complete NPDES application, in conformance with this chapter, within 90 days of receipt of the notification, unless the discharger is already in possession of a valid individual permit. Failure to submit the application within 90 days will result in automatic termination of coverage of the applicable point sources under the general permit. Timely submission of a complete application will result in continuation of coverage of the applicable point sources under the general permit, until the Department takes final action on the pending individual permit application.

(g) *Action of the Department.* Action of the Department denying coverage under a general permit under subsection (e), or requiring an individual permit under subsection (f), is not a final action of the Department until the discharger submits and the Department takes final action on an individual permit application.

(h) *Termination of general permit.* When an individual permit is issued for a point source that is covered under a general permit, the applicability of the general permit to that point source is automatically terminated on the effective date of the individual permit.

(i) *Coverage under general permit.* A point source excluded from a general permit solely because it already has an individual permit may submit an NOI under § 92a.23 (relating to NOI for coverage under an NPDES general permit). If the NOI is acceptable, the Department will revoke the individual permit and notify the source that it is covered under the general permit.

§ 92a.55. Disposal of pollutants into wells, into POTW or by land application.

The provisions of 40 CFR 122.50 (relating to disposal of pollutants into wells, into publicly owned treatment works or by land application) are incorporated by reference.

Subchapter D. MONITORING AND ANNUAL FEES

Sec.
92a.61. Monitoring.
92a.62. Annual fees.

§ 92a.61. Monitoring.

(a) The provisions of 40 CFR 122.48 (relating to requirements for recording and reporting of monitoring results (applicable to State programs, see 123.25)) are incorporated by reference.

(b) The Department may impose reasonable monitoring requirements on any discharge, including monitoring of the intake and discharge flow of a facility or activity, other operational parameters that may affect effluent quality, and of surface waters adjacent to or associated with the intake or discharge flow of a facility or activity. The Department may require submission of data related to the monitoring.

(c) Each person who discharges pollutants may be required to monitor and report all toxic, conventional, nonconventional and other pollutants in its discharge, at least once a year, and on a more frequent basis if required by a permit condition. The monitoring requirements will be specified in the permit.

(d) Except for stormwater discharges subject to the requirements of subsection (h), a discharge authorized by an NPDES permit that is not a minor discharge or contains toxic pollutants for which an effluent standard has been established by the Administrator under section 307(a) of the Federal Act (33 U.S.C.A. § 1317(a)) shall be monitored by the permittee for at least the following:

- (1) Flow (in GPD MGD).
 - (2) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) that are subject to abatement under the terms and conditions of the permit.
 - (3) Pollutants that the Department finds, on the basis of information available to it, could have an impact on the quality of this Commonwealth's waters or the quality of waters in other states.
 - (4) Pollutants specified by the Administrator in regulations issued under the Federal Act as subject to monitoring.
 - (5) Pollutants in addition to those in paragraphs (2)—(4) that the Administrator requests in writing to be monitored.
- (e) Each effluent flow or pollutant required to be monitored under subsections (c) and (d) shall be monitored at intervals sufficiently frequent to yield data that reasonably characterize the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels shall be monitored at more

frequent intervals than relatively constant effluent flows and pollutant levels that may be monitored at less frequent intervals.

(f) The permittee shall maintain records of the information resulting from any monitoring activities required of it in its NPDES permit as follows:

- (1) Records of monitoring activities and results must include for all samples:
 - (i) The date, exact place and time of sampling.
 - (ii) The dates analyses were performed.
 - (iii) Who performed the analyses.
 - (iv) The analytical techniques/methods used.
 - (v) The results of the analyses.

(2) The permittee shall also be required to retain for a minimum of 3 years any records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. This period of retention may be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Department or the Administrator.

(g) The permittee shall periodically report, at a frequency of at least once per year, using a format or process established by the Department, results obtained by a permittee pursuant to monitoring requirements. In addition to these results, the Department may require submission of other information regarding monitoring results it determines to be necessary.

(h) Requirements to report monitoring results from stormwater discharges associated with industrial activity, except those subject to an effluent limitation guideline or an NPDES general permit, will be established in a case-by-case basis with a frequency dependent on the nature and effect of the discharge.

(i) The monitoring requirements under this section must be consistent with any National monitoring, recording and reporting requirements specified by the Administrator in regulations issued under the Federal Act.

(j) The Department may require that the permittee perform additional sampling for limited periods for the purpose of TMDL development, or for other reasons that the Department determines are appropriate.

§ 92a.62. Annual fees.

(a) Permittees shall pay an annual fee to the Commonwealth. The annual fee must be for the amount indicated in the following schedule and is due on each anniversary of the effective date of the permit. All flows listed in this section are design flows.

(b) Annual fees for individual NPDES permits for discharges of domestic sewage are:

SRSTP	\$0
Small flow treatment facility	\$0
Minor facility < 50,000 GPD	\$250
Minor facility ≥ 50,000 GPD < 1 MGD	\$500
Minor facility with CSO	\$750
Major facility ≥ 1 MGD <5 MGD	\$1,250
Major facility ≥ 5 MGD	\$2,500
Major facility with CSO	\$5,000

(c) Annual fees for individual NPDES permits for discharges of industrial waste are:

Minor facility not covered by an ELG.....	\$500
Minor facility covered by an ELG	\$1,500
Major facility < 250 MGD	\$5,000
Major facility ≥ 250 MGD	\$25,000
Stormwater	\$1,000

(d) Annual fees for individual NPDES permits for other facilities or activities are:

CAFO.....	\$0
CAAP.....	\$0
MS4	\$500
Mining activity	\$0

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

Subchapter E. TRANSFER, MODIFICATION, REVOCATION AND REISSUANCE, TERMINATION OF PERMITS, REISSUANCE OF EXPIRING PERMITS AND CESSATION OF DISCHARGE

- Sec. 92a.71. Transfer of permits.
- 92a.72. Modification or revocation and reissuance of permits.
- 92a.73. Minor modification of permits.
- 92a.74. Termination of permits.
- 92a.75. Reissuance of expiring permits.
- 92a.76. Cessation of discharge.

§ 92a.71. Transfer of permits.

(a) The provisions of 40 CFR 122.61 (relating to transfer of permits (applicable to State programs, see 123.25)) are incorporated by reference.

(b) A new permittee shall be in compliance with existing Department issued permits, regulations, orders and schedules of compliance, or demonstrate that any non-compliance with the existing permits has been resolved by an appropriate compliance action or by the terms and conditions of the permit (including a compliance schedule set forth in the permit), consistent with § 92a.51 (relating to schedules of compliance) and other appropriate Department regulations.

§ 92a.72. Modification or revocation and reissuance of permits.

The provisions of 40 CFR 122.62 (relating to modification or revocation and reissuance of permits (applicable to State programs, see 123.25)) are incorporated by reference.

§ 92a.73. Minor modification of permits.

The provisions of 40 CFR 122.63 (relating to minor modification of permits) are incorporated by reference.

§ 92a.74. Termination of permits.

The provisions of 40 CFR 122.64 (relating to termination of permits (applicable to State programs, see 123.25)) are incorporated by reference.

§ 92a.75. Reissuance of expiring permits.

(a) A permittee who wishes to continue to discharge after the expiration date of its NPDES permit shall

submit an application for reissuance of the permit at least 180 days prior to the expiration of the permit unless permission has been granted for a later date by the Department. The application fees specified in § 92a.28 (relating to application fees) apply.

(b) Upon completing review of the application, the Department may administratively extend a permit for a minor facility for a maximum of 5 years if, based on up-to-date information on the permittee's waste treatment practices and the nature, contents and frequency of the permittee's discharge, the Department determines that:

(1) The permittee is in compliance with existing Department-issued permits, regulations, orders and schedules of compliance, or that any noncompliance with an existing permit has been resolved by an appropriate compliance action.

(2) No changes in Department regulations have occurred since the permit was issued or reissued that would affect the effluent limitations or other terms and conditions of the existing permit.

(c) Alternatively, the Department may reissue a permit if, based on up-to-date information on the permittee's waste treatment practices and the nature, contents and frequency of the permittee's discharge, the Department determines that:

(1) The permittee is in compliance with all existing Department-issued permits, regulations, orders and schedules of compliance, or that any noncompliance with an existing permit has been resolved by an appropriate compliance action.

(2) The discharge is, or will be under a compliance schedule issued under § 92a.51 (relating to schedules of compliance) and other applicable regulations, consistent with the applicable water quality standards, effluent limitations or standards and other legally applicable requirements established under this title, including revisions or modifications of the standards, limitations and requirements that may have occurred during the term of the existing permit.

§ 92a.76. Cessation of discharge.

If a permittee intends to cease operations or cease a discharge for which a permit has been issued under this chapter, the permittee shall notify the Department in writing of its intent at least 90 days prior to the cessation of operations or the cessation of the discharge, unless permission has been granted for a later date by the Department. The 90-day notice is not required to cease mining activities and related discharges that are termi-

nated in accordance with procedures for mine reclamation and bond release established in §§ 86.170—86.175 (relating to release of bonds) or §§ 77.241—77.243 (relating to release of bonds).

Subchapter F. PUBLIC PARTICIPATION

Sec.

92a.81.	Public access to information.
92a.82.	Public notice of permit application and draft permits.
92a.83.	Public notice of public hearing.
92a.84.	Public notice of general permits.
92a.85.	Notice to other government agencies.
92a.86.	Notice of issuance or final action on a permit.
92a.87.	Notice of reissuance of permits.
92a.88.	Notice of appeal.

§ 92a.81. Public access to information.

(a) NPDES forms and public comments will be available to the public for inspection and copying.

(b) Information relating to NPDES permits, not determined to be confidential under § 92a.8 (relating to confidentiality of information), may be inspected at the Department office processing the information. Copying facilities and services will be available for a reasonable fee, or other arrangements for copying may be made with the Department office.

§ 92a.82. Public notice of permit applications and draft permits.

(a) Public notice of every complete application for an NPDES permit will be published in the *Pennsylvania Bulletin*. The contents of public notice of applications for NPDES permits will include at least the following:

(1) The name and address, including county and municipality, of each applicant.

(2) The permit number and type of permit applied for.

(3) The stream name of the waterway to which each discharge is proposed.

(4) The address of the State or interstate agency premises at which interested persons may obtain further information, request a copy of the NPDES forms and related documents.

(b) A public notice of every new draft individual permit, or major amendment to an individual permit, will be published in the *Pennsylvania Bulletin*. This public notice will also be posted by the applicant near the entrance to the premises of the applicant, and at the facility or location where the discharge exists, if the facility or location is remote from the premises of the applicant. The contents of public notice for draft NPDES permits will include at least the following in addition to those specified in subsection (a):

(1) A brief description of each applicant's activities or operations that result in the discharge described in the application.

(2) The name and existing use protection classification of the receiving surface water under § 93.3 (relating to protected water uses) to which each discharge is made and a short description of the location of each discharge on the waterway indicating whether the discharge is a new or an existing discharge.

(3) A statement of the tentative determination to issue or deny an NPDES permit for the discharge described in the application. If there is a tentative determination to issue a permit, the determination will include proposed effluent limitations for those effluents proposed to be limited, a proposed schedule of compliance including interim dates and requirements for meeting the proposed effluent limitations and a brief description of any pro-

posed special conditions that will have a significant impact upon the discharge described in the application.

(4) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in GPD or MGD.

(5) A brief description of the procedures for making final determinations, including the 30-day comment period required by subsection (d) and any other means by which interested persons may influence or comment upon those determinations.

(c) The provisions of 40 CFR 124.57(a) (relating to public notice) shall be followed when there is a Section 316(a) request for a thermal discharge.

(d) There will be a 30-day period following publication of notice under subsection (b) during which written comments may be submitted by interested persons before the Department makes its final determinations. Written comments submitted during the 30-day comment period will be retained by the Department and considered in making the final determinations. The period for comment may be extended at the discretion of the Department for one additional 15-day period. The Department will provide an opportunity for the applicant, any affected State, any affected interstate agency, the Administrator or any interested agency, person or group of persons to request or petition for a public hearing with respect to the application. The request or petition for public hearing filed within the 30-day period allowed for filing of written comments must indicate the interest of the party filing the request and the reasons why a hearing is warranted. A hearing will be held if there is a significant public interest, including the filing of requests or petitions for the hearing. Instances of doubt should be resolved in favor of holding the hearing. Any hearing brought under this subsection will be held in the geographical area of the proposed discharge or other appropriate area and may, as appropriate, consider related groups of permit applications.

(e) The Department will prepare and send to any person, upon request, following public notice of draft permit, a fact sheet with respect to the draft permit described in the public notice. The contents of the fact sheet will include at least the information contained in § 92a.53 (relating to documentation of permit conditions).

§ 92a.83. Public notice of public hearing.

Notice of a public hearing will be published in the *Pennsylvania Bulletin*, and in at least one newspaper of general circulation within the geographical area of the discharge and will be sent to all persons or government agencies that received a copy of the fact sheet for the draft permit. All of the notices of a public hearing will be published at least 30 days before the hearing. Notice of a public hearing will include at least the following:

(1) The name, address and phone number of the agency holding the public hearing.

(2) The name and address of each applicant whose application will be considered at the hearing.

(3) The name of the waterway to which each discharge is proposed and a short description of the location of each discharge on the waterway.

(4) A brief reference to the public notice published in the *Pennsylvania Bulletin* for each application, including identification number and date of issuance.

(5) Information regarding the time and location for the hearing.

(6) The purpose of the hearing.

(7) A concise statement of the issues raised by the persons requesting the hearing.

(8) The address and phone number of the premises at which interested persons may obtain further information, request a copy of each fact sheet prepared under 92a.53 (relating to documentation of permit conditions), and inspect and copy NPDES forms and related documents.

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.

§ 92a.84. Public notice of general permits.

(a) Public notice of every proposed general permit will be published in the *Pennsylvania Bulletin*. The contents of the public notice will include at least the following:

(1) The name, address and phone number of the agency issuing the public notice.

(2) A clear and specific description of the category of point source discharges eligible for coverage under the proposed general permit.

(3) A brief description of the reasons for the Department's determination that the category of point source discharges is eligible for coverage under a general permit in accordance with these standards.

(4) A brief description of the terms and conditions of the proposed general permit, including applicable effluent limitations, BMPs and special conditions.

(5) A brief description of the procedures for making the final determinations, and other means by which interested persons may influence or comment on those determinations.

(6) The address and phone number of the Commonwealth agency at which interested persons may obtain further information and a copy of the proposed general permit.

(7) The NOI fee for coverage under the general permit.

(b) There will be a 30-day period following publication of notice during which written comments may be submitted by interested persons before the Department makes its final determinations. Written comments submitted during the 30-day comment period will be retained by the Department and considered in making the final determinations. The period for comment may be extended at the discretion of the Department for one additional 15-day period. The Department will provide an opportunity for any interested person or group of persons, any affected State, any affected interstate agency, the Administrator or any interested agency, to request or petition for a public hearing with respect to the proposed general permit. The request or petition for public hearing, which must be filed within the 30-day period allowed for filing of written comments, shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. A hearing will be held if there is a significant public interest, including the filing of requests or petitions for the hearing.

(c) Upon issuance of a general permit, the Department will place a notice in the *Pennsylvania Bulletin* of the availability of the general permit. The notice of availability will indicate whether it will provide one of the following:

(1) Notice in the *Pennsylvania Bulletin* of each NOI under an applicable general permit, and of each approval for coverage under a general permit.

(2) Notice of every approval of coverage only.

§ 92a.85. Notice to other government agencies.

The Department will do the following:

(1) Provide a subscription to the *Pennsylvania Bulletin* for any other states whose waters may be affected by the issuance of an NPDES permit, to any interstate agency having water quality control authority over water that may be affected by the issuance of an NPDES permit, and to all Pennsylvania District Engineers of the Army Corps of Engineers.

(2) At the time of issuance of public notice under § 92a.82 (relating to public notice of permit application and draft permits), transmit to any other states, whose waters may be affected by the issuance of an NPDES permit, a copy of fact sheets prepared under § 92a.53 (relating to documentation of permit conditions). Upon request, the Department will provide the states with a copy of the application and a copy of the draft permit. Each affected state will be afforded an opportunity to submit written recommendations to the Department and the Administrator. The Department will consider these comments during preparation of the permit decision. If the Department decides not to incorporate any written recommendations thus received, it will provide a written explanation of its reasons for deciding not to accept any of the written recommendations.

(3) At the time of issuance of public notice under § 92a.82, transmit to any interstate agency having water quality control authority over waters that may be affected by the issuance of a permit a copy of fact sheets prepared under § 92a.53. Upon request, the Department will provide the interstate agency with a copy of the application and a copy of the draft permit. The interstate agency must have the same opportunity to submit recommendations and to receive explanations in paragraph (2).

§ 92a.86. Notice of issuance or final action on a permit.

Following the 30-day comment period described in § 92a.82(d) (relating to public notice of permit applications and draft permits), and any public hearing, on the permit application and draft permit, the Department will take action on the permit. Comments received during the comment period will be addressed and documented by the Department, and made available for public review. Final action will be published in the *Pennsylvania Bulletin*.

§ 92a.87. Notice of reissuance of permits.

Notice of reissuance of permits will be accomplished as specified in §§ 92a.81—92a.83, 92a.85 and 92a.86 for any draft individual permit. Notice of administrative extensions will be accomplished under § 92a.82(a) (relating to public notice of permit applications and draft permits).

§ 92a.88. Notice of appeal.

When the determination of the Department to issue or deny an NPDES permit is appealed to the EHB, notice of the appeal, and notice of the hearing date, if any, will be published in the *Pennsylvania Bulletin*. In addition, notice of the Department's final action, arrived at either through settlement or as the result of a decision of the EHB, will be published in the *Pennsylvania Bulletin*.

Subchapter G. PERMIT COORDINATION WITH THE ADMINISTRATOR

Sec.

- 92a.91. NPDES forms.
 92a.92. Decision on variances.
 92a.93. Administrator's right to object to issuance or modification of certain permits.
 92a.94. Reports of violations.

§ 92a.91. NPDES forms.

The Department will transmit to the Administrator complete copies of all NPDES forms, draft and final permits and other documentation or information as agreed to by the Department and the Administrator. If the Administrator requests additional information, the Department may require the applicant to provide this additional information requested by the Administrator.

§ 92a.92. Decision on variances.

The provisions of 40 CFR 124.62(a)(3), (e)(1) and (f) (relating to decision on variances) are incorporated by reference.

§ 92a.93. Administrator's right to object to the issuance or modification of certain permits.

The Administrator has a right to review or object to issuance of certain permits. The scope of EPA review and the procedures for its exercise are described in a Memorandum of Agreement that was incorporated in the Program Description submitted to the EPA by the Department. A copy of the Memorandum of Agreement is on file with the Department and with the Administrator of EPA Region III.

§ 92a.94. Reports of violations.

The Department will prepare a quarterly report listing permittees who have violated final or interim requirements in their NPDES permits, stating the nature of the violation, describing any enforcement action that is proposed or has been taken, and giving a brief description, if appropriate, of any circumstances that explain the violation. A copy of the report will be forwarded on the last day of the months of February, May, August and November to the Administrator.

Subchapter H. CIVIL PENALTIES FOR VIOLATIONS OF NPDES PERMITS

Sec.

- 92a.101. Applicability.
 92a.102. Method of seeking civil penalty.
 92a.103. Procedure for civil penalty assessments.
 92a.104. Disbursement of funds pending resolution of appeal.

§ 92a.101. Applicability.

Sections 92a.102—92a.104 (relating to method of seeking civil penalty; procedure for civil penalty assessments; and disbursement of funds pending resolution of appeal) apply to civil penalty assessments by the Department under section 605(a) of the State Act (35 P. S. § 691.605(a)).

§ 92a.102. Method of seeking civil penalty.

The Department may do either one of the following:

- (1) File a complaint for civil penalties before the EHB.
- (2) Assess a civil penalty, after hearing under § 92a.103 (relating to procedure for civil penalty assessments).

§ 92a.103. Procedure for civil penalty assessments.

(a) The Department, if it assesses a civil penalty for a State Act violation, will serve a copy of the proposed civil penalty assessment on the alleged violator. Service will be by registered or certified mail, or by personal service. If the mail is tendered at the address in the permit, or at an address where the person is located, and delivery is refused, or mail is not collected, the requirements of this section will be deemed to have been complied with upon the tender.

(b) The person who has been served with a proposed assessment in accordance with subsection (a) has 30 days to request that the Department hold an informal hearing on the proposed assessment by serving the Department by registered or certified mail with the request. If no timely request for an informal hearing is submitted, the failure to submit a timely request will operate as a waiver of the opportunity for a hearing, and the proposed assessment will become a final assessment of the Department upon the expiration of the 30-day period unless the Department determines to hold a hearing on the proposed assessment under the procedures in subsection (c).

(c) If a timely request for hearing on the proposed assessment is received by the Department, the Department will assign a representative to hold an informal hearing regarding the assessment. The informal hearing will not be governed by requirements for formal adjudicatory hearings. The Department will establish a hearing date and notify the person requesting the hearing in accordance with the service procedures in subsection (a) and post notice of the time and place of the hearing at the Department office where the hearing is to be held at least 5 days prior to the hearing. The person requesting the hearing has the right to attend and participate in the hearing and to be represented by counsel. The Department will consider the relevant information presented and either affirm, raise, lower or vacate the proposed assessment. The Department representative's decision will constitute the Department's final assessment.

(d) The person subject to a final assessment by the Department may contest the penalty assessment by filing a timely appeal with the EHB.

§ 92a.104. Disbursement of funds pending resolution of appeal.

(a) If the person subject to a final assessment fails to file a timely appeal to the EHB as provided in the Environmental Hearing Board Act (35 P. S. §§ 7511—7516), the penalty assessed is due and payable upon expiration of the time allowed to file an appeal. If the person fails to pay, the amount will be collected in the manner provided under section 605 of the State Act (35 P. S. § 691.605). The Department may preclude persons who fail to pay in full from obtaining or renewing any Department permits.

(b) If the final decision in the administrative and judicial review process results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the amount specified in the final decision to the Department within 30 days after the order is mailed to the person. If the person fails to pay the amount specified in the final decision, the amount will be collected in the manner provided by law. The Department may preclude persons who fail to pay in full from obtaining any new or reissued Department permits.

(c) Upon completion of the administrative and judicial review process, any funds collected under this subchapter will be deposited into the Clean Water Fund.

[Pa.B. Doc. No. 10-276. Filed for public inspection February 12, 2010, 9:00 a.m.]

[25 PA. CODE CH. 96]

Water Quality Standards Implementation

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code Chapter 96 (relating to water quality standards implementation) to read as set forth in Annex A. The amendments would codify the Department's existing guidance entitled "Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines" (No. 392-0900-001, December, 2006) as it relates to the Chesapeake Bay ("Nutrient Credit Trading Policy"). That policy provides a cost-effective means for facilities subject to meet new limits for nitrogen, phosphorus and sediment to meet those limits by working with other facilities or with nonpoint sources, or both. It helps the Commonwealth achieve its Chesapeake Bay nutrient reduction goals from the agriculture sector, provides a source of revenue to farmers and other property owners while advancing the restoration and protection of the water quality of the Chesapeake Bay.

This proposal was adopted by the Board at its meeting of November 17, 2009.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Ann Smith, Program Analyst, Water Planning Office, P. O. Box 2063, 2nd Floor, Rachel Carson State Office Building, Harrisburg, PA 17105-2063, (717) 772-4785, or Douglas Brennan, Director, Bureau of Regulatory Counsel, P. O. Box 2063, 9th Floor, Rachel Carson State Office Building, Harrisburg, PA 17105-2063, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or 800 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection (Department) web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The proposed rulemaking is being made under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.1001; the Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251—1387); and 40 CFR Part 122 (relating to EPA administrative permit programs: the National Pollutant Discharge Elimination System).

D. *Background and Purpose*

The Chesapeake Bay is polluted from nutrients (and sediment) and in 2005, new water quality standards under the Federal Clean Water Act to address this pollution came into effect. To meet these new requirements under Federal law, the Environmental Protection Agency (EPA) and the affected states developed a maximum nutrient load, or "cap load," for each major tributary. As a result, approximately 200 municipal sewage treatment plants and others discharging nutrients to this

Commonwealth's Bay tributaries must cap those discharges or they will be in violation of the downstream water quality standards, under Federal and State law.

In January 2006, the Department initiated an intensive stakeholder process related to these new legal requirements. First, it refocused and expanded the standing Chesapeake Bay Advisory Committee of the Department, to include local government associations, the agricultural community and multiple associations. This Committee was tasked with discussing the wide variety of issues surrounding the Commonwealth's compliance strategy and to consider various approaches to meeting the Federally driven water quality obligations.

After receiving input through a series of meetings held over a 9-month period, the Department developed a revised plan to address the new legal mandate. The plan included new permitting requirements for sewage treatment plants and other "point sources" governed by the Federal National Pollutant Discharge Elimination System (NPDES), new regulations controlling agricultural run-off and the Nutrient Credit Trading Policy.

The Nutrient Credit Trading Policy was actually one of several compliance alternatives provided to NPDES permittees required to reduce their effluent discharges, under the Department's plan. The other compliance alternatives identified for NPDES permittees were: implementation of nutrient reduction treatment technology, retirement of existing onlot septic systems, wastewater reuse and land application. Nutrient trading provides those sewage treatment plants with options that have the potential to reduce compliance costs substantially. For example, in 2008 Fairview Township decided to use credits to meet its nutrient reduction obligation, and in so doing announced a cost savings of approximately 75%. Mount Joy Borough Authority investigated costs of upgrading and found that by installing the first level of nitrogen treatment they could reduce nitrogen by about 50% for about \$8 per pound but in order to reach their cap loads an additional upgrade would increase the price to about \$12 per pound. Instead, Mount Joy contracted with a local farmer and invested in more than 900 acres of no-till agriculture to meet their permit cap at a cost of only \$3.81 for every pound reduced.

The Department's nutrient credit trading program is built upon the core elements prescribed for any valid trading program. For example, credits can only be generated for nutrient reductions above and beyond those required for regulatory compliance. There are also caps on the total tradable credits for "nonpoint sources" at the excess level available in the watershed from best management practices beyond those needed to meet compliance goals.

Since the publication of the interim final policy and as of August 2009, the Department has received 73 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay watershed, mostly, but not exclusively, by farmers. Of those, 45 have been approved, for a total of 1,651,336 nitrogen credits and 174,086 phosphorous credits. After subtracting the credits that have already been purchased or those that were generated in a previous compliance year, a total of 1,536,597 nitrogen credits and 171,541 phosphorous credits are available for sale.

The Department and its partners continue to seek enhancements to its nutrient trading program. For example, PENNVEST has been authorized by the EPA as well as by the PENNVEST Board to invest up to \$50

million to facilitate the nutrient credit trading program. It recently approved a \$7 million loan to a technology provider for a project at a large dairy and poultry farm in Lancaster County. PENNVEST is also studying the possibility of providing an exchange role to facilitate the use of credits by sewage treatment plants. Further, the Department regularly meets with stakeholders to improve the trading program.

The Department has consulted with a number of boards and committees throughout the process of developing the Nutrient Credit Trading Policy, and most recently, this proposed rulemaking. The Department has also presented the proposed rulemaking to the Water Resources Advisory Committee (WRAC), once in June and again in July with a revised draft in response to comments. The WRAC endorsed, with provisions, the proposed rulemaking package at its July meeting and it was presented to the Agricultural Advisory Board (AAB) at the meeting on August 19th where very few comments or concerns were raised. The proposed rulemaking and preamble reflect the comments made by the WRAC during the July meeting. At the request of AAB, the Department will provide an additional presentation during the public comment period.

The EPA supports credit trading generally, having published a National policy in that regard in 2003, and a detailed NPDES permit writer's manual on the subject in 2007. The Department has conferred with the EPA on this program for the past several years, and the EPA agrees with the approach. There are no Federal regulations for nutrient credit trading, although there are several air quality-related trading programs administered by the EPA and other states, including the Commonwealth.

The Commonwealth has been leading the way Nationally in developing its nutrient trading program and it is one of the first programs in the country to have both nonpoint sources and point sources utilizing a nutrient credit trading program. Harnessing market forces can be an effective way to achieve environmental regulatory goals at less expense than traditional command and control regulations. Market-based programs such as trading provide incentives for entities to create credits by going beyond any statutory or regulatory obligations.

The proposed rulemaking will provide clear and certain standards for nutrient credit trading in this Commonwealth and thereby support the Department's efforts to implement its Nutrient Credit Trading Program.

E. Summary of Regulatory Requirements

Definitions (§ 96.8(a)). The proposal adds a number of definitions to Chapter 96 to clarify various new terms. Most of the definitions were taken from the Nutrient Credit Trading Policy, with slight revision in some cases based on the Department's experience in implementing the program since the policy was finalized, and also based on comments from stakeholders.

General provisions (§ 96.8(b), (h) and (j)). The proposal contains several subsections with overarching provisions. Subsection (b) sets forth the core concepts and basic requirements of the trading program. Subsection (h) contains provisions regarding the interaction of this section and important provisions elsewhere in this title regarding protection of water quality. Subsection (j) makes it clear that this proposed rulemaking is not intended to foreclose the use of credits or offsets in other contexts outside of their use to comply with the nutrient and sediment cap loads for the Chesapeake Bay.

Methodology for calculating credits and offsets (§ 96.8(c)). Much of the methodology for establishing the water quality standards for the Chesapeake Bay, and determining effectiveness of various activities to meet those standards, is based on scientific work done by the EPA. This includes the use of several complex models and the scientific research related to them. Subsection (c) identifies those models and that research, and establishes them as a basis for the Department's decisions regarding, among other things, the amount of reductions (and therefore credits) to assign to a given pollutant reduction activity. These models and the related research are an ongoing effort and the language of this subsection allows for the use of subsequent versions of the models and more current research.

An important provision in this subsection is paragraph (2), which allows the Department to use pollutant removal efficiencies, edge of segment ratios and delivery ratios that are approved by the EPA, in calculating credits. The removal efficiencies represent average nutrient and sediment reduction performance capabilities for various "best management practices" (BMPs) at farms. They undergo extensive peer review by a technical review team managed by the EPA Chesapeake Bay Program. Recommendations are then reviewed by the EPA Chesapeake Bay Program committee and subcommittee process. These efficiencies change with the science of the models and related research. Current BMP efficiencies are accessible on the Department's Nutrient Credit Trading web site: (<http://www.dep.state.pa.us/river/Nutrient%20Trading.htm>).

The edge of segment and delivery ratios are used to identify the fate and transport of nutrients and sediment from their initial creation at a certain location to the Bay. For example, a pound of nitrogen reduced to cropland in the upper reaches of the Susquehanna has much less impact than a pound reduced near the border with Maryland. The delivery ratio accounts for that difference.

At the WRAC meeting in July, the Department was asked to solicit comment on the application of delivery ratios to permit limits, when used in the trading program. Therefore, the Department is soliciting comments on whether delivery ratios should be applied to permit limits when trading is chosen as the compliance option.

Eligibility requirements (§ 96.8(d)). This subsection describes the various requirements for a source to be able to generate credits for use under the proposed regulation. There are two components. First, the generator shall meet "baseline" requirements, which essentially are the legal requirements that apply to that operation.

The second requirement is "threshold." This requirement is defined as either a 100-foot manure set back, a 35-foot vegetative buffer or a 20% adjustment made to the overall reduction. It provides an added level of nutrient and sediment reductions that would not necessarily be accomplished without the financial incentives of trading. Threshold therefore adds to the nutrient reduction benefits for the Bay, especially from the agriculture sector.

Therefore, only after demonstrating (1) compliance with the applicable legal requirements (baseline); and (2) achieving an additional set of pollutant reductions (threshold), can a person begin to generate credits or offsets (by further reductions) under this proposal. The Department has received numerous proposals for the generation of credits that achieve these requirements and has approved many of them.

Certification, verification and registration (§ 96.8(e) and (f)). These subsections describe the procedural require-

ment that the Department has in place to ensure that credits and offsets are calculated correctly and accomplish pollutant reductions.

The first step is “certification,” which is typically done in advance of any pollutant reduction activities. In reviewing these requests, the Department evaluates detailed requests for approval of credit and offset-generation activities, for the purpose of assigning a specific number of credits to the activity. A person may want to have his proposed pollutant activities certified to obtain from the Department the number of credits or offsets which can be expected prior to completing the activity.

The number of credits assigned would have applied all appropriate adjustments such as the reserve and delivery ratios with particular attention being paid to the requirements of subsection (c) (methodology). The result is a letter from the Department indicating the amount and types of certified credits or offsets, which in the case of credits the generator can then use to market them.

A second important procedural requirement and a key component of the certification decision is a review of the “verification” plan submitted by the proponent of the credits or offsets, followed by actual verification. This plan is required by § 96.8(e)(4), and it is also a condition of “registration,” the final step, under § 96.8(f)(2)(iii). Verification can take a number of forms, but it must demonstrate that the pollutant reduction activities were implemented as described in the proposal that was certified. The Department may also conduct other verification activities, in addition to those in the plan submitted by the generator, under § 96.8(f)(2)(iv).

The final procedural step in these subsections is “registration,” under § 96.8(f). This is the Department’s accounting mechanism to track verified credits and offsets before they are used to comply with the NPDES permit effluent limits for the Bay.

The Department will not register credits or offsets for persons who demonstrate a lack of ability or intention to comply with the requirements of this section, Department regulations or other relevant requirements. *See*, § 96.8(d)(4) and (6) and (f)(3).

Use of credits and offsets (§ 96.8(g)). The provisions described within this Preamble apply to persons generating credits and offsets. This subsection addresses the obligations of persons who use them to meet permit requirements. This underscores that the use of credits and offsets only applies to the nutrient and sediment effluent limits in NPDES permits for the purposes of restoration and protection of the water quality of the Chesapeake Bay. *See*, § 96.8(g)(1) and (2) This language is not intended to limit the Department’s existing authority to allow the use of credits or offsets in other contexts. *See* § 96.8(j).

Credit and offset failure is addressed in § 96.8(g)(5). There are several factors that come into play with this issue. First, it is important that credits and offsets generate real reduction in pollutant loads delivered to the Bay. In addition, the one sector most likely to purchase credits, the sewage treatment plant operators, has expressed concern over purchasing credits and then later being subject to enforcement action by the Department if the credits are not accepted due to credit failure. This subsection seeks to address both concerns.

Two key components of this subsection are “the Department determines that replacement credits will be available,” and “the existence of an approved legal mechanism that is enforceable by the Department.” Examples of these

are the use of the credit reserve, a dedicated credit reserve for a particular project, financial guarantees under legal instruments such as escrows, and a Clean Streams Law “credit generation” permit.

Water quality and TMDLs (§ 96.8(h)). This proposal is aimed at protecting and restoring the water quality of the Chesapeake Bay. However, there may be local water quality issues that can affect a decision on a credit or offset proposal. This would be most likely if the receiving waterbody at the location where the credits or offsets will be generated is listed as “impaired” through the Department’s formal listing process under the Clean Water Act. There are also local antidegradation requirements that are part of the Commonwealth’s water quality regulations. This subsection makes it clear that those and other existing regulatory requirements take precedence over any decisions made under this proposal.

Public participation (§ 96.8(i)). The Department is committed to a transparent process in the implementation of its trading program. Therefore, the proposal would codify the current process of publishing notice in the *Pennsylvania Bulletin* whenever (1) a credit or offset proposal is submitted and is administratively complete; and (2) whenever the Department makes a final decision on certification.

F. Benefits, Costs and Compliance

Benefits

Harnessing market forces can be an effective way to achieve environmental regulatory goals at less expense than traditional command and control regulations. Market-based programs such as trading provide incentives for entities to create credits by going beyond any statutory or regulatory obligations. The proposal will provide clear and certain standards for nutrient credit trading in this Commonwealth and thereby support the Department’s efforts to implement its nutrient credit trading program.

Compliance Costs

The proposed rulemaking does not create any new compliance requirements. It is essentially a voluntary program that provides economic incentives for increased pollutant reductions beyond those required by law now.

Compliance Assistance Plan

While there are no new compliance requirements in this proposal, the Department has an active and comprehensive outreach and education effort. For example, the Department meets with a core group of stakeholders periodically to update them on recent developments and to discuss ways to improve the program. Department staff will continue to attend public meetings of various kinds to describe the program and assist with its use by interested persons.

Paperwork Requirements

There are no paperwork requirements as that term is normally used, because this is a voluntary program. The proposal does contain requirements for submittal of certain information, as seen in § 96.8(e). However, the cost of these requirements would normally be returned through revenue earned in the sale of the credits, or avoidance of more expensive compliance methods if credits or offsets were not used.

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred

means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This proposal is essentially a pollution prevention incentive program, as described previously in this preamble.

H. *Sunset Review*

This proposal when final will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 3, 2010, the Department submitted a copy of this proposal to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy 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 prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposal 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 act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

J. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposal to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by March 15, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by March 15, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by March 15, 2010. A subject heading of the proposal and a return name and address must be included in each transmission.

JOHN HANGER,
Chairperson

Fiscal Note: 7-451. No impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 96. WATER QUALITY STANDARDS IMPLEMENTATION

§ 96.8. Use of offsets and tradable credits from pollution reduction activities in the Chesapeake Bay watershed.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context indicates otherwise:

Aggregator—A person that arranges for the sale of credits generated by another person, or arranges for the credits to be certified, verified and registered.

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

Baseline—

(i) The compliance activities and performance standards which must be implemented to meet current environmental laws and regulations related to the pollutant for which credits or offsets are generated.

(ii) The term includes allocations established under this chapter, in a TMDL or similar allocation, for those pollutants.

BMP—Best management practice—

(i) Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollutants to surface waters of this Commonwealth.

(ii) The term includes treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

(iii) The term also includes riparian buffers, soil and slope stabilization measures, control of fertilization practices, and other actions and measures designed to reduce erosion and runoff of soil, sediment and pollutants from the land surface during precipitation events; or to reduce the contamination of groundwater with pollutants that may affect surface waters.

(iv) The term includes BMP measures developed under this title to reduce pollutant loading to surface waters.

Certification—Written approval by the Department of the use of a proposed or implemented pollutant reduction activity to generate credits or offsets, before those credits and offsets are verified and registered by the Department to be used to comply with NPDES permit effluent limitations.

Credit—The tradable unit of compliance that corresponds with a unit of reduction of a pollutant as recognized by the Department which, when certified, verified, and registered by the Department, may be used to comply with NPDES permit effluent limitations.

Credit reserve—Credits set aside by the Department to address pollutant reduction failures and uncertainty, and to provide liquidity in the market.

DMR—Discharge monitoring report.

Delivery ratio—A ratio that compensates for the natural attenuation of pollutants as they travel in water before they reach a defined compliance point.

Edge of segment ratio—A ratio that identifies the amount of land-applied pollutants expected to reach the surface waters at the boundary of a Chesapeake Bay Watershed Model segment through surface runoff and groundwater flows from nonpoint sources within a watershed segment.

Nutrient—Nitrogen and phosphorus.

Offset—The nontradable unit of compliance that corresponds with a unit of reduction of a pollutant as recognized by the Department which, when certified, verified and registered by the Department, may be used to comply with NPDES permit effluent limitations.

Pollutant—Nutrients and sediment.

Registration—An accounting mechanism used by the Department to track certified and verified credits and offsets before they may be used to comply with NPDES permit effluent limitations.

Reserve ratio—A ratio that is applied to the pollutant reductions generated, which establishes the credits to be set aside for the Department's credit reserve.

Threshold—Activities and performance standards beyond baseline compliance which are required by the Department before credits or offsets will be certified.

Tradable load—The amount of pollutant reductions determined to be the projected future pollutant load which is the difference between the total reductions theoretically possible from maximum implementation of reduction activities, and the reductions associated with a level of reduction activities identified by the Department as reasonably attainable.

Trade—A transaction that involves the sale or other exchange, through a contractual agreement, of credits that have been certified, verified and registered by the Department.

Trading ratios—Ratios applied by the Department to adjust pollutant reductions when certifying credits or offsets for a pollutant reduction activity, to address uncertainty, water quality, reduction failures or other considerations. These ratios may include a delivery ratio, an edge of segment ratio and a reserve ratio.

Verification—Implementation of the verification plan contained in a certification as required by the Department, prior to registration of the credits or offsets for use in an NPDES permit to comply with NPDES permit effluent limitations.

(b) *Chesapeake Bay water quality.*

(1) Credits and offsets may be used to meet legal requirements for restoration, protection and maintenance of the water quality of the Chesapeake Bay.

(2) Credits and offsets must be generated only from pollutant reduction activity that has been certified, verified and registered by the Department under this section.

(3) Credits and offsets may be used by permittees to meet effluent limits for nitrogen, phosphorus and sediment expressed as annual loads in pounds contained in NPDES permits that are based on compliance with water quality standards established under the Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251–1387), spe-

cifically for restoration, protection and maintenance of the water quality of the Chesapeake Bay.

(4) The use of credits and offsets must involve comparable pollutants. For example, nitrogen credits or offsets may only be used to meet nitrogen effluent limits.

(5) The use of credits and offsets must comply with legal requirements under applicable laws and regulations, including the requirements of this section.

(6) Credits and offsets may not be used to comply with technology-based effluent limits, except as expressly authorized by Federal regulations administered by the EPA.

(c) *Methodology.*

(1) The Department may use any of the methods contained in this subsection when calculating and certifying credits and offsets.

(2) Credits and offsets may be calculated by use of pollutant removal efficiencies for BMPs, and edge of segment and delivery ratios addressing fate and transport of pollutants, approved by the EPA Region III Chesapeake Bay Program Office for use with the Chesapeake Bay Watershed Model Version 4.3 or any subsequent versions.

(3) The Department may rely on results from the following modeling tools, as amended or updated, to approve other pollutant removal efficiencies for BMPs:

(i) Science Algorithms of the EPA Models-3 Community Multiscale Air Quality (CMAQ) Modeling System, Atmospheric Modeling Division, National Research Laboratory, U.S. Environmental Protection Agency, EPA/600/R-99/030, (Daewon Byun and Kenneth L. Schere, 2006).

(ii) EPA Watershed Model (Donigian et al. 1994; Linker 1996; Linker et al. 2000).

(iii) EPA Chesapeake Bay Hydrodynamic Model (Wang and Johnson 2000).

(iv) EPA Estuarine Water Quality Model (Cercio and Cole 1993, 1995a, 1995b; Thomann et al. 1994; Cercio and Meyers 2000; Cercio 2000; Cercio and Moore 2001; Cercio et al. 2002a).

(4) The Department may rely on the methods, data sources and conclusions in the following EPA documents, as amended or updated:

(i) *Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability*. EPA 903-R-03-004. Region III Chesapeake Bay Program Office, Annapolis, Maryland (2003).

(ii) *Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability-2004 Addendum*. EPA 903-R-04-006. Region III Chesapeake Bay Program Office, Annapolis, Maryland (2004).

(iii) *Chesapeake Bay Program Analytical Segmentation Schemes: Revision, decisions and rationales, 1983-2003*. EPA 903-R-04-008. CBP/TRS 268/04. Chesapeake Bay Program Office, Annapolis, Maryland (2004).

(iv) *Chesapeake Bay Program Analytical Segmentation Schemes: Revision, decisions and rationales, 1983-2003—2005 Addendum*. EPA 903-R-05-004. CBP/TRS 278/06. Chesapeake Bay Program Office, Annapolis, Maryland (2005).

(v) *Setting and Allocating the Chesapeake Bay Basin Nutrient and Sediment Loads: The Collaborative Process, Technical Tools and Innovative Approaches*. EPA 903-R-03-007. Region III Chesapeake Bay Program Office, Annapolis, Maryland (2006).

(vi) *Summary of Decisions Regarding Nutrient and Sediment Load Allocations and New Submerged Aquatic Vegetation (SAV) Restoration Goals*. April 25, 2003, Memorandum to the Principals' Staff Committee members and representatives of the Chesapeake Bay headwater states. Virginia Office of the Governor, Natural Resources Secretariat, Richmond, Virginia.

(vii) *The 2002 Chesapeake Bay Eutrophication Model*. EPA 903-R-04-004. U.S. Army Corps of Engineers, Engineer Research & Development Center, Environmental Laboratory (Cerco, C.F., and Noel, M.R., 2004).

(viii) *Ecosystem models of the Chesapeake Bay Relating Nutrient Loadings, Environmental Conditions and Living Resources Technical Report*. Chesapeake Bay Program Office, Annapolis MD (Kemp, MW., R. Bartleson, S. Blumenshine, J.D. Hagey, and W.R. Boylen, 2000).

(ix) *Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries*. U.S. EPA 2003b. EPA 903-R-03-002. Chesapeake Bay Program Office, Annapolis, Maryland.

(5) For credits and offsets generated from point sources, the Department may rely on the information supplied by permittees in the DMR when calculating and certifying credits and offsets.

(6) When calculating and certifying credits and offsets, the Department may rely on additional methods, data sources and conclusions contained in the *Pennsylvania Agronomy Guide* published by Pennsylvania State University, and the *Pennsylvania Technical Guide* published by the Federal Natural Resources Conservation Service. The Department may also rely on other published or peer-reviewed scientific sources.

(d) *Eligibility requirements for the Chesapeake Bay*.

(1) *General*. To generate credits and offsets, the generator shall demonstrate a reduction in pollutant loads beyond those that are allowed under applicable baseline requirements, and any threshold established by the Department.

(2) *Baseline requirements to generate credits or offsets*.

(i) For nonpoint sources, baseline shall be the current requirements in regulations applicable to the sources at the location where the credits or offsets are generated, and the pollutant load associated with that location. For agricultural operations, this includes compliance with the erosion and sedimentation requirements for agricultural operations in Chapter 102 (relating to erosion and sediment control), the requirements for agricultural operations under § 91.36 (relating to pollution control and prevention at agricultural operations) and the requirements for agricultural operations under Chapter 83 Subchapter D (relating to nutrient management), as applicable.

(ii) For point sources, the baseline shall be the pollutant effluent load associated with effluent limitations contained in an NPDES permit based on the applicable technology-based requirements, or the load in a TMDL or similar allocation, whichever is more stringent.

(3) *Threshold requirements to generate credits or offsets*.

(i) An agricultural operation must meet one of the following threshold requirements at the location where the credits or offsets are generated. For the purpose of this subparagraph the term "surface water" means a perennial or intermittent stream with a defined bed or bank, a lake or a pond.

(A) Manure is not mechanically applied within 100 feet of surface water. This threshold can be met through one of the following:

(I) There are no surface waters on or within 100 feet of the agricultural operation.

(II) The agricultural operation does not mechanically apply manure, and applies commercial fertilizer at or below agronomic rates contained in the current *Penn State University Agronomy Guide* published by Pennsylvania State University.

(B) A minimum of 35 feet of permanent vegetation is established and maintained between the field and surface water. The area may be grazed or cropped under a specific management plan provided that permanent vegetation is maintained at all times.

(C) The overall amount of pollution reduction is adjusted by at least 20%, which is to be applied during the calculation of the reduction amount when the credits are certified by the Department.

(ii) The Department may establish other threshold requirements necessary to ensure the effectiveness of the use of credits and offsets to meet legal requirements for restoration, protection and maintenance of the water quality of the Chesapeake Bay.

(4) *Compliance status*. Persons currently not in compliance with, or who lack the ability or intention to comply with, any of the following are not eligible to generate credits or offsets, or to use credits or offsets to meet permit effluent limits:

(i) Department regulations, permits, schedules of compliance or orders.

(ii) Any law or regulation that addresses pollution of waters of this Commonwealth.

(iii) Contracts for the exchange of credits.

(5) *Other requirements*. The Department may establish other eligibility requirements to ensure the effectiveness of the use of credits and offsets to meet legal requirements for restoration, protection and maintenance of the water quality of the Chesapeake Bay.

(6) *Failure to meet eligibility requirements*. If the Department determines that a person no longer meets the eligibility requirements under this section, it may take appropriate action such as prohibiting the person from participating in any trading under this section and denial of requests for certification and registration of any credits and offsets.

(e) *Certification requirements for the Chesapeake Bay*.

(1) *General*. All credits and offsets must be certified by the Department before they may be applied to meet permit effluent limitations. Certification will serve as the Department's final determination of the appropriate amount of credits approved by the Department. Certification must be followed by verification and registration of the credits and offsets prior to their use to meet permit effluent limits.

(2) *Request for certification*. Persons who wish to have credits or offsets certified by the Department shall submit a request in the format required by the Department.

(i) The request must contain information sufficient to demonstrate the following:

(A) The location where the pollutant reduction activity will be implemented will meet applicable eligibility requirements under subsection (d), and will continue to

meet those requirements throughout the applicable period of time described in the request.

(B) The pollutant reduction activity must meet acceptable standards for construction and performance, including operation and maintenance, for the applicable period of time described in the request.

(C) The calculation requirements of this section have been met.

(D) The implementation of the pollutant reduction activity must be verified to the extent acceptable to the Department, as described in a verification plan that meets the requirements of paragraph (4).

(ii) The request must contain the following additional information:

(A) A detailed description of how the credits or offsets will be generated, including calculations, assumptions and photos.

(B) A map illustrating the locations of the proposed activity.

(C) Details on the timing of credits or offsets, such as generation and delivery, any phase-in period and the time frame for sale and use towards permit effluent limits.

(D) The water quality classification under Chapter 93 (relating to water quality standards), and any applicable impairment listings under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1313(d)), for the nearest receiving stream segment.

(E) Information on any source of funding used to pay for any portion of the pollutant reduction activity, including the dollar amount and any conditions and restrictions regarding the use of those funds towards the generation or sale of credits or offsets.

(F) A description of how risks of failure of the pollutant reduction activity shall be managed, such as the use of financial guarantee mechanisms, contractual arrangements, permits, insurance products and reduction of the concentration of projects in a particular sub-watershed.

(G) A description of any preservation and conservation easements on lands where the pollutant reduction activity is to be implemented.

(H) Notations on documents submitted in the request which the person submitting the request claims to be confidential business information or a protected trade secret that are protected from disclosure by law, and a justification for the claims.

(I) The names of the persons submitting the request and other participants involved in the pollutant reduction activity.

(J) Professional qualifications of the persons who completed the calculations, conducted the baseline and threshold determinations and otherwise contributed to the technical merit of the request.

(K) Contact information for the persons submitting the request.

(3) *Calculation requirements.* The following credit and offset calculation requirements apply:

(i) All calculations must be approved by the Department.

(ii) The calculations must demonstrate that the pollutant reductions will be achieved from the activity proposed or implemented to generate credits and offsets for the applicable period of time.

(iii) The pollutant reductions must be expressed in pounds per year.

(iv) The calculations used must be based on methodologies that the Department determines are appropriate under subsection (c).

(v) The Department may establish other calculation requirements necessary to ensure that the use of credits and offsets are effective in meeting water quality requirements, and to address uncertainty for reasons such as unforeseen events which may disrupt pollutant reduction activities. The criteria may include the need to use trading ratios, risk-spreading mechanisms and credit reserves. These calculation requirements may reduce the amount of credits and offsets which will be certified for a pollutant reduction activity by the Department.

(vi) The annual sum of all credits certified from nonpoint sources may not exceed the applicable tradable load calculated by the Department. The tradable load for the Chesapeake Bay Watershed is 5.7 million pounds of nitrogen per year and 396,800 pounds of phosphorus per year, unless otherwise revised by the Department.

(vii) If State or Federal funds are used to cost-share any portion of the pollutant reduction activity contained in the request for certification, the Department may allow the portion of the credits or offsets paid for by State and Federal funds to be available for certification, unless restrictions have been placed on the funds by the provider of the funds.

(4) *Verification plan.* A request for certification must contain a verification plan.

(i) The verification plan must include the methods for credit and offset verification, such as the documentation of the implemented pollutant reduction activity, sufficient to allow the Department to verify that the qualifying reduction efforts approved were properly implemented during the applicable compliance period.

(ii) Verification plans may include the following methods, subject to approval by the Department:

(A) Self-verification by the person responsible for implementing the pollutant reduction activity.

(B) Third-party verification.

(5) *Certification by the Department.* The Department will certify credits and offsets when it has determined that the requirements of paragraphs (1)—(4) have been met.

(i) Certifications may be made contingent on conditions that will ensure that the requirements of this chapter will be satisfied.

(ii) Credits and offsets must only be used to meet permit effluent limits for the compliance period for which they are certified, verified and registered by the Department under this section.

(iii) Requests for certification for multiple compliance periods may be approved by the Department, but they must be verified and registered separately for each compliance period.

(f) *Registration requirements for the Chesapeake Bay.*

(1) *General.* All credits and offsets used to comply with effluent limitations in NPDES permits must be registered by the Department before they may be applied to a permit to meet the effluent limitations.

(2) *Registration requirements.* The following registration requirements apply:

(i) Credits and offsets must be certified under the provisions of subsection (e).

(ii) Credits must be addressed in a valid contract which ensures that the requirements of this section will be met. The Department may require submittal of trade contracts, establish basic contract elements and require approval of trade contracts before registration.

(iii) The credits and offsets must be verified prior to registration. The following applies to verification:

(A) Verification must be conducted as described in the verification plan as approved by the Department in the certification.

(B) Verification must ensure that the pollutant reduction activity has been implemented as described in the certification, and that other requirements such as baseline and threshold are met.

(C) The Department may conduct other verification activities such as monitoring, inspections and compliance audits, to further ensure that the pollutant reduction obligations are being met.

(iv) The Department will assign a registration number for reporting and tracking purposes.

(3) *Failure to implement.* The Department will not register credits and offsets if the person who generates the credits has not implemented, or who demonstrates a lack of ability or intention to implement, operations and maintenance requirements contained in the certification or the verification plan, or otherwise to implement the requirements of this section. The Department will not register credits and offsets submitted by an aggregator that is currently not complying, or demonstrates a lack of ability or intention to comply, with this section.

(g) *Use of credits and offsets to meet NPDES permit requirements related to the Chesapeake Bay.*

(1) Permittees will only be authorized to use credits and offsets through the provisions of their NPDES permit. The permit conditions will require appropriate terms such as recordkeeping, monitoring and tracking, and reporting in DMRs.

(2) Only credits and offsets generated from activities located within the Chesapeake Bay watershed may be used to meet NPDES permit requirements related to the Chesapeake Bay. Credits generated in either the Susquehanna or the Potomac basins may only be used in the same basin unless otherwise approved by the Department.

(3) Permittees shall ensure that the credits and offsets that they apply to their permits for compliance purposes are certified, verified and registered by the Department under this section for the compliance period in which they are used.

(4) The Department may authorize a period not to exceed 60 days following the completion of the annual compliance period in an NPDES permit, for a permittee to come into compliance through the application of credits and offsets to the permit provided that the credits and offsets were registered during that compliance period.

(5) Permittees are responsible for enforcing the terms of their credit and offset contracts, when needed to ensure

compliance with their permit. The Department may waive this requirement where the pollutant reduction activity fails due to uncontrollable or unforeseeable circumstances such as extreme weather conditions, and timely notice is provided to the Department, if the following apply:

(i) The failure is not due to negligence or willfulness on the part of the permittee.

(ii) The Department determines that replacement credits will be available.

(iii) The Department determines that the requirements for restoration, protection and maintenance of the water quality of the Chesapeake Bay will be met due to the requirements of this section, which may include the type of methodologies used when calculating the certified credits, the existence of an approved legal mechanism that is enforceable by the Department, and the use of a credit reserve.

(5) The use of credits and offsets must be identified in DMR forms, which will be submitted at the end of each compliance year or as otherwise provided by the Department in the permit. Registered credits and offsets shall only be used to meet permit effluent limits for the compliance period for which they are certified, verified and registered by the Department under this section.

(h) *Water quality and TMDLs.*

(1) Use of credits and offsets under this section will be allowed only where surface water quality will be protected and maintained as required by applicable regulations including this chapter and Chapter 93, Department permits and schedules of compliance and orders.

(2) Use of credits and offsets under this section must ensure that there is no net increase in discharge of pollutants to the compliance point used for purposes of determining compliance with the water quality standards established by the states of Maryland and Virginia for restoration, protection and maintenance of water quality of the Chesapeake Bay.

(3) Where a TMDL has been established for the watershed where the permitted activity is located, the use of credits and offsets under this section will be consistent with the assumptions and requirements upon which the TMDL is based.

(4) Use of credits and offsets under this section will comply with the antidegradation requirements contained in Department regulations.

(i) *Public participation.* The Department will publish a notice in the *Pennsylvania Bulletin* of the receipt of administratively complete requests for certifications of credits and offsets, and the Department's final determinations regarding those requests. This notice is not required to follow the requirements of § 92.61 (relating to public notice of permit application and public hearing).

(j) *Use of credits and offsets generally.* Nothing in this section precludes the Department from allowing the use of credits and offsets to be used to meet permit limits in areas other than those established for restoration, protection and maintenance related to the water quality of the Chesapeake Bay.

[Pa.B. Doc. No. 10-277. Filed for public inspection February 12, 2010, 9:00 a.m.]

STATE BOARD OF MEDICINE

[49 PA. CODE CHS. 16 AND 18]

Behavior Specialist

The State Board of Medicine (Board) proposes to amend §§ 16.11 and 16.13 (relating to licenses, certificates and registrations; and licensure, certification, examination and registration fees) and to add §§ 18.521—18.527 (relating to behavior specialists), to read as set forth in Annex A.

Effective date

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

Statutory Authority

The amendments are authorized under sections 8 and 25 of the Medical Practice Act of 1985 (act) (63 P.S. §§ 422.8 and 422.25) and under section 635.2(g) of The Insurance Company Law of 1921 (Insurance Law) (40 P.S. § 764h(g)).

Background and Need for the Amendment

Section 3 of the act of July 9, 2008 (P.L. 885, No. 62) amended the Insurance Law to provide for autism spectrum disorders coverage. In general, an insurer is required to provide covered individuals under 21 years of age coverage for the diagnostic assessment and treatment of autism spectrum disorders. An insurer shall contract with and accept as a participating provider any autism service provider that is licensed or certified in this Commonwealth. Section 635.2(g)(1) of the Insurance Law requires the Board, in consultation with the Department of Public Welfare, to promulgate regulations to provide for licensure or certification of behavior specialists. Section 635.2(f)(4) of the Insurance Law defines “behavior specialist” as “an individual who designs, implements or evaluates a behavior modification intervention component of a treatment plan, including those based on applied behavior analysis, to produce socially significant improvements in human behavior or to prevent loss of attained skill or function, through skill acquisition and the reduction of problematic behavior.” This proposed rulemaking would implement certification of behavior specialists under the Insurance Law as amended.

Description of the Proposed Amendments

The Board’s regulation in § 16.11(b) identifies those nonmedical doctor licenses and certificates that the Board issues, and in § 16.11(c) identifies those registrations that the Board issues. The proposed rulemaking would first add to § 16.11(b) certification as behavior specialist and add to § 16.11(c) biennial registration of behavior specialist certification. The proposed rulemaking would also add § 16.13(k) to set forth the fees associated with behavior specialist certification to be charged by the Board. To recover the costs of processing those applications, the fee for initial application for certification as behavior specialist and for reactivation of a previously-issued behavior specialist certification would each be \$70. To provide for an appropriate share of the general costs of operating the Board, the renewal fee for a behavior specialist would be \$75.

The proposed rulemaking would add Subchapter I. Proposed § 18.521 (relating to purpose) would identify the purpose of the subchapter as providing for the

certification of behavior specialists. Proposed § 18.522 (relating to definitions) would provide the statutory definitions of “applied behavioral analysis,” “autism spectrum disorders,” “behavior specialist,” and “diagnostic assessment of autism spectrum disorders” as used in the subchapter.

Proposed § 18.523 (relating to application for certification as behavior specialist) would address the application for certification as a behavior specialist. Under proposed § 18.523(a), an applicant shall submit a completed application form, including any necessary supporting documents, and pay the required application fee. Section 635.2(g)(2) of the Insurance Law sets five criteria for certification as a behavior specialist, and as discussed within this preamble, these are identified in proposed § 18.524 (relating to criteria for certification as behavior specialist). Accordingly, proposed § 18.523(b) provides that the Board will certify as a behavior specialist an applicant who demonstrates that the applicant satisfies the requirements of section 635.2(g)(2) of the Insurance Law for certification as a behavior specialist as set forth in § 18.524. Because as discussed within this preamble the Board is also setting forth in its proposed rulemaking grounds for disciplinary action in proposed § 18.527 (relating to disciplinary action for behavior specialist), proposed § 18.523(c) provides that the Board may deny an application for certification as behavior specialist upon those grounds for disciplinary action. Also, section 635.2(g)(3) of the Insurance Law prohibits the Board from certifying an applicant who has been convicted of a drug felony unless it has been at least 10 years, the applicant has demonstrated significant progress in personal rehabilitation since the conviction that certification should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations, and the applicant otherwise satisfies the requirements for certification. Accordingly, proposed § 18.523(d) provides that the Board will not grant certification unless these requirements have been met.

The five criteria for certification as a behavior specialist set forth in section 635.2(g)(2) of the Insurance Law are: good moral character; receipt of a master’s or higher degree in school, clinical or counseling psychology, special education, social work, speech therapy, occupational therapy or another related field; at least 1 year of experience involving functional behavior assessments, including development and implementation of behavioral supports or treatment plans; at least 1,000 hours in direct clinical experience with individuals with behavioral challenges or at least 1,000 hours experience in a related field with individuals with autism spectrum disorders; and completion of relevant training programs, including professional ethics, autism-specific training, assessments training, instructional strategies and best practices, crisis intervention, comorbidity and medications, family collaboration and addressing specific skill deficits training. Accordingly, proposed § 18.524 recites these criteria (other than good moral character) in subsections (a)—(d).

Because all licenses and certifications issued by the Board within the Bureau of Professional and Occupational Affairs expire after 2 years and must be renewed biennially, proposed § 18.525 (relating to renewal of certification as behavior specialist) addresses renewal of certification as behavior specialist. Proposed § 18.525(a) provides that all behavior specialist certifications expire December 31 of each even-numbered year, the expiration date for all other licenses and certifications issued by the Board. Proposed § 18.525(b) provides that the Board will

forward to the certificateholder's last known address on file with the Board those biennial renewal forms and other forms and literature that are to be distributed to certificateholders. In addition to paper applications for renewal, the Board now permits online renewal for its existing Board-regulated practitioners. Under proposed § 18.525(c), a certificateholder must renew the certification in the manner provided by the Board, that is either online or by paper application, and pay the required renewal fee by the expiration date to renew the certification. As part of that renewal process, proposed § 18.525(d) requires the certificateholder to fully answer all questions and pay the required fee.

Proposed § 18.526 (relating to inactive status of certification as behavior specialist) addresses inactive status of behavior specialist certification. Proposed § 18.526(a) provides that certification may become inactive either by the certificateholder's request or by expiration at the end of the biennial renewal period. To minimize the opportunity or consequence of a certificate being incorrectly placed on inactive status at what appears to be the request of the certificateholder, proposed § 18.526(a)(1) provides that the Board will provide written notice to the certificateholder. Proposed § 18.526(c) provides the general requirement for reactivation of an inactive certification as behavior specialist that the certificate holder must apply on forms supplied by the Board, answer all questions fully, and pay the required fee. Throughout the Bureau of Professional and Occupational Affairs, whenever a license has expired and has not yet been reactivated, the holder may not continue to practice until the license is reactivated prospectively. This rulemaking breaks with that practice for behavior specialists. The purpose of amending the Insurance Law to provide for behavior specialists was to increase the availability of diagnostic assessment and treatment of autism spectrum disorders by providing that insurance companies must pay for those services when provided by licensed or certified persons. The Insurance Law has no prohibition on practice as a behavior specialist by one not certified by the Board. Accordingly, proposed § 18.526(b) provides only that a behavior specialist whose certificate is inactive is not considered to be a certificate holder unless the certificate has been reactivated retroactively. The obvious consequence is that an insurance company need not reimburse the behavior specialist for services provided during the period that the certificate was inactive. However, because the purpose is to increase the availability of services by allowing behavior specialists to be paid by insurance companies, the Board proposes to permit a behavior specialist to retroactively reactivate certification as provided in proposed § 18.526(d). Under that proposed section, in addition to the requirements of subsection (c), the behavior specialist must pay the renewal fee for past renewal periods and a late fee of \$5 per month. This late fee is the standard late renewal fee of section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225).

Finally, proposed § 18.527 (relating to disciplinary action for certified behavior specialist) addresses disciplinary action. Section 635.2(g)(1) of the Insurance Law provides that a certified behavior specialist is subject to all disciplinary provisions applicable to medical doctors under the act. Section 41 of the act (63 P.S. § 422.41) authorizes the Board to take disciplinary action against a medical doctor based upon any of a list of grounds, including unprofessional conduct. In § 16.61 (relating to unprofessional conduct), the Board has previously set forth examples of "unprofessional conduct" for which disciplinary action may be taken against a medical doctor.

Accordingly, proposed § 18.527 provides that the Board may impose any corrective action of section 42 of the act (63 P.S. § 422.42) upon a certified behavior specialist who has committed any act for which the Board would be authorized to take disciplinary action against a medical doctor under section 41 of the act.

Fiscal Impact and Paperwork Requirements

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments 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 2, 2010, 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-form 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, P. O. Box 2649, Harrisburg, PA 17105-2649, or e-mail st-medicine@state.pa.us, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4929 (behavior specialist), when submitting comments.

OLLICE BATES, Jr., M.D.,
Chairperson

Fiscal Note: 16A-4929. 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 16. STATE BOARD OF MEDICINE— GENERAL PROVISIONS

Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS

§ 16.11. Licenses, certificates and registrations.

* * * * *

(b) The following nonmedical doctor licenses and certificates are issued by the Board:

* * * * *

(6) Certification as behavior specialist.

(c) The following registrations are issued by the Board:

* * * * *

(12) Biennial registration of a behavior specialist certification.

§ 16.13. Licensure, certification, examination and registration fees.

* * * * *

(k) Behavior Specialist Certification:

Application for certification as behavior specialist.....	\$ 70
Biennial renewal of behavior specialist certification.....	\$ 75
Application for reactivation of behavior specialist certification.....	\$ 70

CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN MEDICAL DOCTORS

(Editor’s Note: The following subchapter is new and has been printed in regular type to enhance readability.)

Subchapter I. BEHAVIOR SPECIALISTS

§ 18.521. Purpose.

This subchapter implements section 635.2(g) of The Insurance Company Law of 1921 (40 P. S. § 764h(g)), as amended by section 3 of the act of July 9, 2008 (P. L. 885, No. 62) to provide for the certification of behavior specialists.

§ 18.522. Definitions.

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

Applied behavioral analysis—As defined in section 635.2(f)(1) of The Insurance Company Law of 1921 (40 P. S. § 764h(f)(1)), the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior or to prevent loss of attained skill or function, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

Autism spectrum disorders—As defined in section 635.2(f)(3) of The Insurance Company Law of 1921, any of the pervasive developmental disorders defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), or its successor, including autistic disorder, Asperger’s disorder and pervasive developmental disorder not otherwise specified.

Behavior specialist—As defined in section 635.2(f)(4) of The Insurance Company Law of 1921, an individual who designs, implements or evaluates a behavior modification intervention component of a treatment plan, including those based on applied behavioral analysis, to produce socially significant improvements in human behavior or to prevent loss of attained skill or function, through skill acquisition and the reduction of problematic behavior.

Diagnostic assessment of autism spectrum disorders—As defined in section 635.2(f)(5) of The Insurance Company Law of 1921, medically necessary assessments,

evaluations or tests performed by a licensed physician, licensed physician assistant, licensed psychologist or certified registered nurse practitioner to diagnose whether an individual has an autism spectrum disorder.

§ 18.523. Application for certification as behavior specialist.

(a) An applicant for certification as a behavior specialist shall submit, on forms supplied by the Board, a completed application, including all necessary supporting documents, for certification as a behavior specialist and pay the fee in § 16.13(k) (relating to licensure, certification, examination and registration fees) for application for certification as behavior specialist.

(b) Except as otherwise provided in subsections (c) and (d), the Board will certify as a behavior specialist an applicant who demonstrates that the applicant satisfies the requirements of section 635.2(g)(2) of The Insurance Company Act of 1921 (40 P. S. § 764h(g)(2)) for registration as a behavior specialist, as provided in § 18.524 (relating to criteria for certification as behavior specialist), and otherwise complies with this subchapter.

(c) The Board may deny an application for certification as a behavior specialist upon the grounds for disciplinary action as set forth in § 18.527 (relating to disciplinary action for certified behavior specialist).

(d) The Board will not grant an application for certification as a behavior specialist of an applicant who has been convicted of a felony offense as provided in section 635.2(g)(3) of The Insurance Company Act of 1921, unless at least 10 years have elapsed from the date of conviction and the applicant has satisfactorily demonstrated to the Board that the applicant has made significant progress in personal rehabilitation since the conviction that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of the applicant’s patients or the public or a substantial risk of further criminal violations.

§ 18.524. Criteria for certification as behavior specialist.

(a) As required under section 635.2(g)(2)(ii) of The Insurance Company Act of 1921 (40 P. S. § 764h(g)(2)(ii)), an applicant for certification as a behavior specialist shall have received a master’s or higher degree from a Board-approved, accredited college or university, including a major course of study in school, clinical or counseling psychology, special education, social work, speech therapy, occupational therapy or another related field.

(b) As required under section 635.2(g)(2)(iii) of The Insurance Company Act of 1921, an applicant for certification as a behavior specialist shall have at least 1 year of experience involving functional behavior assessments, including the development and implementation of behavioral supports or treatment plans.

(c) As required under section 635.2(g)(2)(iv) of The Insurance Company Act of 1921, an applicant for certification as a behavior specialist shall have completed at least 1,000 hours in direct clinical experience with individuals with behavioral challenges or at least 1,000 hours of experience in a related field with individuals with autism spectrum disorders.

(d) As required under section 635.2(g)(2)(v) of The Insurance Company Act of 1921, an applicant for certification as a behavior specialist shall have completed relevant training programs, including professional ethics, autism-specific training, assessments training, instructional strategies and best practices, crisis intervention,

comorbidity and medications, family collaboration, and addressing specific skill deficits training.

§ 18.525. Renewal of certification as behavior specialist.

(a) A certification issued under this subchapter expires on December 31 of the even-numbered year unless renewed for the next biennium.

(b) Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last address on file with the Board.

(c) To retain certification as a behavior specialist, the certificateholder shall renew certification in the manner prescribed by the Board and pay the required biennial renewal fee specified in § 16.13(k) (relating to licensure, certification, examination and registration fees) prior to the expiration of the current biennium.

(d) To renew certification as a behavior specialist, the certificateholder shall apply on forms supplied by the Board, fully answer all questions, and pay the current renewal fee specified in § 16.13(k).

§ 18.526. Inactive status of certification as behavior specialist.

(a) Certification as a behavior specialist will become inactive upon either of the following:

(1) The certificateholder in writing affirmatively requests the Board to place certification on inactive status. Written confirmation of inactive status will be forwarded to the certificate holder.

(2) The certificateholder fails to renew the certificate by the expiration of the renewal period.

(b) Unless reactivated retroactively as provided for in this section, a person previously certified as a behavior

specialist is not considered to be a certificateholder during any period when the certification was inactive.

(c) To reactivate an inactive certification, the certificateholder shall apply on forms supplied by the Board, answer all questions fully, and pay the current renewal fee, if not previously paid, and the reactivation application fee specified in § 16.13(k) (relating to licensure, certification, examination and registration fees).

(d) A certificateholder may reactivate an expired certification retroactive to the beginning of the current or a previous biennial renewal period by complying with subsection (c) and paying the renewal fee for each previous biennial renewal period and a late fee of \$5 per month for each month or part of month that the certificate was expired subsequent to the retroactive effective date of reactivation.

§ 18.527. Disciplinary action for certified behavior specialist.

Under section 635.2(g)(1) of The Insurance Company Act of 1921 (40 P. S. § 764h(g)(1)), a certificateholder is subject to all disciplinary provisions applicable to medical doctors as set forth in the act. Following a final determination subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with 2 Pa.C.S. (relating to administrative law and procedure), the Board may impose any of the corrective actions of section 42 of the act (63 P. S. § 422.42) upon a certified behavior specialist who commits any act for which the Board would be authorized to take disciplinary action against a medical doctor under section 41 of the act (63 P. S. § 422.41), including unprofessional or immoral conduct as defined in § 16.61 (relating to unprofessional and immoral conduct).

[Pa.B. Doc. No. 10-278. Filed for public inspection February 12, 2010, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Public Welfare

The Executive Board approved a reorganization of the Department of Public Welfare effective January 13, 2010.

The organization chart at 40 Pa.B. 889 (February 13, 2010) 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. 10-279. Filed for public inspection February 12, 2010, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the State Civil Service Commission

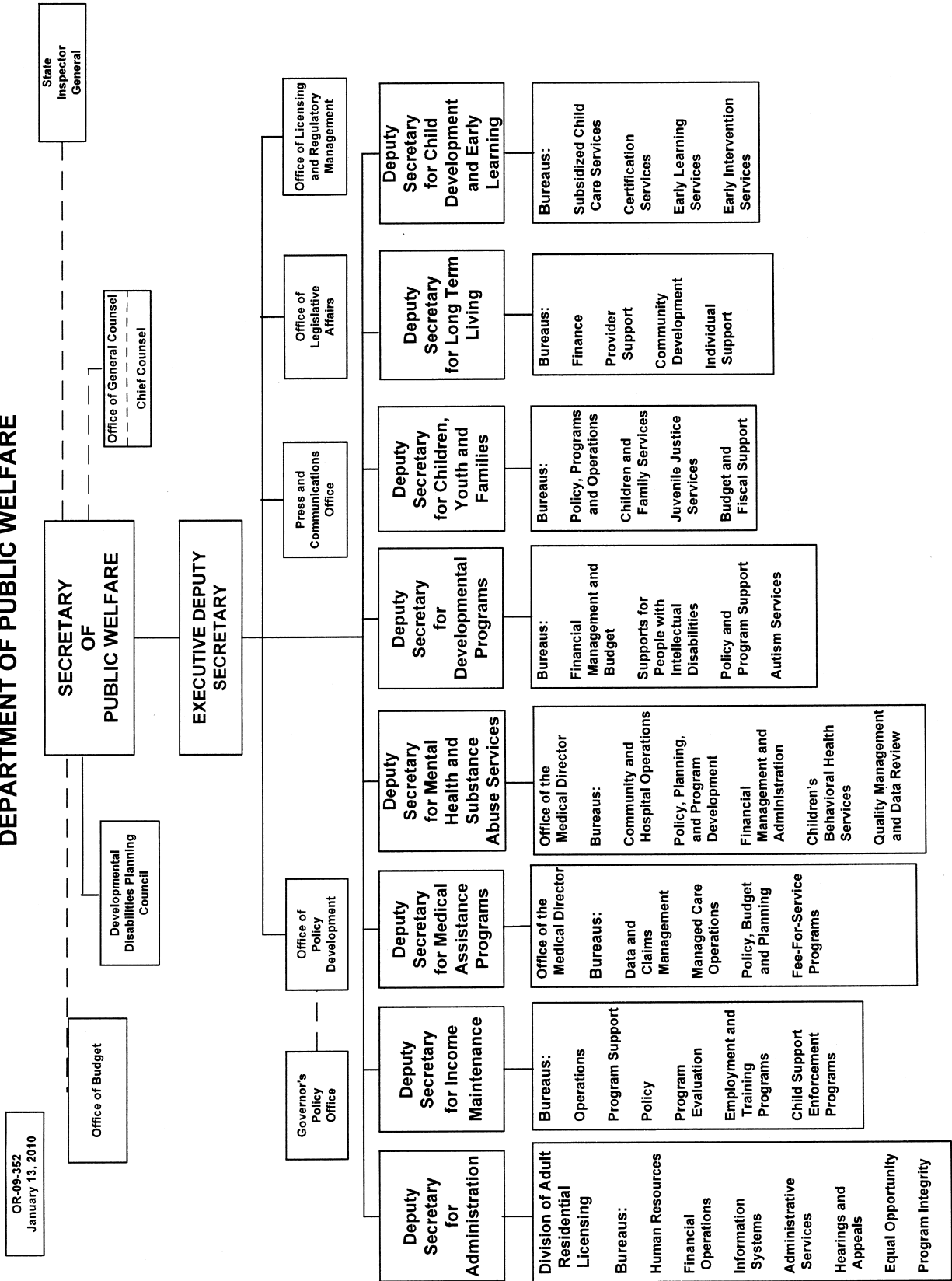
The Executive Board approved a reorganization of the State Civil Service Commission effective January 13, 2010.

The organization charts at 40 Pa.B. 891 (February 13, 2010) 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.)

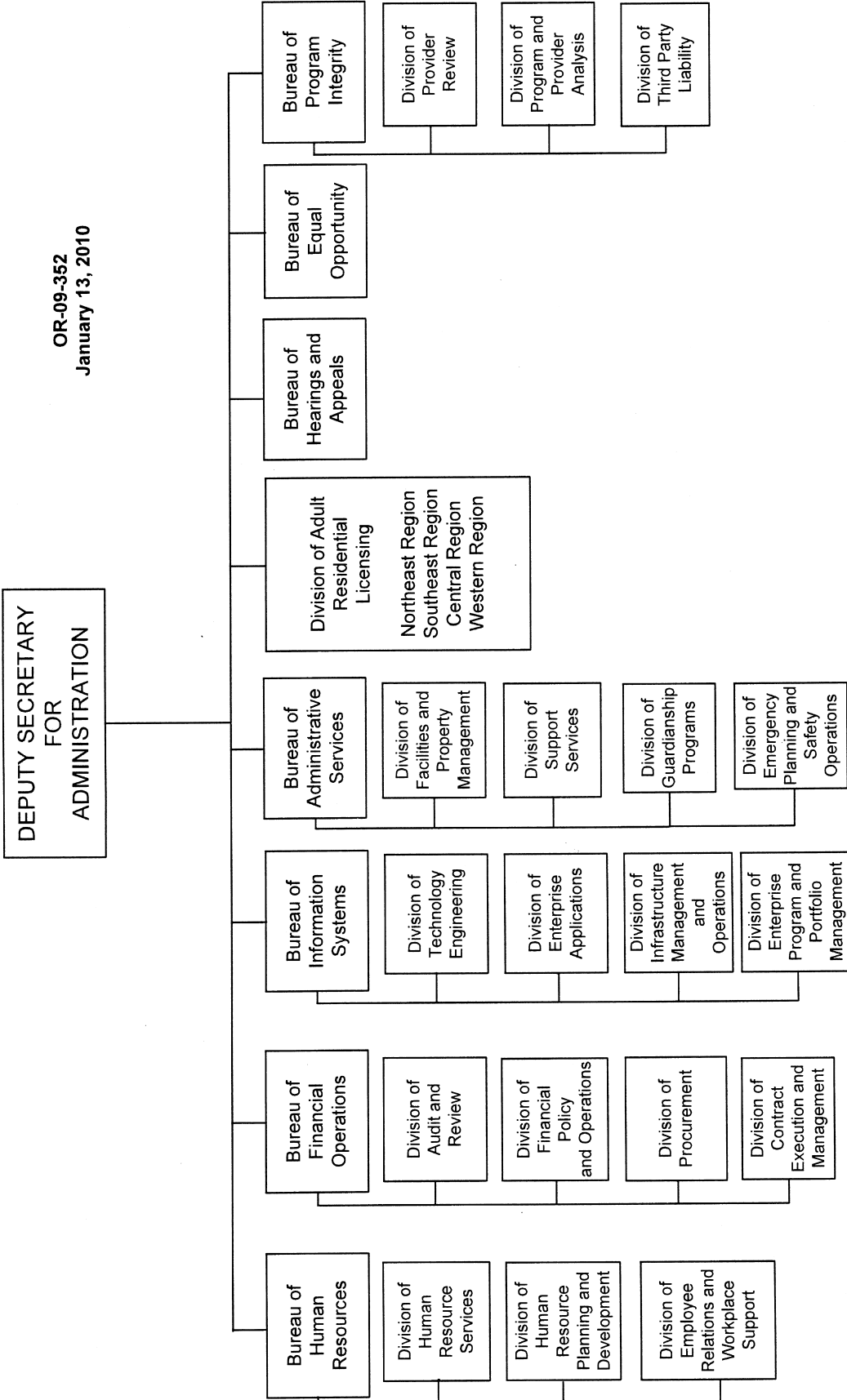
[Pa.B. Doc. No. 10-280. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

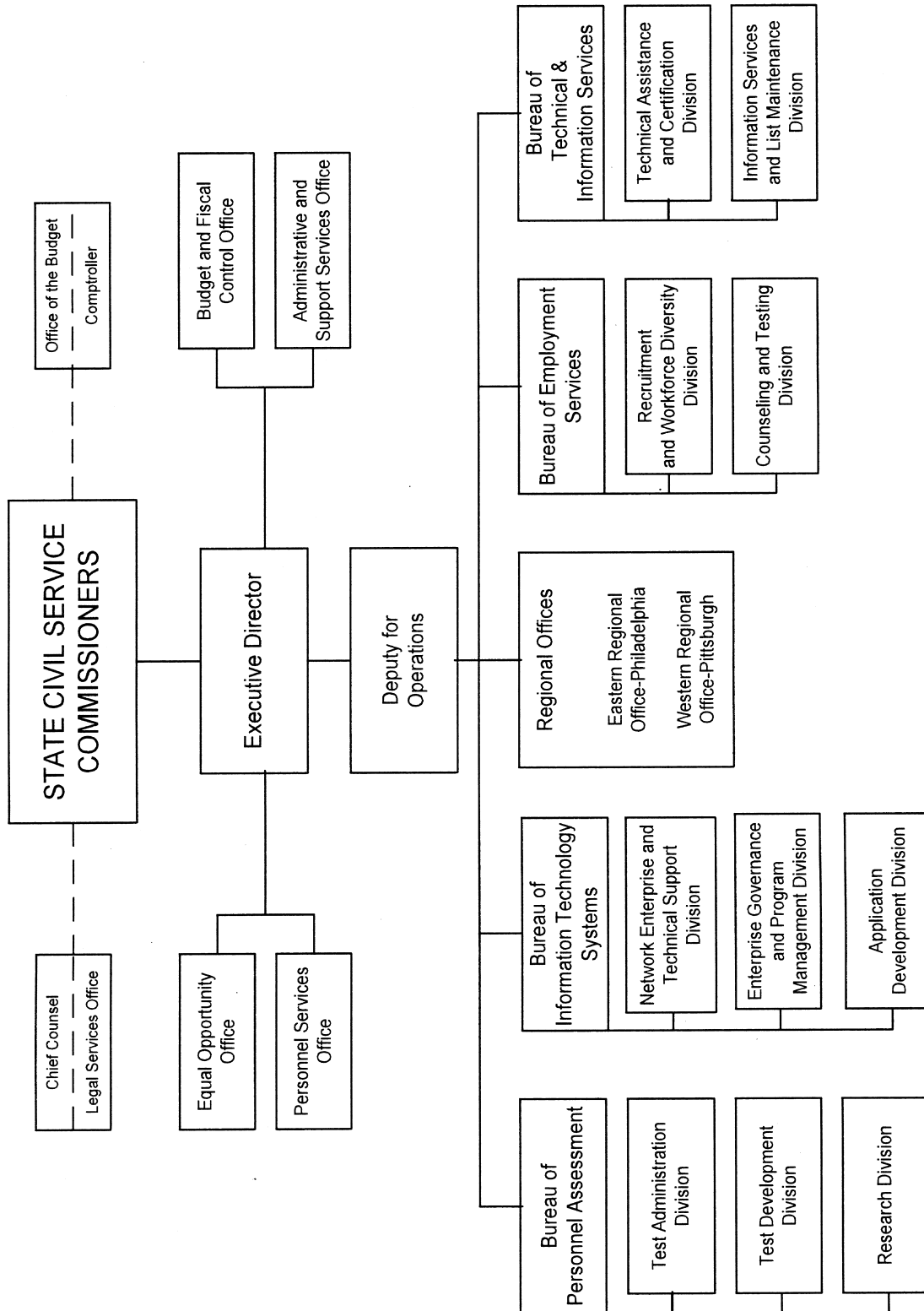


OR-09-352
January 13, 2010

DEPARTMENT OF PUBLIC WELFARE
DEPUTY SECRETARY FOR ADMINISTRATION



STATE CIVIL SERVICE COMMISSION



NOTICES

CANINE HEALTH BOARD

Public Meeting

The Canine Health Board gives notice of its public meeting on Tuesday, February 23, 2010 at 11 a.m., for the purpose of hearing several requests from commercial kennels for alternative access to exercise, under section 207(i)(5) of the Dog Law, and other matters as they may arise. The meeting will be held in Room 309 of the

Department of Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Hearings will be held for the following individuals/kennels: Bonnie Arndt, Arndt's Happy Tails; Joan Huber, Blythewood Kennel; and Nancy Redmond, Nancy's Nest.

JENNIFER MULLER,
Chairperson

[Pa.B. Doc. No. 10-281. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending January 26, 2010.

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, at 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

Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
1-25-2010	United-American Savings Bank Pittsburgh Allegheny County Application for approval to convert from a state-chartered mutual savings bank to a state-chartered stock savings bank.	Approved

Section 112 Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
1-26-2010	First Niagara Financial Group, Inc. Buffalo, New York Application for approval to acquire up to 19.9% of the common stock of Berkshire Bancorp, Inc., Wyomissing, and thereby indirectly acquire up to 19.9% of the common stock of Berkshire Bank, Wyomissing.	Filed

Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
1-26-2010	First Niagara Financial Group, Inc. Buffalo, New York Application for approval to indirectly acquire 100% of The Harleysville National Bank and Trust Company, Harleysville, in connection with the acquisition of 100% of Harleysville National Corporation, Harleysville.	Filed

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-11-2010	Susquehanna Bank Lititz Lancaster County	1800 Dual Highway Hagerstown Washington County, MD	Opened

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-26-2010	QNB Bank Quakertown Bucks County	<i>To:</i> 950 Millcreek Road Wescosville Lehigh County <i>From:</i> 1042 Millcreek Road Wescosville Lehigh County	Filed

SAVINGS INSTITUTIONS**Branch Applications****De Novo Branches**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-25-2010	ESSA Bank & Trust Stroudsburg Monroe County	1500 North Cedar Crest Boulevard Allentown Lehigh County	Filed

CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-282. Filed for public inspection February 12, 2010, 9:00 a.m.]

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending February 2, 2010.

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 and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-28-2010	First Columbia Bank & Trust Co. Bloomsburg Columbia County	300 Market Street Berwick Columbia County	Opened

NOTICES

Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
2-1-2010	Graystone Tower Bank Lancaster Lancaster County	<i>To:</i> 800 Norland Avenue Chambersburg Franklin County <i>From:</i> 488 Gateway Avenue Chambersburg Franklin County	Filed

Branch Consolidations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
1-28-2010	Parkvale Savings Bank Monroeville Allegheny County	<i>Into:</i> 307 Fourth Avenue Pittsburgh Allegheny County <i>From:</i> 200 Fifth Avenue Pittsburgh Allegheny County	Filed

Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
1-28-2010	First CornerStone Bank King of Prussia Montgomery County Amendment to the Fifth Article of the institution's Articles of Incorporation increases the aggregate number of shares of common stock which the institution is authorized to issue from 10,000,000 to 20,000,000.	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-283. Filed for public inspection February 12, 2010, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of March 2010

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of March, 2010, is 6 1/2%.

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

such individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.12 to which was added 2.50 percentage points for a total of 6.62 that by law is rounded off to the nearest quarter at 6 1/2%.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 10-284. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Availability of 2010 Regional Summer Schools of Excellence Grants

Applications for the 2010 Regional Summer Schools of Excellence Grants of \$6,000 to apply to the operation of enrichment projects serving academically and/or artistically talented/gifted youth during July and August of 2010.

1. Eligibility Requirements

Funding is available on a competitive basis to intermediate units; school districts (serving students in more than one district, except in large cities); charter schools; career and technology centers (CTCs or AVTSs) colleges or universities; not for profit regional chapters or councils for the arts; culture and/or educational organizations or consortia of two or more of the previously listed. Applicants may apply for grants to launch new programs or expand or update existing programs.

2. Application Deadline

Applications are due March 5, 2010.

3. How to Apply

The grant guidelines and application will be available on the Department of Education's web site at www.education.state.pa.us. On the left side click on: Programs, Programs O-R, Regional Schools of Excellence, Request for Proposals.

4. Questions Concerning the Grant Application:

Questions concerning the grant application or guidelines should be addressed to Tracy Malick, Education Administration Associate, Department of Education, Bureau of Teaching and Learning Support, 333 Market Street, 8th Floor, Harrisburg, PA 17126-0333, (717) 783-5670, tmalick@state.pa.us.

GERALD L. ZAHORCHAK, D. Ed.,
Secretary

[Pa.B. Doc. No. 10-285. Filed for public inspection February 12, 2010, 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

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0080845 (IW)	RRI Energy, Inc. 121 Champion Way Canonsburg, PA 15317	Blair County Catharine Township	Frankstown Branch Juniata River 11-A	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0003565 (Sewage) Non-Public	Morgan Advanced Materials and Technology 1118 East Second Street Coudersport, PA 16915	Potter County Eulalia Township	Mill Creek SWP16)	Y
PA0112941 (Sewage) Non-Public	Pro America/Cameron Division P. O. Box 391 Emporium, PA 15834	Cameron County Emporium Borough	Driftwood Branch Simmamahoning Creek SWP 8)	Y
PA0024538	Beech Creek Borough Authority STP P. O. Box 216 Beech Creek, PA 16822	Clinton County Beech Creek Borough	Beech Creek 9C	Y
PA0024341 (Sewage) Non-Public	Canton Borough Authority P. O. Box 237 Canton, PA 17724	Bradford County Canton Borough	Towanda Creek SWP 4C	Y
PA0228214 (Industrial Waste)	CCDA Waters LLC 217 AquaPenn Drive Howard, PA 16841	Centre County Boggs Township	Bald Eagle Creek 9-C	Y
PA0228800	Herndon Borough Jackson Township Joint Municipal Authority P. O. Box 381 Herndon, PA 17830-0381	Northumberland County Herndon Borough	Susquehanna River 6B	Y
PA0008036 (Industrial Waste)	Ingersoll Rand Athens Plant 101 N. Main Street Athens, PA 18810	Bradford County Athens Borough	Chemung River 4-B	Y

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

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

PA0233897, Non-Municipal Waste, SIC 4952, **Wade J. Robbins**, 273 Paradise Lane, Julian, PA 17844. This proposed facility is located in Huston Township, **Centre County**.

Description of Proposed Activity: The construction of an SFTF for an existing residence to replace a failing septic tank system. The receiving stream, Unnamed Tributary to Bald Eagle Creek, is in the State Water Plan watershed 9C and is classified for: HQ-CWF, MF. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on West Branch Susquehanna River and is 102 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0020 mgd.

Parameter	Mass (lbs/day)		Concentration (mg/l)		Instantaneous Maximum mg/l
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Flow (MGD)	Report				
CBOD ₅			10	20	
TSS			20	40	
TRC			monitor and report		
Fecal Coliforms			200 colonies/100 ml as a geometric mean		
pH (Std. Units)			6.0 to 9.0 at all times		

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

PA0218120, Sewage, **Dennis O'Hara**, 126 Walker Road, Apollo, PA 15613. This application is for renewal of an NPDES permit to discharge treated sewage from O'Hara Single Residence STP in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Tributary of Poke Run, which are classified as a high-quality cold water fishery 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 Municipal Authority—George Sweeney Water Plant.

Outfall 001: existing discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅ Day	10			20
Suspended Solids	20			40
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	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0254169, Sewage, **Consol Pennsylvania Coal Company, LLC**, P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323. This application is for issuance of an NPDES permit to discharge treated sewage from Enlow Fork Mine 3 North #5 Airshaft in East Finley Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Templeton Fork, which are classified as a trout stock fishery with existing and/or potential uses for aquatic life, water supply, and recreation. The first downstream potable water supply intake from this facility is in West Virginia on the Ohio River.

Outfall 001: new discharge, design flow of 0.024 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅ Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5/1 to 10/31)	2.0			4.0
(11/1 to 4/30)	3.0			6.0
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			

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Residual Chlorine	0.9			2.2
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0219215, Sewage, **Donegal Township**, 34 North Liberty Street, West Alexander, PA 15376. This application is for renewal of an NPDES permit to discharge treated sewage from Donegal Township Sewage Treatment Plant in West Alexander Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Little Wheeling Creek, which are classified as a warm water fishery 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: Village of Bellaire, Ohio Water Department located on Ohio River approximately 3.2 miles down river from the mouth of Wheeling Creek.

Outfall 001: existing discharge, design flow of 0.064 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 Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5/1 to 10/31)	2.0			4.0
(11/1 to 4/30)	5.0			10.0
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			
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0204609, Sewage, **Susan R. Rosa**, 156 Shannon Lane, Ligonier, PA 15658. This application is for renewal of an NPDES permit to discharge treated sewage from Rosa Single Residence STP in Ligonier Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Fourmile Run, which are classified as a trout stock fishery 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: Latrobe Municipal Authority on Loyalhanna Creek.

Outfall 001: existing discharge, design flow of 0.0004 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 Day	25			50
Suspended Solids	30			60
Fecal Coliform (5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
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.

PA0100021, Sewage. **River Forks Restaurant, Inc.**, HC3 Box 9, Route 62S, Tionesta, PA 16353. This facility is located in Tionesta Township, **Forest County**.

Description of Proposed Activity: New NPDES permit replacing an expired permit for an existing discharge of treated sewerage. 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 Public Water Supplier is located on the Allegheny River (Emlenton Water Company) and is approximately 55 miles below point of discharge. The receiving stream, the Allegheny River, is in watershed 16-E and classified for: Warm Water Fishes, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0085 MGD.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
Fecal Coliform			
05/01—09/30		200/100ml as a geometric average	
10/01—04/30		2000/100ml as a geometric average	
Total Residual Chlorine	0.5		1.3
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report on monthly DMRs.

The EPA Waiver is in effect.

PA0023175, Sewage. **Kane Borough Authority (Kinzua Road STP)**, 112 Bayard Street, Kane, PA 16735. This existing facility is located in Wetmore Township, **McKean County**.

Description of Proposed Activity: Renewal of an existing NPDES permit to discharge treated sewage. The receiving streams Hubert Run (Outfalls 001 and 002) and an unnamed tributary to Hubert Run (Outfall 003) are in watershed 16-B and are classified for: Cold Water Fishes, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.5 MGD.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Average Weekly (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (MGD)	XX	XX			
CBOD ₅	313	500	25	40	50
Total Suspended Solids	375	563	30	45	60
NH ₃ -N					
05/01—10/31	25		2		4
11/01—04/30	75		6		12
Fecal Coliform					
05/01—09/30			200/100ml as a geometric average		
10/01—04/30			2000/100ml as a geometric average		
Total Residual Chlorine			0.18		0.6
Chronic Whole Effluent Toxicity			1.18 TU _c		
Dissolved Oxygen			minimum of 6 mg/l at all times		
pH			6.0 to 9.0 standard units at all times		

XX—Monitor and report on monthly DMRs.

Special Conditions:

TRC minimization.

Combined Sewer Overflow (Outfalls 002 & 003).

Whole Effluent Toxicity (WET) testing for the permit renewal.

Chronic WET testing requirements.

The EPA Waiver is not in effect.

PA0037991, Sewage, **Mainlines, Manholes and Wastewater Treatment, Inc.**, 9214 Tannery Road, Girard, PA 16417. This existing facility is located in Girard Township, **Erie County**.

Description of Proposed Activity: New/Transfer NPDES permit for an existing discharge of treated sewage. The receiving stream, an unnamed tributary to Lake Erie, is in watershed 15 and classified for: cold water fishes, migratory fishes, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.08 MGD.

Parameter	Average Monthly (mg/l)	Concentrations	
		Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (MGD)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
05/01—10/31	2.0		4.0
11/01—04/30	6.0		12.0
Phosphorus as "P"	1.0		2.0
Fecal Coliform			
05/01—09/30		200/100ml as a geometric average	
10/01—04/30		2000/100ml as a geometric average	
Total Residual Chlorine	0.24		0.57
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)

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

WQM Permit No. 1410401, Sewerage, SIC 4952, **Wade J. Robbins**, 217 Paradise Lane, Julian, PA 16844. This proposed facility is located in Huston Township, **Centre County**.

Description of Proposed Action/Activity: The applicant is seeking coverage for the construction/operation of a SFTF for an existing residence to replace a failing septic tank system.

WQM Permit No. WQG02080902, Sewerage, SIC 4952, **Athens Township Authority**, 2523 Pennsylvania Avenue, Sayre, PA 18840. This proposed facility is located in Athens Township, **Bradford County**.

Description of Proposed Action/Activity: The CVS project is a proposed 1,151,000 sq. ft. distribution center, located on nine existing parcels totaling 148.8 acres within the original 184 acre Chemung Business Park. A proposed gravity sewer line consisting of 502 L.F. of 8" PVC piping and 18 L.F. of 10" PVC piping will connect the CVS Distribution center to a proposed pump station. The 2,380 gallon wet well submersible pump station transfers wastewater through 3,672 L.F. of 4" PVC force main to the existing sanitary sewer system.

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

WQM Permit No. 6510401, Sewerage, **City of Monessen**, Eastgate, 4th Floor, Monessen, PA 15062. This proposed facility is located in the City of Monessen, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system interceptor replacement.

WQM Permit No. 1110401, Sewerage, **Borough of Ferndale**, 109 Station Street, Johnstown, PA 15905-3957. This proposed facility is located in Ferndale Borough, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system replacement. The Pennsylvania Infrastructure Investment Authority (Pennvest) which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

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

Lackawanna County Conservation District: 1300 Old Plank Road, Mayfield, PA 18433, 570-281-9495.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023510001	Great Bend Holdings, Inc. Attn: Sonny Singh P. O. Box 239 Harford, PA 18823	Lackawanna	Jefferson Township	West Branch Wallenpaupack Creek HQ-CWF, MF

Lehigh County Conservation District: Lehigh Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104; 610-391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023910001	Department of Transportation District 5-0 Attn: Gerald Fry 1002 Hamilton Street Allentown, PA 18101	Lehigh	Upper Saucon Township	Tributary to Saucon Creek CWF, MF

Luzerne County Conservation District: Route 485, Smith Pond Road, Lehman, PA 18627-0250; 570-674-7991.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024010001	Borough of Freeland Municipal Authority Attn: John Brogan 711 Birkbeck Street Freeland, PA 18224	Luzerne	Foster Township	Pond Creek HQ-CWF, MF

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360; 570-629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024509016	Arcadia Properties, LLC 100 Gateway Drive Suite 310 Bethlehem, PA 18017	Monroe	Tobyhanna Township	Tobyhanna Creek HQ-CWF, MF

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360; 570-629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024509017	Farda Associates Route 715 P. O. Box 130 Tannersville, PA 18372	Monroe	Pocono Township	Tributary to Pocono Creek HQ-CWF, MF

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>
PAI032210001	Michael Keiser Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103	Dauphin	Williams Township	Wiconisco Creek WWF

NOTICES

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI040009009(1)	Northeastern ITS Wilderness Fiber Installation Project 6779 Engle Road Suite D Middleburg Heights, OH 44130-7926	Centre, Northampton, Northumberland, Schuylkill, Snyder and Venango	Centre County Halfmoon, Patton, Rush and Worth Townships. Millheim and Port Matilda Boroughs Northampton Lower Nazareth Township. Northumberland Mt. Carmel Township Schuylkill Butler, Ryan, Walker and West Penn Townships Snyder Shamokin Dam Borough Venango Cranberry Township	Centre County Elk Creek EV/MF Laurel Run HQ-CWF/MF Sixmile Run HQ-CWF/MF Buffalo Run HQ-CWF/MF UNT Buffalo Run HQ-CWF/MF UNT Buffalo Run HQ-CWF/MF Bald Eagle Run TSE/MF UNT Buffalo Run HQ-CWF/MF Wetland ID W-CE-001 W-CE-002 W-CE-003 Northumberland Tributary to N.B. Shamokin Creek CWF/MF Schuylkill Tributary Mahanoy Creek CWF/MF Locust Creek CWF/MF Tributary Little Schuylkill River CWF/MF Tributary Little Schuylkill River CWF/MF Lizard Creek CWF/MF Wetland ID W-SC-002 Venango Halls Run CWF

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

Greene County Conservation District, 19 South Washington Street, Waynesburg, PA 15370-2053, (724-852-5278).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI053009002	Southwest Pennsylvania Water Authority 1442 Jefferson Road P. O. Box 187 Jefferson, PA 15344	Greene	Franklin Township	Wisecarver Run, a tributary to Browns Creek and Southfork Tenmile Creek HQ-WWF

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

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

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.

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

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

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

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the

30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER
**Applications Received under the Pennsylvania Safe
Drinking Water Act**

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

Application No. 5109504, Public Water Supply.

Applicant	Pure Water 2 Go
Township	City of Philadelphia
County	Philadelphia
Responsible Official	Emmanuel Onwulata 178 West Grange Avenue Philadelphia, PA 19120
Type of Facility	PWS
Consulting Engineer	Barry Isett & Associates 85 South Route 100 and Kressler Lane Trexlerstown, PA 18087
Application Received Date	July 22, 2009
Description of Action	A retail water facility.

Application No. 0910502, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc.
Township	Bristol

County **Bucks**
 Responsible Official Joseph G. Thurwanger
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010

Type of Facility PWS

Consulting Engineer Aqua Pennsylvania
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010

Application Received Date January 19, 2010

Description of Action Painting interior and exterior of
 2 MG water storage tank (Bristol
 #1).

Application No. 0909530, Public Water Supply.

Applicant **Hilltown Township Water and
 Sewer Authority**

Township Hilltown

County **Bucks**

Responsible Official James C. Groff
 P. O. Box 365
 Sellersville, PA 18960

Type of Facility PWS

Consulting Engineer Castle Valley Consultants
 10 Beulah Road
 New Britain, PA 18901

Application Received Date December 16, 2009

Description of Action A proposed to utilize Well No. 1A
 as a public water supply in place
 of the abandoned Well No. 1.

Application No. 1509516, Public Water Supply.

Applicant **Superior Water Company**

Township North Conventry

County **Chester**

Responsible Official Louise Knight
 1885 Swamp Pike
 Gilbertsville, PA 19525-9666

Type of Facility PWS

Consulting Engineer Entech Engineering, Inc.
 4 South Fourth Street
 P. O. Box 32
 Reading, PA 19603

Application Received Date December 16, 2009

Description of Action Addition of ph and corrosion
 control treatment equipment and
 replacement of the existing gas
 chlorination system with a liquid
 chlorination system.

Application No. 2309507, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**

Township Middletown

County **Delaware**

Responsible Official Joseph G. Thurwanger
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010

Type of Facility PWS

Consulting Engineer Aqua Pennsylvania, Inc.
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010

Application Received Date December 22, 2009

Description of Action Painting interior and exterior of
 1.0 MG Hunter Street Tank.

Application No. 1510502, Public Water Supply.

Applicant **Aqua Pennsylvania**

Township Willistown

County **Chester**

Responsible Official William C. Ross
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010

Type of Facility PWS

Consulting Engineer Aqua Pennsylvania, Inc.
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010

Application Received Date January 26, 2010

Description of Action Replacing the existing
 below-ground Greentree booster
 station with a prefabricated,
 above-ground booster station.

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

Permit No. 4407501, Public Water Supply.

Applicant **Municipal Authority of the
 Borough of Lewistown**

Municipality Armagh Township

County **Mifflin**

Responsible Official Craig Bubb, Superintendent
 70 Chestnut Street
 Lewistown, PA 17004-2216

Type of Facility Public Water Supply

Consulting Engineer Patrick J. Ward, P. E.
 Uni-Tec Consulting Engineers,
 Inc.
 2007 Cato Avenue
 State College, PA 16801

Application Received Date 3/29/2007

Description of Action Construction of Oak Street
 Booster Pumping Station to
 maintain system pressure to a
 small development on Oak
 Street.

Permit No. 2209510, Public Water Supply.

Applicant **Steelton Borough Authority**

Municipality Steelton Borough

County **Dauphin**

Responsible Official John M. DeSanto
 Municipal Division Manager
 123 N. Front Street
 Steelton, PA 17113

Type of Facility Public Water Supply

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:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Consulting Engineer	Paul J. Navarro, P. E. Navarro and Wright Consulting Engineers, Inc. 151 Reno Avenue New Cumberland, PA 17070
Application Received Date	12/11/2009
Description of Action	Installation of a new transmission main from the filter plant to the distribution system, modifications to the raw water pump house, filter syphon system, clarifiers and replacement of the filter media.
Permit No. 2810501 , Public Water Supply.	
Applicant	Greenspring Valley Development, LLC
Municipality	Antrim Township
County	Franklin
Responsible Official	Humberto Ho Principal 5709 Avery Park Drive Rockville, MD 20855
Type of Facility	Public Water Supply
Consulting Engineer	Randy Shearer, P. E. CEDG, Inc. 5000 Ritter Road Mechanicsburg, PA 17055
Application Received Date	1/11/2010
Description of Action	The Construction of a new public water system to serve 119 units of Phase I of a 554 unit residential development.
Permit No. 3610502 , Public Water Supply.	
Applicant	Mt. Hope Nazerene Community
Municipality	Rapho Township
County	Lancaster
Responsible Official	Joseph G. Mraz Administrator 3026 Mt. Hope Home Road Manheim, PA 17545-9529
Type of Facility	Public Water Supply
Consulting Engineer	Charles A. Kehew II, P. E. James A. Holley & Associates, Inc. 18 South George Street York, PA 17401
Application Received Date	1/25/2010
Description of Action	Convert UV disinfection to sodium hypochlorite disinfection system.

Verdelli Farms Property, Hummelstown Borough, **Dauphin County**. Herbert, Rowland and Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Verdelli Reality, P. O. Box 133, Hummelstown, PA 17036, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil from an underground storage tank. The site will be remediated to the Residential Statewide Health Standard. Intended future use of the property is unknown.

K & R Realty Property, Kutztown Borough, **Berks County**. GHR Consulting Services, Inc., 224 B South Maple Street, Ambler, PA 19002, on behalf of K & R Realty, 277 Fair Street, Kutztown, PA 19530, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil from an underground storage tank. The site, which will remain commercial, will be remediated to the Residential Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Sunoco-Montgomery, Montgomery Borough **Lycoming County**. Aquaterra Technologies, Inc., 122 South Church Street, West Chester, PA 10382 on behalf of Sunoco, Inc. (R&M), 1109 Milton Street, Syracuse, NY 13204 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with petroleum hydrocarbon constituents. The applicant proposes to remediate the site to meet the Statewide Health Standard.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

New Applications Received

Citiwaste, LLC, 100-02 Farragut Road, Brooklyn, NY 11236. License No. PA-HC 0243. Effective October 19, 2009.

Renewal Applications Received

Clean Harbors Environmental Services, Inc., 42 Longwater Drive, Norwell, MA 02061-1612. License No. PA-HC 0053. Received on September 14, 2009.

Veolia ES Solid Waste of PA, Inc., 6330 Route 219, Brockway, PA 15824. License No. PA-HC 0199. Received on July 20, 2009.

Healthcare Waste Solutions, Inc., 1281 Viele Avenue, Bronx, NY 10474. License No. PA-HC 0235. Received on October 1, 2009.

University of Pittsburgh of the Commonwealth System of Higher Education, Public Safety Building, 4th Floor, 3412 Forbes Avenue, Pittsburgh, PA 15260. License No. PA-HC 0183. Received on October 28, 2009.

JPS Equipment Co., Inc., P. O. Box 788, Edgemont, PA 19028-0788. License No. PA-HC 0142. Received on November 2, 2009.

Premier Medical Waste Transport, Ltd., 642 Willow Street, Pottstown, PA 19464. License No. PA-HC 0237. Received on November 23, 2009.

Coast Medical Supply, Inc., 200 Turnillo Way, Suite 110, Tinton Falls, NJ 07712. License No. PA-HC 0214. Received on January 11, 2010.

HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES

Applications received, withdrawn, denied, or returned under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

PAR00030874. Copperhead Chemical Company, Inc., 120 River Road, Tamaqua, PA 18252. An application to renew the permit term and to increase the amount of waste treated from 100lbs/day to 200lbs/day in the middle pan of the Thermal Treatment Unit at Copperhead Chemical Company, Inc., located in Walker Township, **Schuylkill County**. The application was received in the Regional Office on December 17, 2009 and was deemed administratively complete as of February 1, 2010.

RESIDUAL WASTE GENERAL PERMITS

Application(s) Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

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

General Permit Application No. WMGR122. East Resources, Inc., 301 Brush Creek Road, Warrendale, PA 15086. General Permit Numbered WMGR122 is for the processing of wastewater (that is flow back gas well water—frac water) from various Marcellus Shale gas drilling operations at the Tioga County Tank Farm facility, to be located in the Covington Township, **Tioga County**. The flow back gas well water will be processed on-site at each well pad. The processed flow back gas well water will then be pumped/trucked to the Tioga County Tank Farm and blended with the fresh water stored for beneficial use in the extraction of natural gas from various Marcellus Shale gas drilling operations. Central Office received the application on November 18, 2009 and determined it administratively complete on January 27, 2010.

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 of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

General Permit No. WMGR096NE003. Phase III Environmental (Former New Jersey Zinc Company West Plant), 405 Watson Park Boulevard, Lehigh, PA 18235-9168. A General Permit Determination of Applicability (DOA) application submitted under General Permit #WMGR096NE003 for the beneficial use of approximately 10 million tons of regulated fill as construction material on 120 acres of land at the Former New Jersey Zinc Company, West Plant site located in Palmerton Township, **Carbon County**. The Determination of Applicability application was received in the Regional Office on January 19, 2010, and was deemed administratively complete on January 27, 2010. Persons interested in reviewing the general permit may contact William Tomayko, Program Manager, Waste Management Program, northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit Application No. 300176. Arcelormittal Plate, LLC, 139 Modena Road, Coatesville, PA 19320-0911. This application is for the 10-year permit renewal in addition to some modification for the ArcelorMittal Residual Waste Landfill, an existing Class I captive residual waste landfill, formerly named ISG Plate, LLC, located at the intersection of PA Route 82 (Doe Run Road) and IMS Drive in East Fallowfield Township and Valley Township, **Chester County**. The application was received by the Southeast Regional Office on January 4, 2010.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application(s) received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 101587. North Schuylkill Transfer Station, LLC, North Schuylkill Transfer Station, LLC, 10 Gilberton Road, Gilberton, PA 17934. A Permit Transfer and Renewal application to continue operation of this municipal waste transfer station, located in West Mahanoy Township, **Schuylkill County**. The application was received in the Regional Office on December 17, 2009; and was deemed administratively complete as of January 26, 2010.

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

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

01-05035A: Tucker Industrial Liquid Coatings, Inc. (407 North Avenue, East Berlin, PA 17316) for operation of three (3) spray paint booths with dry panel filters for control of particulate matter emissions at their spray painting job shop (North Avenue Facility) in East Berlin Borough, **Adams County**. The sources have the potential to emit 27.9 tons VOC per year. The facility is subject to 40 CFR Part 63, Subpart M—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Miscellaneous Metal Parts and Products. The plan approval and subsequent Title V operating permit will include emission restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This notice is for a revised draft of this plan approval. A public hearing on the original draft of this plan approval was held on August 27, 2009 at the East Berlin Community Center.

38-03014C: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) for installation of a vertical shaft impact crusher, conveyor belt and fabric collector at their Millard Stone Processing Plant in North Londonderry Township, **Lebanon County**. The crushing plant is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. Particulate matter emissions from the plant are controlled by a wet suppression system and the installation of the new equipment will not impact plant emissions significantly. The plan approval and operating permit will contain emission limits along with work practices, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

30-00183A: EQT Gathering, LP (225 North Shore Drive, Pittsburgh, PA, 15212) for installation of two (2) new 2,370-bhp Caterpillar/Ariel 3608 compressor units, one new 690-bhp emergency generator, seven (7) new tanks, expansion of the existing dehydration system and the existing 1340-bhp Caterpillar Model G3516 LE compressor at their Jupiter Compressor Station in Morgan Township, **Greene County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection intends to issue Minor Source Plan Approval to allow the installation of two new 2,370-bhp Caterpillar/Ariel 3608 compressor units, one new 690-bhp emergency generator, seven new tanks, expansion of the existing dehydration system and the existing 1340-bhp Caterpillar Model G3516 LE compressor at the Jupiter Compressor Station, located in Morgan Township, **Greene County**. Best Available Technology at the facility will be met by control

of emissions from the Caterpillar/Ariel 3608 compressor units with CO/VOC oxidation catalysts, operation in conformance with manufacturer recommendations and good operating practices.

Emissions from the new process units are estimated to be 31.14 tons of NO₂, 10.05 tons of CO, 10.04 tons of VOC, 1.85 tons of formaldehyde and total emissions of 9.98 tons of HAPs. Following completion of this project, emissions from this facility will be 50.73 tons of NO₂, 34.12 tons of CO, 19.82 tons of VOC, 4.19 tons of formaldehyde and total emissions of 13.18 tons of HAPs. The proposed process units are subject to the applicable requirements of 25 Pa. Code, Chapter 127, related to construction, modification, reactivation and operation of sources, 40 CFR 60 Subpart JJJJ and 40 CFR 630 Subpart ZZZZ. The Plan Approval contains appropriate emission limitations, testing, monitoring, recordkeeping, reporting requirements, and work practice standards.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.

10-284E: Seneca Landfill, Inc. (421 Hartmann Road, Evans City, PA 16033) for modification of plan approval 10-284D conditions with regards to start-up, shutdown, and ceramic media curing procedures associated with the thermal oxidizer in Jackson Township, **Butler County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The conditions from plan approval 10-284D issued on December 17, 2008, will remain in effect but are incorporated into this plan approval.
- The following are conditions relating to the shutdown and start-up procedures for the thermal oxidizer:
- Initial ceramic media curing or bake-out process:
 - A portion of the raw LFG will be directed to the thermal oxidizer with the thermal oxidizer operating at a temperature of approximately 200F. The remainder of the raw LFG will be routed to the main flare.
 - A gradual ramp-up in temperature (~ 200F per hour) will occur until the operating temperature of the thermal oxidizer reaches 1800F. A total of approximately 24 hours will be required for this curing process.
 - Thermal Oxidizer start-up procedure in event of power failure or system operational failure:
 - Same as part (a) above except since the refractory material will hold heat for many hours this should allow for higher temperature restarts.
- Raw LFG will be used to start-up the thermal oxidizer initially, before the remainder of the LFG processing system comes online.
- The main flare (C101) will be utilized during these isolated events until the thermal oxidizer reaches operating temperature at which point the main flare (C101) will be shut down.

- No raw LFG will be diverted directly to the thermal oxidizer during normal operating conditions (at operating temperature) as all raw LFG will run through the entire LFG processing system.
- In the event the LFG processing system needs to be shut down for maintenance or operational issues, a temperature ramp down process is required, at a rate of approximately 200F per hour (similar to the start-up rate), to allow the thermal oxidizer refractory media to gradually cool.

43-354A: Terralinks, Inc. (105 McQuiston Road, Jackson Center, Mercer, PA 16133) for construction and operation of a sand processing plant consisting of a 13.6 MMBtu/hr fluidized bed drier, a 21,000 CFM dry cyclone, a 21,000 CFM baghouse, and associated screens, hoppers and conveyors in the Township of Jackson, **Mercer County**.

Under 25 Pa. Code §§ 127.44 (a) and 127.424 (b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant located in the Township of Jackson, Mercer County. This plan approval will authorize the applicant to construct and operate a sand processing plant consisting of a 13.6 MMBtu/hr fluidized bed drier, a 21,000 CFM dry cyclone, a 21,000 CFM baghouse, and associated screens, hoppers and conveyors.

The facility will be limited to an annual production cap of 100,000 tons per year. Sand is drier in the natural gas fired fluidized bed dryer to a moisture content of 1–3 percent before being mixed with peat and/or fertilizer. Neither peat nor fertilizer will go through the drier. The plant will only operate during the months of March through the end of November. The silt-sized particles (fines) will be controlled by a 21,000 CFM dry cyclone and baghouse. The fines collected in the cyclone will be reintroduced into the final product via an enclosed mixing auger. Fines not collected by the cyclone will be controlled by a 99.9 percent removal efficient baghouse before exhausting to the atmosphere which is considered BAT.

The permittee shall maintain records of the production rate daily, monthly and annual based on a consecutive 12-month rolling period and daily magnehelic readings. Preventative maintenance inspections shall be performed based on manufacturer's recommendation and recorded in an on-site log for 5 years. The permittee shall not exceed 0.04 grains per dry standard cubic foot particulate matter. The Department reserves the right to require exhaust stack testing of any source as necessary to determine compliance with any applicable requirement. The permittee projects facility-wide emission to be: 13.2 TPY PMtotal; 3.14 TPY PM10; 1.4 TPY NOx; 1.1 TPY CO; 0.008 TPY SOx; 0.07 TPY VOC; 0.03 TPY HAPs. The source is not considered major pre-controlled, therefore, CAM is not applicable.

Copies of the application, Department's analysis, and other documents used in the evaluation are available for public inspection between the hours of 8 a.m. and 4 p.m. weekdays at the address listed. To make an appointment, contact Records Management at 814-332-6340, for an appointment.

Persons wishing to provide the Department with additional information to be considered may submit the information in writing. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

Name, address, and telephone number of the person submitting comments; identification of the proposed Plan Approval; No. 34-354A; and concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, 814-332-6940.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

06-05112: WBLF Acquisition Co., LLC—Western Berks Landfill (455 Poplar Neck Road, Birdsboro, PA 19508) for operation of a municipal solid waste landfill in Cumru Township, **Berks County**. The landfill has the potential to emit the following: 10.1 TPY of particulate, 15.8 TPY of NOx, 52.6 TPY of CO, 5.7 TPY of VOC, 24 TPY of SOx and 4.2 TPY of HAPs. The facility is a Title V facility because it is subject to 40 CFR Part 60, Subpart WWW, Standards of Performance for New Stationary Sources. The facility is presently operating under the Plan Approval 06-05112A. The permit will include potential to emit limits. The permit will include monitoring, testing, recordkeeping, work practices and report requirements designed to keep the facility operating within all applicable air quality requirements.

22-05005: NRG Energy Center Paxton, LLC (100 North Tenth Street, Harrisburg, PA 17105-2151) for operation of four (4) boilers and two (2) engines at their steam-electric generation plant in the City of Harrisburg, **Dauphin County**. This is a renewal of the Title V Operating Permit issued in 2005.

36-05017: Conestoga Wood Specialties Corporation (245 Reading Road, East Earl, PA 17519-0518) for operation of their woodworking and surface coating facility in East Earl Township, **Lancaster County**. This is a renewal of the Title V operating permit issued in 2005.

67-05041: Defense Distribution Depot Susquehanna Pennsylvania—DLA Enterprise Support Susquehanna PA—DESSP (S Avenue and 3rd Street, Building 750-1, New Cumberland, PA 17070) for a heating boiler, emergency generators and other operations in Fairview Township, **York County**. This permit is a renewal of the facility's Title V operating permit issued in June 2005.

67-05047: Republic Services of Pennsylvania, LLC—Modern Landfill (4400 Mt. Pisgah Road, York, PA 17406) for their landfill in Fairview Township, **York County**. This permit is a renewal of the facility's Title V Operating pfermit issued in June 2005.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.

10-00285: Waste Management Disposal Services of Pennsylvania Inc.—Northwest Sanitary Landfill (1436 West Sunbury Road, West Sunbury, PA 16061-2934) for re-issuance of a Title V Operating Permit to operate a municipal waste landfill in Clay Township, **Butler County**. The primary emission sources include a municipal waste landfill, a parts washer and an emergency diesel generator.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

09-00108: Bucks County Water & Sewer Authority—Totem Road Pump Station II (910 Haunted Lane, Bensalem, PA 19020) for operation of a packed bed tower wet air scrubber to control odors from the sanitary sewage pump station in Bensalem Township, **Bucks County**. The system will emit 0.048 ton of hydrogen sulfide per year. The permit is for a non-Title V (State Only) facility. The facility's potential to emit criteria pollutants is less than major thresholds; therefore the facility is a Natural Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00081: Johnson Matthey, Inc. (1401 King Road, West Chester, PA 19380-01467) for renewal of a State-only operating permit for their facility in West Whiteland, **Chester County**. The facility's main sources include a metal melt room, a coated wire room (electroplating process), an acid metal-stripping room, two vertical packed tower scrubbers (chlorine scrubbers) and two vertical wet scrubbers (nitric scrubbers). The facility's potential to emit criteria pollutants is less than major thresholds; therefore the facility is a Natural Minor. The facility is a minor source of hazardous air pollutants. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00201: Kirk & Nice Funeral Home and Crematory (80 Stenton Avenue, Plymouth Meeting, PA 19462) for operation of a human crematory unit in Whitmarsh Township, **Montgomery County**. The renewal permit is for a non-Title V (State-only) facility. The major source of air emissions is: one crematory unit. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.

48-00053: Lifetime Doors, Inc. (4111 Kesslerville Road, Easton, PA 18040-6633) a State-only operating permit for manufacturing of wood doors in Easton City, **Northampton County**. The proposed State-only operating permit contains applicable requirements for emissions limitations, monitoring, record keeping, reporting, and

work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

40-00045: Ralmark Co. (P. O. Box 1507, Kingston, PA 18704-0507) for operation of a pulley manufacturing process and paint spray booth at their facility in Kingston Borough, **Luzerne County**. This is a renewal of a State-only operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

67-03031: Pennex Aluminum Co. (50 Community Street, Wellsville, PA 17365) for operation of an aluminum extrusion manufacturing facility in Wellsville Borough, **York County**. The State-only operating permit will contain emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. The facility is subject to 40 CFR Part 63, Subpart RRR - National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

67-03071: PA State Pet Memorial at Golden Lake (210 Andersontown Road, Mechanicsburg, PA 17055) operation of a pet crematory in Monaghan Township, **York County**. This action is a renewal of the State-only operating permit issued in 2005. The permit renewal will contain all of the emission limits and work practice standards along with all monitoring, recordkeeping and reporting requirements from the previous permit to ensure the facility complies with the applicable air quality regulations.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.

10-00362: Endicott Interconnect Technologies, Inc. (373 Saxonburg Boulevard, Saxonburg, PA 16056) for issuance of a Natural Minor Permit to operate a measuring and controlling devices manufacturing plant in Clinton Township, **Butler County**. The facility's major emission sources include one Methyl Chloride Batch Vapor Cleaning Machine with condenser. The source is subject to 40 CFR Part 63; Subpart T. II-VI Inc. sold this unit to the facility.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401

Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields)

may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation-Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Table 1

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.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

65100101 and NPDES Permit No. PA0251887. Britt Energies, Inc. (2450 Philadelphia Street, Indiana, PA 15701). Application for commencement, operation and reclamation of a bituminous surface mine and auger mining, located in Derry Township, **Westmoreland County**, affecting 69.6 acres. Receiving streams: unnamed tributary to McGee Run and Conemaugh River, 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 21, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17100101 and NPDES No. PA0257265. Waroquier Coal Co. (P. O. Box 128, Clearfield, PA 16830), commencement, operation and restoration of a surface mining and augering mine in Lawrence Township, **Clearfield County**, affecting 115.0 acres. Receiving stream(s): Clearfield Creek and Laurel Run classified for the following use(s): Cold Water Fishery and High Quality respectively. There are no potable water supply intakes within 10 miles downstream. Application received: January 13, 2010.

17030120 and NPDES No. PA0243663. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), permit renewal of a bituminous surface mine located in Beccaria and Bigler Townships, **Clearfield County**, affecting 96.3 acres. Receiving stream(s): unnamed tributary to Banian Run classified for the following use(s): Coal Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: January 11, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

22041301R. Ladnar, Inc. (1165 Trail Road, Hummelstown, PA 17036), renewal of an existing anthracite underground mine operation in Williams Township, **Dauphin County**, affecting 3.0 acres, receiving stream: none. Application received: January 26, 2010.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments,

suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, Telephone 570-826-2511.

E58-288. Hop Bottom Borough, P. O. Box 75, Hop Bottom, PA 18824, in Hop Bottom Borough, **Susquehanna County**, U.S. Army Corps of Engineers, Baltimore District.

To: construct and maintain a channel protection project in 1,500 linear feet, Martins Creek (CWF, MF) impacting approximately 540 linear feet of stream with work consisting of 1 J-hook vane, 1 cross-vane and 2 single vane arm instream structures for sediment transportation within the stream; large rock toe protection; and a floodplain vegetated step in Martin's Creek. The project is approximately 400 linear feet in length in two locations which are separated by approximately 800 linear feet. The project is located on the south side of State Route 0167 approximately 0.1 mile northeast of its intersection with U.S. Route 001.1 (Hope Bottom, PA Quadrangle Latitude: 41° 42' 16"; Longitude: -75° 46' 01") and ends on the west side of Greenwood Street approximately 0.25 mile northwest of its intersection with State Route 0167 (Hop Bottom, PA Quadrangle Latitude: 41° 42' 16"; Longitude: 75° 45' 56") in Hop Bottom Borough, Susquehanna County.

E52-218. Fawn Lake Forest Association, 113 Bay Center Circle, Hawley, PA 18428, in Lackawaxen, **Pike County**, U.S. Army Corps of Engineers, Baltimore District.

To: construct and maintain a beach expansion that is 300 feet long by 50' wide at the coast of Westcolang Lake. The Project is located on south side of Wescolang Road approximately 1.80 miles northeast with its intersection

of State Route 0590 in Lackawaxen Township, Pike County. (Narrowsburg, PA Quadrangle Latitude: 41° 31' 00"; Longitude: 75° 2' 51").

E45-535. John E. Fry, 19 Dexter Drive North, Basking Ridge, NJ 07920, in Tobyhanna, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

General project description. To: construct and maintain a driveway crossing of tributary to Tunkhannock Creek consisting of a 36-inch diameter pipe depressed 12 inches below the existing streambed elevation and to construct and maintain a house in the floodway of the same tributary. The project is located within the residential development at Lake Naomi, Lot 37, Unit 1, Section 12, 130 feet West of the intersection of Long View Lane and Laurel Lane. (Pocono Pines, PA Quadrangle Latitude: 41° 06' 49"; Longitude: 75° 26' 21").

E66-145. Mehoopany Creek Watershed Association, P. O. Box 73, Mehoopany, PA 18629, in Forkston, **Wyoming County**, U.S. Army Corps of Engineers, Baltimore District.

To: construct and maintain a 5,300-foot long stream channel restoration project in Mehoopany Creek (CWF, MF) consisting of the following work: 6 rock cross vanes with excavated scour pools, 3 rock groin/channel plugs, 8 truncated rock vanes, 3 buried interlocked log groins, 7 boulder bank revetments, graded bankfull floodplain areas, excavation and backfill in various areas of the channel and embankments, and re-establishing the width and alignment of the historical stream channel at the upstream end of the the project. The project begins approximately 320 feet upstream from where Mehoopany Creek (CWF, MF) intersects Root Hollow Road Bridge and extends upstream from that point for approximately 5,300 linear feet. (Jenningsville, PA Quadrangle Latitude: 41° 31' 15"; Longitude: 75° 07' 36").

E58-287. Cabot Oil and Gas Corporation, 5 Penn Center West, Suite 401, Pittsburgh, PA 15276, in Brooklyn, Dimock & Springville Township, **Susquehanna County**, U.S. Army Corps of Engineers, Baltimore District.

To: construct and maintain 18 water obstructions and encroachments in and along Meshoppen Creek (CWF) and tributaries thereof, impacting approximately 50 linear feet of intermittent streams, and 1,280 linear feet of wetlands (PEM, PSS, POW and PFO). This work is associated with Cabot Oil & Gas Susquehanna Project Zone 4 which includes the installation of 41,817 linear feet of pipeline and access roads for natural gas well drilling pads. The project begins northwest approximately 4.50 miles from the intersection of State Route 0167 and U.S. Route 0011 on the west side of Balley Road in Brooklyn Township, Susquehanna County, and runs southwest ending northwest approximately 6.20 miles from the intersection of State Route 0374 and U.S. Route 0011 on the north side of E1 Johnson Road in Springville Township, Susquehanna County. (Hop Bottom and Springville, PA Quadrangle Latitude: 41° 44' 26"; Longitude: 41° 40' 9").

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E08-461. Hawg Hauling & Disposal, LLC, 171 Locust Avenue Extension, P. O. Box 537, Mt. Morris, PA 15349. Contractors yard in Athens Township, **Bradford County**, ACOE Baltimore District (Sayre, PA. Quadrangle N: 13.4" inches; W: 2.3" inches).

To: place and maintain fill in 0.22 acres of a 0.22 acre palustrine emergent wetland system for the purpose of constructing a contractor's yard for maintaining and parking up to 50 water tanker trailers, including parking for employees. This 14.26-acre parcel was previously the 'Perfection Oil' facility. The site is located approximately 1.0 miles north of the SR 0220/SR 0199 intersection, on the southeast side of SR 0199.

E14-528. Anadarko E & P Company, LP, P. O. Box 1330, Houston, TX 77251-1330. McCloskey Road Hayes Run Crossings, in Curtin Township, **Centre County**, ACOE Baltimore District (Snow Shoe SE, PA Quadrangle N: 41° 4' 45"; W: 77° 47' 17").

To: construct and maintain: twin 24-inch 50-foot long smooth bore CPP culverts with the associated clean rock fill and R-3 inlet/outlet protection, depressed six inches into the streambed in Hayes Run and in an unnamed tributary to Hayes Run; both sites are presently ford crossings, located 3/4 mile southeast on McCloskey Road from Orviston Mountain Road. The projects propose to impact 60 linear feet each of Hayes Run and in an unnamed tributary to Hayes Run, which are both classified as Exceptional Value streams.

E14-530. Pennsylvania Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 2006, Section A01 Bridge Replacement and Stream Relocation in Harris Township, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle Latitude: 40° 47' 47"; Longitude 77° 45' 38").

The applicant proposes to replace a single span, single lane I-beam bridge with a single span, two lane concrete box culvert over an Unnamed Tributary to Cedar Run (also known as Mackey Run). The proposed box culvert will be located approximately 150 feet north of the existing structure along the existing roadway alignment. Approximately 250 feet of stream will be relocated and will result in a loss of approximately 84 feet of stream. The stream relocation will eliminate two 90-degree curves as well as two culverts used to access the adjacent property. The stream relocation will utilize a natural stream design featuring a low flow channel and log structures to provide aquatic habitat and stream stability. The Unnamed Tributary to Cedar Run is classified as a Cold Water Fishery by Pa. Code, Chapter 93. This project does not propose to impact any jurisdictional wetlands.

E18-452. Pennsylvania Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 2004, Section A07 Bridge Replacement in Lamar Township, **Clinton County**, ACOE Baltimore District (Mill Hall, PA Quadrangle Latitude: 40° 04' 46"; Longitude 77° 28' 46").

The applicant proposes to replace a single lane, two span, open grate steel girder bridge with a two lane, two span, pre-stressed concrete adjacent box beam bridge. The existing structure has a total span of 149 ft, skew of 58°, underclearance of 10.5 ft, and roadway width of 15.4 ft. The proposed structure has a total span of 162 ft, skew of 60°, underclearance of 10.5 ft, and a roadway width of 32 ft. Minor approach work will be required to account for a three feet horizontal alignment shift to the west. The proposed bridge is located over Fishing Creek. Fishing

Creek is classified as a High Quality-Cold Water Fishery by PA Code, Chapter 93. This project proposes to temporarily impact 0.02 acres of jurisdictional wetlands.

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

E42-348, Pennsylvania General Energy Company, LLC, 120 Market Street, Warren, PA 16365. Scaffold Lick Road Wetland Project, in Liberty Township, **McKean County**, ACOE Pittsburgh District (Keating Summit, PA Quadrangle N: 41° 42' 32.43"; W: 78° 13' 32.84").

The applicant is proposing to fill 0.2 acres of exceptional value wetlands with a geotextile layer and rock (for approximately 10 years) west and adjacent to the intersection of Scaffold Lick Road and Rock Run Road in Liberty Township, **McKean County** for roadway widening to allow access to Pennsylvania General Energy natural gas Well 2388 (DEP# 37-083-54476) and future gas well development. The applicant proposes a payment to the PA Wetland Replacement Fund and proposes to remove the fill when the widened road is no longer needed.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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>
PAS228302	Industrial Timber and Lumber Company 23925 Commerce Park Beachwood, OH 44122	Hickory Township Forest County	East Hickory Creek (Outfalls 001, 002, 003 and 005) and an unnamed tributary to East Hickory Creek (Outfall 004) 16-F	Y
PA0100510	Greenville Metals, Inc. 99 Crestview Drive Extension Transfer, PA 15154-1709	Pymatuning Township Mercer County	Unnamed tributaries to Shenango River 20-A	Y
PA0222798	Westline Inn, Inc. P. O. Box 7156 Mount Jewett, PA 16740-7156	Lafayette Township McKean County	Unnamed tributary to Kinzua Creek 16-B	Y
PA0020052	Eldred Borough Municipal Authority 3 Bennett Street Eldred, PA 16731	Eldred Borough McKean County	Allegheny River 16-C	Y

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

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

NPDES Permit No. PA0026123, Sewage, **Columbia Municipal Authority**, 308 Locust Street, Columbia, PA 17512-1121. This proposed facility is located in Columbia Borough, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Susquehanna River in Watershed 7-G.

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

NPDES Permit No. PA0002976, Industrial Waste, **Zippo Manufacturing Company**, 33 Barbour Street, Bradford, PA 16701-1973. This proposed facility is located in Bradford Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated industrial waste, non-contact cooling water and stormwater.

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

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

WQM Permit No. 3909404, Sewerage, **Lehigh Carbon Community College**, 4525 Education Park Drive, Schneeksville, PA 18078. This proposed facility is located in North Whitehall Township, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for construction of sewage treatment plant improvements.

WQM Permit No. WQG022216, Sewerage, **Factoryville Borough and Clinton Township Joint Municipal Sewer Authority**, P. O. Box 277, Factoryville, PA 18419. This proposed facility is located in Factoryville Borough, **Wyoming County**.

Description of Proposed Action/Activity: Construction of a pump station and force main to convey wastewater from Keystone College to an existing sewer on College Avenue, with treatment provided at the Factoryville Borough and Clinton Township Joint Municipal Sewer Authority plant. Upon completion of this project the existing treatment plant at Keystone College will be removed from service.

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

WQM Permit No. 0609403, Sewage, **Maxatawny Township Municipal Authority**, 127 Quarry Road, Suite 1, Kutztown, PA 19530. This proposed facility is located in Maxatawny and Richmond Townships, **Berks County**.

Description of Proposed Action/Activity: Permit approval for the construction of sewerage facilities consisting of: collection system made up by six, eight and ten-inch diameter gravity sewers, low-pressure pumping systems along with two duplex submersible pump stations, and associated equipment and force mains. Construction authorized under permit cannot begin until the water quality management permit for the Maxatawny wastewater treatment plant is obtained from the Department of Environmental Protection.

WQM Permit No. 0509201, Industrial Waste, **Pennsylvania Fish & Boat Commission**, 450 Robison Lane, Bellefonte Lane, Bellefonte, PA 16823-9616. This proposed facility is located in East St. Clair Township, **Bedford County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of industrial facilities consisting of: construction of system to treat hatchery semi-recirculating aquaculture flows and effluent prior to discharge to channel to Dunning Creek, consisting of microscreening, biofiltration, and clarification.

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

WQM Permit No. 4910401, Sewerage [SIC 4952], **Mount Carmel Municipal Authority**, 137 West 4th Street, Suite 4, P.O. Box 365, Mount Carmel, PA 17851-0365. This proposed facility is located in Mount Carmel Township, **Northumberland County**.

Description of Proposed Action/Activity: Construction of a suction lift pump station and force main to provide SEEDCO Industrial Park access to public sewers.

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

WQM Permit No. WQG018733, Sewerage, **Michael T. Moore**, 6050 Ruhl Road, Fairview, PA 16415. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single Residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

Allegheny County Conservation District, Lexington Technology Park, Building 1, Suite 102, Pittsburgh, PA 15208, (412-241-7645).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056509005	Allegheny County Department of Public Works 501 County Office Building Pittsburgh, PA 15219	Allegheny	City of McKeesport	Monongahela River WWF

Westmoreland County Conservation District, 218 Donohoe Road, Greensburg, PA 15601, (724-837-5271).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056509004	Ted Decesare Patrisa Corporation 4241 William Penn Highway Murrysville, PA 15668	Westmoreland	Murrysville	Steeles Run HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)

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

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
City of Pottsville Schuylkill County	PAG2005409015	KM Real Estate, LP 2019 Mountain Pine Drive Mechanicsburg, PA 17050 and Pyramid Construction Services, Inc. 4425 Valley Road Suite 100 Box 249 Enola, PA 17025	West Branch Schuylkill River CWF, MF	Schuylkill County Conservation District 570-622-3742
Lancaster City Manheim Township Lancaster County	PAG2003609051	Franklin & Marshall College P. O. Box 3003 Lancaster, PA 17604-3003	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Lancaster City Manheim Township Lancaster County	PAG2003609050	LCSWMA 1299 Harrisburg Pike P. O. Box 4425 Lancaster, PA 17604-4425	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Lancaster City Manheim Township Lancaster County	PAG2003609049	Norfolk Southern Railway Company 110 Franklin Road SE Box 13 Roanoke, VA 24042-0013	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361
Conewago Township Dauphin County	PAG2002209032	David L. Shaau Hor-Shaa, Inc. 31 Krall Road Myerstown, PA 17067	Hoffer Creek TSF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Lower Swatara Township Dauphin County	PAG2002209034	Ronald Paul Lower Swatara Township 1499 Spring Garden Drive Middletown, PA 17057	Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100
Derry Township Mifflin County	PAG2004410001	DGB Properties, LP c/o Michael Glass 701 Creekside Lane Lititz, PA 17543	UNT to Kish Creek TSF	Mifflin County Conservation District 20 Windmill Hill No. 4 Burnham, PA 17009 717-248-4695
York Township York County	PAG2006706085-1	TTMT, LLC 3065 Honey Valley Road Dallastown, PA 17313	Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Springettsbury Township York County	PAG2006704037-R	Rockview, LLC KCH Holding, Inc. 227 Granite Run Drive Suite 100 Lancaster, PA 17601	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430

<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>
Berwick, Oxford and Conewago Townships Adams County Penn Township Hanover Borough York County	PAG2000109009	Steven A. Moore, P. E. Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103-6183	UNTs to South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Oxford Township Adams County	PAG2000110001	John J. Burdis Hanover Toyota 1830 Carlisle Pike Hanover, PA 17331 and Gerald Richardson, President Hanover Building Systems, Inc. 6929 York Road Abbottstown, PA 17301	UNT to South Branch Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Washington Township Berks County	PAG2000609060	Mark D. Stinley 391 Weinstein Road Bechtelsville, PA 19505	Middle Creek Swamp Creek Perkiomen Creek TSF-MF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
Dublin Township Fulton County	PAG2002909005	Department of Transportation Engineering District 9-0 1620 North Juniata Street Hollidaysburg, PA 16648	Fortune Teller Creek- UNT to Fortune Teller Creek CWF	Fulton County Conservation District 216 North Second Street McConnellsburg, PA 17233 717-485-3547 Ext. 122
South Lebanon Township Lebanon County	PAG2003809001	Earl Hess Homebuilders 15 Meadow Lane Lancaster, PA 17601	Quittapahilla Creek TSF-MF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-272-3908 Ext. 4
Wyalusing Township Bradford County	PAG2000810002	Ray Fleming Wyalusing Area School District 115 Main Street Wyalusing, PA 18853	Susquehanna River WWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539, Ext. 6
Harris Township Centre County	PAG2001409010	Eric Stashak Kaywood North Subdivision 328 Government Place Williamsport, PA 17701	Cedar Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Harris Township Centre County	PAG2001409013	Olga Levi Levi Homes Rockey Farm Subdivision 196 Potters Lane Port Matilda, PA 16870	UNT to Spring Creek CWF Cedar Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817

<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>
Ferguson Township Centre County	PAG2001409014	Ed Poprick Ferguson Township Elementary School 131 West Nittany Avenue State College, PA 16801	Slab Cabin Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Patton Township Centre County	PAG2001409015	Scott Thigpen Chick-fil-A State College 5200 Buffington Road Atlanta, GA 30349	Susquehanna River Basin CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
College Township Centre County	PAG2001410001	Richard Swanger Marypenn Management, LLP 1375 Martin Street State College, PA 16803	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Scott Township Columbia County	PAG2001909008	Larry L. Krum 500 Tower Road Bloomsburg, PA 17815	Susquehanna River CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310 Ext. 102
Muncy Township and Muncy Creek Township Lycoming County	PAG2004108001 (1)	Brent Fish Fishlips, LLC 1868 Eat Third Street Williamsport, PA 17701	Wolf Run CWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
East Buffalo Township Union County	PAG2006010003	James D. Hostetler Bucknell University Physical Plant Lewisburg, PA 17837	UNT to Miller Run CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Westmoreland County East Huntingdon Township	PAG2006509013	Greenridge Reclamation, LLC 234 Landfill Road Scottdale, PA 15683	UNT to Stauffer Run, Buffalo Run and Sewickley Creek WWF	Westmoreland County Conservation District 724-837-5271
Westmoreland County Allegheny Township	PAG2006509019	Allegheny Pointe Limited Partnership Brian McGeady 9349 Waterstone Boulevard Cincinnati, OH 45249	Pine Run WWF	Westmoreland County Conservation District 724-837-5271
Westmoreland County Derry Township	PAG2006509021	Derry Area School District Joseph Koluder, Jr. 982 North Chestnut Street Extension Derry, PA 15627-7600	Tributary to McGee McGee Run CWF	Westmoreland County Conservation District 724-837-5271
Westmoreland County Rostraver Township	PAG2006509022	Mon Valley Christian and Missionary Alliance Church 636 McKean Avenue Charleroi, PA 15022	Pollock Run WWF	Westmoreland County Conservation District 724-837-5271

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Westmoreland County Derry Township	PAG2006509024	IMI Development, LLC Tom Inselmini 142 Church Street Bradenville, PA 15620	Loyalhanna Creek WWF	Westmoreland County Conservation District 724-837-5271
Westmoreland County Washington Township	PAG2006509028	Municipal Authority of Washington Township 283 Pine Run Church Road Apollo, PA 15613	Pine Run WWF	Westmoreland County Conservation District 724-837-5271
Westmoreland County Unity Township	PAG2006509030	Jada View, LLC Tony Ferry 1725 Hunters Path Lane Pittsburgh, PA 15241	Tributary to Fourmile Run TSF	Westmoreland County Conservation District 724-837-5271
Sugarcreek Borough Venango County	PAG02006110001	David Mastrostefano Sheetz, Inc. 5700 Sixth Avenue Altoona, PA 16602	Allegheny River CWF	Venango County Conservation District 814-676-2832

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
York County Spring Garden Township	PAR213542	Glen-Gery Corporation— York Plant 1090 East Boundary Avenue York, PA 17405-0227	UNT Codorus Creek WWF 7H	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4800
Lancaster County East Hempfield Township	PAR123528	The Hershey Company, Y & S Candies 400 Running Pump Road Lancaster, PA 17603-2269	Brubaker Run WWF 7J	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4800

General Permit Type—PAG-4

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Perry County Rye Township	PAG043655	David Thomas 1458 Valley Road Marysville, PA 17053	UNT to Fishing Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Franklin County Fannett Township	PAG043524	Alice Meloy 22448 Path Valley Road Doylesburg, PA 17219	Burns Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Fairview Township Erie County	PAG049558	Michael T. Moore 6050 Ruhl Road Fairview, PA 16415	Trout Run 15	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Fox Township Elk County	PAG049563	Charles A. and Vondalee Swanson 114 Ridge Road Kersey, PA 15846	Little Toby Creek 17-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

General Permit Type—PAG-5

Facility Location:

Municipality & County	Permit No.	Applicant Name & Address	Receiving Water/Use	Contact Office & Phone No.
City of Washington Washington County	PAG056241	Coen Oil Company P. O. Box 34 1045 West Chestnut Street Washington, PA 15301	Chartiers Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
McDonald Borough Washington County	PAG056242	Mike's Service Mart 222 State Route 980 McDonald, PA 15057	Robinson Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

STATE CONSERVATION COMMISSION

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

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

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

Agricultural Operation Name and Address	County	Total Acres	Animal Equivalent Units	Animal Type	Special Protection Waters (HQ or EV or NA)	Approved or Disapproved
J. Earl Breneman Franklin View Farm 1700 Prospect Farm Washington Borough, PA 17582	Lancaster	450	1,216.8	Dairy Broilers	NA	Approved
Geoffery Rohrer Meadow Lane Dairy 3392 Blue Rock Road Lancaster, PA 17603	Lancaster	945.5	1,136.86	Dairy Broilers	NA	Approved
Hershey Ag/ Lost Creek Farm 586 Benner Road McAlisterville, PA 17049	Juniata	151	982.5	Swine	NA	Approved/ Update to Act 38

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 pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 0909521, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010-3402
Township	Bristol
County	Bucks
Type of Facility	PWS
Consulting Engineer	CET Engineering Service, Inc. 1240 North Mountain Road Harrisburg, PA 17112
Permit to Construct Issued	November 02, 2009

Permit No. 0908511, Public Water Supply.

Applicant	Borough of Quakertown 35 North Third Street P. O. Box 727 Quakertown, PA 18951
Township	Richland
County	Bucks
Type of Facility	PWS

Consulting Engineer	CMX 200 State Highway 9 P. O. Box 900 Manalapan, NJ 07726
Permit to Construct Issued	October 02, 2008

Permit No. 1509505, Public Water Supply.

Applicant	Pennsylvania America Water Company 800 West Hersheypark Drive Hershey, PA 17033
Township	West Caln
County	Chester
Type of Facility	PWS
Consulting Engineer	Gannett Fleming, Inc. 650 Park Avenue King of Prussia, PA 19406
Permit to Construct Issued	March 27, 2009

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

Permit No. 3390090, Public Water Supply.

Applicant	Green Acres Limited Partnership
Township or Borough	Upper Macungie Township Lehigh County
Responsible Official	Tim Buechel, Park Manager Green Acres Mobile Home Park 8785 Turkey Ridge Road Breinigsville, PA 18031 610-398-2226
Type of Facility	Community Water System
Permit Issuance Date	January 25, 2010
Description of Action	Operations permit issued for incorporation of larger booster pumps installed at Green Acres Mobile Home Park.

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

Operations Permit issued to **Bedford Township Municipal Authority**, 4050037, Bedford Township, **Bedford County** on 1/27/2010 for the operation of facilities approved under Construction Permit No. 0508503 MA.

Operations Permit issued to **United Water Pennsylvania**, 7210054, Upper Allen Township, **Cumberland County** on 2/2/2010 for the operation of facilities approved under Construction Permit No. 2109502 MA.

Operations Permit issued to **East Petersburg Borough**, 7360135, East Petersburg Borough, **Lancaster County** on 2/2/2010 for the operation of facilities approved under Construction Permit No. 3609517 MA.

Operations Permit issued to **York Springs Municipal Authority**, 7010030, Huntingdon Township, **Adams County** on 2/2/2010 for the operation of facilities approved under Construction Permit No. 0109509 MA.

Operations Permit issued to **Triple Crown Corporation**, 7220070, Susquehanna Township, **Dauphin**

County on 2/2/2010 for the operation of facilities approved under Construction Permit No. 7220070.

Operations Permit issued to **Municipal Authority of the Borough of Lewistown**, 4440010, Armagh Township, **Mifflin County** on 2/2/2010 for the operation of facilities approved under Construction Permit No. 4407501.

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

Permit No. 5909501, Construction Public Water Supply.

Applicant **Mansfield University**
 Township or Borough Mansfield Borough
 County **Tioga**
 Responsible Official Richard Nelson
 Mansfield University
 Brooks Maintenance Building
 115 Sherwood Street
 Mansfield, PA 16933
 Type of Facility Public Water Supply—
 Construction
 Consulting Engineer Mark Glenn, P. E.
 Gwin, Dobson & Foreman, Inc.
 3121 Fairway Drive
 Altoona, PA 16602
 Permit Issued Date January 27, 2010
 Description of Action Construction of a Pall Aria AP-4
 continuous microfiltration plant,
 rehabilitation of the one million
 gallon reservoir, installation of a
 1.67 million gallon tank
 (alternate bid) and upgrading of
 Well Nos. 1 and 3.

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

Permit No. 1109503, Public Water Supply.

Applicant **Nanty Glo Water Authority**
 1015 First Street, Suite 1
 Nanty Glo, PA 15943
 Borough or Township Cambria Township and Nanty
 Glo Borough
 County **Cambria**
 Type of Facility Water treatment system
 Consulting Engineer Stiffler, McGraw &
 Associates, Inc.
 19 North Juniata Street
 P. O. Box 462
 Hollidaysburg, PA 16648
 Permit to Construct
 Issued January 19, 2010

Permit No. 1109502, Public Water Supply.

Applicant **Greater Johnstown
 Water Authority**
 640 Franklin Street
 P. O. Box 1407
 Johnstown, PA 15907
 Borough or Township Upper Yoder Township
 County **Cambria**

Type of Facility MAWC interconnection project
 Consulting Engineer Gibson-Thomas
 Engineering Co., Inc.
 1004 Ligonier Street
 P. O. Box 853
 Latrobe, PA 15650

Permit to Construct
 Issued January 27, 2010

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

Operations Permit issued to **JBT Petroleum, Inc.**, d/b/a Countryside Mobile Home Park, PWSID No. 6200028, East Fairfield Township, **Crawford County**, January 12, 2010, for the operation of the newly constructed/modified water treatment system for Countryside MHP, as approved under construction permit 2008502, issued July 13, 2009.

Transfer and Consolidation of Operations Permits issued to PA American Water Company, PWSID No. 5100069, Saxonburg Borough, Clinton and Jefferson Townships, Butler County, January 15, 2010, by operations permit no. 1090503-T1. Permit 1090503-T1 covers operation of water supply facilities including sources, raw water tank; transmission main; pH adjustment; gas chlorination; booster pump station; distribution system and 3 finished water storage tanks as identified and approved by former Saxonburg Permit Nos. 1090503, issued November 22, 1991; 1078502, issued November 30, 1978; 1094506, issued June 4, 1996 and 1094506-MA1, issued October 28, 2002. This action due to recent acquisition of the Saxonburg public water supply system.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location: Stamey Hill Road in Quincy Township, Franklin County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Quincy Township	7575 Mentzer Gap Road Waynesboro, PA 17268	Franklin County

Plan Description: The approved plan, entitled Stamey Hill Sewer Extension, provides for a sewer extension to serve 10 existing residential dwellings and 2 vacant lots. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Glen Rock Borough	P. O. Box 116, Glen Rock, PA 17327	York

Plan Description: The approved plan provides for the an upgrade of the existing 0.6 MGD Glen Rock Borough sewage treatment plant to a three phase nitrogen removal treatment process to satisfy the nutrient reduction requirements of the Chesapeake Bay Tributary Strategy. The Plan also proposes to construct new sludge digesters,

the conversion of the existing aerobic digesters into anoxic zones, modifications of the existing aeration basins and other facilities improvements. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location: The proposed Timber Ridge development is located on the right and left side of the intersection of Royer Road, Mines Road and Deafy Hill Road in Huston and Woodbury Township, Blair County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Huston Township	1538 Sportsman Road Martinsburg, PA 16662	Blair County
Woodbury Township	6385 Clover Creek Road Williamsburg, PA 16693	Blair County

Plan Description: The plan was disapproved because the hydrogeologic study contained in the planning module documents submitted to the Department of Environmental Protection, and required by 25 Pa. Code Chapter 71, Section 71.62(c), does not adequately assess the impact of the proposed on-lot sewage disposal systems on the groundwater.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property

and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

1995 Highland Avenue Remediation Site, 1995 Highland Avenue, Bethlehem Township, Northampton County. Andrew D. Hublely, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 has submitted a Final Report (on behalf of his client, J. G. Petrucci Co., Inc., 171 State Route 173, Suite 201, Asbury, NJ 08802), concerning the remediation of soil found to have been impacted by diesel fuel as a result of a release from a ruptured saddle tank on a tractor trailer at the site. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Morning Call* on January 9, 2010.

The Hideout, Lot 4510 Fairway Drive, Lake Township, Wayne County. Paul Martino and William F. Schmidt, Pennoni Associates, Inc., 3001 Market Street, One Drexel Plaza, Philadelphia, PA 19104-2897 have submitted a Final Report (on behalf of their client Association of Property Owners of the Hideout, Inc., The Hideout, Box 640, Lake Ariel, PA 18436), concerning the remediation of soil and groundwater found to have been impacted by fuel oil as a result of a release from a 4,000-gallon, unregulated heating oil tank during the tank's removal process. The report documented attainment of the Residential Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Wayne Independent* on December 31, 2009.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

1215 Federal Street, City of Pittsburgh, **Allegheny County.** American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668 on behalf of Andrew Stewart, The Silk and Stewart Development Group, 5812 Darlington Road, Pittsburgh, PA 15217 has submitted a Risk Assessment/Cleanup Plan concerning remediation of site soil and groundwater contaminated with chlorinated solvents and other organics. The notice was published in the *Pittsburgh Post-Gazette* on January 27, 2010.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Mastracola and Beltrante Residence, Swatara Township, Lebanon County. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Robert Mastracola and Regina Beltrante, 325 Old Route

22, Fredericksburg, PA 17206, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil released from an aboveground storage tank. The report is intended to document remediation of the site to meet the Residential Statewide Health standard.

Stanger Residence, Swatara Township, **Dauphin County**. Herbert, Rowland & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Michael and Deborah Stranger, 910 Cardinal Drive, Harrisburg, PA 17111, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil released from an aboveground storage tank. The report was submitted within 90 days of the release. The site, which will remain residential, will be remediated to the Residential Statewide Health standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Colonial Pipeline Brandywine Station, Bethel Township, **Delaware County**. Kathy Fox, EA Engineering, Science and Technology, Inc., 1319 Woodbridge Station Way, Suite 200, Edgewood, MD 21040 on behalf of John Fago, Colonial Pipeline Company, 696 Mantua Grove Road, West Deptford, NJ 08066 has submitted a Remedial Investigation/Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, pah's. The Remedial Investigation/Final Report was approved by the Department of Environmental Protection on January 7, 2010.

Quici Residence, City of Philadelphia **Philadelphia County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Gloria Quici, 5706 Florence Avenue, Philadelphia, PA 19143 has submitted a 90-day Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 6, 2010.

Chester Stadium, City of Chester **Delaware County**. Steve Johnson, Weston Solutions, Inc., 1400 Weston Way, West Chester, PA 19380, Dan Moran, TN Ward Company, 129 Coulter Avenue, Ardmore, PA 19003 on behalf of Michael Hare, FC Pennsylvania Stadium, LLC, 322 A Street, Suite 300, Wilmington, DE 19801 has submitted a Remedial Investigation Report concerning the remediation of site groundwater contaminated with inorganics. The Remedial Investigation Report was approved by the Department of Environmental Protection on January 5, 2010.

Rossi Residence, Abington Township **Montgomery County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Donald Rossi, 1341 Red Rambler Road, Rydal, PA 19034 has submitted a 90-day Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The 90-day Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on December 21, 2009.

Crispo Property, Horsham Township **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Christine Dimmig, State Farm Insurance Company, P.O. Box 13, Concordville, PA 19331 on behalf of Francis and Judith Crispo, 302 Park Rode, Ambler, PA 19002 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 6, 2010.

Glasgow Beach Street Asphalt Plant, City of Philadelphia, **Philadelphia County**. Craig Herr, RT Environmental Service, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Brian Chabak, Glasgow, Inc., P. O. Box 1089, Glenside, PA 19038 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with pah's. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on December 31, 2009.

Stove Works Facility, Hatboro Township **Montgomery County**. James F. Mullan, P.E., and Wesley P. Fitchett, P.G. Hocage Consultants, Inc., Engineering and Environmental Services, 987 Haddon Avenue, Collingswood, NJ 08108 on behalf of David Kilcoyne Apple Construction, Inc., 107 Lark Drive, Holland PA 18966 has submitted a Remedial Investigation/Risk Assessment Report concerning the remediation of site groundwater contaminated with inorganics. The Remedial Investigation/Risk Assessment Report was approved by the Department of Environmental Protection on January 19, 2010.

Exelon Power Southwark Generation Station, City of Philadelphia, **Philadelphia County**. David Kistner, URS Corporation, 335 Commerce Drive, Fort Washington, PA 19034, Dale David, Exelon Generation Company, 3901 North Delaware Avenue, Philadelphia, PA 19137 on behalf of Michael Fluehr, Delaware Avenue Enterprises, 3301 South Columbus Boulevard, Philadelphia, PA 19148 has submitted a Final Report concerning the remediation of site soil contaminated with no 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 5, 2010.

Thomas Shallcross School, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger, Kleingelder, Inc., 180 Sherre Boulevard, Suite 3800, Exton, PA 919341 on behalf of Francie Locke, School District of Philadelphia, 440 North Broad Street, Philadelphia, PA 19130 has submitted a Final Report concerning the remediation of site soil contaminated with pah's. The Final Report demonstrated attainment of the Site Specific Standard and was approved by the Department of Environmental Protection on January 12, 2010.

Blue Grass Plaza, City of Philadelphia, **Philadelphia County**. Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401, on behalf of Lennard Katz, Blue Grass Mall Associates, 45-17 Marathon Parkway, Little Neck, NY 11362 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Final Report did not demonstrate attainment of the Site Specific Standard and was disapproved by the Department of Environmental Protection on January 21, 2010.

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Kuzmiak Property, 54 Degrot Road, Palmyra Township, **Wayne County**. Dean Cruciani and Martin Gilgallon, Pennsylvania Tectonics, Inc., 826 Main Street, Peckville, PA 18452 submitted a Final Report (on behalf of their client, Michael Kuzmiak, 1457 Purdy Turnpike,

Hawley, PA 18428), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of minor spills from an unregulated, 275-gallon heating oil aboveground storage tank. The report documented attainment of the Statewide Health Standard for soils and was approved on January 28, 2010.

1995 Highland Avenue Remediation Site, 1995 Highland Avenue, Bethlehem Township, **Northampton County**. Andrew D. Hubley, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 submitted a Final Report (on behalf of his client, J. G. Petrucci Co., Inc., 171 State Route 173, Suite 201, Asbury, NJ 08802), concerning the remediation of soil found to have been impacted by diesel fuel as a result of a release from a ruptured saddle tank on a tractor trailer at the site. The report documented attainment of the Residential Statewide Health Standard for soils and was approved on January 28, 2010.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Priefert Logistics I-81 Diesel Fuel Spill, Southampton Township, **Franklin County**. Taylor Geo-Services, Inc., 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073, on behalf of Priefert Logistics, 2630 South Jefferson, Mount Pleasant, TX 75455 and Department of Transportation Maintenance District 8-3, 619 North Franklin Street, Chambersburg, PA 17201, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel from a ruptured saddle tank. The Final Report demonstrated attainment of the Residential Statewide Health standard, and was approved by the Department of Environmental Protection on January 26, 2010.

Interstate Container Facility, City of Reading, **Berks County**. Alternative Environmental Solutions, 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of Interstate Container, LLC, 100 Grace Street, P. O. Box 317, Reading, PA 19603, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils contaminated with No. 4 and No. 6 fuel oil from underground storage tanks. The combined report demonstrated attainment of the Site-Specific standard for soils, and was approved by the Department of Environmental Protection on January 28, 2010. A separate Final Report was submitted concerning remediation of groundwater contaminated with No. 4 and No. 6 fuel oils. The report demonstrated attainment of the Residential Statewide Health standard for groundwater, and was approved by the Department of Environmental Protection on January 28, 2010.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Rishel Truck Accident Crossroads Drive, Kelly Township, **Union County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Arlin Rishel, 2538 New Columbia Road, New Columbia, PA 17856 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 4, 2010

HAZARDOUS WASTE TRANSPORTER LICENSE**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.***Hazardous Waste Transporter License Issued*

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Bestrans, Inc., 931 Red Toad Road, North East, MD 21901. **License No. PA-AH 0766.** Effective December 2, 2009.

Freeport Transport Industries, Inc., 1200 Butler Road, Drawer A, Freeport, PA 16229. **License No. PA-AH 0767.** Effective December 3, 2009.

Three Rivers Trucking, Inc., 3250 Country Road 427, Waterloo, IN 46793. **License No. PA-AH 0769.** Effective December 29, 2009.

Goulet Trucking, Inc., P. O. Box 259, South Deerfield, MA 01373. **License No. PA-AH 0768.** Effective December 30, 2009.

Hazardous Waste Transporter License Renewed

Lacy's Express, Inc., P. O. Box 130, Pedricktown, NJ 08067. **License No. PA-AH 0243.** Effective September 30, 2009.

Superior Carriers, Inc., 711 Jorie Boulevard, Suite 101 North, Oak Brook, IL 60523. **License No. PA-AH 0686.** Effective September 30, 2009.

Set Environmental, Inc., 450 Sumac Road, Wheeling, IL 60090. **License No. PA-AH S226.** Effective October 1, 2009.

RSO, Inc., P. O. Box 1450, Laurel, MD 20725-1450. **License No. PA-AH 0578.** Effective October 1, 2009.

Emerald Environmental Services, Inc., 1621 St Clair Avenue, Kent, OH 44240. **License No. PA-AH 0641.** Effective October 1, 2009.

Environmental Industrial Services Corporation, 288 Oak Grove Road, Swedesboro, NJ 08085. **License No. PA-AH 0457.** Effective October 6, 2009.

Midwest Environmental Transport, Inc., 10163 Cincinnati-Dayton Road, Cincinnati, OH 45241. **License No. PA-AH 0368.** Effective October 27, 2009.

The Environmental Service Group (NY), Inc., 177 Wales Avenue, Tonawanda, NY 14150. **License No. PA-AH S144.** Effective November 2, 2009.

Veolia ES Industrial Services, Inc., 6151 Executive Boulevard, Huber Heights, OH 45424. **License No. PA-AH 0583.** Effective November 2, 2009.

Mccutcheon Enterprises, Inc., 250 Park Road, Apollo, PA 15613-8730. **License No. PA-AH 0130.** Effective November 5, 2009.

Fortress Trucking Limited, 7079 Wellington Road 124, Guelph, ON N1H 6J3. **License No. PA-AH 0512.** Effective November 19, 2009.

JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002. **License No. PA-AH 0648.** Effective December 7, 2009.

J & D Trucking, Inc., 3526 NW Boulevard, Vineland, NJ 08360. **License No. PA-AH 0652.** Effective December 7, 2009.

Action Resources, Inc., 40 County Road 517, Hanceville, AL 35077. **License No. PA-AH 0650.** Effective December 8, 2009.

Providence Environmental Concepts, 312 Sharp Road, Columbia, SC 29203. **License No. PA-AH 0739.** Effective December 15, 2009.

Dalmatian Transportation, Ltd., P. O. Box 926, Hebron, OH 43025. **License No. PA-AH 0740.** Effective December 15, 2009.

MS Environmental Services, Inc., P. O. Box 1779, Norfolk, VA 23501. **License No. PA-AH 0724.** Effective January 4, 2010.

Enviroserve, J.V. Limited Partnership, 5502 Schaaf Road, Cleveland, OH 44131. **License No. PA-AH 0456.** Effective January 7, 2010.

AERC.COM, Inc., 2591 Mitchell Avenue, Allentown, PA 18103-6609. **License No. PA-AH 0687.** Effective January 7, 2010.

Frank's Vacuum Truck Service, Inc., 4500 Royal Avenue, Niagara Falls, NY 14303. **License No. PA-AH 0331.** Effective January 7, 2010.

Environmental Services, Inc., 90 Brookfield Street, South Windsor, CT 06074-1262. **License No. PA-AH 0725.** Effective January 11, 2010.

Price Trucking Corporation, 67 Beacon Street, Buffalo, NY 14220. **License No. PA-AH 0371.** Effective January 13, 2010.

Valley City Disposal, Inc., DBA Valley City, 1040 Market Street SW, Grand Rapids, MI 49503. **License No. PA-AH 0410.** Effective January 15, 2010.

S-J Transportation Company, Inc., P. O. Box 169, Woodstown, NJ 08098. **License No. PA-AH 0015.** Effective January 21, 2010.

U.S. Bulk Transport, Inc., 205 Pennbriar Drive, Erie, PA 16509. **License No. PA-AH 0408.** Effective January 22, 2010.

Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.*Hazardous Waste Transporter License Expired*

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Environmental Products & Services, Inc., 532 State Fair Boulevard, Syracuse, NY 13204. **License No. PA-AH 0327.** Effective December 10, 2009.

Feecorp Corporation, 7995 Allen Road, Canal Winchester, OH 43110. **License No. PA-AH 0515.** Effective January 7, 2010.

Hazardous Waste Transporter License Voluntarily Terminated

Apollo Trade & Transport, Inc., 837 Boardman-Canfield Road, Suite 209, Boardman, OH 44512-4217. **License No. PA-AH 0728.** Effective December 16, 2009.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Infectious and Chemotherapeutic Waste Transporter License Issued

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Citiwaste, LLC, 100-02 Farragut Road, Brooklyn, NY 11236. **License No. PA-HC 0243**. Effective October 19, 2009.

Infectious and Chemotherapeutic Waste Transporter License Renewed

Clean Harbors Environmental Services, Inc., 42 Longwater Drive, Norwell, MA 02061-1612. **License No. PA-HC 0053**. Received on September 14, 2009.

Veolia ES Solid Waste of PA, Inc., 6330 Route 219, Brockway, PA 15824. **License No. PA-HC 0199**. Received on July 20, 2009.

Healthcare Waste Solutions, Inc., 1281 Viele Avenue, Bronx, NY 10474. **License No. PA-HC 0235**. Received on October 1, 2009.

University of Pittsburgh of the Commonwealth System of Higher Education, Public Safety Building, 4th Floor, 3412 Forbes Avenue, Pittsburgh, PA 15260. **License No. PA-HC 0183**. Received on October 28, 2009.

JPS Equipment Co., Inc., P. O. Box 788, Edgemont, PA 19028-0788. **License No. PA-HC 0142**. Received on November 2, 2009.

Premier Medical Waste Transport, Ltd., 642 Willow Street, Pottstown, PA 19464. **License No. PA-HC 0237**. Received on November 23, 2009.

Coast Medical Supply, Inc., 200 Turnillo Way, Suite 110, Tinton Falls, NJ 07712. **License No. PA-HC 0214**. Received on January 11, 2010.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 101468. TransRiver Philadelphia, LLC, 3600 South 26th Street, Philadelphia, PA 19145. This permit modification is for approving the reissuance of the existing permit for Girard Point Transfer Station from Republic Services, Inc. to TransRiver Philadelphia, LLC. The Girard Point Transfer Station is a municipal waste transfer facility located at 3600 South 26th Street in the City of Philadelphia, **Philadelphia County**. The permit was issued by the Southeast Regional Office on January 5, 2010.

Permit No. 101477. TransRiver Philadelphia, LLC, 2209 South 58th Street, Philadelphia, PA 19143. This permit modification is for approving the reissuance of the existing permit for 58th Street Transfer Station from BFI Transfer System of Pennsylvania, LLC to TransRiver Philadelphia, LLC. The 58th Street Transfer Station is a municipal waste transfer facility, formerly known as, Philadelphia Transcyclery facility, located at 2209 South 58th Street in the City of Philadelphia, **Philadelphia County**. The permit was issued by the Southeast Regional Office on January 5, 2010.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit Application No. 100934. Blue Ridge Landfill Corp., located in Greene Township, **Franklin County**. The Department of Environmental Protection has reviewed the application for permit renewal for the operation of Blue Ridge Landfill, issued in accordance with Article V of the Solis Waste Management Act, 35 P. S. Sections 6018.101, et seq. This approves a permit renewal for Blue Ridge Landfill.

Comments concerning the application should be directed to Anthony Rathfon, Program Manager, Southcentral Regional Office. Persons interested in obtaining more information about the general permit application may contact the Southcentral Regional Office, 717-705-4706. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.

GP1-46-0239: John Middleton Co. (418 West Church Road, King of Prussia, PA 19406) on January 27, 2010, authorized to install a 700 Hp (29.0 MMBtu/hr) natural gas-fired boiler under GP-1 for their facility in Upper Merion Township, **Montgomery County**.

GP3-09-0091: Allied Recycling Co. (1725 Limekiln Pike, Suite 3A, Dresher, PA 19025) on January 29, 2010, to operate a portable nonmetallic mineral processing plant in Falls Township, **Bucks County**.

GP11-09-0020: Allied Recycling Co. (1725 Limekiln Pike, Suite 3A, Dresher, PA 19025) on January 29, 2010, to operate a non-road engines in Falls Township, **Bucks County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Ray Kempa, New Source Review Chief—Telephone: 570-826-2507.

54-329-008GP9: R. E. Pierson Construction Co. (P. O. Box 430, Woodstown, NJ 08098-0430) on January 28, 2010, to install and operate a portable I/C engine at their site at Middleport Materials in Walker Township, **Schuylkill County**.

54-329-009GP9: R. E. Pierson Construction Co. (P. O. Box 430, Woodstown, NJ 08098-0430) on January 28, 2010, to install and operate three (3) portable IC engines at their site at Middleport Materials in Walker Township, **Schuylkill County**.

54-310-050GP3: R. E. Pierson Construction Co. (P. O. Box 430, Woodstown, NJ 08098-0430) on January 28, 2010, to install and operate a portable crushing operation at their site at Middleport Materials in Walker Township, **Schuylkill County**.

54-310-051GP3: R. E. Pierson Construction Co. (P. O. Box 430, Woodstown, NJ 08098-0430) on January 28, 2010, to install and operate a portable crushing operation at their site at Middleport Materials in Walker Township, **Schuylkill County**.

58-399-008GP5: Cabot Oil & Gas Corp. (5 Penn Center, Suite 401, Pittsburgh, PA 15276) on January 26, 2010, to construct and operate a Natural Gas Compressor engine at their Lewis No. 1 Well site Compressor Station site in Dimock Township, **Susquehanna County**.

58-399-009GP5: Cabot Oil & Gas Corp. (5 Penn Center, Suite 401, Pittsburgh, PA 15276) on January 26, 2010, to construct and operate a Natural Gas Compressor engine at their Lathrop Compressor Station site in Springville Township, **Susquehanna County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

GP3-36-05096: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) on January 26, 2010, for a Portable Nonmetallic Mineral Processing Plant under GP3 in Paradise Township, **Lancaster County**.

GP9-36-05096: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) on January 26, 2010, for a Diesel or #2 fuel-fired Internal Combustion Engine under GP9 in Paradise Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

GP5-26-00549A: Phillips Production Co. (502 Keystone Drive, Warrendale, PA 15086) on January 29, 2010, to operate one natural gas compressor engine and one natural gas dehydrator at the Adams Compressor Station on Leisenring-Vanderbilt Road, Dunbar Township, **Fayette County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.

GP5-27-038C: Catalyst Energy, Inc., Watson Farm Stripping Plant (800 Cranberry Woods Drive, Cranberry Township, PA 16066) on January 26, 2010, to operate a natural gas fired compressor engines (BAQ-GPA/GP-5) in Howe Township, **Forest 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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Mark Gorog and Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

30-00055A: Shannopin Materials, LLC (308 Dents Run Road, Morgantown, WV, 26501) on January 28, 2010, to issue a plan approval to allow construction of a coal slurry reclamation project and the construction of a coal/limestone barge loading/unloading facility at the Shannopin Dock Site in Monongahela Township, **Greene County**. Sources at this facility will include excavators, stockpiles, conveyors, transfer points, and end-loaders. Facility shall be limited to 625 tons/hour and a total throughput of 400,000 tons per 12 month rolling total. Annual emissions from the facility are estimated to be 46 tons of total particulate matter and 14 tons of PM10. BAT for this operation consists of dust suppression activities such as the use of water sprays, enclosures, roadway paving, tarping, truck wash and best operating practices.

26-00500A: Alpha PA Coal Terminal, LLC 106 (East Fredericktown Road, Luzerne Township, PA 15906) on January 22, 2010, to issue a Plan Approval to allow construction of a coal transfer terminal consisting of Stock Piles, Coal Conveyors, Barge Loading/Unloading Equipment, and Roadways at their facility in Luzerne Township, **Fayette County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

06-05037G: McConway & Torley LLC (109 48th Street, Pittsburgh, PA 15201-2755) on January 29, 2010, for their steel foundry in Kutztown Borough, **Berks County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog & B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

65-00837B: Dominion Transmission, Inc., Oakford Compressor Station (D.L. Clark Building, 501 Martindale Street, Suite 400, Pittsburgh, PA, 15212) on January 28, 2010, for additional time to evaluate and submit testing data following the retrofit of their twelve compressor engines with pre-combustion chambers and four of the engines with oxidation catalysts in Salem Township, **Westmoreland County**. This plan approval extension.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

23-00034: Villanova University (800 East Lancaster Avenue, Villanova, PA 19085) on January 29, 2010, to operate four (4) boilers, 39 miscellaneous heaters, and 42 emergency generators at their facility in Radnor Township, **Delaware County**. The permit is for a Title V facility, and Villanova University is a major facility for

nitrogen oxide emissions. The operation of Boiler No. 3 and Boiler No. 4 is subjected to 40 CFR Part 60 Subpart Dc. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact: Norman Frederick, Facilities Permitting Chief—Telephone: 570-826-2507.

54-00011: PPL Martins Creek LLC, Fishbach CTS (2 North Ninth Street, Allentown, PA 18101-1139) on January 27, 2010, for renewal of a Title V Operating Permit to operate an electric generating substation consisting of two (2) combustion turbines fired by #2 fuel oil in Norwegian Township, **Schuylkill County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

06-03118: UGI Utilities, Inc. (225 Morgantown Road, Reading, PA 19612-3009) on January 29, 2010, for their natural gas utility operation in the City of Reading, **Berks County**. This is a renewal of the State-only operating permit.

36-03136: Sylvin Technologies, Inc. (84 Denver Road, P. O. Box 308, Denver, PA 17517) on February 1, 2010, for their PVC pellet production facility in East Cocalico Township, **Lancaster County**. This is a renewal of the State-only operating permit.

67-03125: York Hospital (P. O. Box 15198, 1001 S. George Street, York, PA 17405-7198) on January 26, 2010, for operation of their three (3) boilers and five (5) diesel fired emergency generators in the City of York, **York County**. This is a renewal of the State-only operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.

25-01022: Troyer, Inc. (817 Route 97 South, Waterford, PA 16441) on February 2, 2010, for an initial Natural Minor Permit to operate a fried snack manufacturing facility in Waterford Township, **Erie County**. The facility's major emission sources include boiler, Heat and Control Inc., boiler, Weil Mclain, boiler, Bryan, continuous chip fryer, two kettle cookers and hot air popper. The facility is natural minor because the emissions of the pollutants from the facility are less than Title V emission threshold limits.

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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

06-05082: Dairy Farmers of America, Inc. (100 McKinley Avenue, Reading, PA 19605-2199) on January 25, 2010, for their manufactured and marketed dairy products in Muhlenberg Township, **Berks County**. This State-only operating permit has been administratively amended due to a change of ownership. This is Revision No. 1.

21-05012: Mt. Holly Springs Specialty Paper, Inc. (1 Mountain Street, Mount Holly Springs, PA 17065-1406) on January 25, 2010, for their specialty paper manufacturing plant in Mount Holly Springs Borough, **Cumberland County**. This State-only operating permit was administratively amended due to a change of ownership. This is Revision No. 1.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.

10-00281: II VI, Inc. (375 Saxonburg Blvd. Saxonburg, PA 16056), issued on January 27, 2010, for an Administrative Amendment of the Natural Minor Operating Permit, to remove the Source ID No. 117: Batch Methylene Chloride Vapor Degreaser Machine from the permit through this administrative amendment. The Batch Vapor Degreaser Unit sold to Endicott Interconnect Technologies Inc. The facility is located in Clinton Township, **Butler County**.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.

10-00079: BNZ Materials, Inc. (191 Front Street, Zelenople, PA 16063) for their facility in Zelenople Borough, **Butler County**. The de minimis increase is a result of the installation of a cement fiberboard cutting operation. The Department of Environmental Protection has started a list of de minimis increases as prescribed in 25 PA Code 127.449(i).

Since the October 24, 2005 Title V Operating Permit issuance date, BNZ Materials has notified the Department of the following de minimis emission increases:

Date	Source	PM10 (tons)	SOx (tons)	NOx (tons)	VOC (tons)	CO (tons)
12/24/2009	Cement fiberboard cutting operation	0.06	0	0	0	0
Total Reported Increases		0.06	0	0	0	0

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Applications Returned

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

49080201. Black Diamond Mining, Inc., (P. O. Box 139, Elysburg, PA 17824), commencement, operation and restoration of an anthracite coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 9.5 acres, receiving stream: none. Application received: June 18, 2008. Application withdrawn: January 28, 2010.

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

17831601 and NPDES Permit No. PA0215317, River Hill Coal Company, Inc. (P. O. Box 141, Kylertown, PA 16847), to renew the permit for Belford Siding in Karthaus Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received: June 12, 2009. Permit issued: January 26, 2010

32921601 and NPDES Permit No. PA0095117, Sprinkle Mills Tipple (P. O. Box 343, Punxsutawney, PA 15767), to renew the permit for the Valier Coal Yard in North Mahoning Township, **Indiana County** and Perry Township, Jefferson County and related NPDES permit. No additional discharges. Application received: October 22, 2008. Permit issued: January 27, 2010.

30831303 and NPDES Permit No. PA0013511, Cumberland Coal Resources, LP (P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Center Township, **Greene County** to install five ventilation boreholes in longwall panel 58, Surface Acres Proposed 1.31. No additional discharges. Application received: June 9, 2009. Permit issued: January 28, 2010.

32011301 and NPDES Permit No. PA0235636, AMFIRE Mining Company, LLC (One Energy Place, Latrobe, PA 15650), to renew the permit for the Palmerton Mine in Burrell Township, **Indiana County** and related NPDES permit. No additional discharges. Application received: January 13, 2009. Permit issued: January 28, 2010.

30841316 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Aleppo Township, **Greene County** to add underground permit and subsidence control plan area acres for development mining. Underground Acres Proposed 721.7, Subsidence Control Plan Acres Proposed 721.7. No additional discharges. Application received: May 12, 2009. Permit issued: January 29, 2010.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

32090101 and NPDES No. PA0262731. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, commencement, operation and restoration of a bituminous surface mine in Conemaugh Township, **Indiana County**, affecting 43.3 acres. Receiving stream(s): Sulfur Run and unnamed tributary to Sulfur Run classified for the following use(s): cold water fishery. The application includes stream encroachments to construct a stream crossing and E & S controls within the barrier of an Unnamed Tributary to/and Sulfur Run. There are no potable water supply intakes within 10 miles downstream. Application received: January 29, 2009. Permit issued: January 26, 2010.

32940110 and NPDES No. PA0212962. Big Mack Leasing Company, Inc., R. D. #6, Box 231, Kittanning, PA 16201, permit renewal for reclamation only of a bituminous surface and auger mine in Young Township, **Indiana County**, affecting 27.5 acres. Receiving stream(s): Neal Run classified for the following use(s): trout stocked fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 28, 2009. Permit issued: January 26, 2010.

32940107 and NPDES Permit No. PAPA0212911, Pitt Mining Company, 423 Weiss Road, Sheloceta, PA 15774, permit renewal for reclamation only of a bituminous surface mine in Young Township, **Indiana County**, affecting 66.7 acres. Receiving stream(s): Craig Run and Gobblers Run to Crooked Creek to the Allegheny River, Whiskey Run to Blacklegs Creek to the Conemaugh River. There are no potable water supply intakes within 10 miles downstream. Application received: October 29, 2009. Permit issued: January 26, 2010.

32000104 and NPDES Permit No. PA0235318, Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, revision of an existing bituminous surface mine to change the land use from forestland to unmanaged natural habitat in Pine Township, **Indiana County**, affecting 57.3 acres. Receiving stream(s): unnamed tributary to Yellow Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 21, 2009. Permit issued: January 28, 2010.

56920113 and NPDES No. PA0212300. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Summit and Elk Lick Townships, **Somerset County**, affecting 106.0 acres. Receiving stream(s): unnamed tributaries to/and Casselman River classified for the following uses(s): cold water fishery and warm water fishery. There are no potable water supply intakes 10 miles downstream. Application received: June 24, 2009. Permit issued: January 28, 2010.

56990103 and NPDES No. PA0235172. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 222.0 acres. Receiving stream(s): unnamed tributaries to/and Millers Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 18, 2009. Permit issued: January 28, 2010.

56940101 and NPDES No. PA0212768. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Brothersvalley Township, **Somerset County**, affecting 205.9 acres. Receiving stream(s): unnamed tributaries to/and Buffalo Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 15, 2009. Permit issued: January 28, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

10010101. Ancient Sun, Inc. (P. O. Box 129, Shippenville, PA 16254) revision to an existing bituminous strip operation to change the post-mining land use from forestland to pastureland/land occasionally cut for hay on the Patricia A. Moore property in Muddy Creek Township, **Butler County**. Receiving streams: Unnamed tributaries of Cheeseman Run. Application received: November 9, 2009. Permit Issued: January 26, 2010.

33080105 and NPDES Permit No. PA0258547. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) revision to an existing bituminous strip operation to add 3.4 acres in Perry & Young Townships, **Jefferson County**. The new SMP acreage is 430.9 acres. Receiving streams: Three unnamed tributaries to Mahoning Creek. Application received: October 15, 2009. Permit Issued: January 22, 2010.

1419-33080105-E-2. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Application for a stream encroachment to construct and maintain a haul road crossing over unnamed tributary No. 2 to Mahoning Creek in Perry and Young Townships, **Jefferson County**. Receiving streams: Three unnamed tributaries to Mahoning Creek. Application received: October 15, 2009. Permit Issued: January 22, 2010.

1419-33080105-E-3. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Application for a stream encroachment to construct and maintain a haul road crossing over unnamed tributary No. 3 to Mahoning Creek in Perry and Young Townships, **Jefferson County**. Receiving streams: Three unnamed tributaries to Mahoning Creek. Application received: October 15, 2009. Permit Issued: January 22, 2010.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17803150 and NPDES No. PA0128295. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), permit renewal of an existing bituminous surface and augering mine in Penn Township, **Clearfield County** affecting 434.5 acres. Receiving stream(s): unnamed tributary to Bell Run, unnamed tributary to Poplar Run classified for the following use(s): Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 26, 2009. Permit issued: January 22, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

54030101R. Waldemar T. Fetterolf, Sr., (3092 Main Street, Locustdale, PA 17945), renewal of an existing anthracite surface mine operation for reclamation activities only in New Philadelphia Borough, **Schuylkill County** affecting 100.0 acres, receiving stream: none. Application received: January 19, 2010. Renewal issued: January 28, 2010.

Noncoal Permits Actions

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

3572SM22. Hanson Aggregates BMC, Inc. (2200 Springfield Pike, Connellsville, PA 15425). Transfer of permit formerly issued to Hanson Aggregates PMA, Inc., for continued reclamation only of a large noncoal surface mining site located in South Buffalo Township, **Armstrong County**, affecting 47.2 acres. Receiving stream: Allegheny River. Application received: October 13, 2009. Transfer permit issued: January 25, 2010.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

16090803. Pine Grove Enterprises, Inc. (421 County Line Road, Venus, PA 16364) Commencement, operation and restoration of a small shale operation in Washington Township, **Clarion County** affecting 1.0 acre. Receiving streams: Unnamed tributary to McCauley Run. Application received: November 17, 2009. Permit Issued: January 22, 2010.

42090804. Seals Service, Inc. (5477 Route 446, Eldred, PA 16731) Commencement, operation and restoration of a small sand and gravel operation in Eldred Township, **McKean County** affecting 5.0 acres. Receiving streams: Allegheny River. Application received: October 1, 2009. Permit Issued: January 25, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

35080301. Airport Sand and Gravel Co., Inc. (500 Sweetland Lane, West Wyoming, PA 18644), commencement, operation and restoration of a quarry operation in Benton, Lenox and Nicholson Townships, Lackawanna, Susquehanna and **Wyoming Counties** affecting 75.27 acres, receiving stream: Tunkhannock Creek. Application received: August 20, 2008. Permit issued: January 26, 2010.

58090819. P. Scott Baldwin (12160 State Route 106, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: July 30, 2009. Permit issued: January 26, 2010.

66090801. Frank Mazzone (R. R. 1, Box 80, Falls, PA 18615), commencement, operation and restoration of a quarry operation in Clinton Township, **Wyoming County** affecting 2.0 acres, receiving stream: none. Application received: July 16, 2009. Permit issued: January 26, 2010.

58080838. J. C. White, (R. R. 1, Box 109B, Forest City, PA 18421), commencement, operation and restoration of a quarry operation in Clifford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: June 24, 2008. Permit issued: January 28, 2010.

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.

63104001. PGS Onshore, Inc. (P. O. Box 397, Eighty Four, PA 15330). Blasting activity permit for seismic exploration located in Amwell, etc., Townships, **Washington County**, and Morgan, etc., Townships, **Greene County**, with an expected duration of four months. Permit issued: January 25, 2010.

02094005. Trumbull Corporation (1020 Lebanon Road, West Mifflin, PA 15122). Blasting activity permit for construction of the McCandless Crossing, located in McCandless Township, **Allegheny County**. The duration of blasting is for one year. Permit issued: January 29, 2010.

30104001. Alex E. Paris Contracting (P. O. Box 369 Atlasburg, PA 15004). Blasting activity permit for construction of the CNX Gas Site N-15 pond, located in Morris Township, **Greene County**. The duration of blasting is for one year. Permit issued: January 29, 2010.

26104001. Green River Resources (186 Dawn Drive, Columbia Falls, MT 59912). Blasting activity permit for the West Summit seismic Exploration, located in Springhill, Nicholson and Georges Townships, **Fayette County**. The duration of blasting is for one year. Permit issued: January 29, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

58104104. Meshoppen Blasting, Inc. (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Cole Well site in Auburn Township, **Susquehanna County** with an expiration date of March 1, 2010. Permit issued: January 26, 2010.

58014105. Meshoppen Blasting, Inc., (P. O. Box 127, Meshoppen, PA 18630), construction blasting for driveway to Cole Well site in Auburn Township, **Susquehanna County** with an expiration date of March 1, 2010. Permit issued: January 26, 2010.

09104101. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for Quakertown Giant Fuel Station in Quakertown Borough, **Bucks County** with an expiration date of January 27, 2011. Permit issued: January 29, 2010.

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 con-

struction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Floodplain 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

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

E44-142: FAME Emergency Medical Services, Inc., 701 Valley Street, Lewistown, PA 17044, Lewistown Borough, **Mifflin County**, ACOE Baltimore District

To: fill 0.03 acre of wetland along the watershed of Kishacoquillas Creek (CWF) in order to improve the parking lot of the existing FAME Emergency Medical Services facility, located along the eastside of Valley Street (SR 1005) approximately 2,000 feet north from its intersection with Walnut Street (Lewistown, PA Quadrangle N: 20.18 inches; W: 9.74 inches, Latitude: 40° 36' 40"; Longitude: 77° 34' 13") in Lewistown Borough, Mifflin County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E17-459. James and Peggy Moore, 1045 West Hanna Street, Houtzdale PA 16659. Unnamed Tributary to Beaver Run channel relocation, in Houtzdale Borough,

Clearfield County, ACOE Baltimore District (Houtzdale, PA Quadrangle N: 40° 49' 37"; W: 78° 21' 43").

Construct and maintain seventy-five feet of channel relocation with a cross section of two feet deep, two feet bottom width and one to one side slopes. The channel will be grass lined and have R-4 Rip-Rap outlet protection. The channel will terminate upslope of any wetlands. The excavated material will be placed in the existing channel. This project does not impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

Department of Environmental Protection, Bureau of Waterways Engineering, Water Management Program Manager, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8554, Harrisburg, PA 17105-8554.

E02-139. Shaler Township, 300 Wetzel Road, Pittsburgh, PA 15116, Shaler Township, **Allegheny County**. Applicant requesting a permit amendment to add Debris Facilities to the existing flood control project. The Borough of Etna will have joint responsibility to maintain the Debris Facility. Project is located on the Glenshaw, PA Quadrangle Latitude: 40° 30' 37" N; Longitude: 79° 56' 48" W.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D02-068A. Huntingdon Woods Retention Pond. Precision Equities, 2559 Brandt School Road, Wexford, PA 15090. To: modify, operate and maintain Huntington Woods Detention Dam across a tributary to Pine Creek (CWF), for the purpose of providing additional capacity for stormwater detention by raising the crest of the dam (Emsworth, PA Quadrangle N: 19.9 inches; W: 11.6 inches) in Franklin Park Borough, **Allegheny County**.

D48-149A. PPL Martins Creek, LLC, PPL Martins Creek, LLC c/o Steve Holler, Two North Ninth Street, GenPl6, Allentown, PA 18101. To: modify the Martins Creek Ash Basin No. 4 across a tributary to Oughoughton Creek, impacting 0 acres of wetlands and 0 feet of stream channel, for the purpose of closing and deregulating Ash Basin No. 4 Dam. (Belvidere NJ, PA Quadrangle N: 10 inches; W: 16 inches) in Lower Mount Bethel Township, **Northampton County**.

Southwest Regional Oil and Gas Manager. 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

95-7-60915-3. Range Resources—Appalachia, LLC, 380 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317. Project proposes to operate and maintain the Jon Day Impoundment Dam as a centralized impoundment to collect and store flow-back water, for the use and re-use of hydraulic fracturing water, from the Jon Day Unit Well No.1H, 2H, 3H, 4H, 5H, 6H, 7H, 8H, and future wells in the area (PA Quadrangle Latitude: N 40° 07' 22"; Longitude: W 80° 13' 02"), Amwell Township, **Washington County**.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth

agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

Northcentral Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-1 # ESG09-105-0006

Applicant Name Ultra Resources, Inc.

Contact Person Belinda Salinas

Address 304 Inverness Way South, Suite 295
City, State, Zip Englewood, CO 80112-5828

County Potter

Township(s) West Branch Township

Receiving Stream(s) and Classification(s) Paul Hollow,
Tributary to South Branch Pine Creek

ESCGP-1 # ESG09-117-0059

Applicant Name Ultra Resources, Inc.

Contact Person Belinda Salinas

Address 304 Inverness Way South, Suite 295
City, State, Zip Englewood, CO 80112-5828

County Potter and Tioga

Township(s) West Branch Township (Potter County) and
Elk Township (Tioga County)

Receiving Stream(s) and Classification(s) Button Hollow,
Gross Hollow, Grim Hollow Secondary—South Branch
Pine Circle, Sliders Br, Elk Run

ESCGP-1 # ESG09-117-0058

Applicant Name Ultra Resources, Inc.

Contact Person Belinda Salinas

Address 304 Inverness Way South, Suite 295
City, State, Zip Englewood, CO 80112-5828

County Tioga

Township(s) Elk Township

Receiving Stream(s) and Classification(s) Maynard Hollow
Tributary to Elk Run

ESCGP-1 # ESX10-013-0001

Applicant Name Chief Oil & Gas LLC

Contact Person Michael Hritz

Address 6051 Wallace Road, Suite 210
City, State, Zip Wexford, PA 15090

County Blair

Township(s) Juniata Township

Receiving Stream(s) and Classification(s) UNT to Bob's
Creek Secondary—Juniata River

ESCGP-1 # ESX10-079-0001

Applicant Name WhitMar Exploration Company

Contact Person Brandt Temple

Address 555 17th Street, Suite 880
City, State, Zip Denver, CO 80202
County Luzerne
Township(s) Lake Township
Receiving Stream(s) and Classification(s) Harvey's Creek

Northcentral Region: Oil & Gas Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-1 # ESX09-015-0077
Applicant Name Chesapeake Appalachia, LLC
Contact Person Eric Haskins
Address 100 1st Center
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Albany Township
Receiving Stream(s) and Classification(s) South Branch of the Towanda Creek

ESCGP-1 # ESX10-015-0001
Applicant Name Chesapeake Appalachia, LLC
Contact Person Eric Haskins
Address 100 1st Center
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Standing Stone Township
Receiving Stream(s) and Classification(s) Rummerfield Creek Secondary—Susquehanna River

ESCGP-1 # ESX10-015-0005
Applicant Name Chesapeake Appalachia, LLC
Contact Person Eric Haskins
Address 100 1st Center
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) West Burlington Township
Receiving Stream(s) and Classification(s) UNT to Sugar Creek Secondary—Sugar Creek

ESCGP-1 # ESX10-117-0007
Applicant Name East Resources, Inc.
Contact Person Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Sullivan Township
Receiving Stream(s) and Classification(s) UNT to Corey Creek

ESCGP-1 # ESG09-117-0057
Applicant Name Ultra Resources, Inc.
Contact Person Belinda Salinas
Address 304 Inverness Way South, Suite 295
City, State, Zip Englewood, CO 80112-5828
County Tioga
Township(s) Elk Township
Receiving Stream(s) and Classification(s) Thompson Hollow, Elk Run

Northcentral Region: Oil & Gas Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-1 # ESX09-013-0002(01)
Applicant Name Chief Oil & Gas LLC
Contact Person Michael Hritz
Address 6051 Wallace Road, Suite 210
City, State, Zip Wexford, PA 15090
County Blair
Township(s) Juniata Township
Receiving Stream(s) and Classification(s) Bobs Creek Secondary—Juniata River

ESCGP-1 # ESX10-117-0010
Applicant Name East Resources, Inc.
Contact Person Jefferson Long

Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Sullivan Township
Receiving Stream(s) and Classification(s) UNT to Corey Creek

ESCGP-1 # ESX10-117-0011
Applicant Name East Resources, Inc.
Contact Person Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Rutland Township
Receiving Stream(s) and Classification(s) Painter Run

ESCGP-1 # ESX09-115-0025
Applicant Name Chief Gathering, LLC
Contact Person Ted Wurfel
Address 6051 Wallace Road Ext., Suite 210
City, State, Zip Wexford, PA 15090
County Susquehanna
Township(s) Lathrop Township
Receiving Stream(s) and Classification(s) Horton Creek Secondary—Tunkshannock Creek

Southwest Region: Oil & Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

12/30/09
ESCGP-1 No.: ESX09-005-0009
Applicant Name: EQT Production Company
Contact Person: Todd Klaner
Address: 455 Racetrack Road, Suite 101
City: Washington State: PA Zip Code: 15301
County: Armstrong Township(s): Plumcreek
Receiving Stream(s) and Classifications: Cherry Run, WWF, Other

12/28/09
ESCGP-1 No.: ESX09-059-0065
Applicant Name: Coal Gas Recovery, LLC
Contact Person: Joanne Reilly
Address: 158 Portal Road
City: Waynesburg State: PA Zip Code: 15370
County: Greene Township(s): Jefferson
Receiving Stream(s) and Classifications: UNT To Muddy Creek, Other

12/31/09
ESCGP-1 No.: ESX09-125-0074
Applicant Name: Antero Resources Appalachian Corporation
Contact Person: Gerard Alberts
Address: 1625 17th Street #300
City: Denver State: CO Zip Code: 80202
County: Washington Township(s): West Pike Run
Receiving Stream(s) and Classifications: Little Pike Run, Other

1/11/10
ESCGP-1 No.: ESX09-125-0076
Applicant Name: Range Resources—Appalachia, LLC
Contact Person: Carla Suszkowski
Address: 380 Southpointe Boulevard, Suite 300
City: Canonsburg State: PA 15317
County: Washington Township(s): MT Pleasant
Receiving Stream(s) and Classifications: South Fork Cross Creek, HQ

1/11/10
ESCGP-1 No.: ESX09-063-0010
Applicant Name: Atlas Resources, LLC
Contact Person: Daniel Grove
Address: 101 Mcquiston Drive

City: Jackson Center State: PA Zip Code: 16133
 County: Indiana Township(s): Burrell and
 West Wheatfield
 Receiving Stream(s) and Classifications: UNT To
 Conemaugh River, Other

1/4/10

ESCGP-1 No.: ESX09-007-0002

Applicant Name: EQT Production Company

Contact Person: Todd Klaner

Address: 455 Racetrack Road

City: Washington State: PA Zip Code: 15301

County: Beaver Township(s): Franklin and Marion

Receiving Stream(s) and Classifications: Connoqueness-
 ing Creek, WWF, Other

*Northwest Region: Oil and Gas Program Manager, 230
 Chestnut Street, Meadville, PA 16335.*

ESCGP-1 #ESX09-083-0005

Applicant US Energy Development Corp

Contact Todd Witmer

Address 2350 North Forest Road

Getzville NY 14068

County McKean Township(s) Foster

Receiving Stream(s) and Classification(s) Bolivar Run
 (CWF); Bennetts Brook (CWF)

ESCGP-1 #ESX09-053-0005

Applicant Titusville Oil & Gas Association, Inc.

Contact William Henderson

Address 16899 Jerusalem Corners Rd

Pleasantville PA 16341

County Forest Township(s) Harmony

Receiving Stream(s) and Classification(s) Dawson
 Run (Other)

SPECIAL NOTICES

Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of January 2010 the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act, act of July 9, 1987, P. L. 238, No. 43 (63 P. S. Sections 2001-2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed below to perform radon-related activities in Pennsylvania. The period of certification is two years. (For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (1-800-23RADON).

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Joseph Cline	P. O. Box 1145 Mechanicsburg, PA 17055	Testing
George Conklin, IV Appalachian Environmental Group	1351 West Winter Road Loganton, PA 17747	Testing & Mitigation
John Farmer	657 Eastside Drive Landisville, PA 17538	Mitigation
Harold Henry	2820 West 23rd Street Erie, PA 16502	Testing
James Douglas	104 Oak Street Warren, PA 16365	Testing
Lawrence Heston	P. O. Box 467 220 North Mann Avenue Yeagertown, PA 17099	Testing
Edward Johnston	1902 Concord Road Ambridge, PA 15003	Testing
Daniel Jones	6 Chestwood Drive Connellsville, PA 15425	Testing
Kevin Kerwood	215 South Church Street Clifton Heights, PA 19018	Testing
Robert Lloyd	1698 Walnut Bottom Road Newville, PA 17241	Testing
Tim McDaniel	330 South Saint Elmo Street Allentown, PA 18104	Testing
Stephen Notwick	27 Jasmine Road Levittown, PA 19056	Mitigation
Dwayne Ott	311 Bell-Tip Road Tyrone, PA 16686	Testing
Frederick Ruziecki	P. O. Box 205 Wind Gap, PA 18091	Testing
David Scholtz	P. O. Box 118 Effort, PA 18330	Laboratory

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Gar Shoemaker	104 Valley View Drive Parkesburg, PA 19365	Testing
Reid Stever	824 Red Barn Lane Huntingdon Valley, PA 19006	Testing
Bruce Thomas	17 Fosterville Road Greensburg, PA 15601	Testing
James Weber	56 Bentwood Road Drums, PA 18222	Testing

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

Special Notice—Environmental Good Samaritan Act

EGS65006. Loyalhanna Watershed Association, Inc. (110 Andi Lane, Ligonier, PA 15658). Received an Environmental Good Samaritan project for the Latrobe Foundation Property Project, Phase III, to treat mine drainage pollution in Unity Township, **Westmoreland County**, affecting five acres. Receiving stream: Loyalhanna Creek, classified for the following use: WWF. EGS project proposal received: December 8, 2009.

[Pa.B. Doc. No. 10-286. Filed for public inspection February 12, 2010, 9:00 a.m.]

Bid Opportunity

BOGM 09-4, Cleaning Out and Plugging One Abandoned Gas Well, (Lori Lavorgna Property), Jefferson Hills Borough, Allegheny County. The principal items of work include cleaning out and plugging one abandoned gas well, estimated to be 3,500 feet in depth, to Department of Environmental Protection specifications, preparing and restoring well site and mobilizing and demobilizing plugging equipment. This project issues on February 12, 2010, and bids will be opened on March 18, 2010, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is planned for this project but a date has not been set. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-287. Filed for public inspection February 12, 2010, 9:00 a.m.]

Bid Opportunity

BOGM 09-14, Cleaning Out and Plugging Two Orphan Gas Wells, (Jason Fox and Darlene Wyatt Properties), Hempfield Township, Westmoreland County. The principal items of work include cleaning out and plugging two orphan gas wells, estimated to be 3,600 feet in depth, to Department of Environmental Protection specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on February 12, 2010, and bids will be opened on March 23, 2010, at 2 p.m. Bid documents cost

\$10 per set and will not be mailed until payment has been received. A prebid conference is planned for this project but a date has not been set. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-288. Filed for public inspection February 12, 2010, 9:00 a.m.]

Bureau of Oil and Gas Management Technical Advisory Board; Change of Meeting Date

The March 18, 2010, meeting of the Bureau of Oil and Gas Technical Advisory Board (TAB) has been rescheduled. The meeting will begin at 10 a.m., March 25, 2010, Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the meetings can be directed to Carol Daniels at (717) 772-2199 or cardaniels@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on Department of Environmental Protection's (Department) world wide web site at <http://www.depweb.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Carol Daniels directly at (717) 772-2199 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-289. Filed for public inspection February 12, 2010, 9:00 a.m.]

State Board for Certification of Water and Wastewater Systems Operators; Rescheduling of Meeting Notice

The State Board for Certification of Water and Wastewater Systems Operators (Board) conference call meeting on Friday, March 26, 2010 at 10 a.m. has been rescheduled to Friday, March 19, 2010 at 10 a.m. as a regular Board meeting in the 2nd floor training room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. The purpose of the meeting is to finalize

comments for submittal to the Environmental Quality Board on final regulations for the Operator Certification Program.

Questions concerning the Board meeting can be directed to Cheri Sansoni at (717) 772-5158 or csansoni@state.pa.us. The agenda and meeting material for this meeting date will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.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,
Secretary

[Pa.B. Doc. No. 10-290. Filed for public inspection February 12, 2010, 9:00 a.m.]

Water Resources Advisory Committee; Special Meeting Notice

The Water Resources Advisory Committee (WRAC) will hold a special meeting on March 17, 2010 beginning at 9:30 a.m., Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The purpose of the meeting is to discuss the draft-final Chapter 102 Erosion and Sediment Control and Stormwater Management regulatory package and request formal action from WRAC to move the package on to the Environmental Quality Board.

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. Questions concerning this meeting should be directed to Marcus Kohl at (717) 783-7404 or mkohl@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marcus Kohl at (717) 783-7404 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-291. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF HEALTH

Home Care Agencies and Home Care Registries; Extension of deadline for licensure under 28 Pa. Code Chapter 611

The regulations governing licensure for home care agencies (HCAs) and home care registries (HCRs) were published 39 Pa.B. 6958 (December 12, 2009).

HCAs and HCRs, as defined in the regulations, must now be licensed by the Department of Health (Department) to provide home care services to individuals in their homes or other independent living environments.

An entity that is currently operating an HCA or HCR, or both, may continue to operate provided it submits an application for a license to the Department no later than March 31, 2010. An entity that is currently operating an HCA or HCR that has submitted an application for licensure may continue to operate a date as the Department may refuse the application for licensure. If the Department grants the application for licensure, the home care agency and/or home care registry may continue to operate in accordance with the requirements of the regulations at 28 Pa. Code Chapter 611 (relating to home care agencies and home care registries).

An entity that is established after the effective date of the regulations must obtain a license prior to providing home care services.

Application packets may be obtained by contacting the Division of Home Health at (717) 783-1379 and supplying a mailing address, and the Division will mail the packet to the address supplied. Alternatively, application packets may be obtained electronically. The applicant should go to www.health.state.pa.us and click on the left side navigation bar titled "Facilities, Providers & Managed Care Plans" then click the navigation bar titled "Home Care Licensure Information."

The Department's web site contains additional information and links that may be helpful to the applicant. The Department's website contains a document addressing Frequently Asked Questions which may be accessed at www.health.state.pa.us by clicking on the left side navigation bar titled "Facilities, Providers & Managed Care Plans" then clicking on the navigation bar titled "Home Care Agencies/Home Care Registries" which contains a document link for "Frequently Asked Questions about Home Care Agencies/Home Care Registries." The applicant can also contact the Department for a copy of the document which will be included in the application packet.

To access information pertaining to criminal background checks, go to www.aging.state.pa.us, or contact the Department of Aging, Criminal History Background Check Unit, at (717) 265-7887. To access information pertaining to child abuse clearances, go to www.dpw.state.pa.us, or contact the Department of Public Welfare, ChildLine, at (717) 783-6211.

If you have any questions or would like more information regarding home care agencies, home care registries, and/or the HCA/HCR licensure program, please contact the Division of Home Health at (717) 783-1379.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Janice Staloski, Director, Bureau of Community Program Licensure and Certification, 132 Kline Plaza, Suite A, Harrisburg, PA 17104, (717) 783-8665, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Services at (800) 654-5984.

EVERETTE JAMES,
Secretary of Health

[Pa.B. Doc. No. 10-292. Filed for public inspection February 12, 2010, 9:00 a.m.]

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 211.7 (c) and (d) (relating to physician assistants and certified registered nurse practitioners).

Manorcare Health Services-Huntingdon Valley
3430 Huntingdon Pike
Huntingdon Valley, PA 19006
FAC ID 053802

This request is 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 at the 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. 10-293. Filed for public inspection February 12, 2010, 9:00 a.m.]

Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee, established under 20 Pa.C.S. § 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a public meeting on March 4, 2010 from 9 a.m. to 3 p.m. The meeting will be held at the Giant Community Center, 2nd Floor, Giant Food Store, 3301 Trindle Road, Camp Hill, PA 17011.

For additional information, or if you are a person with a disability and desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Cyndi Malinen, Public Health Program Administrator, Division of Nutrition and Physical Activity, Bureau of Health Promotion and Risk Reduction, Room 1000, Health and Welfare Building, Harrisburg, PA at (717) 787-5876, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-294. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The contractors referenced have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these persons and firms; or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Richard A. Balsama, Individually	1127 Stratford Road Glenolden, PA 19036	2/1/2010
Tinney Rebar Services, Inc. and Jami R. Tinney, Individually	4 Industrial Park Drive Oakdale, PA 15071	1/26/2010

SANDI VITO,
Secretary

[Pa.B. Doc. No. 10-295. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Medical Assistance Program Fee Schedule Revisions

Purpose of Notice

The Department of Public Welfare (Department) announces changes to the Medical Assistance (MA) Program Fee Schedule. These changes are effective for dates of service on and after March 1, 2010.

Fee Schedule Revisions

The Department is making updates to the MA Program Fee Schedule in response to requests received from providers and clinical reviews conducted by Department staff related to standards of practice, provider type/specialties, places of service and procedure code/modifier combinations.

Procedure Code and Procedure Code/Modifier End-Dates and Additions

The Department is end-dating the following radiological procedure codes because the radiopharmaceutical administration costs are included in the technical component fee for the service:

79005
79101
79445

The Department is end-dating the following diagnostic procedure codes because they are experimental procedures. MA regulations at 55 Pa. Code § 1141.59 (relating

to noncompensable services) set forth that payments will not be made for experimental procedures:

95060
95065

The Department is end-dating the following computerized 3-D rendering procedure codes because the costs for these services are included in the technical component fee for the radiology service:

76976
76377

The Department is end-dating the following procedure code for overnight oxygen saturation monitoring because the procedure is integral to the service being provided or included in the support component fee and should not be billed separately:

94762

The following radiological and diagnostic procedure codes will have the total component (no modifier) end-dated since the technical component fee for the service is included in the Diagnosis Related Group (DRG), Hospital Short Procedure Unit (SPU), the Ambulatory Surgical Center (ASC) or Special Treatment Room (STR) support component payment:

76001
93640
93641

The following radiological procedure code will have the technical component (TC modifier) end-dated since the technical component fee for the service is included in the DRG, ASC/SPU or STR support component payment:

76001

The following surgical procedure codes will have the 80 modifier end-dated since the services do not require an assistant surgeon:

36561
58671
69710

The following physical therapy procedure codes will have the SG modifier end-dated since they are non-surgical procedures and are not appropriate in an ASC/SPU:

97597
97598
97602

The following surgical procedure codes will have the SU modifier end-dated since they are not office procedures and can only be performed in ASC/SPU or inpatient setting:

25111
26160
31535
43260
58120

The following pulse oximetry procedure code will have the technical component (TC) and the professional component (26) pricing modifiers end-dated as this code represents only the technical component of the procedure consistent with the *Current Procedural Terminology, 2009 Standard Edition*, code book:

94761

The pricing modifiers (SG) and (26) are being added to the following surgical and diagnostic services currently designated as inpatient services, but which can safely be performed in an SPU or ASC, or both, depending on the procedure:

11983 (SG)
64475 (SG)
93640 (SG)
93641 (SG)
93640 (26)
93641 (26)

Fee Changes

The Pennsylvania Medicaid State Plan (State Plan) specifies that maximum fees for services covered under the MA Program are to be determined on the basis of the following: fees may not exceed the Medicare upper limit when applicable; fees must be consistent with efficiency, economy and quality of care; and fees must be sufficient to assure the availability of services to recipients. The regulations at 55 Pa. Code § 1150.62(a) (relating to payment levels and notice of rate setting changes) also specify that the MA fees may not exceed the Medicare upper limit. Effective for dates of service on and after March 1, 2010, the following procedure codes will have the fee related to the SU modifier decreased to comply with these requirements:

<i>Procedure Code</i>	<i>Description</i>	<i>Current MA Fee (with SU modifier)</i>	<i>MA Fee Effective March 1, 2010 (with SU modifier)</i>
20220	Biopsy, bone, trocar, or needle; superficial (for example, ilium, sternum, spinous process, ribs)	\$683.80	\$155.01
38500	Biopsy or excision of lymph nodes; open, superficial	\$638.80	\$279.49
46230	Excision of external hemorrhoid tags and/or multiple papillae	\$660.80	\$218.20
55250	Vasectomy, unilateral or bilateral (separate procedure), including postoperative semen examinations	\$815.80	\$419.73
68420	Incision, drainage of lacrimal sac (dacryocystotomy or dacryocystostomy)	\$694.30	\$255.44

Effective for dates of service on and after March 1, 2010, the following diagnostic procedure code must be billed with modifier (26) with the associated fee of \$327.25:

<i>Procedure Code</i>	<i>Description</i>	<i>Current MA Fee (with no modifier)</i>	<i>MA Fee Effective March 1, 2010 (with 26 modifier)</i>
93641	Electrophysiologic evaluation of single or dual chamber pacing cardioverter-defibrillator leads including defibrillation threshold evaluation (induction of arrhythmia, evaluation of sensing and pacing for arrhythmia termination) at time of initial implantation or replacement; with testing of single or dual chamber pacing cardioverter-defibrillator pulse generator	\$574.79	\$327.25

Fiscal Impact

It is anticipated that these revisions will result in minimal savings; therefore, there will be no fiscal impact.

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 Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be reviewed and considered for any subsequent revisions to the MA Program Fee Schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

HARRIET DICHTER,
Acting Secretary

Fiscal Note: 14-NOT-634. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 10-296. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Bankroll

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 Bankroll.

2. *Price:* The price of a Pennsylvania Bankroll instant lottery game ticket is \$2.

3. *Prize Play and Play Symbols:* Each Pennsylvania Bankroll instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING 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) and 20 (TWENT). 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), Safe symbol (SAFE) and a Bankroll symbol (BANKROLL).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$5.⁰⁰ (FIV DOL), \$10.⁰⁰ (TEN DOL), \$20.⁰⁰ (TWENTY), \$40.⁰⁰ (FORTY), \$100 (ONE HUN), \$400 (FOR HUN), \$1,000 (ONE THO) and \$25,000 (TWYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$100, \$400, \$1,000 and \$25,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 8,400,000 tickets will be printed for the Pennsylvania Bankroll instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$25,000 (TWYFIVTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe symbol (SAFE), and a prize symbol of \$1,000 (ONE THO) appears under the Safe symbol (SAFE), on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Safe symbol (SAFE), and a prize symbol of \$400 (FOR HUN) appears under the Safe symbol (SAFE), on a single ticket, shall be entitled to a prize of \$400.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the

“WINNING NUMBERS” play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Safe symbol (SAFE), and a prize symbol of \$40⁰⁰ (FORTY) appears under the Safe symbol (SAFE), on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Bankroll symbol (BANKROLL), on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Safe symbol (SAFE), and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the Safe symbol (SAFE), on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Safe symbol (SAFE), and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the Safe symbol (SAFE), on a single ticket, shall be entitled to a prize of \$5.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$4⁰⁰ (FOR DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$4.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Safe symbol (SAFE), and a prize symbol of \$4⁰⁰ (FOR DOL) appears under the Safe symbol (SAFE), on a single ticket, shall be entitled to a prize of \$4.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$2.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Safe symbol (SAFE), and a prize symbol of \$2⁰⁰ (TWO DOL) appears under the Safe symbol (SAFE), on a single ticket, shall be entitled to a prize of \$2.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$1⁰⁰ (ONE DOL) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1.

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 The Ten Your Numbers Match Either Winning Number, Win Prize Shown 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 8,400,000 Tickets</i>
\$1 × 2	37.50	224,000
\$2 w/SAFE	30	280,000
\$2	30	280,000
\$1 × 4	75	112,000
\$2 × 2	75	112,000
\$4 w/SAFE	75	112,000
\$4	50	168,000
\$1 × 5	150	56,000
\$5 w/SAFE	150	56,000
\$5	75	112,000
\$1 × 10	750	11,200
\$2 × 5	750	11,200
\$5 × 2	750	11,200
\$10 w/SAFE	750	11,200
\$10	750	11,200
\$2 × 10	1,500	5,600
\$4 × 5	1,500	5,600
\$5 × 4	1,500	5,600
\$10 × 2	1,500	5,600
\$20 w/BANKROLL	83.33	100,800
\$20	1,500	5,600
\$4 × 10	4,000	2,100
\$5 × 8	4,000	2,100
\$10 × 4	4,000	2,100

When Any Of The Ten Your Numbers Match Either Winning Number, Win Prize Shown Under The Matching Number. Win With Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 8,400,000 Tickets
\$20 × 2	\$40	4,000	2,100
(\$20 w/BANKROLL) + \$20	\$40	701.75	11,970
\$40 w/SAFE	\$40	4,000	2,100
\$40	\$40	1,263	6,650
\$10 × 10	\$100	8,000	1,050
\$20 × 5	\$100	8,000	1,050
(\$20 w/BANKROLL) + (\$10 × 8)	\$100	6,000	1,400
(\$20 w/BANKROLL) + (\$20 × 4)	\$100	6,000	1,400
(\$40 × 2) + (\$4 × 5)	\$100	8,000	1,050
\$100	\$100	8,000	1,050
\$40 × 10	\$400	40,000	210
\$400 w/SAFE	\$400	40,000	210
\$400	\$400	40,000	210
\$1,000 w/SAFE	\$1,000	40,000	210
\$1,000	\$1,000	40,000	210
\$25,000	\$25,000	560,000	15

Get a "SAFE" (SAFE) symbol, win the prize under that symbol.

Get a "BANKROLL" (BANKROLL) symbol, win \$20.

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 Bankroll 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 Bankroll, prize money from winning Pennsylvania Bankroll 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 Bankroll 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), 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. Such announcement will be disseminated through media used to advertise or promote Pennsylvania Bankroll or through normal communications methods.

C. DANIEL HASSELL,
Acting Secretary

[Pa.B. Doc. No. 10-297. Filed for public inspection February 12, 2010, 9:00 a.m.]

Pennsylvania 3-D Cash Cube

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 3-D Cash Cube.

2. *Price:* The price of a Pennsylvania 3-D Cash Cube instant lottery game ticket is \$3.

3. *Play Symbols:* Each Pennsylvania 3-D Cash Cube instant lottery game ticket will contain one play area consisting of three separate games designated as "Game 1," "Game 2" and "Game 3." Each "Game" is played separately. The play symbols located in the three games are: Moneybag symbol (MNYBG), Pot of Gold symbol (PTGLD), Rabbit's Foot symbol (RBTFT), Horse Shoe symbol (SHOE), Star symbol (STAR), Diamond symbol (DMND), Clover symbol (CLOVER), Rainbow symbol (RNBOW) and Wishbone symbol (WSHBN).

4. *Prizes:* The prizes that can be won in this game are: \$3, \$6, \$9, \$15, \$30, \$90, \$300, \$1,000, \$3,000, \$30,000 and \$60,000. The player can win up to four times on each ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania 3-D Cash Cube instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets in which three like play symbols appear in a complete column in "Game 3" and having a corresponding prize marker with a prize amount of \$60,000 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$60,000.

(b) Holders of tickets in which three like play symbols appear in a complete row in "Game 1" and having a corresponding prize marker with a prize amount of \$30,000 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$30,000.

(c) Holders of tickets in which three like play symbols appear in a complete column in "Game 1" and having a corresponding prize marker with a prize amount of \$3,000 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$3,000.

(d) Holders of tickets in which three like play symbols appear in a complete row in “Game 3” and having a corresponding prize marker with a prize amount of \$1,000 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets in which three like play symbols appear in either a complete row in “Game 2” or in a complete column in “Game 3” and having a corresponding prize marker with a prize amount of \$300 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$300.

(f) Holders of tickets in which three like play symbols appear in either a complete column in “Game 2” or in a complete row in “Game 3” and having a corresponding prize marker with a prize amount of \$90 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$90.

(g) Holders of tickets in which three like play symbols appear in either a complete row in “Game 1” or “Game 2” and having a corresponding prize marker with a prize amount of \$30 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$30.

(h) Holders of tickets in which three like play symbols appear in either a complete column in “Game 1” or “Game

3” and having a corresponding prize marker with a prize amount of \$15 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$15.

(i) Holders of tickets in which three like play symbols appear in either a complete column in “Game 2” or in a complete row in “Game 3” and having a corresponding prize marker with a prize amount of \$9 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$9.

(j) Holders of tickets in which three like play symbols appear in either a complete row in “Game 1” or “Game 2” and having a corresponding prize marker with a prize amount of \$6 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$6.

(k) Holders of tickets in which three like play symbols appear in either a complete column in “Game 1” or “Game 2” and having a corresponding prize marker with a prize amount of \$3 appearing in that prize marker, on a single ticket, shall be entitled to a prize of \$3.

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:

<i>Scratch The Entire Cube. In Any Of The Three Games, Find 3 Like Play Symbols In A Complete Row Or Column And Win Prize Shown In The Marker Pointing To That Win. Win With Prize(s) Of:</i>			<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 7,200,000 Tickets</i>
<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>			
\$3			\$3	16.67	432,000
	\$3		\$3	20	360,000
\$6			\$6	50	144,000
	\$6		\$6	50	144,000
\$3	\$3		\$6	50	144,000
	\$9		\$9	100	72,000
		\$9	\$9	100	72,000
\$3	\$6		\$9	100	72,000
\$15			\$15	200	36,000
		\$15	\$15	200	36,000
\$3	\$3	\$9	\$15	100	72,000
\$30			\$30	500	14,400
	\$30		\$30	500	14,400
\$6	\$9	\$15	\$30	500	14,400
\$15	\$6 + \$9		\$30	250	28,800
	\$90		\$90	1,200	6,000
		\$90	\$90	1,200	6,000
\$15 + \$30	\$30	\$15	\$90	1,143	6,300
	\$300		\$300	24,000	300
		\$300	\$300	24,000	300
		\$1,000	\$1,000	30,000	240
\$3,000			\$3,000	60,000	120
\$30,000			\$30,000	720,000	10
		\$60,000	\$60,000	1,440,000	5

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 3-D Cash Cube 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 3-D Cash Cube, prize money from winning Pennsylvania 3-D Cash Cube 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 3-D Cash Cube 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), the regulations contained in 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. Such announcement will be disseminated through media used to advertise or promote Pennsylvania 3-D Cash Cube or through normal communications methods.

C. DANIEL HASSELL,
Acting Secretary

[Pa.B. Doc. No. 10-298. Filed for public inspection February 12, 2010, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Juniata 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 planning the construction of a

new vehicular bridge carrying SR 0035 over the Juniata River that connects Mifflin Borough to Mifflintown Borough in Juniata County. The project also will include the construction of a roundabout at the SR 0035/SR 3002 intersection; the replacement of the bridge carrying SR 0035, Section Z05 over the Norfolk Southern Railroad, and the replacement of the existing SR 0035 vehicular bridge with a pedestrian bridge.

Information describing the project, with the associated environmental analysis, is contained in the Environmental Assessment that was prepared for this project.

Based upon studies, there is no prudent and feasible alternative to the proposed action.

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. 10-299. Filed for public inspection February 12, 2010, 9:00 a.m.]

FISH AND BOAT COMMISSION

Nursery Water Designations and Re-Designations

Under 58 Pa. Code § 67.1 (relating to nursery waters and exhibition areas), the Executive Director of the Fish and Boat Commission (Commission), with the approval of the Commission, may designate waters as nursery waters or exhibition areas to which the penalties of section 2106 of the Fish and Boat Code, 30 Pa.C.S. § 2106 (relating to fishing in hatchery or nursery waters) apply. The designation of waters as nursery waters or exhibition areas shall be effective upon posting of the waters after publication of a notice that the waters have been so designated in the *Pennsylvania Bulletin*.

The Commission has designated the following waters as nursery waters:

<i>County</i>	<i>Water</i>	<i>Limits</i>
Centre	Spring Creek	In Bellefonte from the trestle immediately above the falls downstream to the Lamb Street Bridge
Crawford	Pymatuning Lake	Sanctuary and spillway area
Elk	East Branch Clarion River	A section of the East Branch of the Clarion River where the East and West Branches meet to form the Clarion River upstream to the Venners Island Bridge (approximately 1/4 mile in length)
Erie	Godfrey Run	Entire stream
Erie	Crooked Creek	From Ables Road Bridge downstream to a wire just above the mouth (approximately 1/4 mile in length)
Erie	Trout Run	Entire stream including an unnamed tributary flowing from the Fairview State Fish Hatchery
Erie	Orchard Beach Run	Entire stream
Franklin	Dickey's Run	100 feet on the Mercersburg Sportsman's Association property
Franklin	Falling Springs Creek	From the US Route 30 bridge downstream approximately 300 feet to Walker Road
Potter	Commissioner Run	Located on Pennsylvania Historical and Museum Commission property
Potter	One Acre Pond	Located at Lumber Museum—Denton Hill State Park

The Commission has designated the following waters as nursery waters to protect spawning walleye and therefore has closed them to fishing from April 15 to the first Saturday in May:

<i>County</i>	<i>Water</i>	<i>Limits</i>
Crawford	Linesville Creek	From the mouth upstream to the Conrail Railroad Bridge north of State Route 6 in Linesville. (Annually from March 1 to the first Saturday in May)
Crawford	Padden (Finley) Creek	From the mouth upstream to Finley Bridge on State Route 6 (Annually from March 1 to the first Saturday in May)

The Commission has removed the following waters from its list of nursery waters:

<i>County</i>	<i>Water</i>	<i>Limits</i>
Carbon	Hock Run	From the source downstream to State Route 534 (Approximately one mile in length) No Longer Maintained; Cooperative Nursery Defunct
Cumberland	Middle Spring Creek	In Shippensburg No Longer Maintained
Erie	Elk Creek	Portions posted as temporary nursery waters for Chinook Salmon No Longer Maintained Or Needed
Huntingdon	Lake Raystown	Seven Points Marina fish display tank No Longer Maintained
Lancaster	Lititz Spring	A pool located in Lititz Spring Park No Longer Maintained
Potter	Allegheny River	200 foot area at the confluence of the Allegheny River and Mill Creek No Longer Maintained
Potter	Allegheny River	500 foot area from the Chestnut Street Bridge to the lower end of the flood control channel No Longer Maintained
Washington	Cross Creek Lake	Entire lake No Longer Maintained; Lake Open to Public Fishing
Wayne	Lake Wallenpaupack	Mangan Spring and Run and that portion of Mangan Cove into the lake for a distance of 150 yards from the high water mark No Longer Maintained; Cooperative Nursery Defunct

BRIAN P. BARNER,
Acting Executive Director

[Pa.B. Doc. No. 10-300. Filed for public inspection February 12, 2010, 9:00 a.m.]

2010 List of Native Species for Purposes of 58 Pa. Code Chapter 79

Under 58 Pa. Code § 79.1 (relating to definitions), the Fish and Boat Commission (Commission) is publishing the following list of reptile and amphibian species and subspecies, where applicable, that the Commission has determined are native species for purposes of 58 Pa. Code Chapter 79 (relating to reptiles and amphibians). The Commission's regulations define "native species" as a reptile or amphibian species or subspecies, where applicable, that has not been introduced into this Commonwealth and occurs historically within the boundaries of this Commonwealth. The Commission's regulations go on to state that the Commission will from time to time publish in the *Pennsylvania Bulletin* a list of reptile and amphibian species and subspecies, where applicable, that it has determined to be native species.

Scientific Name	Common Name	PA Status
<i>Acris crepitans crepitans</i>	Northern Cricket Frog	S
<i>Agkistrodon contortrix</i>	Copperhead	S
<i>Ambystoma jeffersonianum</i>	Jefferson Salamander	S
<i>Ambystoma laterale</i>	Blue-spotted Salamander	S
<i>Ambystoma maculatum</i>	Spotted Salamander	A
<i>Ambystoma opacum</i>	Marbled Salamander	S
<i>Ambystoma tigrinum</i>	Eastern Tiger Salamander	X

Scientific Name	Common Name	PA Status
<i>Aneides aeneus</i>	Green Salamander	T
<i>Apalone mutica mutica</i>	Midland Smooth Softshell	X
<i>Apalone spinifera spinifera</i>	Eastern Spiny Softshell	A
<i>Anaxyrus americanus americanus</i>	Eastern American Toad	A
<i>Anaxyrus fowleri</i>	Fowler's Toad	S
<i>Carphophis amoenus amoenus</i>	Eastern Worm Snake	S
<i>Chelydra serpentina</i>	Snapping Turtle	A
<i>Chyrsemys picta marginata</i>	Midland Painted Turtle	A
<i>Chyrsemys picta picta</i>	Eastern Painted Turtle	A
<i>Clemmys guttata</i>	Spotted Turtle	S
<i>Clonophis kirtlandii</i>	Kirtland's Snake	E
<i>Coluber constrictor constrictor</i>	Northern Black Racer	A
<i>Crotalus horridus</i>	Timber Rattlesnake	C
<i>Cryptobranchus alleganiensis alleganiensis</i>	Eastern Hellbender	S
<i>Desmognathus fuscus</i>	Northern Dusky Salamander	A
<i>Desmognathus monticola</i>	Seal Salamander	A
<i>Desmognathus ochrophaeus</i>	Allegheny Mountain Dusky Salamander	A
<i>Diadophis punctatus edwardsii</i>	Northern Ringneck Snake	A
<i>Pantherophis alleghaniensis</i>	Eastern Ratsnake	A
<i>Emydoidea blandingii</i>	Blanding's Turtle	C
<i>Plestiodon anthracinus anthracinus</i>	Northern Coal Skink	S
<i>Plestiodon fasciatus</i>	Five-lined Skink	A
<i>Plestiodon laticeps</i>	Broadhead Skink	C
<i>Eurycea bislineata</i>	Northern Two-lined Salamander	A
<i>Eurycea longicauda longicauda</i>	Longtail Salamander	A
<i>Glyptemys insculpta</i>	Wood Turtle	S
<i>Glyptemys muhlenbergii</i>	Bog Turtle	E
<i>Graptemys geographica</i>	Map Turtle	A
<i>Gyrinophilus porphyriticus porphyriticus</i>	Northern Spring Salamander	A
<i>Hemidactylium scutatum</i>	Four-toed Salamander	A
<i>Heterodon platirhinos</i>	Eastern Hognose Snake	S
<i>Hyla versicolor</i>	Eastern Gray Treefrog	A
<i>Kinosternum subrubrum subrubrum</i>	Eastern Mud Turtle	S
<i>Lampropeltis triangulum triangulum</i>	Eastern Milksnake	A
<i>Liochlorophis vernalis</i>	Smooth Green Snake	S
<i>Necturus maculosus</i>	Mudpuppy	S

Scientific Name	Common Name	PA Status
<i>Nerodia sipedon sipedon</i>	Northern Water Snake	A
<i>Notophthalmus viridescens viridescens</i>	Eastern Red-Spotted Newt	A
<i>Opheodrys aestivus</i>	Rough Green Snake	E
<i>Plethodon cinereus</i>	Eastern Redback Salamander	A
<i>Plethodon glutinosus</i>	Northern Slimy Salamander	A
<i>Plethodon hoffmani</i>	Valley and Ridge Salamander	S
<i>Plethodon electromorphus</i>	Northern Ravine Salamander	S
<i>Plethodon wehrlei</i>	Wehrle's Salamander	A
<i>Pseudacaris crucifer</i>	Spring Peeper	A
<i>Pseudacris brachyphona</i>	Mountain Chorus Frog	S
<i>Pseudacris feriarum</i>	Upland Chorus Frog	S
<i>Pseudacris triseriata</i>	Western Chorus Frog	S
<i>Pseudacris kalmi</i>	New Jersey Chorus Frog	E
<i>Pseudemys rubriventris</i>	Redbelly Turtle	T
<i>Pseudotriton montanus montanus</i>	Eastern Mud Salamander	E
<i>Pseudotriton ruber ruber</i>	Northern Red Salamander	A
<i>Lithobates catesbeiana</i>	Bullfrog	A
<i>Lithobates clamitans melanotus</i>	Northern Green Frog	A
<i>Lithobates palustris</i>	Pickerel Frog	A
<i>Lithobates pipiens</i>	Northern Leopard Frog	S
<i>Lithobates sphenoccephalus utricularius</i>	Southern Leopard Frog	E
<i>Lithobates sylvatica</i>	Wood Frog	A
<i>Regina septemvittata</i>	Queen Snake	S
<i>Scaphiopus holbrookii</i>	Eastern Spadefoot	E
<i>Sceloporus undulatus</i>	Eastern Fence Lizard	S
<i>Sistrurus catenatus catenatus</i>	Eastern Massasauga	E
<i>Sternotherus odoratus</i>	Eastern Musk Turtle	A
<i>Storeria dekayi dekayi</i>	Northern Brown Snake	A
<i>Storeria occipitomaculata occipitomaculata</i>	Northern Redbelly Snake	A
<i>Terrepena carolina carolina</i>	Eastern Box Turtle	S
<i>Thamnophis brachystoma</i>	Shorthead Garter Snake	S
<i>Thamnophis sauritus sauritus</i>	Eastern Ribbon Snake	S
<i>Thamnophis sauritus septentrionalis</i>	Northern Ribbon Snake	S
<i>Thamnophis sirtalis sirtalis</i>	Eastern Garter Snake	A
<i>Virginia pulchra</i>	Mountain Earth Snake	S
<i>Virginia valeriae valeriae</i>	Eastern Smooth Earth Snake	S

Legend

A=Abundant

C=Candidate Species

E=Endangered Species

S=Species of special concern, rare, not common due to one or more of the following factors: range restriction, population decline, limited distribution, direct threats from habitat alteration, collection

T=Threatened Species

X=Extirpated, no longer occurs in PA

BRIAN P. BARNER,
Acting Executive Director

[Pa.B. Doc. No. 10-301. Filed for public inspection February 12, 2010, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

State Surplus Property Program; Deaccession Auction

The Historical and Museum Commission will be auctioning items deaccessioned from the permanent collection. These antique items, some museum quality, are being auctioned because they duplicate objects remaining in the collection, are in poor condition or do not pertain to the history of this Commonwealth. The public auction will be held in conjunction with the Department of General Services' Surplus Property Division, the morning of Saturday, March 6th, 2010, at Ziegler Auction Company's Hummelstown, PA facility (www.zieglerauction.com). The auction will feature a variety of antique items, some museum quality, including: prints and engravings, tools and equipment related to agricultural, woodworking and mining industries, an assortment of 19th century household and merchandising objects, and railroad memorabilia, including equipment, timetables, prints, and models.

BARBARA FRANCO,
Executive Director

[Pa.B. Doc. No. 10-302. Filed for public inspection February 12, 2010, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10 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, IRRC will provide a copy or you can obtain a copy from our website, www.irrc.state.pa.us.

Final-Form

Reg. No.	Agency/Title	Received	Public Meeting
10-181	Department of Health School Immunizations; Communicable and Noncommunicable Diseases	1/28/10	3/11/10

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-303. Filed for public inspection February 12, 2010, 9:00 a.m.]

INSURANCE DEPARTMENT

Application For Approval to Acquire Control of Lebanon Mutual Insurance Company

Tuscarora Wayne Insurance Company has filed an application to acquire control of Lebanon Mutual Insurance Company, a Pennsylvania domiciled mutual property insurance company. The filing was made under the requirements set forth under the Insurance Holding Companies Act of 1921, (40 P. S. §§ 991.1402—991.1413).

Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, or rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-304. Filed for public inspection February 12, 2010, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Lycoming Community Care, Inc.

Lycoming Community Care, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Woods' Edge At Valley View in Montoursville, PA. The initial filing was received on December 30, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of 1984 (40 P. S. §§ 3201—3325).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or to syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-305. Filed for public inspection February 12, 2010, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional offices in Harrisburg, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Thomas Crane; file no. 09-188-81113; Nationwide Affinity Insurance Company of America; Doc. No. P10-01-012; March 18, 2010, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured

wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-306. Filed for public inspection February 12, 2010, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board Leases will expire:

Bucks County, Wine & Spirits Store #0926 (Relocation), Doylestown, PA

Lease expiration date: October 31, 2010

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board a minimum of 12,000 up to approximately 15,000 net useable square feet of new or existing retail commercial space in a 2-mile radius of the Doylestown Shopping Center, Doylestown, PA.

Proposals due: February 19, 2010, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Robert Jolly, (215) 482-9670

Montgomery County, Wine & Spirits Store #4660 (New Store), Dreshertown Road, Upper Dublin Township, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space in a 1-mile radius of Route 152 (Limekiln Pike) and Dreshertown Road, Upper Dublin Township, PA.

Proposals due: March, 5 2010, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr., (215) 482-9670

The Liquor Control Board Lease seeks the following new site:

Philadelphia County, Office Space/Training Academy #5156 (New Facility), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial office space/training academy within the County of Philadelphia that is easily accessible to public transportation.

Proposals due: March, 5 2010, at 12 p.m.

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 7114 Ridge Avenue, Philadelphia, PA 19128-3250
Contact: Henry Blocker, Jr., (215) 482-9670
 PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 10-307. Filed for public inspection February 12, 2010, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Public Meeting held
 January 28, 2010

Interim Order

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli; Wayne E. Gardner; Robert F. Powelson

Relief Plan for the 814 NPA; Doc. No. P-2009-2112925

By the Commission:

On June 9, 2009, the North American Numbering Plan Administrator NeuStar, Inc. (NANPA), in its role as the neutral third party NPA Relief Planner for Pennsylvania,¹ acting on behalf of the Pennsylvania telecommunications industry (industry) filed a petition with the Commission requesting approval of its plan for the 814 Numbering Plan Area (NPA or area code). According to the petition, the industry reached a consensus² to implement an all services distributed overlay for the geographic area covered by the 814 NPA which would create a new area code to service the area. Currently, the 814 NPA is projected to exhaust all available NXX codes³ during the third quarter 2012.

Because the Commission has the ultimate authority to approve or reject a relief plan,⁴ we entered an order on

¹ The NANPA is the entity that allocates numbering resources and monitors the viability of area codes to determine when all of the numbers available in the area code are nearing exhaust. The Industry Numbering Committee Guidelines provide that, when an area code is nearing exhaustion, the NANPA, which then becomes the NPA Relief Planner, convenes a meeting of the industry to discuss relief alternatives. *NPA Code Relief Planning & Notification Guidelines*, INC97-0404-016, reissued Nov. 8, 1999, at § 5.5. If the industry reaches a consensus, then its consensus plan is filed with the Commission and the Commission has an opportunity to take action at that point. *NPA Code Relief Planning & Notification Guidelines*, INC97-0404-016, reissued Nov. 8, 1999, at § 5.6.

² A consensus is established when substantial agreement has been reached. Substantial agreement means more than a simple majority, but not necessarily unanimity. *CLC Principles and Procedures*, May 1998, at § 6.8.8.

³ NXX codes are the three digits following an area code. Hence, in 814-555-1212, 814 is the NPA and 555 is the NXX code. The unavailability of numbering resources and the need for new area codes occurs for several reasons. For example, more carriers are competing in the telecommunications market and to compete they require numbers to offer their customers.

⁴ 47 CFR § 52.19 and *NPA Code Relief Planning & Notification Guidelines*, INC 97-0404-016, reissued Nov. 8, 1999, at § 2.10.

July 29, 2009, at the above docket number seeking comments on the industry's proposed relief plan. Comments by interested parties were due by September 8, 2009. Reply comments were filed by September 28, 2009. The Commission received comments from Representative Metzger, the Office of Consumer Advocate, residents within the 814 NPA and the industry. Several of these commenters requested that the Commission schedule public input hearings to further discuss the situation in the 814 NPA before rendering a final order on the industry consensus relief plan.

The Commission agrees that public input hearings would be a useful tool to help make this difficult decision. Therefore, the Commission hereby directs that the record in this matter will be re-opened for the purpose of accepting public input in the form of testimony related to the form of relief for the 814 NPA. The locations and times for the public input hearings are set forth in Attachment A to this order. An administrative law judge has been assigned to this matter for the purpose of facilitating the hearings. A transcript of the hearings will be made and then certified to the Commission which will make the final decision on this matter.

Participants in these hearings are reminded that the Federal Communications Commission (FCC) has significantly diminished the Commission's authority when deciding area code relief issues and has required the Commission to implement area code relief in a timely manner.⁵ Therefore, the Commission can only accept testimony related to the form of relief⁶ that should be implemented in the 814 NPA.

Finally, the Commission remains committed to the competitive process in the telephone industry and stands firmly resolved to ensure that all telecommunications carriers have adequate numbering resources so as to compete in the rapidly growing telecommunications marketplace in Pennsylvania. Reopening the record to receive public input will not preclude customers from receiving telecommunications services from providers of their choice because of a lack of numbering resources as the current relief plan proposed by the industry allows nineteen months for full implementation of the new NPA. The Commission's past experience with area code overlays is that they have been fully implemented within as little as six months. Therefore, temporarily delaying the current implementation schedule will not compromise the ability of area code relief to be implemented in the 814 NPA on a timely basis.

The policy of the Commission is to ensure that numbering resources, including area code relief planning, are made available on an equitable, efficient and timely basis in Pennsylvania while ensuring that the impact of proliferating new area codes on consumers is minimized to the extent possible; *Therefore,*

It is Ordered That:

⁵ *In the Matter of Petition for Declaratory Ruling and Request for Expedited action on July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 190029 (1998) *recon. pending*.

⁶ Pursuant to FCC regulations, new area codes can be introduced to relieve the shortage of numbers in an area code through the use of the following three methods:

- A geographic area code split, which occurs when the geographic area served by an area code is split into two or more geographical parts;
- An area code boundary realignment, which occurs when the boundary lines between two adjacent area codes are shifted to allow the transfer of some numbers from one area code to the other;
- Area code overlay, which occurs when a new area code is introduced to serve the same geographic area as an existing area code. 47 CFR § 52.19(c)(1)-(3).

1. The record in this proceeding shall be reopened for the limited purpose of accepting public input in the form of testimony at the public hearings as scheduled in Attachment A to this order.

2. The Secretary's Bureau shall publish a copy of this order and the public notice setting forth the time, place and subject of the public input hearings in the *Pennsylvania Bulletin*.

3. A copy of this order shall be posted on the Commission's web site at <http://www.puc.state.pa.us>.

4. A copy of this order shall be served to upon all the parties of record and upon the Office of Administrative Law Judge.

By the Commission,

JAMES J. McNULTY,
Secretary

Attachment A

Petition of North American Numbering Plan Administrator

*Petition of the North American Numbering Plan
Administrator on behalf of the Pennsylvania
Telecommunications Industry for Approval of Numbering
Plan Area Relief Planning for the 814 NPA.*

Public Input Hearing Notice

This is to inform that Public Input Hearings on the previously-captioned case will be held as follows:

Type: *Public Input Hearing*

Date: Monday, February 22, 2010 at 6 p.m.

Ramada Inn
Ballroom C
1 Sheraton Drive
Altoona, PA 16601

Tuesday, February 23, 2010 at 6 p.m.
Richland Township Events & Conference
Center

176 Mount Airy Drive
Johnstown, PA 15904

Wednesday, February 24, 2010 at 6 p.m.

Ramada Inn
Grand Ballroom
1450 South Atherton Street
State College, PA 16801

*(Administrative Law Judge David A. Salapa
will preside)*

Thursday, February 25, 2010 at 6 p.m.

Quality Inn & Suites
8040 Perry Highway
Erie, PA 16509

Thursday, March 4, 2010 at 6 p.m.

Somerset Fire Company
340 West Union Street
Somerset, PA 15501

Presiding: Administrative Law Judge Katrina

Dudnerdale
Piatt Place
301 Fifth Avenue
Room 220

Pittsburgh, PA 15222
telephone: (412) 565-3550
fax: (412) 565-5692

Persons with a disability, wishing to attend the hearing, we may be able to make arrangements for special

needs. Call the scheduling office at the Pennsylvania Public Utility Commission at least 5 business days prior to the hearing to submit a request.

For those requiring an interpreter to participate in the hearings, we will make every reasonable effort to have an interpreter present. Call the scheduling office at the Public Utility Commission at least 10 business days prior to the hearing to submit a request.

- Scheduling Office: (717) 787-1399

- AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

[Pa.B. Doc. No. 10-308. Filed for public inspection February 12, 2010, 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 1, 2010. 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-2009-2139829. Auto Effects Motor Sports, Inc. (191 9th Street, Monaco, Beaver County, PA 15061)—a corporation of the Commonwealth of Pennsylvania—in Group and Party service, in vehicles seating 11 to 15 passengers, including the driver, from points in Allegheny and Beaver Counties, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority.

A-2010-2155661. Taxi Express, LLC (403 North Newberry Street, Apartment 201, York, York County, PA 17401)—a limited liability corporation of the Commonwealth—in call or demand service, in York County. *Attorney:* Sandra Thompson, P. O. Box 2361, York, PA 17405.

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-2010-2155021. Modern Motor Coaches, Inc. d/b/a Modern Piano Moving (992 Highway D, Sullivan, MO 63080)—household goods in use, limited to pianos and organs, between points in Pennsylvania.

A-2010-2155597. Sharp Estate Services LLC (11155 Silverthorn Road, Edinboro, Erie County, PA 16412)—a limited liability corporation of the Commonwealth—household goods in use, between points in Pennsylvania.

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 George DeLallo Company, Inc., Respondent, maintains its principal place of business at 1592 Roseytown Road, Greensburg, PA 15601.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on May 17, 1995 at Application Docket No. A-00111855.

3. That Respondent did not submit a PA PUC Assessment Report for calendar year 2006 and reported zero intrastate revenue for calendar year 2007. On April 6, 2009 this Commission received Respondent's 2008 Assessment Report, which was signed by Philip M. Polsinelli, an officer of the company. It also reported zero PA PUC regulated intrastate revenue. Therefore, Respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That Respondent, by failing to submit a letter to this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(5) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Respondent's Certificate of Public Convenience at A-00111855.

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 to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty 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 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 days, a Secretarial Letter will be issued which imposes a penalty, including the revocation of your Certificate of Public Convenience.

C. If you file an Answer which admits or fails to deny the allegations of the Complaint, a Secretarial Letter will be issued which imposes a penalty, including the revocation of your Certificate of Public Convenience.

D. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. If you have questions regarding this Complaint, or if you would like an alternative format of this Complaint for persons with disabilities, please contact the Compliance Office at (717) 787-1227.

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 10-309. Filed for public inspection February 12, 2010, 9:00 a.m.]

Public Meeting held
January 28, 2010

Commissioners Present: James H. Cawley, Chairperson;
Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli;
Wayne E. Gardner; Robert F. Powelson

*Interim Guidelines for the Filing of Electric Transmission
Line Siting Applications; Doc. No. M-2009-2141293*

Tentative Order

By the Commission:

The current regulatory filing requirements utilized by this Commission for the siting of high voltage electric utility transmission lines are governed generally by sections 1102, 1501, and 2805 of the Public Utility Code and section 1511 of the Business Corporation Law, 66 Pa.C.S. §§ 1102, 1501, 2805; 15 Pa.C.S. § 1511. Detailed filing requirements for transmission siting applications appear in Chapter 57 of the Commission's regulations—specifically 52 Pa. Code §§ 57.71—57.76 (relating to procedures for siting transmission lines). The Commission's statutory authority under these provisions has been and continues to be sufficient for carrying out its responsibilities for evaluating the safety, adequacy and reliability of proposed high voltage transmission facilities.

The Commission believes the time is ripe to re-evaluate the relevancy and effectiveness of its current regulations and ascertain whether amendments should be considered to meet the needs of the evolving regulatory and energy environment. The current transmission siting regulations are more than thirty years old. Ongoing developments at the Federal level affecting transmission line siting, as well as our statutory obligation to maintain an adequate transmission infrastructure, require this Commission to re-examine its current transmission siting regulations. In particular, the Commission must insure that our regulations produce the data and other information needed to

make informed decisions in order to facilitate our statutory duty to maintain a transmission infrastructure that is adequate to meet the present and future energy needs of Pennsylvania consumers.

Accordingly, the Commission intends to open a rule-making proceeding under separate order in the near future to address this area. In the meantime, the Commission, by this Tentative Order, is proposing certain Interim Guidelines, which are designed to provide guidance to the industry and interested persons as to the information that the Commission believes is relevant and critical to our evaluation of future transmission line siting applications under section 1102, pending the completion of our rulemaking in this area. In this fashion, applicants and interested parties will know, in advance, the information that the Commission deems relevant and essential for its review and evaluation of proposed transmission lines.

Procedural History

The Commission's current regulatory standards for evaluating applications to site high voltage electric transmission lines were promulgated in 1978 at a time when transmission siting projects were primarily intrastate in nature. See *Re: Overhead Transmission Lines* 51 PAPUC 682 (1978); *Re: West Penn Power Company*, 54 PAPUC 319 (1980). These regulations have been modified over time with the most recent amendments occurring in 1999. Significant developments at the Federal level will have major impacts on how this Commission sites transmission lines in the future. Recently enacted provisions of the Energy Policy Act of 2005 (EPAAct of 2005), 16 U.S.C. § 824p, authorize the U.S. Department of Energy (DOE) to conduct congestion studies in consultation with affected states and to issue a report which designates any geographic area experiencing electric energy transmission constraints or congestion as a National Interest Electric Transmission Corridor (NIETC). On October 2, 2007, DOE announced the final designations of the Mid-Atlantic NIETC that includes most of Pennsylvania as well as large portions of other states in the Mid-Atlantic region.¹ In addition to the responsibilities given to DOE, the EPAAct of 2005 gave FERC federal backstop siting authority over the public utility siting process when a state has withheld approval of a state siting application for more than one year.²

FERC, pursuant to the requirements of EPAAct of 2005, recently issued Order 890 that requires a re-evaluation of interstate transmission siting practices with a view toward encouraging regional cooperation among the states in siting transmission facilities. A proceeding is currently underway to revise those standards at FERC Dkt. No. AD09-8-000.

Congress is currently considering energy legislation which would have the effect of expanding the FERC's role in the transmission siting process and correct what some believe are the legal deficiencies in the *Piedmont* holding. Finally, approximately 40 states (including Pennsylvania) within the eastern interconnection are participating in the Eastern Interconnection Planning Process as part of an effort sponsored by DOE and the FERC to encourage states to work collaboratively in addressing the national

need to improve the capacity and reliability of the electric transmission grid. This initiative, which is expected to conclude in 2013, will hopefully result in a coordinated federal-state approach to the siting of transmission facilities.

At the state level, this Commission has been faced with an increasing number of complex transmission siting applications. In *Re: Application of Allegheny Interstate Line Company* at Docket No. A-110172 (*TrAILCo*), the applicant sought authority to locate, construct, operate and maintain 500 kV transmission lines in Washington and Green Counties in southwest Pennsylvania. More recently, an application has been filed In *Re: Application of PPL Electric Utilities, Inc.*, at Docket No. A-2009-2082652 for authority to site the 500 kV Susquehanna-Roseland line.³

Current Commission transmission siting regulations have been in place since 1978 and do not reflect the many significant developments in the transmission arena that have occurred and are likely to occur in the future. This Commission is cognizant of the momentous changes impacting transmission siting at the federal level and believes that a thorough revision of its existing transmission siting requirements is in the public interest.

In 2010, this Commission will be initiating a Proposed Rulemaking soliciting input from interested stakeholders in the promulgation of potential amendments to our regulations governing the siting of electric transmission facilities in Pennsylvania. For example, in § 57.72(c), the filing requirements regarding "need" are stated in general terms, "(5) A general statement of the need for the proposed HV line in meeting identified present and future demands for service, of how the proposed HV line will meet the need and of the engineering justifications for the proposed HV line."

52 Pa. Code § 57.72(c)(5). However, applicants in transmission line siting cases typically provide detailed exhibits and testimony that also address the appellate cases discussing factors relevant to the standard for determining the "need" for the transmission line. Other parties produce similarly detailed exhibits and testimony in response to the applicant's materials. The Commission has found this information to be useful and relevant in its review of these proceedings.

Pending the conclusion of this rulemaking process, the Commission, by this Tentative Order, is proposing to adopt specific Interim Guidelines for high voltage transmission line siting applications. The Interim Guidelines discussed below, and attached as Appendix A to this Tentative Order, are designed to supplement the existing Commission filing requirements at 52 Pa. Code §§ 57.71—57.76. The additional information requested by these Interim Guidelines is intended to aid in processing transmission siting applications in a timely fashion on a case by case basis. If the information outlined herein is provided in the initial filing, it will reduce the need for subsequent data requests, on a case by case basis, to develop the necessary record to process the application.

The Commission has the authority pursuant to 52 Pa. Code § 57.72 (15) to seek additional information as it "may require" to properly evaluate electric transmission siting applications. Consistent with that authority, the Commission intends to issue these Interim Guidelines which will be in effect pending the completion of a final rulemaking to revise the existing transmission regulations.

³ This matter is currently pending before the Commission.

¹ The Mid-Atlantic NIETC designation is currently the subject of a consolidated appeal in the Court of Appeals for the 9th Circuit captioned as *The Wilderness Society et al v. U.S. Department of Energy et al* Dkt. No. 08-71074. The PAPUC is one of several states and/or state commission petitioners in that consolidated appeal.

² FERC's interpretation that this provision of EPAAct 205 applied to a state's denial of an application was reversed recently by the U.S. Court of Appeals for the Fourth Circuit in *Piedmont Environmental Council et al v. Federal Energy Regulatory Commission et al*, 558 F.3d 304. The matter is now the subject of a Writ of Certiorari to the U.S. Supreme Court.

Because the information requested in these Interim Guidelines is critical to an informed decision regarding proposed transmission siting applications, we are establishing a 45-day comment period from the effective date of this Tentative Order for interested parties to provide input on these proposed Interim Guidelines. We believe these Interim Guidelines will not impose an undue burden on prospective applicants because the information being requested is information that is normally gathered during the transmission planning process. Further, these Interim Guidelines do not supplant the traditional statutory requirements under 66 Pa.C.S. §§ 1102, 1501 and 2101 (relating to the requirements for Commission approval of certificates of public convenience, approval of transmission facilities generally and the approval of affiliated interest agreements) as well as section 1511 of the Business Corporation Law (BCL), 15 Pa.C.S. § 1511 (relating to the exercise of eminent domain authority).

Following consideration of filed comments, we will issue a Final Order that formally establishes these Interim Guidelines.

Discussion

The Commission believes the current regulations for siting high voltage electric transmission facilities, as contained in 52 Pa. Code §§ 57.71—57.76, should be reviewed and potentially amended. Hence, the Commission intends to initiate a Proposed Rulemaking in the near future to revise and update the existing regulations. Because the rulemaking process is lengthy and can take a year or more for new regulations to be fully implemented, the Commission believes that it is in the public interest to provide guidance to the industry and interested persons as to the information the Commission currently intends to evaluate in the context of future transmission siting applications, pending the completion of that rulemaking.

Accordingly, the Commission is issuing for comment Interim Guidelines to announce its intentions regarding the additional information that should be provided to determine whether granting the application/letter of notification for the siting of electric transmission facilities is “necessary or proper for the service, accommodation, convenience, or safety of the public.” If these proposed Interim Guidelines are adopted, applicants and interested parties will know, in advance, the information that the Commission deems relevant and essential for its review and evaluation of proposed transmission lines.

The Commission emphasizes that these proposed Interim Guidelines do not alter the legal standards to be met by prospective applicants pursuant to relevant provisions of the Public Utility Code under Chapter 11 (relating to the requirements for a certificate of public convenience); Chapter 15 (relating to the Commission’s power to prescribe standards of service and facilities) and Chapter 21 (affiliated interest requirements) or Section 1511 of the BCL (relating to eminent domain authority). Additionally, the proposed Interim Guidelines do not alter the traditional requirements for demonstrating “need” for the transmission facilities under our regulations and relevant appellate authority.

A. Public Notice Filing Requirements

It is a fundamental criterion for receipt of a Certificate of Public Convenience that the applicant, in addition to demonstrating both “public need” and financial and technical fitness, prove “legal fitness” by demonstrating a propensity to operate legally and safely.

The current filing requirements should be supplemented in regard to the information to be filed with the Commission and disseminated to the public and the media relative to proper notice to landowners impacted by the siting of a transmission line. To ensure adequate public notice, the Commission proposes that the following additional information be filed with the transmission siting application:

(1) A Code of Conduct or a summary of internal practices governing the manner in which public utility employees or their agents interact with affected landowners.

(2) Copies of information to affected landowners by the public utility through bill inserts, newspaper and website notices and radio and TV notices advising landowners to contact the Commission or OCA in the event of improper public utility employee/land agent practices as they relate to the siting of the proposed transmission line.

(3) Prior notice to the Commission Office of Communications and the statutory advocates of informational presentations by the public utility to affected landowners so that the Commission, OCA or other governmental entities can monitor the information being disseminated to affected landowners or can attend the presentations.

(4) Copies of all notices sent pursuant to 52 Pa. Code § 57.91.

B. Eminent Domain Filing Requirements

The Commission’s authority to grant eminent domain power derives from Section 1511(c) of the Business Corporation Law (BCL) 15 Pa.C.S. § 1511. Section 1511(c) empowers the Commission to grant a jurisdictional electric utility the power to condemn property for any reasonable purpose related to the provision of public utility service. Typically, transmission siting applicants file their application for eminent domain authority concurrently with applications for siting authorization. See 52 Pa. Code § 57.75(i).

Currently, the Commission has no specific regulations defining what information is required to be filed as part of an eminent domain application. In fact, the only regulation directly pertinent to the condemnation process appears at 52 Pa. Code § 57.91 (relating to the required notice to landowners of the possible exercise by the electric utility of eminent domain power). It is also important that accurate information be communicated to affected landowners about the potential exercise of eminent domain power. To address these concerns, the Commission proposes the following Interim Guidelines for applications for eminent domain authority:

(1) Public utility applicants should file for eminent domain authority separate from but simultaneously with the transmission siting application. Testimonial evidence in support of an eminent domain application should be filed with the eminent domain application.

(2) Notice of the eminent domain filing to affected landowners should be separate and prominent enough to put the landowner on notice to file a response or objection.

(3) As part of an eminent domain application, the public utility applicant should demonstrate with specificity the reason for exercise of condemnation power for each location, the precise location of the impacted property and full detail on the status of negotiations with landowners. Supporting maps or legal descriptions of the ROW, with defined widths, should be supplied with the application to the extent feasible.

(4) Transmission siting applicants should provide copies of internal operating procedures applicable to its employees or its agents responsible for interacting with affected landowners.

C. Exemption From Municipal Zoning Standards

Traditionally, public utility applicants for transmission line siting approval often request an exemption from local zoning requirements pursuant to Section 10619 of the Municipalities Planning Code (MPC), 53 P.S. § 10619 (relating to procedures for requesting exemptions from municipal zoning requirements). To qualify for the exemption, the public utility must only demonstrate that the site is necessary for the provision of service to the public and that the site is reasonable among the range of alternatives. The public utility must comply with the Commission's Policy Statement appearing at 52 Pa. Code § 69.1101 (relating to what the Commission must consider with reference to impacts of its decisions upon local comprehensive plans and zoning ordinances when siting an electric transmission line). No further regulatory requirements exist with regard to this Policy Statement that would necessarily guide the applicant on what type of information should be supplied in support of the Policy Statement.

The Commission believes more information should be supplied by future applicants in support of requests for exemption from local zoning requirements. Consequently, the Commission proposes the following Interim Guidelines regarding the information to be filed involving requests for exemption from municipal zoning requirements, as follows:

(1) Copies of comprehensive land use plans, zoning ordinances and other relevant documentation affected by the siting of the transmission line, buildings and facilities.

(2) A detailed strategy for compliance with these comprehensive plans and ordinances that demonstrate the applicant's best efforts to comply with the plan.

(3) Provision of metes and bounds or maps of facility sites.

(4) A procedure for providing notice to affected municipalities of the request for exemption.

Adequate notice to the municipality ensures that sufficient information is available and the municipality can properly evaluate and, if deemed necessary, challenge the application. All of this information is or should be routinely compiled by the utility applicant as part of the site planning process; thus, providing this information should not be burdensome.

D. Route Evaluation and Siting

Route evaluation and siting are critical issues in electric transmission proceedings. Under § 57.72(c) (3) and (10), the following elements must be considered for each high voltage transmission line:

(1) A general description for each alternative route.

(2) A description of the methodology for developing the alternative route.

(3) Comparison of relative merits of each route.

(4) Statement of reasons underlying the selection of the preferred route 52 Pa. Code § 57.72(c) (3) and (10).

Additionally, the applicant must address the impact that construction and operation of the high voltage line

will have on environmental, socioeconomic and cultural aspects of the impacted area. 52 Pa. Code § 57.72(c) (7) and (8).

The foregoing requirements are very general and do not provide specifically for provision of adequate detail relative to critical issues in route evaluation as follows:

(1) Emphasis on utilizing existing ROWs in the route evaluation process.

(2) Verification of the legal status of ROWs.

(3) Degree of reliance to be placed on Geographic Information System (GIS) data.

(4) Method of outreach to local organizations for assistance in identifying sensitive areas along the route.

(5) Timing of other regulatory approvals in relation to Commission site evaluations.

(6) Treatment of landowners along the various selected routes.

The Commission proposes that applicants submit the following information as part of the § 57.72(c) requirements:

(1) Transmission applicants should utilize, to the extent possible, a combination of transmission route evaluation procedures including high-level GIS data, traditional mapping (including US Geological Survey data and compilation) and analysis of site specific constraints raised by impacted landowners.

(2) Transmission applicants should demonstrate, with a reasonable degree of certainty, the legal status of claimed ROWs, to the extent settled or in litigation, before initiating an application for transmission siting authority. The applicant should provide the current status and continuing updates on ROW litigation or settlements during the course of the siting proceeding.

(3) Applicants should provide descriptions of all alternative routes considered together with a discussion of the relative merits of each, as part of the testimonial support. The discussion of the relative merits of each route should address the environmental, historical, cultural and aesthetic considerations and the comparative construction cost for each route. Descriptions of the proximity of alternative routes to residential and non-residential structures should be provided.

(4) Applicants should provide a summary of efforts made to contact and solicit assistance from local governmental entities and other organizations regarding identification of sensitive areas along the proposed routes.

E. Environmental Filing Requirements

Environmental impacts are a major factor to be considered under 52 Pa. Code § 57.72(c)(7). Applicants must secure regulatory approvals from a number of State and Federal agencies relative to environmental impacts of a transmission line. The Commission believes it is necessary and relevant that information regarding the status of these various regulatory approvals be provided as part of the Commission application.

To address these concerns during the pending Rule-making, the Commission proposes the following Interim Guidelines for provision of additional information as part of the formal application pursuant to 52 Pa. Code § 57.72(c)(7) as follows:

(1) Applicants should submit a matrix showing all required Federal, State and local government regulatory requirements, a time-line for receipt of those require-

ments and a status report on where individual compliance filings are in their approval process.

(2) Applicants should provide a matrix showing contact persons for each Federal, State and local agency from which regulatory approval is required and a record of when contacts were made regarding the proposed transmission line.

F. Health and Safety Considerations

Section 57.76(a) (2) requires the Commission to determine that the proposed transmission line “not create an unreasonable risk of danger to the health and safety of the public.” The Commission believes that additional information on health and safety issues should be submitted as part of the proposed Interim Guidelines as described below.

1. Interim Guidelines for the Use of Herbicides and Pesticides

Vegetation management practices and the prudent use of herbicides can be a controversial issue in transmission siting proceedings. To address this concern, the Commission proposes that applicants for transmission lines provide a detailed vegetation management plan that includes the following components: (i) use of EPA-approved chemicals only in suitable portions of the ROW on an infrequent basis; (ii) application of chemicals only by trained professionals; (iii) aerial spraying only as a last resort with defined buffer zones around aquatic areas; (iv) provision of notice to affected landowners and (v) provision of landowner maintenance agreements to permit outlining the duties and responsibilities of landowners and the utility.

2. Interim Guidelines For EMF Impacts

Transmission siting applications should include a detailed EMF mitigation procedure that includes design alternatives to minimize EMF and routing of lines to minimize exposure to populated areas.

G. Applicability to Letters of Notification

The Commission’s regulations at 52 Pa. Code § 57.72(d) set forth the requirements for filing a Letter of Notification (LON) for construction of a high voltage line that is to be located primarily in an existing utility right of way, along a public road or involves a line for which voltage is to be increased above its present levels so long as the size, character, design or configuration does not substantially alter the right of way. Additionally, an LON is appropriate when an HV line of two miles or less is proposed. The existing LON process provides an efficient and abbreviated mechanism for review and approving HV lines that do not present the degree of complexity and controversy as larger transmission lines. We have thoroughly reviewed the filing requirements for LONs pursuant to 52 Pa. Code § 57.72 (d)(4) and have determined that the proposed Interim Guidelines are applicable to any letter applications for LONs that are filed pending the conclusion of our proposed Formal Rulemaking. Based on our review of the proposed Interim Guidelines, we determine that LON applicants should continue to provide the information required in 52 Pa. Code § 57.72(d)(4)(i) (which includes the information required under 52 Pa. Code § 57.72(c)(1)—(3), (5) and (6) as well as § 57.72(d)(4)(ii)—(iv)). The only additional proposed Interim Guideline to which LON applicants would be subject relates to the EMF requirements which would now be submitted as part of the § 57.72(c)(6) filing requirement.

Conclusion

Due to potential changes in regulatory policy regarding transmission lines and our ongoing duty to maintain an adequate and reliable transmission infrastructure, the Commission intends to initiate a proposed rulemaking to update our existing regulations regarding the information to be filed in support of transmission siting applications. In the meantime, by this Tentative Order, the Commission is issuing for comment proposed Interim Guidelines, which, if adopted, will provide guidance to the industry and interested persons regarding the information that should be filed in future applications on a case by case basis pending the completion of our rulemaking; *Therefore,*

It Is Ordered:

1. That in the event this Tentative Order becomes final, all electric utilities applying for transmission siting shall apply pursuant to the instructions and procedures proposed herein as Interim Guidelines which shall be effective until the promulgation of Final Regulations governing the siting of electric transmission lines.

2. That comments to this Tentative Order shall be filed within 45 days of the date the Tentative Order is published in the *Pennsylvania Bulletin*.

3. That a copy of this Tentative Order together with Appendix A, and any accompanying statements of the Commissioners be served on all jurisdictional electric utilities, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, legislative stakeholders, and shall be published in the *Pennsylvania Bulletin* and shall be posted on the Commission’s web page at <http://www.puc.state.pa.us>.

4. That if no adverse comments are filed to this Tentative Order by the end of the 45-day period, this Tentative Order shall become a Final Order by operation of law.

5. That the Commission’s contact for this matter is James Melia, Assistant Counsel of the Law Bureau, (717) 787-1859, e-mail: jmelia@state.pa.us.

JAMES J. McNULTY,
Secretary

Appendix A

Interim Guidelines for the Filing of Electric Transmission Line Siting Applications.

§ 1. Scope.

(a) The Commission is adopting Interim Guidelines regarding the additional information that should be provided to determine whether granting an application and associated certificate of public convenience is “necessary or proper for the service, accommodation, convenience or safety of the public” 66 Pa.C.S. § 1103(a) (relating to requirements for obtaining a certificate of public convenience). The Commission seeks to ensure that adequate additional information is provided and to ensure the efficient and expeditious processing of transmission siting cases.

The Commission emphasizes that these Interim Guidelines do not alter the legal standards to be met by prospective applicants pursuant to relevant provisions of the Public Utility Code under Chapter 11 (relating to certificate of public convenience); Chapter 15 (relating to the Commission’s power to prescribe standards of service and facilities) and Chapter 21 (relating to affiliated interest requirements). The Interim Guidelines do not alter the traditional requirements for demonstrating

“need” for the transmission facilities under 52 Pa. Code § 57.72 and 57.76 (relating to requirements for the siting of transmission facilities).

§ 2. Public notice filing requirements.

Applications for electric transmission siting authority should include the following information with the initial application for siting approval demonstrating its efforts to fully notify impacted landowners regarding the transmission siting process:

(i) A Code of Conduct governing the manner in which public utility employees or their agents interact with affected landowners or copies of internal practices governing public utility employee/land agent contacts with landowners, or both.

(ii) Copies of information to affected landowners by the public utility including bill inserts, newspaper and website notices and radio and TV notices advising landowners to contact the Commission or OCA in the event of improper land agent practices.

(iii) Copies of all notices sent pursuant to 52 Pa. Code § 57.91.

Applicants should provide prior notice to the Commission Office of Communications of informational presentations to community groups by the public utility such that Commission, OCA and other governmental entities can attend meetings or obtain copies of information being disseminated at the presentations.

§ 3. Eminent domain filing requirements.

Applicants for eminent domain authority should follow the requirements below and provide the following information as part of the application:

(i) Public utility applicants should file for eminent domain authority as a separate filing but simultaneously with the associated transmission siting applications. Testimonial evidence in support of an eminent domain application should be filed with the application.

(ii) Notice of the eminent domain filing to affected landowners should be separate and prominent enough to put the landowner on notice to file a response or objection.

(iii) As part of an eminent domain application, the public utility applicant should present with specificity the reason for exercise of condemnation power for each location, the precise location of the impacted property and full details on the status of negotiations with landowners. Supporting maps or legal descriptions of the easement/right of way (ROW) to be condemned should be supplied to the extent feasible.

(iv) Transmission siting applicants should file a Code of Conduct or internal operating procedures applicable to its employees or its agents responsible for interacting with affected landowners.

§ 4. Exemption from municipal zoning standards.

Applications for exemption from municipal zoning requirements should include the following information with the application:

(i) Copies of comprehensive land use plans, zoning ordinances and other documentation relevant to the facilities affected by exemption request.

(ii) A detailed strategy for compliance with these comprehensive plans and ordinances that demonstrate the applicant's best efforts to comply with the plan.

(iii) Provision of metes and bounds or maps of facility sites.

(iv) A procedure for providing notice to affected municipalities of the request for exemption.

§ 5. Route evaluation and siting.

Applications for the siting of electric transmission lines should provide the following information as part of the § 57.72(c) filing provisions:

(i) Transmission applicants should utilize, to the extent possible, a combination of transmission route evaluation procedures including high-level GIS data, traditional mapping (including US Geological Survey data and compilation) and analysis of site specific constraints raised by impacted landowners.

(ii) Transmission applicants should fully document the legal status of claimed ROWs, to the extent settled or in litigation, as part of the application. The applicant should provide the current status and continuing updates on ROW litigation or settlements during the course of the siting proceeding.

(iii) Applicants should provide descriptions of all alternative routes considered together with a discussion of the relative merits of each, as part of the testimonial support. The discussion of the relative merits of each should address the environmental, historical, cultural, and aesthetic considerations of each route and the comparative construction cost associated with each alternative route. Descriptions of the proximity of alternative routes to residential and non-residential structures should also be provided.

(iv) Applicants should provide a summary of efforts made to contact and solicit assistance from local governmental entities and other organizations regarding identification of sensitive areas along the proposed routes.

§ 6. Environmental filing requirements.

Applications for siting of electric transmission lines should include as part of the filing requirement under 52 Pa. Code § 57.72(c)(7) the following information:

(i) A matrix showing all required federal, state and local government regulatory permitting or licensing requirements, a time-line for receipt of those requirements and a status report on individual compliance filings at the time of the application. The matrix should include a list of contact persons for each governmental agency. The applicant should provide an update on the status of the permitting/licensing requirements as the case progresses.

§ 7. Health and safety considerations.

(a) *Interim guidelines for the use of herbicides and pesticides.* Applicants for transmission line siting authority should provide a detailed vegetation management plan that includes the following components:

(i) Use of EPA-approved chemicals only in suitable portions of the ROW on an infrequent basis.

(ii) Application of chemicals only by trained professionals.

(iii) Aerial spraying only as a last resort with defined buffer zones around aquatic areas.

(iv) Provision of notice to affected landowners.

(v) Provision of landowner maintenance agreements that describe the duties and responsibilities of landowners and the utility.

(b) *Interim guidelines for EMF impacts.* Transmission siting applications should include a detailed EMF mitigation procedure that includes design alternatives to minimize EMF and routing of lines to minimize exposure to populated areas.

[Pa.B. Doc. No. 10-310. Filed for public inspection February 12, 2010, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 10-003.S, On-Call Marine Dive Inspection and Repairs at PRPA Piers, until 2 p.m. on Thursday, March 18, 2010. The bid documents can be obtained from the PRPA web site www.philaport.com and will be available February 23, 2010. PRPA is an Equal Opportunity Employer. Contractor must comply with all applicable EOE laws. A mandatory prebid job site meeting will be held March 4, 2010, 10 a.m. at PRPA's office 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134. 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.

JAMES T. McDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 10-311. Filed for public inspection February 12, 2010, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 10-004.4, On-Call Electrical LMSR Connect/Disconnect at TMT, until 2 p.m. on Thursday, March 11, 2010. The bid documents can be obtained from the PRPA web site www.philaport.com and will be available February 16, 2010. PRPA is an Equal Opportunity Employer. The contractor must comply with all applicable EOE laws. A mandatory prebid job site meeting will be held February 25, 2010, 10 a.m. at PRPA's office 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134. 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.

JAMES T. McDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 10-312. Filed for public inspection February 12, 2010, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Yen Nga Thi Vo; Doc. No. 0414-45-2009

On December 23, 2009, Yen Nga Thi Vo, license no. CQ111254, of Leominster, MA, was revoked and ordered to pay a civil penalty of \$1,000, because she obtained her license by dishonest or unethical means.

Individuals may obtain a copy of the adjudication by writing to David Markowitz, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Cosmetology's (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court, must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

SUZANNE PHILO,
Chairperson

[Pa.B. Doc. No. 10-313. Filed for public inspection February 12, 2010, 9:00 a.m.]

STATE CONSERVATION COMMISSION

Action on Odor Management Plans for Concentrated Animal Operations (CAOs), and Concentrated Animal Feeding Operations (CAFOs) and Volunteers Complying with Pennsylvania's Facility Odor Management Program

The State Conservation Commission has taken the following actions on previously received applications for odor management plans under 3 Pa.C.S. §§ 501—522 (relating to nutrient odor management).

Persons aggrieved by any action may appeal under 3 Pa.C.S. § 517 (relating to appealable actions), section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, 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 at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, therefore individuals interested in challenging this action should show this

notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

Odor Management Plan—Public Notice Spreadsheet—Actions

<i>Ag Operation Name, Address</i>	<i>County/Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New or Amended</i>	<i>Action Taken</i>
Mark Rohrbach 68 Rider Road Catawissa, PA 17820	Columbia Catawissa Township	597.56	Swine	Request to Rescind Approval	Rescinded Approval
Hillcrest Saylor Dairy Farms, LLC 3684 Kingwood Road Rockwood, PA 15557	Somerset Middlecreek Township	0 - manure storage only	Dairy	New	Approved
Jason Rupert 1893 Panther Valley Road Pine Grove, PA 17963	Schuylkill Wayne Township	97.4	Broiler	New	Approved
Dean Stoner 3110 Mount Joy Road Mount Joy, PA 17552	Lancaster Ralpho Township	155.34	Broiler	New	Approved

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-314. Filed for public inspection February 12, 2010, 9:00 a.m.]

