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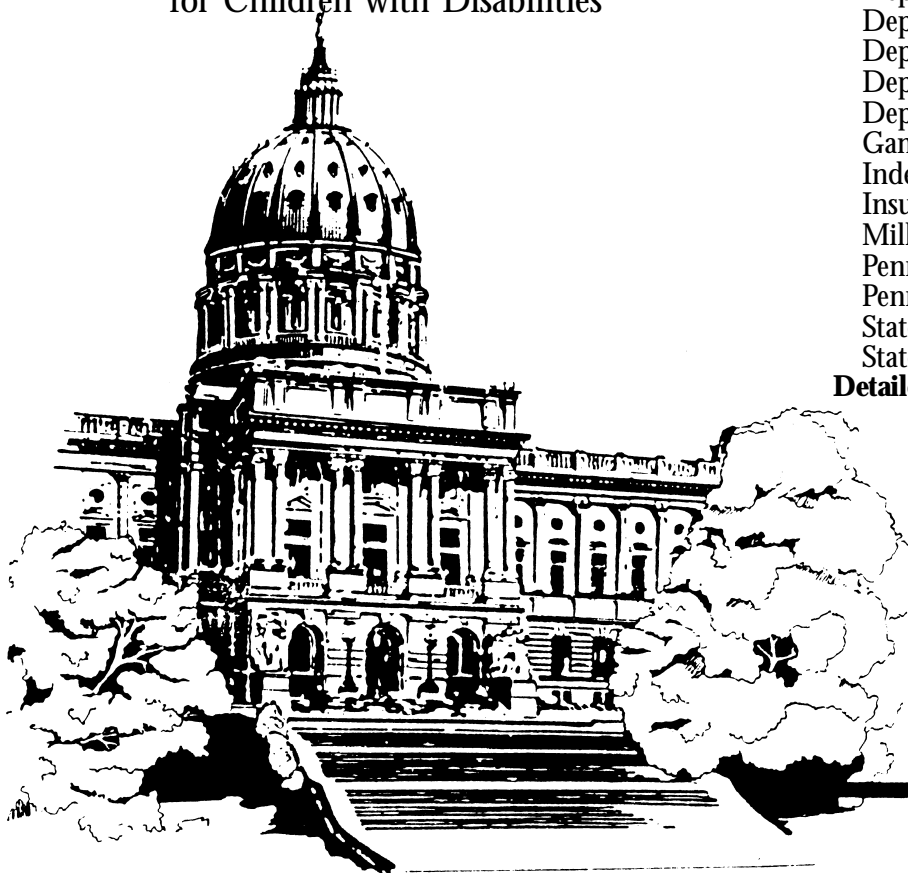
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No. 403, June 2008

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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THE GENERAL ASSEMBLY

Recent Actions during the 2008 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during 2008 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2008 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 019 through 027					
019	Jun 11	HB0500	PN3703	60 days	Medical Practice Act of 1985—perfusionist licensing, qualifications, supervision and scope of practice, regulations and exemptions
020	Jun 11	HB0501	PN3638	60 days	Osteopathic Medical Practice Act—perfusionist licensing, qualifications, supervision and scope of practice, regulations and exemptions
021	Jun 11	HB0775	PN3081	60 days	Counties of the first class—flags, markers and headstones
022	Jun 11	HB0776	PN3082	60 days	County Code—flags and grave markers of certain deceased service persons
023	Jun 11	HB0777	PN3083	60 days	Second Class County Code—markers on graves and flags to decorate graves
024	Jun 11	HB1281	PN3767	60 days	Pennsylvania Appalachian Trail Act—actions by municipalities and their powers and duties
025	Jun 11	SB0810	PN1935	Immediately	Conveyance—Commonwealth property in the City of Pittston, Luzerne County
026	Jun 11	SB0880	PN1570	Immediately	Fish and Boat Code (30 Pa.C.S.)—vouchers for licenses and permitting
027	Jun 13	SB0246	PN2099	90 days	Clean Indoor Air Act—enactment

* denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

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

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

[Pa.B. Doc. No. 08-1184. Filed for public inspection June 27, 2008, 9:00 a.m.]

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1000]

Adoption of Rule 1042.6 and Amendment of Rules 1042.1—1042.9; Governing Professional Liability Actions; No. 493 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 16th day of June, 2008, the Pennsylvania Rules of Civil Procedure are amended as follows:

(1) Rule 1042.1, Rule 1042.2, and Rule 1042.3 are amended to read as follows.

(2) Rule 1042.6 is renumbered as Rule 1042.7 and amended to read as follows. Rule 1042.7 is renumbered as Rule 1042.8; Rule 1042.8 is renumbered as 1042.9.

(3) New Rule 1042.6 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately. The new and amended rules shall apply to all pending actions in which a judgment of non pros for failure to file a certificate of merit has not been entered by the effective date.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Rule 1042.1. Professional Liability Actions. Scope. Definition.

(a) The rules of this chapter govern a civil action in which a professional liability claim is asserted **by or on behalf of a patient or client of the licensed professional** against

(1) a licensed professional, **and/or**

(2) a **partnership, unincorporated association, corporation or similar entity where the entity is responsible for a licensed professional who deviated from an acceptable professional standard, and**

(b) **A professional liability claim asserted against a licensed professional includes a claim for lack of informed consent.**

[(b)] (c) * * *

Rule 1042.2. Complaint.

* * * * *

Official Note: [The filing of preliminary objections raising failure of a pleading to conform to rule of court is the procedure for bringing before the court the issue whether the complaint is asserting a professional liability claim.] The filing of preliminary objections pursuant to Rule 1042.2(b) is not a prerequisite to the filing of a notice of intent to enter a judgment of non pros on a professional liability claim pursuant to Rule 1042.6.

Rule 1042.3. Certificate of Merit.

* * * * *

Official Note: The requirements of subdivision (a) apply to a claim for lack of informed consent.

(1) * * *

(2) * * *

(3) * * *

(b)(1) * * *

(c)(1) A defendant who files a counterclaim asserting a claim for professional responsibility shall file a certificate of merit as required by this rule.

(2) A defendant or an additional defendant who has joined a licensed professional as an additional defendant **or asserted a cross-claim against a licensed professional** need not file a certificate of merit unless the joinder **or cross-claim** is based on acts of negligence that are unrelated to the acts of negligence that are the basis for the claim against the joining **or cross-claiming** party.

(d) The court, upon good cause shown, shall extend the time for filing a certificate of merit for a period not to exceed sixty days. A motion to extend the time for filing a certificate of merit must be filed [**on or before the filing date that the plaintiff seeks to extend.**] **by the thirtieth day after the filing of a notice of intention to enter judgment of non pros on a professional liability claim under Rule 1042.6(a) or on or before the expiration of the extended time where a court has granted a motion to extend the time to file a certificate of merit, whichever is greater.** The filing of a motion to extend tolls the time period within which a certificate of merit must be filed until the court rules upon the motion.

* * * * *

Rule 1042.6. Notice of Intent to Enter Judgment of Non Pros for Failure to File Certificate of Merit. Motion to Determine Necessity to File Certificate. Form of Notice (NEW).

(a) Except as provided by subdivision (b), a defendant seeking to enter a judgment of non pros under Rule 1042.7(a) shall file a written notice of intention to file the praecipe and serve it on the party's attorney of record or on the party if unrepresented, no sooner than the thirty-first day after the filing of the complaint.

(b) A judgment of non pros may be entered as provided by Rule 1042.7(a) without notice if

(1) the court has granted a motion to extend the time to file the certificate and the plaintiff has failed to file it within the extended time, or

(2) the court has denied the motion to extend the time.

(c) Upon the filing of a notice under subdivision (a) of this rule, a plaintiff may file a motion seeking a determination by the court as to the necessity of filing a certificate of merit. The filing of the motion tolls the time period within which a certificate of merit must be filed until the court rules upon the motion. If it is determined that a certificate of merit is required, the plaintiff must file the certificate within twenty days of entry of the court order on the docket or the original time period, whichever is later.

Official Note: The motion may be filed at any time prior to the entry of a judgment of non pros.

Once the judgment of non pros is entered, a party cannot raise the claim that the filing of a certificate of merit was not required.

(d) The notice required by subdivision (a) of this rule shall be substantially in the following form:

(CAPTION)

NOTICE OF INTENTION TO ENTER JUDGMENT OF NON PROS ON PROFESSIONAL LIABILITY CLAIM

To: (Identify Party)

Pursuant to Pennsylvania Rule of Civil Procedure 1042.7, I intend to enter a judgment of non pros against you after thirty (30) days of the date of the filing of this notice if a certificate of merit is not filed as required by Rule 1042.3.

I am serving this notice on behalf of (Name of party)

The judgment of non pros will be entered as to the following claims:

(State if a judgment is to be entered as to all claims. Otherwise, identify claims set forth in the complaint as to which a judgment of non pros will be entered.)

(Attorney)

(Address)

(Telephone Number)

Rule [1042.6.] 1042.7. Entry of Judgment of Non Pros for Failure to File Certification. Form of Praecept.

(a) The prothonotary, on praecipe of the defendant, shall enter a judgment of non pros against the plaintiff for failure to file a certificate of merit within the required time provided that

(1) there is no pending motion for determination that the filing of a certificate is not required or no pending timely filed motion seeking to extend the time to file the certificate[.],

(2) no certificate of merit has been filed,

(3) except as provided by Rule 1042.6(b), the defendant has attached to the praecipe a certificate of service of the notice of intention to enter the judgment of non pros, and

(4) except as provided by Rule 1042.6(b), the praecipe is filed no less than thirty days after the date of the filing of the notice of intention to enter the judgment of non pros.

Official Note: The prothonotary may not enter judgment if the certificate of merit has been filed prior to the filing of the praecipe.

Rule 237.1 does not apply to a judgment of non pros entered under this rule.

See Rule 208.2(a)(4) for the content of the certificate of service.

(b) The praecipe for the entry of a judgment of non pros shall be substantially in the following form:

(Caption)

Praecipe for Entry of Judgment of Non Pros Pursuant to Rule [1042.6] 1042.7

To the Prothonotary:

[Enter judgment of non pros against Plaintiff in the Professional liability claim against Defendant in the above captioned matter.]

Enter judgment of non pros in the above-captioned matter against Identify Party

as to

(1) all claims against Identify Party

OR

(2) only the following claims against Identify Party

Identify Claims

[I, the undersigned, certify that the plaintiff named above has asserted a professional liability claim against the defendant named above who is a licensed professional, that no certificate of merit has been filed within the time required by Pa.R.C.P. 1042.3 and that there is no motion to extend the time for filing the certificate pending before the court.]

Date: [Defendant or] Attorney for [Defendant]

(Identify Party)

Official Note: Where applicable, a certificate of service of the notice of intention to enter judgment of non pros shall be attached to the praecipe.

Rule [1042.7.] 1042.8. Sanctions.

* * *

Rule [1042.8.] 1042.9. Certificate of Merit. Form.

* * *

Explanatory Comment

Current Rules 1042.6, 1042.7 and 1042.8 have been renumbered as Rules 1042.7, 1042.8 and 1042.9, respectively, and new Rule 1042.6 has been promulgated to govern notice of intent to enter a judgment of non pros for failure to file a certificate of merit.

The highlights of the amendments are as follows:

1. Present Rule 1042.1 governing the scope of the rules has been amended in two respects. First, subdivision (a) was revised to make clear that Rule 1042.1 et seq. (1) applies to claims by or on behalf of patients or clients against licensed professionals and (2) includes professional liability actions against a partnership, an unincorporated association, a corporation or a similar entity where the entity "is responsible for a licensed professional who deviated from an acceptable professional standard."

Second, new subdivision (b) was added to Rule 1042.1 to make clear that a professional liability action against a health care provider includes a claim for lack of informed consent.

2. Present Rule 1042.2(b) provides that "[a] defendant may raise by preliminary objections the failure of the complaint to comply with subdivision (a) of this rule." The note to present Rule 1042.2(b) has been amended because new Rule 1042.6(c) permits a plaintiff to file a motion seeking a determination by the court as to the necessity of filing a certificate of merit.

3. New Rules 1042.6 and 1042.7 address concerns that the present rules (1) permit the entry of a judgment of non pros where a plaintiff may believe that the rules governing certificates of merit do not apply and (2) provide for the entry of a judgment of non pros where there has been no notice of intent to enter such a judgment.

Several revisions to these rules remedy this situation. First, new Rule 1042.6(a) requires a defendant to give a thirty-day notice of intention to file a praecipe for a judgment of non pros for failure to file a certificate of merit. Subdivision (d) provides a form of notice. The new rule retains the basic sixty-day period for the filing of a certificate of merit under present practice since the notice may be filed no earlier than the thirty-first day after the filing of the complaint and the judgment may not be filed earlier than thirty days after the filing of the notice. Subdivision (b) sets forth exceptions to the notice requirement where the court (1) has granted an extension of time to file a certificate of merit and the plaintiff has failed to do so or (2) has denied a motion to extend the time for filing a certificate.

Second, new Rule 1042.6(c) provides that once a notice of intention to seek a judgment of non pros has been filed, the plaintiff may file a motion to seek "a determination by the court that the filing of a certificate of merit is not required." As in the case of a motion to extend the time for filing a certificate under Rule 1042.3(d), the "filing of the motion tolls the time period within which a certificate of merit must be filed until the court rules upon the motion."

Third, present Rule 1042.6 was renumbered as Rule 1042.7 and revised. As revised, subdivision (a) of the rule has been expanded to set forth four conditions for the entry of a judgment of non pros. The form of praecipe to enter the judgment in subdivision (b) has been revised to conform to the new procedure.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 08-1185. Filed for public inspection June 27, 2008, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Adoption of Rule 503; Rules Doc. No. 2008-2-PJ

Order of Court

And Now, to-wit, this 10th day of June, 2008, pursuant to action of the Board of Judges, the within new Local Rule 503 affecting the Civil Division of the Court of Common Pleas is adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court,

JOSEPH M. JAMES,
President Judge

Local Rule 503. Appeals From Real Estate Tax Assessment.

The following provisions shall govern all tax assessment appeals from the Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review:

Note: Under the former Local Rule 502, there was some confusion regarding whether Local Rule 502 applied both to tax assessment appeals and to tax exemption appeals from the Board of Property Assessment Appeals and Review. New Local Rule 503 applies only to tax assessment appeals. For procedure governing tax exemption appeals, see Local Rule 504.

(1) Parties.

(a) The following parties must be listed in the caption of the appeal:

- (i) owners of the real estate and/or taxable property;
- (ii) the municipality in which the property is located;
- (iii) the school district in which the property is located; and
- (iv) the County of Allegheny.

(b) Any entity other than those set forth in subsection (1)(a) of this local rule must file a Petition to Intervene with the Real Estate Tax Appeals Judge in accordance with the Pennsylvania Rules of Civil Procedure to become a party.

(2) Caption.

(a) The party filing the appeal shall be designated as the petitioner. All other parties shall be designated as respondents or interested parties.

(b) The caption and cover sheet shall clearly state whether the appeal involves commercial or residential property.

(3) Time For and Content of Appeals.

(a) An appeal from the Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review must be filed with the Department of Court Records, Civil Division, within thirty (30) days of the date of mailing by the Board of the notice of its Disposition of Appeal from Real Estate Assessment.

(b) An appeal shall be in substantially similar form as set forth in Petition for Assessment Appeal (FORM 503(3)) (see subsection (20)(a) below) and shall contain the following:

- (i) the names of the parties;
- (ii) an identification of the property by address, lot and block number;
- (iii) whether the property is residential or commercial; and
- (iv) the name of the party that appealed to the Board of Property Assessment Appeals and Review.

Note: The Petitioner, in filing a Petition for Appeal from Disposition of the Board of Property Assessment Appeals and Review, is deemed to have raised all challenges to the assessment that the law permits.

(4) Notice. Service.

Petitioner shall give notice of the appeal by first class mail, postage prepaid, to all parties and the Board of Property Assessment Appeals and Review, within seven (7) days of the filing of the appeal, and shall file proof of service thereof.

(5) Action Required of Department of Court Records, Civil Division.

(a) Upon the docketing of any appeal from a Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review, the Department of Court Records, Civil Division, shall obtain the information contained in the Board of Property Assessment Appeals and Review's Disposition of Appeal from Real Estate Assessment.

(b) Upon obtaining the information contained in the Board of Property Assessment Appeals and Review's Disposition of Appeal from Real Estate Assessment, the Department of Court Records, Civil Division, shall place this information in the court file in hard copy form, and make it available on the Department's publicly accessible website in electronic form.

(6) Filing of Appeals.

The filing of an appeal by any party shall act as an appeal by all parties.

(7) Withdrawal of Appeals.

No appeal may be withdrawn without the consent of all other parties or leave of court. Any party who fails to appear at the conciliation without prior notice to the Board of Viewers shall be deemed to have consented to the withdrawal of the appeal.

(8) Motions.

All motions in real estate tax assessment appeals shall be presented to the Real Estate Tax Appeals Judge.

(9) Board of Viewers.

All tax assessment appeals from a Disposition of Appeal from Real Estate Assessment of the Board of Property Assessment Appeals and Review shall be assigned to a Board of Viewers appointed by the Administrative Judge of the Civil Division pursuant to 72 P. S. § 5020-518.1.

(10) Discovery.

(a) In all cases involving non-residential property, the taxing bodies may serve a copy of Tax Assessment Appeal Discovery Requests, (FORM 503(10)) (see subsection (20)(b) below) on the taxpayer. The taxpayer shall furnish the information sought in the Discovery Requests within forty-five (45) days after receipt thereof.

(b) No party may seek additional discovery through Interrogatories, Request for Production of Documents or otherwise until discovery has been sought through the Tax Assessment Appeal Discovery Requests. Parties seek-

ing additional discovery or any discovery in cases involving residential property must petition the Real Estate Tax Appeal Judge for discovery, who may refer the petition to the Administrative Chair of the Board of Viewers for recommendation.

(c) Any discovery disputes, including without limitation any Motion(s) for Protective Order or Motion(s) to Compel, shall be presented upon proper notice to the Real Estate Tax Appeal Judge.

(d) Discovery shall conclude sixty-five (65) days prior to the date scheduled for conciliation.

(11) Conciliation.

(a) All appeals shall be conciliated prior to a hearing by the panel of the Board of Viewers assigned to hear the appeal.

(b) At the time of conciliation, all parties or their counsel shall be present with full authority to effectuate a settlement of the appeal.

Note: Parties and counsel are advised to pay particular attention to the notice of conciliation. In appropriate cases, the conciliation and hearing may be scheduled on the same day. In such instances, the parties must appear at the conciliation ready to move directly into a hearing if the conciliation does not result in settlement.

(c) If any party fails to comply with the provisions of this local rule, the Board of Viewers may include in their report a recommendation for the imposition of appropriate sanctions, including but not limited to, attorneys' fees and costs against the party or parties failing to comply.

(12) Pre-Trial Statement in Non-Residential Tax Assessment Appeal.

(a) Sixty (60) days prior to the date scheduled for conciliation of a non-residential tax assessment appeal, the petitioner shall distribute to all counsel of record, or if counsel have not entered an appearance on the party(ies), and to the panel of the Board of Viewers assigned to the case a pre-trial statement. The pre-trial statement shall incorporate the following information or documents:

(i) a description of the user of the real estate and the nature of the real estate;

(ii) a list of all persons who will give testimony in the trial of this appeal;

(iii) a list of all exhibits which the party intends to use at trial;

(iv) any report, including without limitation an expert report or appraisal, of any person or entity who has been retained, employed, or consulted by the parties, who will give testimony in the trial of this appeal.

Note: Former Local Rule 502 required only the owner of non-residential property to file a conciliation statement. Local Rule 503 has been redrafted to require, in an appeal of non-residential property, both the taxpayer and the taxing bodies to file pre-trial statements. In conjunction with the change from a "conciliation" statement to a "pre-trial" statement, new Local Rule 503 shifts the focus of the parties' anticipated evidence at trial and eliminates the need to list information that will not be part of the party's case at trial. Local Rule 503 also requires parties to include in the pre-trial statement any expert reports and/or appraisals. By its terms, this subsection (12) does not apply to residential tax assessment appeals.

(b) Twenty (20) days prior to the date scheduled for conciliation of a non-residential tax assessment appeal, the respondent(s) shall distribute to all counsel of record, or if counsel have not entered an appearance, on the party(ies), and to the panel of the Board of Viewers assigned to the case, a pre-trial statement. The pre-trial statement shall incorporate the following information or documents:

(i) a description of the use of the real estate and the nature of the real estate;

(ii) a list of all persons who will give testimony in the trial of this appeal;

(iii) a list of all exhibits which the party intends to use at trial;

(iv) any report, including without limitation an expert report or appraisal, of any person or entity who has been retained, employed, or consulted by the parties, who will give testimony in the trial of this appeal.

(c) All interested parties whose interests are aligned with the petitioner shall distribute their Pre-Trial Statement in accordance with subsection (12)(a) of this local rule. All interested parties whose interests are aligned with the respondent(s) shall distribute their Pre-Trial Statement in accordance with subsection (12)(b) of this local rule.

(d) The failure to comply with subsections (12)(a), (12)(b) and (12)(c) of this local rule shall result in appropriate relief, which may include the exclusion or limitation at trial of testimony or evidence which was not provided in the pre-trial statement or a recommendation for the imposition of attorneys' fees and costs against the party or parties failing to comply.

(13) Hearing.

(a) The Board of Viewers shall schedule a hearing and shall provide notice of the hearing to all parties and/or counsel of record. The notice shall be sent by regular mail and shall state that if any party fails to appear at the hearing it will proceed without them or the appeal will be dismissed with prejudice.

Note: Parties and counsel are advised to pay particular attention to the notice of hearing. In appropriate cases, the conciliation and hearing may be scheduled on the same day. In such instances, the parties must appear at the conciliation ready to move directly into a hearing if the conciliation does not result in settlement.

(b) The hearing shall be recorded by a court reporter.

(c) The Board of Viewers, at its discretion, may continue the hearing.

(14) Report.

Following the hearing, the Board of Viewers shall file its written Special Masters Report and Recommendation with the Department of Court Records, Civil Division. This Special Masters Report along with a Notice in substantially similar form as set forth in Notice (FORM 503(14)) (see subsection 20(c) below), shall be mailed to all counsel or parties if not represented by counsel.

(15) Objections. Trial Transcript.

(a) The parties may file objections to the Special Masters Report and Recommendation within ten (10) days of receipt of the Special Masters Report and Recommendation and Notice. Objections must be accompanied by a certification of counsel, or a party if unrepresented, that the trial transcript, or necessary portions of the transcript, have been ordered from the court reporter and

paid for. Copies of the objections and certification shall be filed with the Department of Court Records, Civil Division, and served on all counsel of record or party(ies) if unrepresented, and the Board of Viewers.

(b) If no trial transcript is filed within ninety (90) days of the date the Objections were filed, the Administrative Chair of the Board of Viewers shall send the objecting party a letter, with copies to all counsel and parties not represented by counsel, stating that the transcript must be paid for and filed within thirty (30) days of the date of the letter, and that if no transcript is filed within that time period, then a court order will be issued overruling the objections with prejudice. (FORMS 503(15A) and 503(15B)) (see subsections 20(d) and 20(e) below).

Note: If, through no inaction on the part of the objecting party the court reporter is unable to meet the deadline set for filing of the transcript in the letter from the Administrative Chair, the objecting party may ask for an extension of time from the Administrative Chair.

(16) Briefs on Objections.

(a) Within twenty (20) days of the date on which the transcript is filed of record, the objecting party shall file a Brief in Support of Objections and shall serve a copy on all counsel of record or if counsel have not entered their appearance on the party(ies), and the Board of Viewers. The Brief in Support of Objections shall refer to transcript page numbers where possible.

(b) If no brief is filed within twenty (20) days of the date the transcript is filed, the Administrative Chair of the Board of Viewers shall send the objecting party a letter, with copies to all counsel or parties not represented by counsel, stating that if a brief is not filed within twenty (20) days of the date of the letter, then a court order will be entered overruling the objections with prejudice. (FORMS 503(16A) and 503(16B)) (see subsections (20)(f) and (20)(g) below).

Note: If a Brief in Support of Objections has been filed by a taxing body, other taxing bodies may rely on that brief, and in such event the Administrative Chair will not send a FORM 503(16A) letter to the other taxing bodies.

(17) Opposing Briefs.

(a) Within twenty (20) days after the moving party has filed its Brief in Support of Objections, responding parties shall file their Briefs in Opposition to Objections and serve a copy on all counsel of record or on the party(ies) if unrepresented, and the Board of Viewers.

(b) If no Brief in Opposition is filed and served within twenty (20) days, the Administrative Chair of the Board of Viewers shall send the opposing party(ies) a letter, with copies to all counsel and parties not represented by counsel, stating that if an opposing brief is not filed within twenty (20) days of the date of the letter, the decision will be made without reference to any brief that you may file thereafter. (FORM 503(17)) (see subsections (20)(h) below).

Note: If a Brief in Opposition has been filed by a taxing body, other taxing bodies may rely on that brief, and the Administrative Chair will not send a FORM 503(17) letter to the other taxing bodies.

(18) Decision.

After the filing date set for Briefs in Opposition to Objections has passed, the objecting party shall notify the Board of Viewers that the matter is ripe for decision by filing a Notice That Matter is Ripe for Decision (FORM 503(18)) (see subsection (20)(i)(below)). The objecting party

shall serve a copy of this Notice on all counsel of record or if counsel have not entered their appearance, on the party(ies), and upon the Board of Viewers. Upon receipt of the Notice, the Administrative Chair of the Board of Viewers shall advise the Court, which shall schedule oral argument or decide the objections on the briefs without oral argument.

(19) Final Order.

In the event that none of the parties files Objections as described above, the Special Masters Report and Recommendation shall become the final Order of Court. The Administrative Judge of the Civil Division, or another judge assigned by the Administrative Judge, will enter an Order of Court to this effect.

(20) Forms

(a)

FORM 503(3) Petition for Assessment Appeal

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

(Name), CIVIL DIVISION
 Petitioner, No. BV _____

v.

(Name or Names), COMMERCIAL /
 Respondents. RESIDENTIAL
 (choose one)

REAL ESTATE INVOLVED

INTERESTED PARTIES Petition for Appeal from
 (if applicable): Disposition of the Board of
 Property Assessment
 (Names) Appeals and Review

PETITION FOR APPEAL FROM DISPOSITION OF THE BOARD OF PROPERTY ASSESSMENT APPEALS AND REVIEW

This Petition for Appeal from Disposition of the Board of Property Assessment Appeals and Review is filed pursuant to Local Rule 503(3) by (name):

1. The owner of this commercial/residential (choose one) real estate and/or taxable property is (name), and the address of this real estate is (address) (the "Property"). The Property has been assigned lot and block number (fill in).

2. The County of Allegheny, the municipality (fill in) and the school district (fill in) are the taxing bodies interested in the taxable status of the Property.

3. The Office of Property Assessments made an assessment of the Property. (Name) appealed from this assessment to the Board of Property Assessment Appeals and Review (the "Board") asking that the assessment be reduced/raised (choose one). The Board is authorized pursuant to the Administrative Code of Allegheny County to hear all appeals from assessments made by the Office of Property Assessments.

4. Following a hearing, a Disposition of Appeal from Real Estate Assessment was mailed by the Board. The information contained in the Board's Disposition of Appeal from Real Estate Assessment shall be placed in the court records, both in paper and electronic form, by the Department of Court Records, Civil Division.

5. Petitioner is filing this appeal to the Common Pleas Court of Allegheny County.

WHEREFORE, Petitioner requests this Honorable Court to set the assessment to such amount as may be right and proper.

Date: _____

 (Signature)

NOTE: Under Pennsylvania law the Court of Common Pleas of Allegheny County can increase or decrease the assessment, no matter who appealed.

(b)

FORM 503(10) Tax Assessment Appeal Discovery Requests

[CASE CAPTION, INCLUDING DOCKET NUMBER]

AND NOW, comes (name) and serves the within Tax Assessment Appeal Discovery Requests upon (name). Pursuant to Local Rule 503(10), all applicable responses to these Requests must be furnished within forty-five (45) days after the receipt of these Requests.

REQUESTS FOR DOCUMENTS

Please produce a copy of the following:

1. Any and all surveys (land, structural, environmental, etc.), building plans and site plans showing design construction and location of the subject property.

2. Any and all mortgages, promissory notes, deeds, and agreements of sale made or assumed on the subject property within the last three years and the corresponding closing statements.

3. Any and all appraisals or evaluations on the subject property which have been made during the last three years.

4. Any and all loan applications of any kind involving or relating to the subject property which have been signed or submitted within the past three years.

5. Any and all leases, land leases, agreements, licenses, occupancy schedules, rent schedules (or rolls) relating to the subject property for the last three years.

6. Any and all written listing agreements, offers to purchase or offers to sell the subject property made within the last three years.

7. Any and all soil tests or mineral evaluations, permit requests, permits, requests relative to zoning variance, or similar applications or requests to any governmental body within the past three years concerning the subject property and the result of any such applications or requests.

8. Any and all federal and state Income Tax Returns and audited financial statements with respect to the subject property within the last three years.

9. Any and all corporate or partnership prospectus or private placement memorandum that contain any reference to the value of the subject property within the last three years.

10. Any and all insurance policies and/or binders covering the subject property, its building contents, buildings or any business located thereon from the last three years.

11. Any and all documents which describe in whole or in part any physical improvements to the subject property (whether by the owner or by a tenant) within the last three years.

12. Any and all documents listing or describing capital improvement(s) made to the subject property over the past three years including the costs of the capital improvements and the completion date(s).

13. Any and all documents relating to leasing commissions paid with respect to the subject property over the last three years including the corresponding tenant space, the commission paid, and the date.

INTERROGATORIES

Please provide the following information:

1. The name, address and telephone number of the person to contact regarding conducting an inspection of the subject property.

Date: _____

 (Signature)

(c)

FORM 503(14) NOTICE

NOTICE

Pursuant to the provisions of 72 P. S. § 5020-518.1(c) and Local Rule 503(9), attached is the Report of the Special Master.

Any party objecting to the Report shall file Objections at the Secondary Desk of the Department of Court Records, Civil Division, on the First Floor of the City-County Building, 414 Grant Street, Pittsburgh, PA 15219, with ten (10) days of the receipt of this Notice. Objections must be accompanied by a certification of counsel or of the objecting party, if unrepresented, that the trial transcript, or necessary portions of the transcript, have been ordered from the Court Reporter's Office (Room 415, County Office Building, 412-350-5414) and paid for by the objecting party. Copies of the Objections and certification shall be served on the Administrative Chair of the Board of Viewers (Room 811, City-County Building) and on all counsel of record or the parties, if unrepresented.

In the event that none of the parties files Objections, the Report and Recommendation of the Special Master will be adopted as the final Order of Court.

DATED: _____ ADMINISTRATIVE CHAIR
 BOARD OF VIEWERS

(d)

FORM 503(15A) Letter

Re: [case name and docket number]

Dear [Objecting Party],

It has been ninety (90) days since you filed your Objections to the Masters Report in the subject case and no trial transcript has been filed with the Department of Court Records, Civil Division. You must contact the court reporter and the transcript must be paid for and filed within thirty (30) days of the date of this letter. See Local Rule 503(15).

If the transcript has not been paid for and filed within thirty (30) days of the date of this letter, A COURT ORDER PURSUANT TO LOCAL RULE 503(15)(b) WILL BE ISSUED OVERRULING THE OBJECTIONS WITH PREJUDICE.

Very truly yours,
 Administrative Chair, Board of Viewers

(e)

FORM 503(15B)

[CAPTION INCLUDING DOCKET NUMBER]

ORDER OF COURT

On this _____ day of _____, 20 _____, it appearing that ninety (90) days after the Objections in this case were filed, a letter dated _____ was mailed by the Board of Viewers' Administrative Chair to the objecting party; this letter stated that within thirty (30) days from the date of the letter, the trial transcript must be paid for and filed; thirty (30) days have passed since the date of the letter; and the transcript has not been filed.

IT IS ORDERED THAT, pursuant to Local Rule 503(15)(b) the objections in this case are overruled with prejudice.

BY THE COURT:

(f)

FORM 503(16A) Letter

Re: [case name and docket number]

Dear [Objecting Party],

It has been twenty (20) days since the transcript in the referenced case was filed with the Department of Court Records, Civil Division. Pursuant to Local Rule 503(16)(a), your brief is now overdue. If it is not filed and served within twenty (20) days of the date of this letter, A COURT ORDER PURSUANT TO LOCAL RULE 503(16)(b) WILL BE ISSUED OVERRULING YOUR OBJECTIONS WITH PREJUDICE.

Very truly yours,
 Administrative Chair, Board of Viewers

(g)

FORM 503(16B) Court Order

[CAPTION INCLUDING DOCKET NUMBER]

ORDER OF COURT

On this _____ day of _____, 20 _____, it appearing that twenty (20) days after the transcript in this case was filed, a letter dated _____ was mailed by the Board of Viewers' Administrative Chair to the objecting party; this letter stated that if a brief is not filed by the objecting party and served within twenty (20) days of the date of the letter, a court order will be issued overruling the objections with prejudice; twenty (20) days have passed since the date of the letter; and the objecting party has not filed a brief,

IT IS ORDERED THAT, pursuant to Local Rule 503(16)(b) the objections in this case are overruled with prejudice.

BY THE COURT
 _____ J. _____

(h)

FORM 503(17) Letter

Re: [case name and docket number]

Dear [Opposing Party]:

It has been twenty (20) days since the Objecting Party filed a Brief in Support of Objections and no brief in opposition has been filed by you. If no Brief in Opposition is filed and served within (20) days of the date of this letter, the decision will be made without reference to any brief that you may file thereafter.

(i)

FORM 503(18) Notice That Matter Is Ripe for Decision

[CASE CAPTION, INCLUDING DOCKET NUMBER]

NOTICE THAT MATTER IS RIPE FOR DECISION

AND NOW, comes (name) and notifies this Honorable Court pursuant to Local Rule 503(18) that this matter is ripe for decision and requests that this Honorable Court schedule oral argument or decide the objections on the briefs at its convenience.

A Brief in Opposition to the Objections _____ has _____ has not (please check appropriate line) been filed.

Date: _____
(Signature)

Editor's Note: Adopted October 4, 2006, effective December 4, 2006. Amended June 5, 2008, effective _____, 2008.

[Pa.B. Doc. No. 08-1186. Filed for public inspection June 27, 2008, 9:00 a.m.]

ALLEGHENY COUNTY

Adoption of Rule 502.1; Rules Doc. No. 2008-1-PJ

Order of Court

And Now, to-wit, this 10th day of June, 2008, pursuant to action of the Board of Judges, the within new Local Rule 502.1 affecting the Civil Division of the Court of Common Pleas is adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOSEPH M. JAMES,
President Judge

Local Rule 502.1. Notice of Change of Ownership of Property. Change of Address. Withdrawal or Substitution of Counsel.

(1) If at any time during the course of an appeal filed pursuant to Local Rules 503 or 504 ownership of the property at issue is transferred, changed, or altered in any way, the property owner listed of record in the appeal is required to file notice of the transfer/change/alteration with the Department of Court Records, Civil Division (FORM 502.1) (see subsection (2) below). The Notice shall provide the following information:

(a) The name(s) and address(es) of the new owner(s) of the property;

(b) The type of transfer/change/alteration (e.g., property sold, joint tenant added); and

(c) The date of the transfer/change/alteration.

Note: An appeal to the Board of Viewers is an appeal to the Court of Common Pleas. See Local Rule 503(9). See Pa.R.C.P. 1012 for notice requirements when there is a withdrawal or substitution of counsel. See Pa.R.C.P. 440 and Local Rule 440 for requirements of service of legal papers.

(2)

FORM 502.1 Change of Ownership. Change of Address.

NOTICE

Department of Court Records, Civil Division
First Floor, City County Building
414 Grant Street
Pittsburgh, PA 15219

Re: **[ORIGINAL CASE CAPTION AND DOCKET NUMBER]**

(1) The names(s) and address(es) of the new owner(s) of the property is (are): _____

(2) The ownership of the property that is the subject of the referenced assessment appeal has been changed, as follows (e.g., property sold, joint tenant added, etc.): _____

(3) The date of the transfer/change/alteration was: _____

Dated: _____ Signed: _____

Editor's Note: Adopted June 5, 2008, effective _____, 2008.

[Pa.B. Doc. No. 08-1187. Filed for public inspection June 27, 2008, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated June 12, 2008, Sherry L. Freebery is disbarred on consent from the practice of law in this Commonwealth, to be effective July 12, 2008. 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. 08-1188. Filed for public inspection June 27, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 58—RECREATION

GAME COMMISSION [58 PA. CODE CH. 141] Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 22, 2008, meeting, adopted the following rulemaking:

Amend § 141.45 (relating to turkey) to eliminate the regulatory prohibition against the use of dogs while hunting wild turkey.

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

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

Notice of proposed rulemaking was published at 38 Pa.B. 1590 (April 5, 2008).

1. *Purpose and Authority*

On June 30, 2007, Governor Rendell signed into law Senate Bill 580, the act of June 30, 2007 (P. L. 62, No. 18). This legislation effectively amended section 2383 of the code to create an exception to the prohibition against the use of dogs to hunt big game by specifically permitting the use of a dog to pursue, chase, scatter and track wild turkeys during the fall wild turkey season. With the passage of this legislation, the Commission amended § 141.45 (relating to turkey) to eliminate the regulatory prohibition against the use of dogs while hunting wild turkey to maintain consistency.

Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment of § 141.45 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will amend § 141.45 to eliminate the regulatory prohibition against the use of dogs while hunting wild turkey.

3. *Persons Affected*

Persons wishing to hunt turkey during the fall turkey season within this Commonwealth may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received one comment respecting this final-form rulemaking in support of eliminating the regulatory prohibition against the use of dogs while hunting wild turkey during the fall.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.45 to read as set forth at 38 Pa.B. 1590.

(b) The Executive Director of the Commission shall certify this order and 38 Pa.B. 1590 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-266 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 08-1189. Filed for public inspection June 27, 2008, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CHS. 141 AND 143] Hunting and Trapping and Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 22, 2008, meeting, adopted the following rulemaking:

Amend §§ 141.48, 143.206 and 147.207 (relating to elk hunt zones; validity of license and unlawful acts) to redesignate "elk management areas/units" as "elk hunt zones" and § 143.203 (relating to drawing).

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

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

Notice of proposed rulemaking was published at 38 Pa.B. 1482 (March 29, 2008).

1. Purpose and Authority

The Commission recently redesignated all the "elk management areas/units" found within this Commonwealth's Northcentral region as "elk hunt zones." This redesignation is reflected in the Commission's elk management plan as well as the *Hunting and Trapping Digest*, however, this change is not properly reflected in current regulations. Therefore, in an effort to correct this lack of consistency, the Commission amended §§ 141.48, 143.206 and 143.207 by redesignating "elk management areas/units" as "elk hunt zones."

Section 322(c)(4) of the code (relating to powers and duties of the commission) specifically authorizes the Commission to "Define geographic limitations or restrictions." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments of §§ 141.48, 143.206 and 143.207 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking will amend §§ 141.48, 143.206 and 143.207 to redesignate "elk management areas/units" as "elk hunt zones."

3. Persons Affected

Persons wishing to hunt elk within this Commonwealth will be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. Contact Person

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 141 and 143, are amended by amending §§ 141.48, 143.203, 143.206 and 143.207 to read as set forth at 38 Pa.B. 1482.

(b) The Executive Director of the Commission shall certify this order and 38 Pa.B. 1482 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-264 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 08-1190. Filed for public inspection June 27, 2008, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 139] Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 22, 2008, meeting, adopted the following rulemaking:

Amend § 139.17 (relating to wildlife management units) to provide updated wildlife management unit boundaries.

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

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

Notice of proposed rulemaking was published at 38 Pa.B. 1597 (April 5, 2008).

1. Purpose and Authority

A uniform system of wildlife management units (WMUs) was implemented in 2003 to replace the system of multiple, species-specific management units. The primary objective of this new wildlife management unit system was to develop and implement wildlife management decisions on a system of more homogenous units based on physiographic, land cover and use, human population density and land ownership. Wildlife management unit boundaries were defined using readily recognizable features on the landscape rather than hard to identify political boundaries. At the time of the approval of the new wildlife management unit system it was agreed to evaluate the structure of the units after 5 years. The 2007-2008 seasons will mark the 5th year, therefore the Commission reviewed staff input and developed the following limited WMU map revisions: 1) clarify the boundary line between WMUs 2C and 2E near Ebsburg to reduce confusion; 2) correct the boundary line between WMUs 4B and 4D to accommodate new highway construction on United States Traffic Route 22

near Lewistown; 3) relocate the boundary line between WMUs 3B and 3C between Towanda and Tunkhannock from United States Traffic Route 6 to the Susquehanna River to increase hunter access and reduce property fragmentation; and 4) expand WMU 5C to include the cities of Reading and Allentown to accommodate continuing increases in human populations in southeast Pennsylvania, thus affecting boundary lines with WMUs 5B, 4C and 3D. These proposed changes to WMU boundary lines will have minimal impact on wildlife databases. Therefore, the Commission amended § 139.17 to provide updated wildlife management unit boundaries.

Section 322(c)(4) of the code (relating to powers and duties of the commission) specifically authorizes the Commission to "Define geographic limitations or restrictions." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment of § 139.17 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will amend § 139.17 to provide updated WMU boundaries.

3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received 17 comments respecting this final-form rulemaking. Out of this total, five were in support and five were in opposition to the Commission's proposal to update the WMU boundaries. In addition, five comments recommended that WMUs be made smaller, one comment claimed wildlife management units were too confusing and one recommended specific adjustments to WMU 5C's boundaries.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.17 to read as set forth at 38 Pa.B. 1597.

(b) The Executive Director of the Commission shall certify this order and 38 Pa.B. 1597 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-263 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 08-1191. Filed for public inspection June 27, 2008, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 139]

Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 22, 2008, meeting, adopted the following rulemaking:

Amend § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2008-2009 hunting license year.

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

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

Notice of proposed rulemaking was published at 38 Pa.B. 1591 (April 5, 2008).

1. *Purpose and Authority*

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Although the 2008-2009 seasons and daily season and possession limits are similar to those set in 2007-2008, the 2008-2009 seasons and bag limits have been amended to conform to current available scientific data, population and harvest records, field surveys and professional staff observations, as well as recommendations received from staff, organized sporting groups, members of the agricultural community and others interested in the wildlife resources of this Commonwealth. Some notable changes for hunters next season will be expanded pheasant hunting opportunities for junior hunters, expanded crow hunting opportunities Statewide, reduced antlerless deer hunting opportunities in Wildlife Management Units (WMUs) 2D, 2G 3C and 4B during the regular firearms season, reduced elk hunting opportunities in Elk Hunt Zone 1 during the September season due to the elimination of the September season after 2008, and finally expanded bobcat hunting/trapping opportunities in WMU 4D.

Section 322(c)(1) of the code (relating to powers and duties of the commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(b)(1) of the Code authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking . . ." The amendment of § 139.4 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will amend § 139.4 by establishing when and where it is lawful to hunt and trap various game species and also place limits on the numbers that can be legally taken during the 2008-2009 license year.

3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2008-2009 license year will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received a total of 361 official comments concerning this final-form rulemaking. The comments received concerned the following subtopics:

Deer Season (in general)

Out of a total of 303 comments received concerning this subtopic, 14 supported and 115 opposed the Commission's current deer program, 32 supported and 43 opposed retaining concurrent deer seasons, 10 supported retaining concurrent deer seasons for youth, 1 opposed closing concurrent deer seasons on private land in WMUs 2B, 2G, 3C and 4B, 1 opposed closing concurrent deer season on Deer Management Assistant Program (DMAP) properties in WMUs 2B, 2G, 3C and 4B, 14 supported and 4 opposed limiting antlerless deer hunting to the second week of the concurrent deer season in WMUs 2B, 2G, 3C and 4B, 30 opposed limiting antlerless deer hunting to the second week of the concurrent deer season in WMUs 2B, 2G, 3C and 4B only, 1 opposed antlerless seasons after the rut, 2 opposed allowing hunters to harvest more than 1 deer per license year, 2 opposed allowing hunters to harvest more than 1 antlered and 1 antlerless per license year, 1 opposed allowing hunters to harvest more than 1 deer per day, 23 opposed opening all antlerless seasons for 1 or 2 years, 1 opposed all doe seasons on public land for 1 or 2 years, 1 supported and 4 opposed October antlerless seasons, 1 opposed all antlerless seasons after Christmas due to dropped antlers, 1 opposed antlerless seasons in the southwest due to EHD and 2 opposed not allowing rifle hunters to hunt during the rut.

Deer Archery Season

Out of a total of four comments received concerning this subtopic, all opposed a longer archery deer season.

Deer Muzzleloader Season

Out of a total of five comments received concerning this subtopic, all opposed the duration of muzzleloader hunting opportunities.

Bear Season

Out of a total of two comments received concerning this subtopic, one opposed the opening of the extended season in WMU 3D in areas below 500 foot elevation and one opposed the exclusion of WMU 3D from the bear archery season.

Turkey Season

Out of a total of two comments received concerning this subtopic, one opposed the inclusion of the Monday of Memorial Day in the spring gobbler season and one opposed closing WMU 5A to fall turkey hunting.

Small Game Season

Out of a total of 43 comments received concerning this subtopic, 2 supported and 36 opposed allowing ruffed grouse hunting in the barrens, 2 opposed the length of ruffed grouse season (too short) and 3 opposed the length of small game seasons (too short).

Furbearer Hunting/Trapping Season

Out of a total of two comments received concerning this subtopic, one supported a bobcat season and 1 opposed the length of coyote season (too long).

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

The effective dates of the final-form rulemaking are July 1, 2008, to June 30, 2009.

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.4 to read as set forth in Annex A.

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

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-262 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

(SEASONS AND BAG LIMITS TABLE)
 2008-2009 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
 FIELD POSSESSION LIMIT AND SEASON LIMIT
 OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 11	Oct. 17	6	12
Squirrels—(Combined species)	Oct. 18 and Dec. 15 and Dec. 26	Nov. 29 Dec. 23 Feb. 7, 2009	6	12
Ruffed Grouse—(Statewide)	Oct. 18 and Dec. 15 and Dec. 26	Nov. 29 Dec. 23 Jan. 24, 2009	2	4
Rabbits, Cottontail	Oct. 25 and Dec. 15 and Dec. 26	Nov. 29 Dec. 23 Feb. 7, 2009	4	8
Ringneck Pheasant—Male only in WMUs 2A, 2B, 2C, 4C, 4E, 5A and 5B Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 11	Oct. 18	2	4
Ringneck Pheasant—Male or female combined in WMUs 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 11	Oct. 18	2	4
Ringneck Pheasant—Male only in WMUs 2A, 2B, 2C, 4C, 4E, 5A and 5B	Oct. 25	Nov. 29	2	4
Ringneck Pheasant—Male or female combined in WMUs 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D	Oct. 25 and Dec. 15 and Dec. 26	Nov. 29 Dec. 23 Feb. 7, 2009	2	4
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all WMUs except in WMUs 4A, 4B, 5A, 5B, 5C & 5D where the season is closed.	Oct. 25	Nov. 29	4	8

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 26	Jan. 1, 2009	1	2
Woodchucks (Groundhog)	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season.			Unlimited
Species	First Day	Last Day	Daily Limit	Season Limit
Turkey—Male or Female			1	1
WMUs 1A, 1B and 2A (Shotgun, Bow and Arrow only)	Nov. 1	Nov. 15		
WMU 2B (Shotgun, Bow and Arrow only)	Nov. 1	Nov. 22		
WMUs 2C, 2E, 2F, 4A and 4B	Nov. 1	Nov. 15		
WMUs 2D, 2G, 3A, 3B, 3C, 3D, 4C, 4D and 4E	Nov. 1	Nov. 22		
WMUs 5A and 5B	Closed to fall turkey hunting			
WMUs 5C and 5D (Shotgun, Bow and Arrow only)	Nov. 1	Nov. 7		
Turkey (Spring Gobbler) Statewide ¹ Bearded Bird only	April 25, 2009	May 25, 2009	1	2
Turkey (Spring Gobbler) Statewide Youth Hunt ¹ Bearded Bird only Eligible Junior Hunters only with the required license and when properly accompanied	April 18, 2009	April 18, 2009	1	1

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year.

Exceptions:

(a) Hunting hours in § 141.4 (relating to hunting hours).

(b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Crows (Hunting permitted on Friday, Saturday and Sunday only)	Jul. 4, 2008	Apr. 5, 2009		Unlimited
Starlings and English Sparrows	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season			Unlimited

FALCONRY

Squirrels—(Combined species)	Sept. 1	Mar. 31, 2009	6	12
Quail	Sept. 1	Mar. 31, 2009	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2009	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2009	4	8

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2009	1	2
Ringneck Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2009	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

DEER

Species	First Day	Last Day	Season Limit
Deer, Antlered and Antlerless—(Statewide) ² (Archery—Bows and Arrows Only) Crossbows may be used in WMUs 2B, 5C and 5D	Oct. 4	Nov. 15	One antlered and an antlerless deer with each required antlerless license.
	Dec. 26	Jan. 10, 2009	
Deer, Antlerless—WMUs 2B, 5C and 5D (Archery—Bows and Arrows and Crossbows)	Sept. 20	Oct. 3	An antlerless deer with each required antlerless license.
	Nov. 17	Nov. 29	
	Dec. 15	Dec. 23	
Deer, Regular Antlered and Antlerless ² WMUs 1A, 1B, 2A, 2B, 2C, 2E, 2F, 3A, 3B, 3D, 4A, 4C, 4D, 4E, 5A, 5B, 5C and 5D	Dec. 1	Dec. 13	One antlered, and an antlerless deer with each required antlerless license.
Deer, Regular Antlered only ^{2 & 8} WMUs 2D, 2G, 3C and 4B	Dec. 1	Dec. 5	One antlered deer
Deer, Regular Antlered and Antlerless ^{2 & 8} WMUs 2D, 2G, 3C and 4B	Dec. 6	Dec. 13	One antlered, and an antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) Only Junior and Senior License Holders, ³ Commission Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U.S. Armed Forces, or in the U.S. Coast Guard, with required antlerless license	Oct. 23	Oct. 25	An antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) (Muzzleloading season)	Oct. 18	Oct. 25	An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) ² (Flintlock Muzzleloading season)	Dec. 26	Jan. 10, 2009	One antlered, or one antlerless-plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless WMUs 2B, 5C and 5D	Dec. 15	Dec. 23	An antlerless deer with each required antlerless license.
	Dec. 26	Jan. 24, 2009	
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer with each required antlerless license.

BEAR

Species	First Day	Last Day	Daily Limit	Season Limit
Bear, any age—(Bows and Arrows only) ⁴ WMUs 2C, 2D, 2E, 2F, 2G, 3A, 4A, 4B and 4D	Nov. 19	Nov. 20	1	1
Bear, any age—(Statewide) ⁴	Nov. 24	Nov. 26	1	1
Bear, any age ⁴ WMUs 3C and that portion of 3B, East of Rt. 14 from Troy to Canton, East of Rt. 154 from Canton to Rt. 220 at Laporte and East of Rt. 42 from Laporte to Rt. 118 and that portion of 4E, East of Rt. 42.	Dec. 1	Dec. 6	1	1

Portions of WMUs 2G in Lycoming and Clinton counties, and 3B in Lycoming County that lie North of the West Branch of the Susquehanna River from the Rt. 405 Bridge, West to Rt. 15 at Williamsport, Rt. 15 to Rt. 220, and North of Rt. 220 to the Mill Hall exit, North of SR 2015 to Rt. 150; East of Rt. 150 to Lusk Run Road and South of Lusk Run Road to Rt. 120, Rt. 120 to Veterans Street Bridge to SR 1001; East of SR 1001 to Croak Hollow Road, South of Croak Hollow Road to Rt. 664 (at Swissdale), South of Rt. 664 to Little Plum Road (the intersection of SR 1003), South of SR 1003 to SR 1006, South of SR 1006 to Sulphur Run Road, South of Sulphur Run Road to Rt. 44, East of Rt. 44 to Rt. 973, South of Rt. 973 to Rt. 87, West of Rt. 87 to Rt. 864, south of Rt. 864 to Rt. 220 and West of Rt. 220 to Rt. 405 and West of Rt. 405 to the West Branch of the Susquehanna River.

Bear, any age ⁴ WMUs 4C, 4D and 4E	Dec. 3	Dec. 6	1	1
Bear, any age ⁴ Rockview Prison	Dec. 1	Dec. 6	1	1

ELK

Elk, Antlered and Antlerless ⁵ (With each required license)	Nov. 3	Nov. 8	1	1
Elk, Antlered and Antlerless ⁵ (With each required license) Elk Hunt Zone 1	Sep. 1	Sep. 27	1	1

FURTAKING—TRAPPING

Minks and Muskrats—(Statewide)	Nov. 22	Jan. 11, 2009		Unlimited
Beaver—(Statewide)	Dec. 26	Mar. 31, 2009		
WMUs 2E, 2F and 2G (Combined)			20	20
WMUs 1A, 1B, 3A, 3B, 3C and 3D (Combined)			20	40
WMUs 2A, 2B, 2C, 2D, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 5C and 5D (Combined)			10	10
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 26	Feb. 22, 2009		Unlimited
Coyotes & Foxes—(Statewide) (Cable restraint devices may be used)	Jan. 1, 2009	Feb. 22, 2009		Unlimited
Bobcat ⁶ WMUs 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C, 3D and 4D	Oct. 26	Feb. 22, 2009	1	1

Species	First Day	Last Day	Daily Limit	Season Limit
FURTAKING—HUNTING				
Coyotes—(Statewide)			Outside of any deer or bear season may be taken with a hunting license or a furtaker's license and without wearing orange.	Unlimited
Coyotes—(During any archery deer season)			May be taken while lawfully hunting deer or with a furtaker's license.	
Coyotes—(During the regular firearms deer season and any bear season)			May be taken while lawfully hunting deer or bear or with a furtaker's license while wearing 250 square inches of daylight fluorescent orange- colored material in a 360° arc.	
Coyotes—(During the spring gobbler turkey season)			May be taken by persons who have a valid tag and meet fluorescent orange and shot size requirements.	
Opossums, Skunks, Weasels ⁷			No closed season. These species may (Statewide) not be hunted prior to noon during the spring gobbler turkey season.	
Raccoons and Foxes—(Statewide) ⁷	Oct. 25	Feb. 21, 2009		Unlimited
Bobcat ⁶ WMUs 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C, 3D amd 4D	Oct. 25	Feb. 21, 2009	1	1

No open seasons on other wild birds or wild mammals.

¹ Only persons who possess a special wild turkey license as provided for in section 2709 of the act (relating to license costs and fees) may take a second spring gobbler during the hunting license year; all other persons, including mentored youth hunters, may take only one spring gobbler. A maximum of 2 gobblers per license year may be taken by any combination of licenses or exceptions for mentored youth.

² Only one antlered deer (buck) may be taken during the hunting license year.

³ Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

⁴ Only one bear may be taken during the hunting license year.

⁵ Only one elk may be taken during the hunting license year.

⁶ Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit and may not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

⁷ May not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

⁸ Season changes in WMUs 2D, 2G, 3C and 4B are for the purpose of a 4 year study which must be completed before additional units are modified.

[Pa.B. Doc. No. 08-1192. Filed for public inspection June 27, 2008, 9:00 a.m.]

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 22, 2008, meeting, adopted the following rule-making:

Amend § 147.701 (relating to general) to permit non-resident furtaker license holders to apply for and receive a bobcat hunting/trapping permit, to permit the Commission to automatically select bobcat hunting/trapping permit applicants who have attained the maximum number of preference points first with the random drawing for all other eligible applicants to follow, and to update the bobcat tagging procedures and remove the requirement that all bobcat carcasses be physically presented to the

Commission for examination, data collection and permanent tagging.

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

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

Notice of proposed rulemaking was published at 38 Pa.B. 1483 (March 29, 2008).

1. *Purpose and Authority*

The Commission first authorized the hunting/trapping of bobcats in 2000 after 30 years of complete protection. Due to the low numbers of bobcat permits initially made available, the Commission limited the issuance of permits to residents of this Commonwealth only. The number of bobcat permits currently issued now exceeds 1,000 annually and a growing number of nonresidents have requested to have the opportunity to apply for and receive a bobcat hunting/trapping permit. Due to the abundance of the number of available bobcat hunting/trapping permits as well as the fact that nonresident furtakers make up less than 1% of the total number of licensed furtakers in this Commonwealth, the Commission amended § 147.701 to permit nonresident furtaker license holders to apply for and receive a bobcat hunting/trapping permit.

In 2003, the Commission began awarding preference points to individuals who applied for but did not receive a bobcat harvest permit during a given year. The preference point system was designed to incrementally increase the probability of an individual's chances of being drawn for a bobcat hunting/trapping permit each year the applicant was unsuccessful. After reviewing the relevant data, the Commission has found that the current drawing process, albeit completely random, has the capability of allowing an applicant to attain the maximum number of preference points, yet never be drawn for a permit while at the same time allowing another applicant to be successfully drawn multiple times over the course of a number of years. In an effort to reduce this real or perceived inequity in the drawing process, the Commission amended § 147.701 to permit the Commission to automatically select bobcat hunting/trapping permit applicants who have attained the maximum number of preference points first with the random drawing for all other eligible applicants to follow.

Formerly, the tagging requirements found in § 147.701 required a successful hunter/trapper to submit the bobcat carcass to the Commission for examination, data collection and permanent tagging. The Commission determined that presentation of the carcass was no longer necessary for these purposes and that administration of the permanent tag issuance can be more efficiently accomplished by means of telephone and mail. Therefore, the Commission amended § 147.701 to update the bobcat tagging procedures and remove the requirement that all bobcat carcasses be physically presented to the Commission for examination, data collection and permanent tagging.

Section 2901(b) of the code (relating to authority to issue permits) provides that "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to

the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment of § 147.701 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will amend § 147.701 to permit nonresident furtaker license holders to apply for and receive a bobcat hunting/trapping permit, to permit the Commission to automatically select bobcat hunting/trapping permit applicants who have attained the maximum number of preference points first with the random drawing for all other eligible applicants to follow, and to update the bobcat tagging procedures and remove the requirement that all bobcat carcasses be physically presented to the Commission for examination, data collection and permanent tagging.

3. *Persons Affected*

Persons wishing to hunt or trap bobcat within this Commonwealth will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received one comment respecting this final-form rulemaking in support of automatically selecting bobcat hunting/trapping permit applicants who have attained the maximum number of preference points first with the random drawing for all other eligible applicants to follow.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending § 147.701 to read as set forth at 38 Pa.B. 1483.

(b) The Executive Director of the Commission shall certify this order and 38 Pa.B. 1483 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-265 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 08-1193. Filed for public inspection June 27, 2008, 9:00 a.m.]

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GAME COMMISSION
[58 PA. CODE CH. 137]
Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 22, 2008, meeting, adopted the following rulemaking:

Amend § 137.1 (relating to importation, possession, sale and release of certain wildlife) to require propagation, exotic wildlife dealer and exotic wildlife possession permit holders to acquire an importation permit prior to importing any wildlife into this Commonwealth and to prohibit the importation, possession, sale and release of all nonhuman primates within this Commonwealth.

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

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

Notice of proposed rulemaking was published at 38 Pa.B. 1484 (March 29, 2008).

1. *Purpose and Authority*

Currently, § 137.1 requires a person importing lawfully acquired wildlife, or parts thereof, for menagerie, educational or scientific purposes to obtain an importation permit, but does not require an importation permit for exotic wildlife dealer or exotic wildlife possession permit holders. In an effort to create consistency in the regulations and increase the Commission's capabilities to address wildlife epidemiological concerns, the Commission is proposing to amend § 137.1 to specifically require propagation, exotic wildlife dealer and exotic wildlife possession permit holders to acquire an importation permit prior to importing any wildlife into this Commonwealth. The Commission is also proposing to prohibit the importation, possession, sale and release of all nonhuman primates within this Commonwealth in response to human health/safety and wildlife habitat health purposes.

Section 2901(b) of the code (relating to authority to issue permits) provides that "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropri-

ate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment of § 137.1 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will amend § 137.1 to require propagation, exotic wildlife dealer and exotic wildlife possession permit holders to acquire an importation permit prior to importing any wildlife into this Commonwealth and to prohibit the importation, possession, sale and release of all nonhuman primates within this Commonwealth.

3. *Persons Affected*

Persons wishing to import, possess, sell or release exotic or nonindigenous wildlife, including nonhuman primates, within this Commonwealth will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received one comment respecting this final-form rulemaking in support of prohibiting the importation, possession, sale or release of any nonhuman primates within this Commonwealth.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 137, are amended by amending § 137.1 to read as set forth at 38 Pa.B. 1484.

(b) The Executive Director of the Commission shall certify this order and 38 Pa.B. 1484 and deposit them with the Legislative Reference Bureau as required by law.

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-267 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 08-1194. Filed for public inspection June 27, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 83]

Physical and Mental Criteria, Including Vision Standards Relating to the Licensing of Drivers

The Department of Transportation (Department), under the authority contained in 75 Pa.C.S. §§ 1517, 1518 and 6103 (relating to Medical Advisory Board; reports on mental or physical disabilities or disorders; and promulgation of rules and regulations by department), proposes to amend §§ 83.1, 83.2 and 83.5 (relating to purpose; definitions; and other physical and medical standards).

Purpose of Chapter

Chapter 83 (relating to physical and mental criteria, including vision standards relating to the licensing of drivers) sets forth physical and mental criteria, including vision standards, for the licensing of drivers, formulated by the Medical Advisory Board (Board) under 75 Pa.C.S. §§ 1517 and 1518. In addition to their use by the Department in connection with its responsibilities under the Vehicle Code, these physical and mental criteria are to be used by medical providers in conducting physical examinations of applicants for learner permits and driver licenses, and by physicians and other persons authorized to diagnose and treat disorders and disabilities covered in Chapter 83 to determine whether a person should be reported to the Department as having a disorder affecting the ability of the person to drive safely.

Purpose of the Proposed Amendments

The purpose of these amendments to Chapter 83 is to update the medical requirements and standards for license holders that are being treated for diabetes mellitus. Diabetes management and testing continues to evolve. These proposed amendments update minimum standards to ensure that only drivers who are not at risk of suffering from severe hypoglycemia reactions, hypoglycemia unawareness or symptomatic hyperglycemia are licensed to operate a motor vehicle.

These proposed amendments reflect consultation with the Department's Board as required by 75 Pa.C.S. §§ 1517 and 1518. The Board, after having conducted in-depth reviews and discussions, has determined that regulations require amendment to make them consistent with existing medical practice and improved technology.

Summary of Significant Amendments

The proposed amendment to § 83.1 add chiropractors to the list of individuals that are permitted to administer the physical examination required for the issuance of a driver's license, as required by Act 756 of 2004.

Section 83.2 has been amended to add the term "chiropractor" to the regulation as required by 75 Pa.C.S. § 1508.1(a) (relating to physical examinations) and also to correct the term "CRNP—Certified registered nurse practitioner." This certification is obtained solely by the State Board of Nursing; the State Board of Medicine is no longer involved.

The proposed amendments also add the terms "HbA1C," "hyperglycemia," "hypoglycemia," "symptomatic hyperglycemia," "Type I Diabetes mellitus" and "Type II

Diabetes mellitus." In addition, "hypoglycemia reactions" has been categorized by different degrees of severity. These additions reflect current guidelines established by the American Diabetes Association.

A proposed amendment to § 83.2 has been amended to include the categories of hypoglycemic reactions established by the American Diabetes Association. This section also is amended to add the requirement for drivers to submit the results of an HbA1C and a vision screening.

In addition, the proposed amendments add a waiver provision for individuals who have experienced an episode that would disqualify them from driving if the episode was as a result of a nonrecurring transient illness, toxic ingestion or metabolic imbalance as long as the treating physician verifies that it is a temporary condition or isolated incident not likely to recur.

Persons and Entities Affected

The proposed amendments affect all persons qualified or desiring to be qualified to drive and health care providers.

Fiscal Impact

Implementation of these proposed amendments will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These proposed amendments will not impose any additional costs on the medical community and may reduce costs by providing clearer medical criteria and thus reduce unnecessary reporting by physicians and the need for follow-up medical examinations for drivers. The proposed amendments do not impose any additional medical examinations that are not customary for diabetic care.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed amendments, on June 18, 2008, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees (Committees). In addition to submitting the proposals, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

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

Sunset Provisions

The Department will make this rulemaking effective upon publication in final-form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for this proposed rulemaking, since proposed rulemaking is needed to administer provisions required under the Vehicle Code. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to the regulations to Janet L. Dolan, Director, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676 within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Scott Shenk, Manager, Driver Safety Division, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676, (717) 783-5958.

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-411. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 83. PHYSICAL AND MENTAL CRITERIA, INCLUDING VISION STANDARDS RELATING TO THE LICENSING OF DRIVERS

§ 83.1. Purpose.

Section 1517(b) of the act (relating to medical advisory board) authorizes the Department to adopt physical and mental criteria, including vision standards, for licensing of drivers under Chapter 15 of the act (relating to licensing of drivers). These physical and mental criteria have been formulated by the Medical Advisory Board under the authority of sections 1517 and 1518 of the act (relating to medical advisory board and reports on mental or physical disabilities or disorders). In addition to their use by the Department in connection with its responsibilities under Chapter 15 of the act, these physical and mental criteria shall be used by physicians, **chiropractors**, CRNPs and physician assistants in conducting physical examinations of applicants for learner's permits and driver's licenses and by physicians and other persons authorized to diagnose and treat disorders and disabilities covered in this chapter in determining whether a person examined by the provider should be reported to the Department as having a disorder affecting the ability of the person to drive safely.

§ 83.2. Definitions.

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

* * * * *

CRNP—*Certified registered nurse practitioner*—A registered nurse licensed in this Commonwealth who is certified [,] by [**both**] the State Board of Nursing [**and the State Board of Medicine,**] in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of

medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

Chiropractor—A practitioner of chiropractic as defined in 75 Pa.C.S. § 1508.1(b) (relating to physical examinations).

* * * * *

HbA1C test—A Hemoglobin A1C test monitors the long-term control of diabetes mellitus.

Hyperglycemia—When the level of glucose (sugar) in the blood is too high based on current guidelines established by the American Diabetes Association.

Hypoglycemia—When the level of glucose (sugar) in the blood is too low based on current guidelines established by the American Diabetes Association.

Hypoglycemic reactions—Different degrees of hypoglycemia which are classified as follows:

(i) **Mild**—Hypoglycemia that signals a blood glucose drop, which the individual can self correct with oral carbohydrates.

(ii) **Severe**—Hypoglycemia that requires outside intervention or assistance of others, or that produces confusion, loss of attention or a loss of consciousness.

Hypoglycemia unawareness—A condition when the individual no longer recognizes the body's usual signals of low blood glucose so the first sign of hypoglycemia will often be confusion or loss of consciousness.

* * * * *

Symptomatic hyperglycemia—High glucose levels in the blood that may cause a loss of consciousness or an altered state of perception, including, but not limited to, decreased reaction time, impaired vision or hearing, and confusion.

* * * * *

Type I Diabetes mellitus—A chronic disease caused by the pancreas producing too little insulin to regulate blood sugar levels.

Type II Diabetes mellitus—A chronic disease marked by high levels of sugar in the blood caused by the body failing to respond correctly to natural insulin.

§ 83.5. Other physical and medical standards.

(a) *General disqualifications.* A person who has any of the following conditions will not be qualified to drive:

(1) Unstable [or brittle] diabetes [or hypoglycemia,] mellitus leading to severe hypoglycemic reactions, hypoglycemic unawareness or symptomatic hyperglycemia unless there has been a continuous period of at least 6 months [freedom] free from a [related syncopal attack.] disqualification in this paragraph. Individuals shall submit results of a HbA1C and vision screening as outlined in the table in subparagraph (i).

(i) *Eligibility Requirements*

[67 PA. CODE CH. 71]
School Bus Drivers

<i>Profile Level</i>	<i>Diabetes Mellitus</i>	<i>Medical Report Required</i>	<i>Interval for Review</i>
1	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 6 months.	Yes	6 months
2	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 12 months.	Yes	12 months (*)
3	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 24 months.	Yes	24 months (*)
4	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 48 months or more.	Yes	48 months (*)

(*)Eligibility determinations may be reviewed earlier if recommended by the treating physician.

(ii) A waiver may be granted if an individual has been previously free from severe hypoglycemic reactions, hypoglycemia unawareness or symptomatic hyperglycemia for the preceding 6 months and the subsequent severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia occurred while the individual was under the treating physician's care, during or concurrent with a nonrecurring transient illness, toxic ingestion or metabolic imbalance. This waiver will only be granted if the treating physician submits written certification indicating it is a temporary condition or isolated incident not likely to recur.

* * * * *

[Pa.B. Doc. No. 08-1195. Filed for public inspection June 27, 2008, 9:00 a.m.]

The Department of Transportation (Department), under 75 Pa.C.S. § 1509 (relating to qualifications for school bus driver endorsement), proposes to amend §§ 71.2 and 71.3 (relating to definitions; and physical examination), as set forth in Annex A.

Purpose of Chapter

The purpose of Chapter 71 is to define more fully the requirements of 75 Pa.C.S. § 1509 by listing minimum medical requirements for school bus drivers.

Purpose of the Proposed Amendments

The purpose of the proposed amendments to §§ 71.2 and 71.3 is to update the medical requirements and standards for school bus drivers that are being treated for diabetes mellitus. Diabetes management and testing continues to evolve. The Department is updating our minimum standards to ensure that only school bus drivers under good control are qualified for the waiver to transport children.

Summary of Significant Amendments

Section 71.2 has been amended to correct the term "CRNP—Certified Registered Nurse Practitioner." This certification is obtained solely by the State Board of Nursing; the State Board of Medicine is no longer involved.

We have also added the terms "HbA1C, hyperglycemia, hypoglycemia, symptomatic hyperglycemia, Type I Diabetes mellitus and Type II Diabetes mellitus." In addition, we have also categorized "hypoglycemia reactions" by different degrees of severity. These additions reflect current guidelines established by the American Diabetes Association.

Section 71.3 has been amended to include the categories of hypoglycemic reactions established by the American Diabetes Association. We are adding the requirement for school bus drivers to submit their average Hemoglobin A1C (HbA1C) readings. Our minimum standard is an average of 8% or lower, which indicates that the diabetes is under good control. We are also adding the requirement for the driver to have an annual dilated eye examination.

In addition, the Department has added a waiver provision for individuals that have experienced an episode that would disqualify them from the waiver if the episode was as a result of a nonrecurring transient illness, toxic ingestion or metabolic imbalance as long as the treating physician verifies that it is a temporary condition or isolated incident not likely to recur.

Persons and Entities Affected

These amendments affect all licensed school bus drivers or persons interested in becoming a school bus driver that are currently being treated for diabetes mellitus.

Fiscal Impact

Implementation of these amendments will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These amendments will not impose any additional costs on the medical community, licensed school bus drivers or applicants for a school bus learner's permit.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the agency submitted a copy of these proposed amendments, on June 18, 2008 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees (Committees). In addition to submitting the proposed amendments, the agency has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

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

Sunset Provisions

The Department will make these amendments effective upon publication in final-form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required under to the Vehicle Code. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Janet L. Dolan, Director, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676 within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments is Scott Shenk, Manager, Driver Safety Division, Department of Transportation, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676, (717) 783-4534.

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-410. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 71. SCHOOL BUS DRIVERS

§ 71.2. Definitions.

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

CRNP—Certified registered nurse practitioner—A registered nurse licensed in this Commonwealth who is certified [,] by [**both**] the State Board of Nursing [**and the State Board of Medicine,**] in a particular clinical

specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

* * * * *

HbA1C test—A Hemoglobin A1C test monitors the long-term control of diabetes mellitus.

Hyperglycemia—When the level of glucose (sugar) in the blood is too high based on current guidelines established by the American Diabetes Association.

Hypoglycemic reactions—Different degrees of hypoglycemia which are classified as follows:

(i) **Mild**—Hypoglycemia that signals a blood glucose drop, which the individual can self-correct with oral carbohydrates.

(ii) **Severe**—Hypoglycemia that requires outside intervention or assistance of others or that produces confusion, loss of attention or a loss of consciousness.

Hypoglycemia unawareness—A condition when the individual no longer recognizes the body's usual signals of low blood glucose so the first sign of hypoglycemia will often be confusion or loss of consciousness.

* * * * *

Symptomatic hyperglycemia—High glucose levels in the blood that may cause a loss of consciousness or an altered state of perception, including, but not limited to, decreased reaction time, impaired vision or hearing, or confusion.

Type I Diabetes mellitus—A chronic disease caused by the pancreas producing too little insulin to regulate blood sugar levels.

Type II Diabetes mellitus—A chronic disease marked by high levels of sugar in the blood caused by the body failing to respond correctly to natural insulin.

§ 71.3. Physical examination.

* * * * *

(b) *Requirements of physical examination.* A person is physically qualified to drive a school bus if the person:

* * * * *

(4) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring use of insulin or other hypoglycemic medication.

(i) A waiver may be granted to an individual requiring the use of [**oral hypoglycemic medication**] **diabetic medications** provided:

(A) The individual's physician verifies in writing that there has been no incident of a **severe** hypoglycemic reaction, **hypoglycemia unawareness or symptomatic hyperglycemia and the individual has been free from insulin reaction resulting in loss of consciousness, attention or awareness or the requirement of assistance from another person,** for the preceding [**2 years**] **12 months.**

(B) The driver submits to a **HbA1C test every 3 months and submits to a diabetic examination every 6 months**, and submits the results of the examination and the results of **2 consecutive HbA1C tests**, on a form provided by the Department, showing an average HbA1C of **8% or lower** indicating that the diabetes is under good control. The physician reviewing the diabetic examination shall be familiar with the individual's past diabetic history for 24 months or have access to that history.

(C) The driver submits to an annual dilated eye examination and submits the results of the examination on a form provided by the Department.

[(ii) A waiver may be granted to a person requiring the use of insulin provided:

(A) The person's physician verifies in writing to the Department that there has been no incident of hypoglycemic or hyperglycemic reaction and the person has been free from insulin reaction (including loss of consciousness, attention or awareness) or the requirement of assistance from another person, for the preceding 2 years.

(B) The person submits to a diabetic examination every 6 months, including a Hemoglobin A1C, and to a review of the prior 6-month history of blood glucose monitoring. The physician conducting the diabetic examination shall be familiar with the person's past diabetic history for 24 months or have access to that history.]

[(C) The person,] (D) Individuals, upon hire to drive a school bus, shall [demonstrate his willingness to] manage [his] their diabetes by complying with the following requirements:

(I) Self-monitoring blood glucose 1 hour before driving, and at least every 4 hours while driving or while otherwise on duty, by using a portable blood glucose monitoring device with a computerized memory. If blood glucose is below 80 mg/dL or above 350 mg/dL the [person] individual may not drive until [he takes] appropriate measures are taken and the individual retests within this acceptable range.

(II) [Submitting monthly] Submit the computerized glucometer results of blood glucose self-monitoring for review by [a physician, certified nurse practitioner, physician's assistant, registered nurse or other health care provider selected by the school district] the treating physician or a school transportation physician. The results shall also be submitted to the physician conducting the 6-month diabetic examination required by clause (B).

(III) Maintaining a manual blood glucose monitoring log and submitting it, together with the glucose monitoring device's computerized log, every 6 months to the physician conducting the [person's] 6-month diabetic examination.

(IV) [Having in his possession] Carrying a source of rapidly absorbable glucose at all times while driving a school bus.

(ii) Notwithstanding the provisions in subparagraph (i), a waiver may be granted to an individual who has recently suffered from a severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia as long as the indi-

vidual has been free from severe hypoglycemic reactions, hypoglycemia unawareness or symptomatic hyperglycemia for the preceding 12 months and the subsequent severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia occurred while the individual was under the care of a treating physician, during or concurrent with a nonrecurring transient illness, toxic ingestion or metabolic imbalance. The waiver will only be granted if the treating physician submits written certification indicating it is a temporary condition or isolated incident not likely to recur.

(iii) A reviewing physician finding that [a person] the individual previously qualified for a waiver is not complying with the requirements in subparagraph [(ii)(C)] (i) and (ii) or is otherwise no longer qualified for the waiver shall promptly report these findings to the Department and the waiver [shall] will be rescinded.

(iv) If [a person] the individual requiring the use of oral hypoglycemic medication or [a person requiring the use of] insulin does not qualify for a waiver, that [person] individual may request an independent review of [his] the individual's medical records. The review will be conducted by a member of the Medical Advisory Board or by another physician designated by the Department.

* * * * *

[Pa.B. Doc. No. 08-1196. Filed for public inspection June 27, 2008, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 435a, 441a AND 465a]

Employees; Slot Machine Licenses; and Accounting and Internal Controls

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1308, 1318 and 1331 (relating to applications for license or permit; occupation permit application; and duty of licensees, key employees and gaming employees), proposes to amend Chapters 435a, 441a and 465a (relating to employees; slot machine licenses; and accounting and internal controls) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking is intended to expand the list of offenses holders of a license, permit or registration must report to the Board; establish time periods for the submission of additional documents required when an application is being submitted under Slots Link; shift the issuance of temporary credentials for nongaming employees from the casino enforcement agents at the licensed facilities to the Bureau of Licensing; and broaden the restriction on hiring off-duty law enforcement officers as security personnel.

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

Currently, § 435a.1(c) (relating to general provisions) only requires reporting of offenses under 18 Pa.C.S. (relating to crimes and offenses) or 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance). To better insure continuing oversight of the character and suitability of individuals who hold a license, permit or registration, offenses involving moral turpitude, offenses under 75 Pa.C.S. which are punishable by 1 year or more and offenses under section 13 of The Controlled Substance Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)) regarding prohibited acts; penalties are being added to this subsection.

Under § 435a.3 (relating to occupation permit), an applicant may submit an application electronically using Slots Link. However, when an application is made using Slots Link, there are additional release forms that must be submitted on paper. In many cases, licensees have not been submitting this paperwork in a timely manner which has resulted in delays in the processing of these applications. To reduce these delays, the Board is proposing that slot machine licensees be required to submit this paperwork within 5 days of the filing of an application using Slots Link. For all other licensees, a 10-day filing period is being established.

In § 435a.9(b) (relating to temporary credentials for nongaming employees), issuance of temporary credentials for nongaming employees will now be done by the Bureau of Licensing instead of the casino enforcement agents at the licensed facilities. Improvements in administrative procedures within the Bureau of Licensing make it more efficient for the Board and the licensed facilities to have the Bureau of Licensing issue the temporary credentials as well as the permanent credentials for nongaming employees.

In § 441a.14 (relating to master purchasing and disbursement report), subsection (b) is being revised to reflect current practice. Slot machine licensees electronically transmit the data required by subsection (a) in a format that the Board has prescribed. Therefore, the language related to the signature no longer applies.

In § 465a.14 (relating to security department minimum staffing), the restriction on hiring off-duty law enforcement officers to provide security in restricted areas or on the gaming floor has been extended to apply to the entire licensed facility. Because incidents that may require investigation by law enforcement officers could occur anywhere in the licensed facility, this revision will help to avoid any actual or appearance of a conflict of interest. Additionally, this will insure that any of a slot machine licensee's security personnel will be able to respond to any incident anywhere in the licensed facility.

Affected Parties

This proposed rulemaking will affect: all employers of gaming and nongaming employees who submit applications by means of Slots Link; all individuals who hold a license, permit or registration; and law enforcement officers who desire to seek part-time employment with a slot machine licensee's security department.

Fiscal Impact

Commonwealth

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

Political Subdivisions

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

Private Sector

Law enforcement officers, who desire to seek part-time employment with a slot machine licensee, will have fewer options because of the prohibition against working in the slot machine licensee's security department.

General Public

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

Paperwork requirements

No new reporting or paperwork requirements are created by this rulemaking.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-89.

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 12, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (Commission) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

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

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-89. No fiscal impact; (8) recommends adoption.

Annex A

TITLE. 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 435a. EMPLOYEES

§ 435a.1. General provisions.

* * * * *

(c) An individual who receives a license, permit or registration under this part shall have the continuing duty to report to the Board an arrest, charge, indictment or conviction for [an]:

(1) An offense involving moral turpitude.

(2) An offense under 18 Pa.C.S. (relating to crimes and offenses) [, or an].

(3) An offense under 75 Pa.C.S. [§ 3802 (relating to driving under influence of alcohol or controlled substance) or of comparable] (relating to vehicles) which is punishable by 1 year or more.

(4) An offense under section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)) regarding prohibited acts; penalties.

(5) Comparable offenses in other states or foreign jurisdictions.

* * * * *

§ 435a.3. Occupation permit.

(a) An applicant for an occupation permit shall submit:

(1) An original and three copies of the Gaming Employee Application and Disclosure Information Form or an electronic application using the SLOTS Link system. When an application for an occupational permit is filed using Slots Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the Slots Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the Slots Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a vendor certification.

* * * * *

§ 435a.5. Nongaming employee registration.

(a) An applicant for a nongaming employee registration shall submit:

(1) An original and three copies of the Nongaming Employee Registration Form or an electronic application using the SLOTS Link system. When an application for a nongaming employee registration is filed using Slots Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the Slots Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the Slots Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a vendor certification.

* * * * *

§ 435a.9. Temporary credentials for nongaming employees.

* * * * *

(b) Temporary credentials for nongaming employees will be issued by the Bureau of Licensing.

* * * * *

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441a. SLOT MACHINE LICENSES

§ 441a.14. Master purchasing and disbursement report.

* * * * *

(b) The reports shall be [signed by the slot machine applicant or licensee and] transmitted to the Bureau of Licensing by means of electronic data transmission [or] in a [form] format prescribed by the Board.

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.14. Security department minimum staffing.

* * * * *

(b) A slot machine licensee may not employ off-duty law enforcement officers to provide security related services [on the gaming floor, in restricted areas within] in the licensed facility or in any manner in connection with the conduct of slot machine operations.

[Pa.B. Doc. No. 08-1197. Filed for public inspection June 27, 2008, 9:00 a.m.]

[58 PA. CODE CHS. 461a, 463a, 465a AND 467a] Slot Machine Testing and Control; Possession of Slot Machines; Accounting and Internal Controls; and Commencement of Slot Operations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1207 and 1322 (relating to regulatory authority of the Board; and slot machine accounting controls and audits), proposes to amend Chapters 461a, 463a, 465a and 467a to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The proposed rulemaking adds new requirements to improve the Board's oversight of slot machine licensees to insure compliance with the Pennsylvania Race Horse Development and Gaming Act; clarifies various provisions in Chapters 461a and 465a (relating to slot machine testing and control; and accounting and internal controls); and revises existing requirements to provide slot machine licensees with some additional organizational and operating flexibility.

Explanation of Amendments to Chapters 461a, 463a, 465a and 467a

In Chapter 461a, definitions of the terms "RAM" and "RAM clear" have been added to § 461a.1 (relating to definitions). These terms are used in the new § 461a.27 (relating to RAM clear) which codifies the procedures that are currently being used by slot machine licensees when it is necessary to do a RAM clear on a malfunctioning slot machine.

In § 463a.2 (relating to transportation of slot machines into, within and out of this Commonwealth), the Bureau of Investigations and Enforcement (BIE) and the Office of Gaming Operations have been added to the Gaming Lab

as recipients of notices concerning the movement of slot machines into, within or out of this Commonwealth. Providing this notice to BIE and the Office of Gaming Operations will assist them in carrying out their responsibilities related to the movement of slot machines.

Two new provisions have been added to § 465a.2 (relating to internal control systems and audit protocols). A new paragraph (7) has been added which requires slot machine licensees to include the procedures that the slot machine licensees will use to conduct promotions in the slot machine licensees' internal controls. This will allow the Board to determine that sufficient patron protections are included in each promotion without requiring slot machine licensee's to obtain separate approval for each promotion they desire to run. Additionally, a new paragraph (8) is being added which will require slot machine licensees to include the procedures they will use to maintain compliance with 4 Pa.C.S. § 1513 (relating to political influence) in their internal controls. This will allow the Board to ensure that all slot machine licensees have an effective program to prevent violations of 4 Pa.C.S. § 1513.

In § 465a.4 (relating to standard financial and statistical reports), the Board is adding a new reporting requirement. Slot machine licensees will be required to submit quarterly reports reconciling the tax amount invoiced by the Department of Revenue and the tax accrual determined by the slot machine licensee's revenue/income audit process. This report will be used by the Board to help evaluate the effectiveness and accuracy of the slot machine licensees' accounting operations.

In § 465a.8 (relating to licensed facility), the Board is proposing two changes. First, a new paragraph (7) is being added to subsection (d) requiring slot machine licensees to provide an area for the Central Control Computer System which must be equipped with an uninterruptible power supply. This requirement reflects what has been done at existing licensed facilities. Second, a new paragraph (8) is also being added to subsection (d) requiring slot machine licensees to provide signs for the Board office, the size, location and design of which must be approved by the Office of Gaming Operations. This will make it easier for patrons at a licensed facility to locate the Board's office.

In § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restrictions), the references to "cashiering location" in subsection (e) have been replaced with "cashiers' cage" to make it clear that this requirement for surveillance only applies to the cashiers' cages and not to cashier locations in the retail or food and beverage areas.

In § 465a.11 (relating to slot machine licensee's organization), language has been added to allow a slot machine licensee to have an assistant chief executive officer who acts as the chief executive officer in the chief executive officer's absence and to whom any of the six required department supervisors may directly report. This will give slot machine licensees some additional organizational flexibility and reflects the organizational structure of one of the existing slot machine licensees.

A new § 465a.33 (relating to access to areas containing Central Control Computer System equipment) has been proposed which specifies minimum requirements that must be included in a slot machine licensee's internal controls pertaining to access to areas containing Central Control Computer System equipment. These minimum

requirements will insure that access to the Central Control Computer System equipment is limited to authorized personnel only.

In § 467a.1 (relating to gaming floor plan), the process for approving requests for changes to the gaming floor are being clarified and streamlined. Requests for changes to the square footage of, the number of slot machines on, or the relocation of more than 2% of the existing slot machines on the gaming floor will be required to be filed as a petition under § 493a.4 (relating to petitions generally) and approved by the Board. Other change requests can be submitted in writing to the Office of Gaming Operations and will be approved by the Executive Director. This should result in quicker approval of changes that do not involve changes in the square footage of, location of slot machines on, or the number of slot machines on the gaming floor.

Affected Parties

Slot machine licensees will be required to develop and file new internal controls and comply with the other provisions of this proposed rulemaking. Additionally, manufacturers, manufacturer designees and suppliers will have to comply with the new notice requirement in § 463a.2.

Fiscal Impact

Commonwealth

Because most of the revisions in this rulemaking reflect current Department of Revenue and Board practice, there will be no significant costs or savings to the Department, the Board or other State agencies as a result of these revisions.

Political Subdivisions

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

Private Sector

Slot machine licensees will experience some costs to draft new internal controls, file the new quarterly reports required by § 465a.4(a) and obtain signs for the Board's offices at the licensed facilities. The Board estimates that these costs should not exceed \$2,000 per slot machine licensee.

General Public

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

Paperwork requirements

This proposed rulemaking will require slot machine licensees to draft and submit amendments to their internal controls, prepare and submit quarterly revenue reconciliation reports and provide notice to BIE and the Office of Gaming Operations, in addition to the Gaming Lab, when slot machines are to be moved.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-88.

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 12, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (Commission) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

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

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-88. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.1. Definitions.

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

* * * * *

RAM—Random access memory.

RAM clear—A process initiated by a service technician that results in the zeroing out of any meter information, configuration information or data stored in the slot machine's memory.

* * * * *

§ 461a.27. RAM clear.

(a) When a slot machine licensee becomes aware of a nonresponsive slot machine and communication between the slot machine and the Central Control Computer System can not be reestablished, the slot machine licensee shall immediately notify the Department's operator of the Central Control Computer System and the casino enforcement agents at the licensed facility. The slot machine licensee may not do a RAM clear on the affected slot machine until a casino enforcement agent has recorded the information on the financial meters.

(b) For planned RAM clears, the slot machine licensee shall provide notice to the Department's operator of the Central Control Computer System and the casino enforcement agents at the licensed

facility at least 48 prior to the scheduled RAM clear. A second notice shall be provided to the Department's operator of the Central Control Computer System and the casino enforcement agents at the licensed facility immediately prior to actually conducting the RAM clear.

CHAPTER 463a. POSSESSION OF SLOT MACHINES

§ 463a.2. Transportation of slot machines into, within and out of this Commonwealth.

In furtherance of section 1511 of the act (relating to the declaration of exemption from Federal laws prohibiting slot machines), prior to the transport or movement of a slot machine into this Commonwealth, from one person authorized to possess slot machines under § 463a.1 (relating to possession of slot machines generally) to another person authorized within this Commonwealth or transport or movement out of this Commonwealth, the persons causing the slot machine to be transported or moved shall notify the Bureau of Gaming Laboratory Operations, BIE and the Office of Gaming Operations in writing or in an electronic format approved by the Board. The notice shall be submitted no later than the day the slot machine is transported and include the following information:

* * * * *

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

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

(a) An applicant for, or holder of, a slot machine license shall submit to the Board and the Department a written description of its initial system of administrative and accounting procedures, including its internal control systems and audit protocols (collectively referred to as its "internal controls") at least 90 days before gaming operations are to commence. A written system of internal controls must include:

* * * * *

(7) Procedures governing the conduct of all gaming related promotions to be offered by the slot machine licensee.

(8) Procedures to ensure compliance with section 1513 of the act (relating to political influence):

(i) Prevent political contributions.

(ii) Provide annual certifications that the slot machine licensee has conducted a good faith investigation that has not revealed any violations to the Board and to the Department of State's Bureau of Commissions, Elections and Legislation.

(9) Other items the Board may request in writing to be included in the internal controls.

* * * * *

§ 465a.4. Standard financial and statistical reports.

(a) [A] Within 30 days of the close of each calendar quarter, slot machine [licensee] licensees shall file [the following monthly reports of financial and statistical data:

- (1) A balance sheet.
(2) A statement of revenues and expenses.
(3) A cash flow statement.
(4) A net income statement.

(5) Daily gross terminal revenues and taxes.

(6) A comparison of gross terminal revenues to projected gross terminal revenues] a report which includes a detailed reconciliation of the amount invoiced by the Department to the tax accrual determined by the slot machine licensee's revenue/income audit process. The reconciliation shall be determined by the slot machine licensee on no less than a weekly basis and the report must provide the date and the amount of any differences found during the reconciliation process. The reports shall be filed with the Board's Office of Gaming Operations and Financial Investigative Division and the Department's Bureau of Fiscal Management.

(b) The Board may prescribe standard reporting forms and corresponding filing instructions to be used by a slot machine licensee in filing the [monthly] reports referenced in subsection (a).

* * * * *

§ 465a.8. Licensed facility.

* * * * *

(d) Slot machine licensees shall, in accordance with section 1207(13) of the act (relating to regulatory authority of board), provide for and maintain onsite facilities for use by the Board, the Department and the Pennsylvania State Police for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must be located in the same building as [, and be located proximate to,] the gaming floor, in locations approved by the Office of Gaming Operations and include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board, the Department and the Pennsylvania State Police at the facility including the following:

* * * * *

(7) An area for the operation and storage of the Central Control Computer System equipment which must be equipped with an uninterruptible power supply.

(8) Signs indicating the location of the Board's office. The size, location and design of the signs must be approved by the Office of Gaming Operations.

* * * * *

§ 465a.9. Surveillance system; surveillance department control; surveillance department restrictions.

* * * * *

(e) A slot machine licensee's surveillance system must [be required to] continuously record, during the times and in the manner indicated in this subsection, transmissions from cameras used to observe the following locations, persons, activities or transactions:

(1) Each transaction conducted [at a cashiering location, whether or not that cashiering location services patrons] on the gaming floor or at a cashiers' cage. Coverage of the transaction must include, but not be limited to, recording transmissions from cameras used to observe the face of each [person] patron transacting business at [each cashiering location] a cashiers' cage from the direction of the cashier.

* * * * *

§ 465a.11. Slot machine licensee's organization.

(a) Slot machine licensees' systems of internal controls must, in accordance with section 1322 of the act (relating to slot machine accounting controls and audits) and § 465a.2 (relating to internal control systems and audit protocols), include organization charts depicting segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Slot machine licensees shall be permitted, except as otherwise provided in this section, to tailor organizational structures to meet the needs or policies of a particular management philosophy. A slot machine licensee's organization charts must provide for:

* * * * *

(5) A chief executive officer. For the purposes of this section, a "chief executive officer" means the person located at the licensed facility who is ultimately responsible for the daily conduct of the slot machine licensee's gaming business regardless of the form of business association of the slot machine licensee or applicant or the particular title which that person or any other person holds. A slot machine licensee's organization chart may also include an assistant chief executive officer who is responsible for the daily conduct of the slot machine licensee's gaming business during the chief executive officer's absence. However, the assistant chief executive officer may not be the supervisor of one of the department's required by subsection (b). Each supervisor of a department required by subsection (b) shall report directly to the chief executive officer or assistant chief executive officer of the slot machine licensee regarding administrative matters and daily operations. The slot machine licensee's organization charts must designate which positions, in the absence of the chief executive officer and the assistant chief executive officer, shall be designated as having responsibility for the daily conduct of the slot machine licensee's gaming business.

* * * * *

§ 465a.33. Access to areas containing Central Control Computer System equipment.

(a) A slot machine licensee shall develop and submit to the Board and the Department, as part of the submission required under § 465a.2 (relating to internal control systems and audit protocols), procedures for safeguarding and limiting access to the Central Control Computer System (CCCS) equipment housed within the licensed facility. At a minimum, these procedures must include the following requirements:

- (1) The area containing CCCS equipment must:
(i) Be secured with a manual key lock system.
(ii) Have a door, that when opened, audibly signals the surveillance monitoring room.
(iii) Have adequate surveillance camera coverage to record all activity in the area.

(2) All keys which access the area containing CCCS equipment shall be maintained by the slot machine licensee's security department. Access to the keys may only be authorized by the director of security or the security shift manager with notification to the surveillance monitoring room and the casino enforcement agents at the licensed facility.

(3) The slot machine licensee shall maintain an access log for the area containing CCCS equipment. The log shall be maintained in a book with bound numbered pages that cannot be readily removed and placed in close proximity to the CCCS equipment. Casino enforcement agents at the licensed facility may review the log upon request. The log shall be stored and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded in a log:

- (i) The date and time of each entry and exit.
 - (ii) The name and Board-issued credential number of each person who initiates, performs or supervises the entry.
 - (iii) The purpose of entry.
- (4) The slot machine licensee's security department shall maintain a list of employees who are authorized to have access to the area containing CCCS equipment. The list must be approved by the Department and made available to the casino enforcement agents at the licensed facility.
- (5) Emergency access may only be granted with a security escort and notification to the Department,

the Bureau and the casino enforcement agents at the licensed facility.

CHAPTER 467a. COMMENCEMENT OF SLOT OPERATIONS

§ 467a.1. Gaming floor plan.

* * * * *

(c) [A slot machine licensee may not change or revise the square footage of its gaming floor or the number, configuration or location of slot machines on the floor plan approved under subsection (b) without prior written approval of the Board] Requests for changes to the square footage of the gaming floor, the number of slot machines on the floor plan approved under subsection (b) or the relocation of 2% or more of the slot machines on the floor plan approved under subsection (b) require Board approval and must be submitted to the Board as a petition under § 493a.4 (relating to petitions generally). Requests for other changes to the gaming floor must be submitted in writing to the Office of Gaming Operations and approved by the Board's Executive Director.

[Pa.B. Doc. No. 08-1198. Filed for public inspection June 27, 2008, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Fertilizer Nutrient Values

The Secretary of Agriculture, under the authority of 3 Pa.C.S. § 6710 (relating to commercial value) establishes the commercial values per pound of nitrogen, available phosphate and soluble potash.

The values are established as follows:

Nitrogen	\$0.44 per pound
Available phosphate	\$0.44 per pound
Soluble potash	\$0.26 per pound

Further information is available by contacting Erin K. Bubb, Agronomic Program Specialist, Division of Agronomic and Regional Services, Bureau of Plant Industry, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4843.

These commercial values are effective commencing July 1, 2008, and shall remain effective until further notice.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 08-1199. Filed for public inspection June 27, 2008, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending June 17, 2008.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
6-13-2008	F.N.B. Corporation, Hermitage, to acquire 100% of Iron and Glass Bancorp, Inc., Pittsburgh, and thereby indirectly acquire Iron and Glass Bank, Pittsburgh, which will be merged with and into First National Bank of Pennsylvania, Greenville, a wholly-owned subsidiary of F.N.B. Corporation	Hermitage	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-11-2008	Sharon Savings Bank, Darby, and Morton Savings Bank, Morton Surviving Institution: Sharon Savings Bank, Darby	Darby	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-5-2008	Susquehanna Bank PA Lititz Lancaster County	700 Norland Avenue Chambersburg Franklin County	Authorization Surrendered
6-5-2008	Susquehanna Bank PA Lititz Lancaster County	Grayson View 150 Kempton Avenue Harrisburg Dauphin County	Authorization Surrendered
6-11-2008	PeoplesBank, A Codorus Valley Company York York County	124 North Main Street Bel Air Harford County, MD	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-13-2008	Earthstar Bank Southampton Bucks County	48 West Skippack Pike Ambler Montgomery County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
6-16-2008	Belco Community Credit Union Harrisburg Dauphin County	452 South Duke Street Lancaster Lancaster County	Approved

Articles of Amendment

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
6-9-2008	NBA Credit Union Bristol Bucks County	Amendment to Article IV, Section 3, of the Articles of Incorporation decreases the Board of Directors from 11 to 9 members and eliminates the Supervisory Committee.	Filed
6-17-2008	Crayola, LLC Employees Credit Union Easton Northampton County	Amendment to Article 8 of the Articles of Incorporation provides for the inclusion of "minor grandchildren at a different address" in the credit union's field of membership.	Filed

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. 08-1200. Filed for public inspection June 27, 2008, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) meeting scheduled for Thursday, July 17, 2008, at 9 a.m. in Room 105, Rachel Carson State Office Building, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Vanyla Tierney at (717) 783-2654.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Vanyla Tierney at (717) 783-2654 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 08-1201. Filed for public inspection June 27, 2008, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0051896	Dixie Consumer Products, LLC 605 Kueber Road Easton, PA 18040	Forks Township Northampton County	Dry Swale to Bushkill Creek Watershed 1F HQ-CWF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0029602 (Sew)	Juniata Valley School District 7775 Juniata Valley Pike Alexandria, PA 16611-0318	Huntingdon County Porter Township	Frankstown Branch Juniata River 11-A	Y
PA0031992 (Sew)	Department of Conservation and Natural Resources Greenwood Furnace State Park 15795 Greenwood Road Huntingdon, PA 16652-5831	Huntingdon County Jackson Township	East Branch Standing Stone Creek 11-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0209589 SP	Girard Township P. O. Box 36 LeContes Mills, PA 16850-0036	Clearfield County Girard Township	Bald Hill Run 8C	Y
PA0111538 (Sewage)	Pine Valley Associates, LP Pine Valley Mobile Home Park 215 West Church Road Suite 105 King of Prussia, PA 19406	West Buffalo Township Union County	North Branch Buffalo Creek HQ-CWF	Y
PA0114766 (Sewage)	Behavioral Specialists, Inc. 184 East Village Drive Williamsport, PA 17702	Susquehanna Township Lycoming County	Bender Run CWF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0103896	County Landfill, Inc. 5600 Niagara Falls Boulevard Niagara Falls, NY 14304-1532	Farmington Township Clarion County	UNT to Walley Run 16-F	N

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

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

PA0011533A1, Industrial Waste, SIC 2911, **Sunoco, Inc. (R & M)**, 3144 Passyunk Avenue, Philadelphia, PA 19145.

The application is for amendment of an NPDES permit to replace Chem Treat chemical additives with Baker Petrolite chemical additives. These chemical additives are used in cooling tower, boiler and wastewater treatment processes. The amendment also includes monitoring and Pollution Minimization Plan, of Polychlorinated Biphenyls (PCBs), based on Delaware Estuary Total Maximum Daily Load for PCB.

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

PA0001473, Sewage, **Mon River Sewage Corporation**, 1428 Delberts Drive, Monongahela, PA 15063. This application is for renewal of an NPDES permit to discharge treated sewage from Mon River Sewage Corporation STP in Forward Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Monongahela River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the PA American Water Company.

Outfall 001: existing discharge, design flow of 0.014 mgd.

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

The EPA waiver is in effect.

PA0033405, Sewage, **Thomas P. Berch**, 1434 Greensberg Pike, West Newton, PA 15089. This application is for renewal of an NPDES permit to discharge treated sewage from Sewickley Pines Manor STP in Sewickley Township, **Westmoreland County**.

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

Outfall 001: existing discharge, design flow of 0.015 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.2			4.4
(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			
Total Residual Chlorine	0.1			0.22
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.

PA0042587, Sewage, **MLM Enterprises**, 12 North Jefferson Avenue, Canonsburg, PA 15317. This application is for renewal of an NPDES permit to discharge treated sewage from MLM Enterprises STP in North Strabane Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Little Chartiers Creek, which are classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the West View Borough Municipal Authority.

Outfall 001: existing discharge, design flow of 0.025 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	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0253715, Sewage, **PBS Coal, Inc.**, 182 Coal Road, Berlin, PA 15530. This application is for issuance of an NPDES permit to discharge treated sewage from Cambria Fuel Preparation Plant in Stonycreek Township, **Somerset County**.

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

Outfall 001: new discharge, design flow of 0.003 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)				
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0046426, Sewage, **Franklin Township Sewer Authority**, 570 Rolling Meadows Road, Waynesburg, PA 15370. This application is for renewal of an NPDES permit to discharge treated sewage from Franklin Township Wastewater Treatment Plant in Franklin Township, **Greene County**.

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

Outfall 001: existing discharge, design flow of 1.25 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen	200/100 ml as a Geometric Mean			
(5-1 to 10-31)	2.5	3.8		5.0
(11-1 to 4-30)	4.0	6.0		8.0
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)				
Total Residual Chlorine	0.3			1.1
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

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

PA0240141, Sewage, **Stephen Sherk**, 20 Yohe Road, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Activity: a new permit discharge of treated sewage.

The receiving water is the UNT to Willow Creek. The receiving stream is in State Water Plan 16-B and is classified for the following uses: HQ-CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, Pennsylvania-New York State border, is located on the Allegheny River and is approximately 4.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 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	10		20
Total Suspended Solids	20		40
Fecal Coliform	200/100 ml as a Geometric Average		
pH	6.0 to 9.0 Standard Units at all times		

XX—Monitor and report.

The EPA waiver is in effect

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

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

WQM Permit No. 3908402, Sewerage, **Paul and Maria Geiger**, 8393 Hawkview Road, Germansville, PA 18053. This proposed facility is located in Heidelberg Township, **Lehigh County**.

Description of Proposed Action/Activity: This project is for a single-family small flow sewage treatment plant.

WQM Permit No. 4508402, Sewerage, **Steven Parisi**, P. O. Box 655, Brodheads ville, PA 18322. This proposed facility is located in Polk Township, **Monroe County**.

Description of Proposed Action/Activity: This project is for the construction of a wastewater treatment plant with design flows of 25,000 gpd and sewage collection system to service The Woods residential subdivision. Treated effluent will be disinfected, discharged to holding pond and land applied by means of spray irrigation.

WQM Permit No. 4008403, Sewerage, **State Correctional Institute at Dallas**, Follies Road, Drawer K, Dallas, PA 18612-0286. This proposed facility is located in Jackson Township, **Luzerne County**.

Description of Proposed Action/Activity: This project is for the upgrading and replacement of the existing 450,000 gpd wastewater treatment facility with a sequencing batch wastewater treatment facility including new headworks with fine screening and new disinfection facilities utilizing ultraviolet disinfection.

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

WQM Permit No. 562S29, Amendment 08-1, Sewerage, **Juniata County School District**, P. O. Box 60, Cocolamus, PA 17014-0060. This proposed facility is located in Fayette Township, **Juniata County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of disinfection modifications at East Juniata High School.

WQM Permit No. 3677401, Amendment 08-1, Sewerage, **Lititz Sewer Authority**, 7 South Broad Street, Lititz, PA 17543. This proposed facility is located in Warwick Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a wastewater treatment plant upgrade to a five stage BNR treatment process.

WQM Permit No. 0108201, CAFO, **Hillandale Gettysburg, LP**, 370 Spicer Road, Gettysburg, PA 17325. This proposed facility is located in Tyrone Township, **Adams County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of an egg processing facility, layer houses, egg washwater storage pond, manure storage buildings and maintenance building at Hillandale Site No. 5.

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

WQM Permit No. WQG016163, Sewerage, **Vincent Wolf**, 2730 Beaver Grade Road, Moon Township, PA 15108. This proposed facility is located in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewage treatment plant.

WQM Permit No. 0208406, Sewerage, **Marshall Township Municipal Sanitary Authority**, P. O. Box 2063, Warrendale, PA 15086. This proposed facility is located in Marshall Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of sewer extension.

WQM Permit No. 6308403, Sewerage, **Independence Cross Creek Joint Sewer Authority**, P. O. Box 156, 16 Campbell Street, Avella, PA 15312. This proposed facility is located in Independence and Cross Creek Townships, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewage treatment plant, pump station, sewage collection and conveyance lines.

The Pennsylvania Infrastructure Investment Authority 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.

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

WQM Permit No. 4208401, Sewerage, **Stephen Sherk**, 20 Yohe Road, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

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

NOTICES

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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>
PAI023508003	Robert Latzanich 611 Belmont Avenue Mt. Pocono, PA 18344	Lackawanna	Covington Township	Meadow Brook HQ-CWF Tamarack Creek HQ-CWF Lehigh River HQ-CWF

Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025208009	Buist Road, LP 3801 52nd Street, N.W. Washington, D.C. 20016	Pike	Dingman Township	Saw Kill Creek EV Sloat Brook EV

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>
PAI023908007	Jennifer Zellner Miller Road Farms, LLC 8730 Claussville Road Fogelsville, PA 18051	Lehigh	Lynn Township	School Creek EV
PAI023908010	Aurel Arndt Lehigh County Authority 1653 Spruce Street P. O. Box 3348 Allentown, PA 18106	Lehigh	Upper Macungie and Lower Macungie Townships	Iron Run Creek HQ-CWF

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>
PAI033608005	R. Thomas Bowman Northview Stallion Station, Inc. 55 Northern Dancer Drive Box 89 Chesapeake City, MD 21915	Lancaster	Fulton Township	UNT to Conowingo Creek HQ-CWF
PAI032103001-R	The Diehl Partnership Donald E. Diehl 4 East High Street Carlisle, PA 17013	Cumberland	South Middleton Township	Yellow Breeches Creek HQ-CWF
PAI036708003	Gerald Mitchell TwoTon, Inc. 1743 Roherstown Road Lancaster, PA 17601	York	Hopewell Township	Deer Creek CWF-EV

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

Clearfield County Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-2629.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041708001	Karthaus-Burnside Joint Sewerage Authority Shane Barnyak, Chairman P. O. Box 97 Karthaus, PA 16845	Clearfield	Karthaus Township	Mosquito Creek HQ-CWF West Branch Susquehanna River WWF

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

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

CAFO Notices of Intent Received

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

Application No. PA0240168, CAFO, Bortnick Dairy, LLC, 21820 Palmer Road, Conneautville, PA 16406.

Bortnick Dairy, LLC has submitted an application for an Individual NPDES permit for an existing CAFO known as Bortnick Dairy, LLC, located at 21820 Palmer Road, Conneautville, PA in Beaver Township, **Crawford County**.

The CAFO is situated near Crazy Run, Stone Run, West Branch of Conneaut Creek, Conneaut Creek, East Branch of Conneaut Creek, Middle Branch of East Branch of Conneaut Creek, East Branch of Ashtabula and West Branch of Ashtabula Rivers (entirely in Ohio) in Watershed 15. The CAFO will be designed to maintain an animal population of approximately 3,440 animal equivalent units consisting of 1,350 Holsteins, 200 dry cows, 1,500 heifers and 200 calves. The animals will be housed in free stall barns. Manure is stored in an earthen pond. The total capacity of the manure storage facilities is 3.8 million gallons. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

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

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

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

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

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

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

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 4008504, Public Water Supply.

Applicant	Aqua Pennsylvania Inc. (Shickshinny Lake Water System) Union Township Luzerne County
Responsible Official	Patrick Burke Aqua Pennsylvania, Inc. 50 East Woodhaven Drive White Haven, PA
Type of Facility	Public Water System
Consulting Engineer	CET Engineering Services 1240 North Mountain Road Harrisburg, PA
Application Received Date	May 30, 2008
Description of Action	The construction of a diffused aeration (bubble type) air stripper to remove hydrogen sulfide from the Cherokee well water.

Application No. 5408505, Public Water Supply.

Applicant **Jackson and Ethel Perry**
Wayne Township
Schuylkill County

Responsible Official Jackson Perry
1703 Panther Valley Road
Pine Grove, PA 17963

Type of Facility Bulk Water Hauling Facility

Consulting Engineer Edward E. Davis, P. E.
Forino Company, LP
555 Mountain Home Road
Sinking Spring, PA 19608

Application Received Date June 6, 2008

Description of Action Applicant proposes installation of a second 20,000 gallon storage silo, 5 micron filter and ozonator to an existing finished water bulk hauling facility.

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

Permit No. 3608506, Public Water Supply.

Applicant **Penn Manor School District**

Municipality Martic Township

County **Lancaster County**

Responsible Official Denny R. Coleman, Director of Buildings and Grounds
2950 Charlestown Road
P. O. Box 1001
Millersville, PA 17554

Type of Facility Public Water Supply

Consulting Engineer William E. Fleischer, P. E.
Moore Engineering Company
3637 Columbia Avenue
Lancaster, PA 17603

Application Received: June 6, 2008

Description of Action Installation of a softener and nitrate removal system.

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

Application No. 3708502, Public Water Supply.

Applicant **Pennsylvania American Water Company New Castle**

Township or Borough Mahoning Township
Lawrence County

Responsible Official William Lage, Project Manager

Consulting Engineer Jerry Hankey, P. E.
Design Engineer
PA American Water Company
1909 Oakland Avenue
Indiana, PA 15701

Application Received Date June 13, 2008

Description of Action Installation of booster pump at the proposed Valley View Downs Racetrack and Casino facility to provide domestic water and fire protection service.

MINOR AMENDMENT

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

Application No. 8771-W-T1-MA3, Minor Amendment.

Applicant **Pennsylvania American Water**

Township or Borough Clarion Township
Clarion County

Responsible Official William H. Lage, Project Manager
2736 Ellwood Road
New Castle, PA 16101

Type of Facility Public Water System, distribution storage tank

Application Received Date June 11, 2008

Description of Action Install vortex style mixer to assist with turnover of product.

RESIDUAL WASTE GENERAL PERMITS

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

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

General Permit Number WMGR029. General Permit Number WMGR029 authorizes the operation of a transfer facility prior to beneficial use of waste oil, spent anti-freeze and waste oil/water mixtures. The following renewal applications have been received:

WMGR029 Safety-Kleen Corporation. The renewal application was determined to be administratively complete by Central Office on June 10, 2008. The following Safety-Kleen facilities were included in the renewal application:

WMGR029C	1606 Pittsburgh Avenue, Erie, PA 16505
WMGR029D	77 Towpath Road, Fairless Hills, PA 19030
WMGR029E	10 Eleanor Drive, New Kingstown, PA 17072
WMGR029F	1140 Greenhill Road, West Chester, PA 19380
WMGR029G	650 Noble Drive, West Mifflin, PA 15122
WMGR029H	600 Stewart Road, Wilkes-Barre, PA 18706
WMGR029I	150 Allenbill Drive, Johnstown, PA 15904

WMGR029D001 Hydrocarbon Recovery Services. The renewal application was determined to be administratively complete by Central Office on June 17, 2008. The following Hydrocarbon Recovery Services facilities were included in the renewal application:

WMGR029D001C 201 Lindsay Road, Zelenople, PA
06063

WMGR029D001D 5140 Paxton Street, Harrisburg, PA
17111

WMGR029D002 Ernie's Waste Oil, LLC. The renewal application was determined to be administratively complete by Central Office on June 12, 2008. The facility is located at 155-C Swiontek Road, R. D. 3, Aliquippa, PA 15001.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984. Final plan approvals and operat-

ing permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

10-171C: Butler Color Press (119 Bonnie Drive, Butler, PA 16003) for construction of a new web offset lithography press line with a integrated dryer and afterburner in Summit Township, **Butler County**. This is a State-only facility.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

09-0173: P & R Industries, Inc. (3826 Old Easton Road, Doylestown, PA 18901) for modification of an existing paint spray booth to exhaust to an existing afterburner at their Arbonite facility in Buckingham Township, **Bucks County**. The facility is a non-Title V facility.

The modification is being performed to reduce the overall weight of VOCs emitted into the outdoor atmosphere from the usage of a noncompliant coating to below the applicable standard specified in 25 Pa. Code § 129.52, Table I. The VOC emissions from usage of the noncompliant coating figure to be approximately 300 lbs/yr. The plan approval will include monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

09-0204: Biofuel Advanced Research and Development, LLC (Sinter Road, Fairless Hills, PA 19030) for installation and operation of a biodiesel processing plant in Falls Township, **Bucks County**. BARD is in the business of producing biodiesel as an alternative fuel. A chemical process is employed to extract oil from soybeans and process the soybean oil for production as biodiesel. The pollutants of concern from the proposed operation include PM, hexane and methanol emissions. These emissions will have the potential to exceed Title V thresholds, however, the facility will utilize air pollution control devices to maintain emissions below major levels. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2531.

48-309-130: Hercules Cement Co. (501 Hercules Drive, P. O. Box 69, Stockertown, PA 18083) for installation of a selective noncatalytic reduction (SNCR) system for the No. 1 cement kiln at their Stockertown Plant in Stockertown Borough, **Northampton County**. The facility currently has a Title V Operating Permit No. 48-00005. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

Plan Approval No. 48-309-130 is for the installation of a SNCR system for the No. 1 cement kiln. The plan approval also includes the SNCR system previously installed on the No. 3 cement kiln that was approved through a Request for Determination several years ago. The SNCR system for each kiln will be used to trim NO_x emissions from the kiln. Since both kilns exhaust their emissions from a common fabric collector through a single stack, total NO_x emissions are limited to 492 lbs/hr (30-day rolling average) and an annual limit of 2,155 tpy. Both emission limits remain unchanged from the current Title V operating permit.

The Plan Approval will include emission restrictions and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. The company will be required to continue to operate and maintain a Continuous Emission Monitoring System, which is certified by the Department, for NO_x.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

10-021R: INDSPEC Chemical Corp. (133 Main Street, Petrolia, PA 16050-0307) for installation of a venturi scrubber with a cyclonic mist eliminator to further control Sources 163 and 191 in Petrolia Borough, **Butler County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

- Emissions shall with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions respectively.
- The PM emissions from the outlet of the scrubber (C163) shall not exceed the following:
 - 0.02 gr/dscf
 - 1.26 #/hr based on a maximum flow rate of 7,350 dscfm
 - 5.52 tpy based on a consecutive 12-month period
- The VOC emissions from the outlet of the scrubber (C163) shall not exceed 0.31 tpy based on a consecutive 12-month period.
- The uncontrolled organic HAP emissions from nonreactor batch process vents shall not exceed 0.25 tpy based on a consecutive 12-month period. The facility shall

demonstrate that organic HAP emissions for the collection of nonreactor batch process vents within the affected source are less than 0.25 tpy.

- Subject to 40 CFR 63 Subpart OOO
- The resin production shall not exceed 19,124,000 pounds per year (on a 12-month rolling basis) as indicated in the application.
- The permittee shall perform checks of each scrubber associated with this source as follows:
 - Scrubber gas flow rate (measured as fan amperage or Hz)—daily
 - Scrubber liquid pressure or scrubber liquid flow rate—daily
 - Scrubber pressure drop—daily
 - Scrubber outlet gas temperature—daily
- The permittee shall maintain a record of all preventive maintenance of the control devices. The records of the preventative maintenance shall include, at a minimum, the dates of the inspections, the name of the person performing the inspection, any problems or defects identified, any actions taken to correct the problems or defects, and any routine maintenance performed.
- The permittee shall record the following operational data from the control devices (these records may be done with strip charts recorders, data acquisition systems, or manual log entries):
 - Scrubber gas flow rate (measured as fan amperage or Hz)—daily
 - Scrubber liquid pressure or scrubber liquid flow rate—daily
 - Scrubber pressure drop—daily
 - Scrubber outlet gas temperature—daily
- The facility shall keep a record of the following and maintain for a minimum of 5 years:
 - Resin production—monthly
 - VOC emissions—monthly
 - PM emissions—monthly
- The facility shall keep a record of the PM emissions based on a 12-month rolling total. The rolling total emissions shall be calculated by multiplying the emission rate in pounds per hour from the most recent emission test times the hours of operation.
- The permittee shall perform a daily operational inspection of the control devices.
- All gauges employed by the permittee to monitor the required scrubber operating parameters shall have a scale such that the expected normal reading shall be no less than 20% of full scale and be accurate within +/- 2% of full scale reading.
- Control device operating parameters, including gas flow rate (measures as fan amperage or Hz), liquid pressure or flow rate, pressure drop, and outlet gas temperature, shall be operated in a range defined by the manufacturer or in a range developed during compliant stack testing. The operating ranges shall be determined within 90 days after startup of the control device and shall be indicated to the Department of Environmental Protection in writing prior to administratively amending into the facility operating permit. The operating ranges shall be made part of the facility operating permit.

- The permittee shall operate the control devices associated with this source at all times that the source is in operation.

- The source and control devices associated with this source shall be operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

- Option 1 from plan approval 10-021M is no longer applicable.

16-094B: IA Construction Corp.—Clarion Plant (19000 Paint Boulevard, Shippenville, PA 16254) for modification of a plan approval to burn alternative fuels including No. 2 and Nos. 4—6, reprocessed/recycled fuel oil, bio-diesel fuel, natural gas, liquid propane or any blend of No. 2 and Nos. 4—6, reprocessed/recycled fuel oil and bio-diesel fuel at their Clarion plant in Paint Township, **Clarion County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval to for modification of a plan approval to burn alternative fuels including No. 2 and Nos. 4—6, reprocessed/recycled fuel oil, bio-diesel fuel, natural gas, liquid propane or any blend of No. 2 and Nos. 4—6, reprocessed/recycled fuel oil and bio-diesel fuel at the Clarion plant in Paint Township, Clarion County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

61-204E: Franklin Bronze & Alloy Co., Inc. (655 Grant Street, Franklin, PA 16323) for a minor modification to a plan approval to include a new source that is ducted to an existing dust collector and to include previously omitted drop out boxes, installed prior to the dust collectors, in the investment casting process in the City of Franklin, **Venango County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection intends to issue a minor modification to a plan approval to include a new source that is ducted to an existing dust collector and to include previously omitted drop out boxes, installed prior to the dust collectors, in the investment casting process in the City of Franklin, Venango County. 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.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00200: John Middleton Co. (418 West Church Road, King of Prussia, PA 19406) for an administrative amendment to the issued State-only Operating Permit (Synthetic Minor) 46-00200 in Upper Merion Township, **Montgomery County**. The facility operates two steam-heated tobacco dryers, a thermal oxidizer equipped with a 20 mmBtu/hr waste heat (recovery) boiler, a Top Dressing Storage and Mixing area, a Top Dressing Application and Flavor Retention area and a 200-horsepower Boiler.

The issued State-only Operating Permit has been amended to facilitate a change of ownership and a company name change (such as, John Middleton Company).

Comments will only be taken on the changes covered in this notice.

09-00048: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) for operation of a Batch Asphalt Plant in Hilltown Township, **Bucks County**. This action is a renewal of the original State-only Operating Permit (Synthetic Minor), which was issued on June 6, 2003, and was amended on June 27, 2007. Several typographical changes have been made to the permit. Otherwise, there have been no other changes made to the permit since it was last amended on June 27, 2007. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

36-03116: Cargill Cocoa and Chocolate (48 North Broad Street, Lititz, PA 17543) for an operating permit for their chocolate manufacturing facility in Mount Joy Borough, **Lancaster County**. There is a potential to emit approximately 55 tpy of PM, 24 tpy of SO_x, 12 tpy of NO_x, 14 tpy of VOCs and less than 7 tpy of CO. The operating permit shall contain standard recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the operating permit issued in 2003.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

14-00019: John B. Brown Funeral Home, Inc. (2401 South Atherton Street, State College, PA 16801) for the renewal of a State-only operating permit for the operation of a human crematory facility at the Koch Funeral Home in College Township, **Centre County**.

The facility incorporates a human remains crematory incinerator. The air contaminant emissions from the facility are not expected to exceed 1.53 tons of NO_x, .23 ton of CO, .09 ton of PM/PM₁₀, .06 ton of VOCs and .02 ton of SO_x per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to renew State-only Operating Permit 14-00019. The Department intends to incorporate into the renewal all conditions currently contained in State-only Operating Permit 14-00019 except for these changes:

1. A condition restricting the fuel used in the crematory incinerator to propane has been modified to also allow the use of natural gas.

2. A condition requiring malfunctions to be reported to the Department has been modified to exclude the reporting of malfunctions which do not result in, or potentially result in, air contaminant emissions in excess of an applicable air contaminant emission limitation and/or do not result in, or potentially result in, noncompliance with any operating permit condition.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.

16-00122: Northwestern PA Crematory (330 Wood Street, Clarion, PA 16214-1341) to issue a Natural Minor Operating Permit to operate a human cremator in Clarion Borough, **Clarion County**. The facility's primary emission source is a cremator.

43-00343: Woodcraft Industries, Inc. (62 Grant Road, Greenville, PA 16125) to issue a Natural Minor Operating Permit for operation of their facility's air contamination source consisting of: a 14.3 mmBtu/hr wood-fired boiler, a wood predryer, five wood kilns and wood working operation (sawing, grinding, planning, and the like) for the manufacturing of hardwood components in Pymatuning Township, **Mercer County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Brawn, Chief, (215) 685-9476.

N08-001: WuXi AppTec, Inc. (4751 League Island Boulevard, Philadelphia, PA 19112) for operation of a biopharmaceutical facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 8.165 mmBtu/hr Cleaver-Brooks boilers, 11 McQuay air handling units, one 1,000 Kw emergency generator, and small bench-scale equipment, fume hoods and bio-safety cabinets.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the previous operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

**COAL AND NONCOAL MINING
ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32020107 and NPDES No. PA0249092. KMP Associates, Inc., 1094 Lantz Road, Avonmore, PA 15618, permit renewal for reclamation only of a bituminous surface and auger mine in Blacklick Township, **Indiana County**, affecting 59.1 acres. Receiving streams: Two unknown tributaries to Aultman Run, Aultman's Run classified for the following use: TSF. The first downstream potable water supply intake from the point of discharge is Saltsburg Borough Indiana County Municipal Waterworks Conemaugh River SWI. There are no potable water supply intakes within 10 miles downstream. Application received June 10, 2008.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

03050105 and NPDES Permit No. PA0250821. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Revision application to add 16.5 acres to an existing bituminous surface mine, located in Madison Township, **Armstrong County**, affecting 305.4 acres. Receiving streams: UNTs to Mahoning Creek and Mahoning Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received June 6, 2008.

03050103 and NPDES Permit No. PA0250961. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Application received for transfer of permit currently issued to Mountain Coal Co., Inc., for continued operation and reclamation of a bituminous surface/auger mining site located in Madison Township, **Armstrong County**, affecting 140.8 acres. Receiving streams: UNT to Allegheny River and Allegheny River, classified for the following use: WWF. The first downstream potable water supply intake within 10 miles from the point of discharge is Allegheny Power. Transfer application received June 9, 2008.

03900109 and NPDES Permit No. PA0200476. Short Brothers, Inc. (15 Rayne Run Road, Marion Center, PA 15759). Renewal application for continued operation and reclamation of a bituminous surface mine, located in Kittanning Township, **Armstrong County**, affecting 92.5 acres. Receiving stream: Campbell Run Road, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received June 11, 2008.

03860111 and NPDES Permit No. PA0589144. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Renewal application for continued operation and reclamation of a bituminous surface mine, located in East Franklin Township, **Armstrong County**, affecting 667.4 acres. Receiving stream: UNTs to Allegheny River, classified for the following use: WWF. There is no potable

water supply intake within 10 miles downstream from the point of discharge. Renewal application received June 11, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17030101 and NPDES No. PA0243418. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Penn Township, **Clearfield County**, affecting 220.8 acres. Receiving stream: Bell Run and UNTs classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 3, 2008.

17020110 and NPDES No. PA0243311. RAMM Coal, Inc. (1092 Spruce Hill Road, Rockton, PA 15856). Permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Sandy-Brady Townships, **Clearfield County**, affecting 145.3 acres. Receiving streams: UNT to LaBorde Branch and LaBorde Branch, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 29, 2007.

17930117 and NPDES No. PA0219584. RES Coal, LLC (224 Grange Hall Road, Armagh, PA 15920). Transfer of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Goshen Township, **Clearfield County**, affecting 329.8 acres. Receiving stream: Surveyor Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 20, 2008.

17050108 and NPDES No. PA0256277. King Coal Sales, Inc. (P. O. Box 712, Philipsburg, PA 16866). Revision of an existing bituminous surface mine for Incidental Boundary Correction of 6.9 acres in Graham Township, **Clearfield County**, affecting 91.2 acres. Receiving stream: Moravian Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2008.

17060108 and NPDES No. PA0256404. RES Coal, LLC (224 Grange Hall Road, Armagh, PA 15920). Transfer of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Morris Township, **Clearfield County**, affecting 67.8 acres. Receiving streams: Emigh Run and UNTs, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 4, 2008.

17990110 and NPDES No. PA0238333. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Permit renewal for the continued operation and restoration of a bituminous surface mine in Chest Township, **Clearfield County**, affecting 350 acres. Receiving streams: Chest Creek to West Branch Susquehanna, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 5, 2008.

Noncoal Applications Received

Effluent Limits—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

43820309. Roger Hoffman (22 McMillan Road, Mercer, PA 16137). Renewal of NPDES Permit No. PA0601101, Findley Township, **Mercer County**. Receiving streams: UNT to Cool Spring Creek, classified for the following use: TSF. The first downstream potable water supply intake from the point of discharge is Mercer Water and Gas Co. NPDES Renewal application received June 9, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E23-472. Buccini Pollin Group, Inc., 101 East Hector Street, Conshohocken, PA 19428, Chester City, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following activities in and along the 100-year floodplain of the Delaware River (WWF/MF):

1. To construct and maintain an approximately 18,500 seat professional soccer stadium.
2. To construct and maintain approximately 3,200 linear feet of a proposed trail.
3. To rehabilitate and maintain approximately 350 linear feet of the existing bulkhead.
4. To construct and maintain approximately 1,200 linear feet of proposed bulkhead.
5. To stabilize approximately 500 linear feet of the existing shoreline.
6. To place 0.5 acre of fill in the existing tidal channel associated with the relocation of the existing Combined Sanitary Sewer Overflow outfall structure.

This work permanently impacts 0.85 acre of open waters. The site is located approximately 800 feet south of the intersection of Byram Road and Front Street, adjacent to Commodore Barry Bridge (SR 0433) (Marcus Hook, PA USGS Quadrangle N: 15.25 inches; W: 0.75 inch).

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

E22-536: James R. Gingrich, Farr's Pump Station, Lower Swatara Municipal Authority, James R. Gingrich, 1499 Spring Garden Drive, Middletown, PA 17057, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To install and maintain a vault structure for a grinder pump and to permit operator access to influent sewer flow and to expand an existing concrete wet well support platform located in the floodplain of the Swatara Creek (WWF). The project is located at 1301 Swatara Park Drive (Middletown, PA Quadrangle N: 15.9 inches; W: 13.7 inches, Latitude: 40° 12' 46"; Longitude: 76° 43' 20") in Swatara Township, Dauphin County. The purpose of the project is to upgrade the existing Farr's pump station.

E21-405: Lower Allen Community Park, Lower Allen Township, Daniel Flint, 1993 Hummel Avenue, Camp Hill, PA 17011, Lower Allen Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To rehabilitate and maintain four soccer fields, construct and maintain a 24.0-inch diameter pipe, its outfall and its outlet channel, and construct and maintain a walking trail located along the 100-year floodplain of Yellow Breeches Creek in the Village of Lisburn (Lemoine, PA Quadrangle N: 8.45 inches; W: 5.4 inches, Latitude: 40° 10' 18"; Longitude: 76° 54' 49") in Lower Allen Township, Cumberland County.

E67-856: P.H. Glatfelter Company, Jackson Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To install and maintain approximately 480.0 feet of chain-link fencing in the floodway of Codorus Creek (WWF). The project is located at 228 South Main Street (Seven Valleys, PA Quadrangle N: 28.45 inches; W: 20.13 inches, Latitude: 39° 52' 17" N; Longitude: 76° 52' 22" W) in Jackson Township, York County. The purpose of the project is for site security.

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

E02-1585. Pennsylvania-American Water, 300 Galley Road, McMurray, PA 15317. To construct Becks Run Raw Water Pump Station in the City of Pittsburgh and Baldwin Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (East Pittsburgh, PA Quadrangle N: 6.4 inches; W: 11.0 inches, Latitude: 40° 24' 37"; Longitude: 79° 57' 14"). The applicant proposes to construct Becks Run Raw Water Pump Station at the confluence of Becks Run with the Monongahela River (WWF), which consists of the following:

1. Construction of a raw water intake structure consisting of two 42-inch diameter raw water intake pipes in the bank of the Monongahela River.
2. Construction of two Dolphins in the river.
3. Construction of two 42-inch diameter intake pipes below the Becks Run Culvert.
4. Construction of a 36-inch discharge transmission main under the stream bed of Becks Run.

The project is located near the intersection of East Carson Street and Becks Run Road in the City of Pittsburgh and Baldwin Borough.

E32-485. Department of Transportation, District 10-0, P. O. Box 429, 2530 Oakland Avenue, Indiana, PA 15701-0429. To fill and maintain wetlands in Conemaugh Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (Avonmore, PA Quadrangle N: 5.0 inches; W: 2.8 inches, Latitude 40° 31' 40"; Longitude: 79° 23' 42"). The applicant proposes to fill and maintain 0.022 acre of PEM wetlands for the purpose of constructing a 2.5 acre advanced wetland compensation site located adjacent to SR 286.

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

E20-570. Department of Conservation and Natural Resources, Bureau of State Parks, Pymatuning State Park, 2660 Williamsfield Road, Jamestown, PA 16134-0425. Linesville Spillway ADA Access, in Pine and North Shenango Townships, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Linesville, PA Quadrangle N: 41° 37' 49"; W: 80° 26' 29").

The applicant proposes to construct and maintain a riprap stone ADA fishing access on the North side of the Linesville Spillway in Pymatuning Lake having a length of 240 feet and a width of 8 feet. Pymatuning Lake is a body of water classified as WWF. The project proposes to directly impact 0.045 acre of Pymatuning Lake.

E37-178, Plain Grove Township Supervisors, 850 Old Ash Road, Volant, PA 16156. Burns Road Bridge Replacement, in Plain Grove Township, **Lawrence County**, United States Army Corps of Engineers, Pittsburgh District (Harlansburg, PA Quadrangle N: 41° 2' 42"; W: 80° 8' 13").

The applicant proposes to remove the existing structure and to construct and maintain an approximately 60-foot long, 34-foot wide by 10-foot high steel arch culvert in Jamison Run on Burns Road approximately 0.5 mile East of the intersection of Burns Road (T537) and Plain Grove Road (T600). Project includes 0.03 acre (de minimis) of permanent wetland impact. Jamison Run is a perennial stream classified as a CWF. The project proposes to directly impact 0.03 acre of wetland.

ENVIRONMENTAL ASSESSMENTS

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

EA36-020: Daniel Hershberger, 227 Center Road, Quarryville, PA, 17566, East Drumore Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 6.0-inch SDR-35 pipe outfall structure and install a 12.0-foot wide, 6.0-inch base cattle walkway along a UNT to Conowingo Creek (HQ-CWF) for the purpose of discharging roof runoff around a heavy cattle use area and stabilizing an existing cattle crossing area at a point just west of the intersection of Stoney Hill and Center Roads (PA Quadrangle Wakefield N: 19.0 inches; W: 9.5 inches, Latitude: 39° 51' 10"; Longitude: 76° 11' 02") East Drumore Township, Lancaster County.

EA36-019: Jay Horst, 50 Valley View Drive, Ephrata, PA 17522 and Nevin Burkholder, 134 Valley View Drive, Ephrata, PA 17522, Ephrata and East Cocalico Townships, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain stream restoration activities including creating a low flow flood bench, bank stabilization, and buffer areas impacting 2.6 acres of earth disturbance along 2,570.0-feet of Coover Run (WWF) at a point just south of the intersection of State Street and Valley View Drive (Ephrata, PA Quadrangle Latitude: N: 40° 11' 28.44"; Longitude: W: 76° 8' 32.87") in Ephrata and East Cocalico Townships, Lancaster County.

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

EA45-005CO. The Hamlet Recreation Club, P. O. Box 69, Canadensis, PA 18325. Price Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To rehabilitate and maintain Dormoy Lake Dam across a tributary to Stony Run (EV, WT) for recreation. Repair of the nonjurisdictional dam will impact 70 lineal feet of watercourse. The project is located approximately 400 feet south of the intersection of Blue Ridge Drive and Yellow Birch Road (Skytop, Quadrangle Latitude: 41° 10' 06"; Longitude: 75° 11' 39").

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 Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAS802209 (Industrial Stormwater)	Swallow Associates 3003 Turner Street Allentown, PA 18104	Upper Macungie Township Lehigh County	UNT to Cedar Creek 2C	Y
PA0063436 Sewage—SFRSTP	Elmer Brown R. R. 1 Box 1579 Hallstead, PA 18822	Liberty Township Susquehanna County	Rhiney Creek 4E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0081868 (Sew)	Fairview Township Authority 599 Lewisberry Road New Cumberland, PA 17070-2349	York County Fairview Township	Susquehanna River 7-E	Y
PA0086878 (IW)	Hamburg Municipal Authority 61 North Third Street Hamburg, PA 19526	Berks County Windsor Township	Furnace Creek 3-B	Y
PA0082198 (Sew)	Peters Township Board of Supervisors—Upton Village STP 5000 Steele Avenue P. O. Box 88 Lemasters, PA 17321-0088	Franklin County Peters Township	UNT Conococheague Creek 13-C	Y
PA0083879 (IW)	WSI—Sandy Run Landfill, Inc. 995 Landfill Road Hopewell, PA 16650	Broad Top Township Bedford County	Sandy Run 11-D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAS804802	Flying J Travel Plaza 5603 Nittany Valley Drive Mill Hall, PA 17752	Clinton County Porter Township	Fishing Creek SWP 9C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0026352 Sewage	Riverview Sanitary Authority 3100 University Boulevard Coraopolis, PA 15108	Allegheny County Moon Township	Ohio River	N

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>
PA0239321	Robert J. Wahlmark P. O. Box 137 31970 Guys Mills Road Townsville, PA 16360	Randolph Township Crawford County	UNT to Muddy Creek 16-A	Y

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

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

NPDES Permit No. PA0012777, Industrial Waste, **Rohm & Haas Chemicals, LLC**, 5000 Richmond Street, Philadelphia, PA 19137. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge noncontact cooling water stream condensate and stormwater runoff from the facility into the Frankford Inlet/Delaware Estuary Zone 3.

NPDES Permit No. PA0026859, Sewage, **Pennsylvania American Water Company**, 4 Wellington Boulevard, Wyomissing, PA 19610. This proposed facility is located in South Coatesville Borough, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from Coatesville STP into the West Branch of Brandywine Creek in Watershed 3H.

NPDES Permit No. PA0042927, Sewage, **Owen J. Roberts School District**, 901 Ridge Road, Pottstown, PA 19465. This proposed facility is located in South Coventry Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into a UNT to French Creek in Watershed 3D.

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

NPDES Permit No. PA0101745, Sewage, **Clarview Nursing and Rehabilitation Center**, 14663 Route 68, Sligo, PA 16255. This proposed facility is located in Piney Township, **Clarion County**.

Description of Proposed Action/Activity: This permit was published as a renewal; however, this permit is actually for a new minor NPDES (Part I) Permit for an existing treated nonmunicipal sewage discharge serving a nursing home.

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. 4508401, Sewerage, **East Stroudsburg Borough**, 24 Analomink Street, East Stroudsburg, PA 18301. This proposed facility is located in East Stroudsburg Borough, **Monroe County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the replacement and relocation of an existing gravity sewer line with a new gravity sewer line.

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

WQM Permit No. 2105402, Sewerage, **Shippensburg Borough Authority**, 111 North Fayette Street, Shippensburg, PA 17257-0129. This proposed facility is located in Shippensburg Borough, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of: a septage receiving station with a 400 gpm rotary septage screen unit, conversion of unused Secondary Clarifier No. 1 to septage treatment/storage tank and a 1,200 gpm septage recirculation pump for mixing and aeration. System capacity is 10,000 gpd.

WQM Permit No. 2808403, Sewerage, **Franklin County General Authority**, 5540 Coffey Avenue, Chambersburg, PA 17201-8380. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of: a submersible pump station and force main to serve a portion of Cumberland Valley Business Park (PS 508B).

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

WQM Permit No. 1808402, Sewerage, SIC 4952, **Bald Eagle Township Authority**, 12 Fairpoint Road, Mill Hall, PA 17751. This proposed facility is located in Bald Eagle Township, **Clinton County**.

Description of Proposed Action/Activity: A permit has been issued for improvements to the Fort Meadows Pump Station and installation of approximately 2,500 linear feet of 6" PVC force main that will discharge to the Bald Eagle Township Authority sewage collection system upstream of the Route 150 Pump Station. The improvements to the pump station will include new controls, a pumping platform and the installation of a new emergency generator. A section of the force main will cross beneath Bald Eagle Creek.

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

WQM Permit No. 5604405-A1, Sewerage, **Somerset Township Municipal Authority**, P. O. Box 247, Somerset, PA 15501. This existing facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for expansion of sewage treatment plant.

WQM Permit No. 0271412-A4, Sewerage, **Leetsdale Borough Municipal Authority**, 5 Sixth Street, Leetsdale, PA 15056. This existing facility is located in Leetsdale Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for construction and operation of sewage treatment plant and sanitary sewer collection system.

WQM Permit No. 5606403-A2, Sewerage, **SCI at Laurel Highlands**, P. O. Box 631, 5706 Glades Pike, Somerset, PA 15501. This existing facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance to upgrade WWTP sludge handling facilities.

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

WQM Permit No. WQG018631, Sewerage, **Evelyn W. and Thomas T. Buser**, 4 Peach Street, Warren, PA 16365. This proposed facility is located in Limestone Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

WQM Permit No. 1008201, Industrial Waste, **Seneca Landfill, Inc.**, P. O. Box 1080, Mars, PA 16046. This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: Seneca is submitting this Water Quality Management Permit Application in support of planned upgrades to the leachate treatment plant to increase the treatment capacity. By eliminating bottlenecks created by some of the treatment system components and adding some new equipment, Seneca will be able to process up to 129,600 gpd.

WQM Permit No. 42017402, Sewerage, **Paul V. Wittenbrink**, 434 Hammock Drive, Orchard Park, NY 14127-1685. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

WQM Permit No. 6207201, Industrial Waste, **United Refining Company**, 15 Bradley Street, Warren, PA 16365-3299. This proposed facility is located in the City of Warren, **Warren County**.

Description of Proposed Action/Activity: This is a new permit to upgrade its effluent treatment plant to improve secondary oil/water separation and to improve removal of biological solids.

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**

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025207006	Turkey Hill Minit Markets, Inc. 257 Centerville Road Lancaster, PA 17603	Pike	Palmyra Township	Wallenpaupack Creek HQ-WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032108001	Cumberland County Patrick Slattery One Courthouse Square Carlisle, PA 17013	Cumberland	Middlesex Township	Letort Spring Run HQ-CWF

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

Allegheny County Conservation District, Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Avenue, Pittsburgh, PA 15208, (412) 241-7645.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10A117-R	Ronald W. Wolf, President Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275	Allegheny	North Versailles Township	Jacks Run HQ

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

NOTICES

3533

General Permit Type—PAG-2

Facility Location:
Municipality &
County

Permit No.

Applicant Name &
Address

Receiving
Water/Use

Contact Office &
Phone No.

Schuylkill Haven Borough Schuylkill County	PAG2005408002	Paul Bedway 398 East Liberty Street Schuylkill Haven, PA 17972	Schuylkill River CWF	Schuylkill County Conservation District (570) 622-3742
Wayne Township Schuylkill County	PAG2005408008	Wayne Township Municipal Authority Attn: James C. Cook, Chairperson P. O. Box 97 Friendsburg, PA 17933	Long Run, Tributary to Schuylkill River CWF	Schuylkill County Conservation District (570) 622-3742
Plains Township Luzerne County	PAG2004008003	Valley Crest Nursing, Inc. c/o Complete Healthcare Resources Attn: Peter Licari 200 Dryden Road Suite 2000 Dresher, PA 19025	Laurel Run CWF	Luzerne County Conservation District (570) 674-7991
Smithfield Township Monroe County	PAG2004508001	East Stroudsburg University 200 Prospect Street East Stroudsburg, PA 18301	Brodhead Creek TSF, MF	Monroe County Conservation District (570) 629-3060
Throop Borough Lackawanna County	PAG2003508010	Bernard Fagnani Kennedy Plaza Archbald, PA 18403	Eddy Creek WWF	Lackawanna County Conservation District (570) 281-9495
Hamilton Township Franklin County	PAG2002803019R	Laurich Town Hill Estates Richard Rockwell 3745 Lincoln Way West Chambersburg, PA 17202	Conococheague WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAG2002805049-1	Greene Township Park Dave Jamison P. O. Box 215 Scotland, PA 17254	Conococheague CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Hamilton Township Franklin County	PAG2002803020-R	Laurich Gem South Richard Rockwell 3745 Lincoln Way West Chambersburg, PA 17202	UNT to Back Creek TSF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
North Middleton Township Cumberland County	PAG2002107028	Gettys Development Fred Gettys 1950 Chestnut Court Camp Hill, PA 17011	Wertz Run—Cornman Run WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Lower Mifflin Township Cumberland County	PAG2002108020	Jay Spahr 88 Mohawk Road Newville, PA 17241	Doubling Gap Creek CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Monroe Township Juniata County	PAG2033401001	Jay Cheran 524 Keefer Road Lewisburg, PA 17837	West Branch Mahatango Creek	Juniata County Conservation District R. R. 2 Box 35 Stoney Creek Drive Mifflintown, PA 17059 (717) 436-8953, Ext. 5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Washington Township Bally Borough Berks County	PAG2000608016	Michael Bedard ARCADIS U.S., Inc. 6 Terry Drive Suite 300 Newtown, PA 18940	UNT to West Branch Perkiomen— Schuylkill Watershed WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Union Township Lebanon County	PAG2003808001	Lickdale Associates, LP c/o Vision Properties, LLC Attn: Jeffrey C. Camp 2250 Hickory Road Suite 110 Plymouth Meeting, PA 19462	Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-9788 (717) 272-3908, Ext. 4
Bedford Township Bedford County	PAG2000508007	Ray Jennings P. O. Box 155 Bedford, PA 15522	UNT to Dunnings Creek WWF	Bedford County Conservation District 702 West Pitt Street Suite 3 Fairlawn Court Bedford, PA 15522 (814) 623-7900, Ext. 3
Muhlenberg Township Berks County	PAG2000608017	Melvin Wagner Good Shepherd UCC of Tuckerton 100 Tuckerton Road Reading, PA 19605	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Napier Township Bedford County	PAG2000508008	Aaron Martin 6231 Lincoln Highway Bedford, PA 15522	Raystown Branch Juniata River TSF	Bedford County Conservation District 702 West Pitt Street Suite 3 Fairlawn Court Bedford, PA 15522 (814) 623-7900, Ext. 3
North Woodbury Township Blair County	PAG2000708014	Harold Martin R. R. 1 Box 492 Martinsburg, PA 16662	Plum Creek WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Huntingdon Borough Huntingdon County	PAG2003108005	Jeff Meadows 1700 Moore Street Huntingdon, PA 16652	UNT to Juniata River WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
East Prospect Borough York County	PAG2006708013	Scott Naylor American Dream Homes 8381 Lehman Road Dallastown, PA 17313	Cabin Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Hanover Borough York County	PAG2006708015	ACTS 617 Group 10 Clover Lane Downingtown, PA 19335	South Branch Conewago Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

NOTICES

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<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Providence Township Bedford County	PAG2000508010	Shaun Akers 715 Church Street Saxton, PA 16678	Bloody Run WWF	Bedford County Conservation District 702 West Pitt Street Suite 3 Fairlawn Court Bedford, PA 15522 (814) 623-7900, Ext. 3
Hellam Township York County	PAG2006708010	Jim Baugh Hellam Township 44 Walnut Springs Road Hellam, PA 17406	UNT to Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Blair Township Blair County	PAG2000708011	A. Craig LeCrone 912 Blair Street Hollidaysburg, PA 16648	UNT to Dry Run UNT to Poplar Run WWF-CWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Springfield Township York County	PAG2006706023-1	Springfield Township 9211 Susquehanna Trail South Seven Valleys, PA 17342	UNT to East Branch Codorus Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Jackson Township York County	PAG2006707087	Bruce Ruhlman LakePoint Associates, LP 65 Musselman Road Hanover, PA 17337	Bunch Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
South Lebanon Township Lebanon County	PAG2003808003	Clair Zimmerman 85 Furnace Hills Road Denver, PA 17517	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-9788
Altoona City Allegheny Township Blair County	PAG2000708010	Pennsylvania Investor Enterprises, LLC 5506 Sixth Avenue Rear Altoona, PA 16602	Burgoon Run UNT to Burgoon Run TSF-WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Conewago and Newberry Townships York County	PAG2006707003	Department of Transportation Engineering District 8-0 Attn: Michael Gillespie 2140 Herr Street Harrisburg, PA 17103	Conewago Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Monroe Township Cumberland County	PAG2002106043	Dan Piscioneri Wyndham Manor, LLC 3315 Market Street Camp Hill, PA 17011	UNT to Hogestown Run CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9131 (717) 240-7812
Porter Township Huntingdon County	PAG2003108006	James D. Foster 7775 Juniata Valley Pike P. O. Box 318 Alexandria, PA 16611	Frankstown Branch Juniata River WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Logan Township Blair County	PAG2000708012	Logan Township Board of Supervisors 800 39th Street Altoona, PA 16602	Mill Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5

<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>
Smithfield Township Huntingdon County	PAG2003108004	Marion Kruiise STEDCO 11301 Henderson Overlook Road Huntingdon, PA 16652	UNT to Juniata River WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Tyrone Borough Blair County	PAG2000708009	Grace Baptist Church 1553 Columbia Avenue Tyrone, PA 16686	Bald Eagle Creek TSF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
West Manchester Township York County	PAG2006708028	Jerry L. Watson 3001 West Market Street, LP 3001 West Market Street York, PA 17404	UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Logan Township Blair County	PAG2000708008	Cayuga Realty, LP 305 Cayuga Avenue Altoona, PA 16602	Mill Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Jackson Township York County	PAG2006707087	Bruce Ruhlman LakePoint Associates, LLC 65 Musselman Road Hanover, PA 17337	Bunch Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Hellam Township York County	PAG2006708025	Tim Rutter CHR Corp. 2295 Susquehanna Trail Suite C York, PA 17404	UNT to Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Cass Township Huntingdon County	PAG2003108003	Douglas Carowich HC1 SR 3027 Calvin, PA 16622	UNT to Little Trough Creek TSF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Huntingdon Borough Huntingdon County	PAG2003108005	Jeff Meadows 1700 Moore Street Huntingdon, PA 16652	UNT to Juniata River WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Centre County Benner Township	PAG2001403017R	Dr. Gerald Clair Lyn Lee Farms 568 Rock Road State College, PA 16801	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Union County East Buffalo Township	PAG2006008005	Charles Benoit 164 Beth Ellen Drive Lewisburg, PA 17837	UNT to Turtle Creek WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Greene County Monongahela Township	PAG2003008008	AMD Reclamation, Inc. 306 Dent's Run Road Morgantown, WV 26501	Dunkard Creek WWF	Greene County Conservation District (724) 852-5278

*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>
Greene County Richhill Township	PAG2003008009	Texas Eastern Transmission 890 Winter Street Suite 300 Waltham, MA 02451	Trib to Barney's Run TSF Trib to Dunkad Fork of Wheeling Creek WWF	Greene County Conservation District (724) 852-5278
Butler County Slippery Rock Borough	PAG2001007024	Joe Durso Slippery Rock Associates The Colonies 278 Cameron Drive Slippery Rock, PA 16057	UNT Wolf Creek CWF	Butler County Conservation District (724) 284-5270
Clarion County Clarion Borough	PAG2061608001	Clarion University of PA Payne Street Parking Lot Thorn II Building 840 Wood Street Clarion, PA 16214	Trout Run CWF	Department of Environmental Protection Watershed (814) 332-6984
Crawford County West Mead Township	PAG002008004	Morris Waid Crawford County Fair Board 903 Diamond Park Meadville, PA 16335	UNT Woodcock Creek CWF	Crawford Conservation District (814) 763-5269
Erie County North East Township	PAG2002508015	Bay Valley Foods 11160 Parkway Drive North East, PA 16428	UNT to Lake Erie CWF	Erie County Conservation District (814) 825-6403
Lawrence County Mahoning Township	PAG2003708005	Garrett Scharton Valley View Downs 10 West Market Street Suite 200 Indianapolis, IN 46204	UNT Shenango River WWF	Lawrence County Conservation District (724) 652-4512
McKean County Bradford City and Foster Township	PAG2004208002	Department of Transportation 1924 Daisy Street Extension Clearfield, PA 16830 District 2-0	Tunungwant Creek WWF UNT Tunungwant Creek CWF Foster Brook CWF Boliver Run CWF	McKean County Conservation District (814) 887-4001

*General Permit Type—PAG-3**Facility Location &
Municipality*

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lancaster County West Donegal Township	PAR903508	Elizabethtown Borough 600 South Hanover Street Elizabethtown, PA 17022-2522	Conoy Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Limestone Township Warren County	PAG049442	Evelyn W. and Thomas T. Buser 4 Peach Street Warren, PA 16365	UNT to the Allegheny River 16-F	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG—5**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>
Bristol Township Bucks County	PAG050040	Getty Properties Corporation 125 Jericho Turnpike Suite 202 Jericho, NY 11753	Mill Creek 2E	Southeast Region Office 2 East Main Street Norristown, PA 19401

General Permit Type—PAG-8

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Washington, DC	PAG08-9906	District of Columbia Water and Sewer Authority 5000 Overlook Avenue, SW Washington, DC 20032	Blue Plains Advanced Wastewater Treatment Facility 5000 Overlook Avenue, SW Washington, DC 20032	BWSWM (717) 787-8184

General Permit Type—PAG-12

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Astle Farm 643 Street Road Oxford, PA 19363 Lower Oxford Township Chester County	PAG120005	Arthur A. Astle 643 Street Road Oxford, PA 19363	Pequea 7K	Southeast Region Watershed Management (484) 250-5970

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 3390349, Operations Permit, Public Water Supply.

Applicant	Southern Lehigh School District Lower Milford Elementary School 5775 Main Street Center Valley, PA 18034 Lower Milford Township
County	Lehigh
Type of Facility	PWS
Consulting Engineer	George Ruby, P. E. Ruby Engineering 3605 Island Club Drive Unit No. 9 North Port, FL 34288-6611
Permit to Operate Issued	May 30, 2008
<i>Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.</i>	
Permit No. 3807504, Public Water Supply.	
Applicant	Harpers Tavern
Municipality	East Hanover Township
County	Lebanon
Type of Facility	Installation of nitrate treatment along with softening and UV disinfection.
Consulting Engineer	James P. Cinelli, P. E. Liberty Environmental, Inc. 10 North 5th Street Reading, PA 19601
Permit to Construct Issued	June 16, 2008

Permit No. 3607518, Public Water Supply.

Applicant	JoAnn Realty Associates, Ltd.
Municipality	Salisbury Township
County	Lancaster

Type of Facility Construction of a new community water system known as Houston Run with two wells, disinfection, storage tank and pump station.

Consulting Engineer Daniel S. Hershey
ELA Group, Inc.
743 South Broad Street
Lititz, PA 17543

Permit to Construct June 10, 2008
Issued

Permit No. 3608501, Public Water Supply.

Applicant **Conestoga MHP, Inc.**

Municipality Conestoga Township

County **Lancaster**

Type of Facility Installation of a new storage tank and booster pumping system.

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

Permit to Construct May 23, 2008
Issued

Operations Permit issued to **Heritage Building Group Land Division**, 3060136, Union Township, **Berks County** on June 2, 2008, for the operation of facilities approved under Construction Permit No. 0603512.

Operations Permit issued to **Gettysburg Municipal Authority**, 7010019, Cumberland Township, **Adams County** on June 2, 2008, for the operation of facilities approved under Construction Permit No. 0105501.

Operations Permit issued to **Christ United Church of Christ**, 7010987, Union Township, **Adams County** on May 19, 2008, for the operation of facilities approved under Construction Permit No. 0105509.

Operations Permit issued to **Gettysburg Municipal Authority**, 7010019, Cumberland Township, **Adams County** on June 2, 2008, for the operation of facilities approved under Construction Permit No. 0106513 MA.

Operations Permit issued to **Yogi Bear's Jellystone Park**, 7360909, East Drumore Township, **Lancaster County** on June 16, 2008, for the operation of facilities approved under Construction Permit No. 3607513.

Operations Permit issued to **North Heidelberg Water Co.**, 3060115, North Heidelberg Township, **Berks County** on June 9, 2008, for the operation of facilities approved under Construction Permit No. 0608507 E.

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

Permit No. 4496557—Operation, Public Water Supply.

Applicant **Glacier Water Services, Inc.**

Township or Borough Mount Carmel Borough

County **Northumberland**

Responsible Official Steven L. Murphy, Sr. VP and
COO
G W Service, Inc., d/b/a Glacier
Water
1385 Park Center Drive
Vista, CA 92081

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date June 10, 2008

Description of Action Operate a water vending machine with a backflow device at Boyers Food Market using Aqua PA water as a source. Entry Point 101.

Permit No. M. A. 1989501—Operation, Public Water Supply.

Applicant **Pleasant View Mobile Home Park**

Township or Borough North Centre Township

County **Columbia**

Responsible Official Martin Mancini
ARC 1, Mark Lane
Honeybrook, PA 19344

Type of Facility Public Water Supply—Operation

Consulting Engineer Brent Cowan
CSC Technology, Inc.
170 Netherwood Drive
Coatesville, PA 19320

Permit Issued Date June 16, 2008

Description of Action Operation of two ion exchange units for arsenic removal on Wells No. 1 and No. 2.

Permit No. M. A. 2-1989501—Operation, Public Water Supply.

Applicant **Pleasant View Mobile Home Park**

Township or Borough North Centre Township

County **Columbia**

Responsible Official Martin Mancini
ARC 1, Mark Lane
Honeybrook, PA 19344

Type of Facility Public Water Supply—Operation

Consulting Engineer Brent Cowan
CSC Technology, Inc.
170 Netherwood Drive
Coatesville, PA 19320

Permit Issued Date June 16, 2008

Description of Action Backwashing of the Adsorbisia™ media. The waste water is tied to the sewage treatment plant onsite.

Permit No. 4107502—Operation, Public Water Supply.

Applicant **Collomsville Mutual Waterworks Association**

Township or Borough Limestone Township

County **Lycoming**

Responsible Official Dale Winter, Trustee
Collomsville Mutual Waterworks
Association
342 Wells Road
Williamsport, PA 17701

Type of Facility Public Water Supply—Operation

Consulting Engineer Britt Bassett, P. E.
Bassett Engineering, Inc.
1440 Broad Street
Montoursville, PA 17754

Permit Issued Date June 17, 2008

Description of Action Operation of Well No. 2, pH
adjustment of Well No. 2 and the
transmission line.

SEWAGE FACILITIES ACT PLAN APPROVAL

**Plan Approvals Granted under section 5 of the
Pennsylvania Sewage Facilities Act (35 P. S.
§ 750.5)**

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

Plan Location: Lehigh Gap Nature Center

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Washington Township	Municipal Building P. O. Box 27 Slatedale, PA 18079	Lehigh County

Plan Description: The approved plan provides for an expansion to the existing Osprey House building at the Nature Center on a 13 acre tract. The expansion will include office space, an environmental education center with two public restrooms (800 gpd) and two rooms to serve as living quarters for two summer interns (400 gpd). An additional 600 gpd of sewage flows is included for planning and system design which would accommodate a possible future expansion to include an additional public restroom (400 gpd) and one additional room for another intern (200 gpd). A small flow treatment facility is proposed for the 1,800 gpd project. Soil testing for an onlot sewage disposal system demonstrated insufficient area with acceptable slopes to site a system. The proposed small flow treatment system will include two 2,300 gallon Norweco Aerobic Treatment Tanks in parallel, each capable of treating 1,000 gpd, a 600 square foot subsurface recirculating sand filter and a 1,000 gallon chlorine contact tank. A 4" PVC discharge line will discharge to the Lehigh River through an easement from Lehigh County. A private well serves water to the site. The proposed development is located at Paint Mill Road, Washington Township, Lehigh County.

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

Plan Location: At the northwest corner of the intersec-
tion of Shank Road and Carlisle Pike in Oxford Township,
Adams County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Oxford Township	P. O. Box 86 780 Hanover Street New Oxford, PA 17350-0086	Adams County

Plan Description: The approved plan provides for 293
units on approximately 124 acres. The project includes

both single and multifamily dwellings and will be served by the construction of new collection lines and a new pump station tributary to the New Oxford Authority Sewage Treatment Plant. The name of the project is Summerfield and the Department of Environmental Protection (Department) code No. is A3-01927-118-3. The Department'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, authority or owner as appropriate.

**HAZARDOUS SITES CLEAN-UP
UNDER THE ACT OF
OCTOBER 18, 1988**

**Settlement Under the Comprehensive
Environmental Response, Compensation and
Liability Act and the Hazardous Sites Cleanup Act
Notice of Settlement under HSCA**

The Department of Environmental Protection (Depart-
ment), under the authority of the Hazardous Sites
Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305)
and the Comprehensive Environmental Response, Com-
pensation and Liability Act (CERCLA) (42 U.S.C.A.
§§ 9601—9675), has entered into a Consent Order and
Agreement (Agreement) with Connell Limited Partner-
ship (Connell), Fort Hill Square, One International Place,
Boston, MA regarding the Modena Yard Site in Chester
County, PA. The Modena Yard Site is located on an
approximately 20-acre parcel of land situated in the
Borough of Modena and East Fallowfield Township,
Chester County, PA. The Site was formerly used as a
scrap yard.

Beginning in August of 1988, the United States Envi-
ronmental Protection Agency (EPA) undertook response
actions at the Site under its authority under the
CERCLA. EPA determined that there was a release or
threat of release of hazardous substances at the Site and,
as a result, the EPA selected certain response actions to
be implemented at the Site. These included the excava-
tion and grading of contaminated soils and the installa-
tion of a 30-inch final cover consisting of a grading layer,
a geosynthetic liner, a soil layer and a topsoil layer.

On September 29, 1999, the EPA entered into a settle-
ment agreement with Connell to perform removal re-
sponse actions. Following implementation of response
actions, Connell developed a Post-Removal Control Plan
designed to provide inspection, maintenance and repair to
the response actions implemented at the Site. The Plan
was subsequently approved by the EPA. On September
29, 2006, the EPA entered into another settlement with
Connell providing for Connell to enter into an arrange-
ment with the Commonwealth for maintenance and over-
sight of the response actions at the Site.

The Department has entered into this Agreement to
provide for oversight and maintenance of the Site. Under
the terms and conditions of the Agreement, Connell
agrees to reimburse the Department for periodic inspec-
tions of the Site. Long-term engineering and institutional
controls at the Site have been secured through the
issuance of a HSCA Section 512 Order to Connell and to
the Chester County Recorder of Deeds.

This notice is provided under section 1113 of HSCA (35
P. S. § 6020.1113). The Agreement may be examined from
8 a.m. to 4 p.m. at the Department's Office at 2 East
Main Street, Norristown, PA 19401 by contacting either

George Horvat at (484) 250-5717 or Ragesh Patel (484) 250-5719. A public comment period on the Agreement will extend for a period of 60 days from the date of publication of this Notice. Interested persons may submit written comments regarding the Prospective Purchaser Agreement to the Department by submitting them to George Horvat at the previous address.

Notice of Settlement under HSCA and CERCLA

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675), has entered into a Prospective Purchaser Agreement (PPA) with West Caln Township, 721 West Kings Highway, Wagontown, PA 19376, relating to the William Dick Lagoons Superfund Site in West Caln Township.

The William Dick Lagoons Site is a National Priority List Site under CERCLA of approximately 4.5 acres located along Telegraph and North Sandy Hill Roads in West Caln Township, PA. The Site makes up a small portion of a 170 acre tract of property (Armstrong Tract), the latter of which is being purchased by West Caln Township from Richard and Susan Dole Armstrong (Armstrongs) with proceeds from the Natural Lands Trust for preservation as open space in Chester County. The Site consists of significant soils and groundwater contamination associated with former hazardous waste disposal operations in lagoons located on the Site. The United States Environmental Protection Agency, in conjunction with the Department, has implemented several remedial response actions at the Site, including the installation of a public water supply system to affected residences and various soil and groundwater treatment remedies.

West Caln Township has asserted and the Department has no information to indicate otherwise, that West Caln Township neither caused, contributed to, nor is otherwise liable for any contamination at the William Dick Lagoons Site. West Caln Township intends to purchase the Armstrong Tract with proceeds from the Natural Lands Trust and thereafter maintain and preserve the Armstrong Tract for use by future generations as open space in Chester County. Under the terms of the PPA with the Department, West Caln Township agrees: (1) to make a contribution towards the Department's response costs for the William Dick Lagoons Site; (2) not to exacerbate any existing contamination at the Site; and (3) to provide access and right of entry to the Department for the performance of any future response actions related to the William Dick Lagoons Site in exchange for a covenant not to sue and contribution protection from the Commonwealth.

This notice is provided under section 1113 of HSCA (35 P.S. § 6020.1113). The PPA may be examined from 8 a.m. to 4 p.m. at the Department's Office at 2 East Main Street, Norristown, PA 19401 by contacting either Ragesh Patel at (484) 250-5719 or Anderson Lee Hartzell at (484) 250-5866. A public comment period on the PPA will extend for a period of 60 days from the date of publication of this Notice. Interested persons may submit written comments regarding the PPA to the Department by submitting them to Ragesh Patel at the previous address.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

D. J. Franzen, Inc. I 80 MM190.5E Accident, Greene Township, **Clinton County**, Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of D. J. Franzen, Inc., D. J. Franzen, Inc., 1200 Pleasant Hill Road, Pleasant Hill, IA 50327 has submitted a Final Report concerning remediation soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Marie A. Reed Property, Point Township, **Northumberland County**, Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Marie A. Reed, 157 Bird Lane, Northumberland, PA 17857 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 heating oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Morgan Advanced Materials and Testing, Inc.—Pure Carbon Facility, Eulalia Township, **Potter County**, ATC Associates, Inc., 103 North Meadows Drive, Suite 215, Wexford, PA on behalf of Advanced Materials and Testing, Inc., 411 Hall Avenue, St. Mary's, PA 15857 has submitted a Final Report concerning remediation of site groundwater contaminated with dissolved-phased antimony. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Honeywell Farmers Valley South of Cole Creek, Keating Township, **McKean County**. MACTEC Engineering and Consulting, Inc., 800 North Bell Avenue, Suite 200, Pittsburgh, PA 15106 on behalf of Honeywell International, Inc., 101 Columbia Road, Morristown, NJ 07962 and Shell Lubricants, 260 Elm Street, P. O. Box 99, Oil City, PA 16301 has submitted a Remedial Investigation Report and a Risk Assessment Report concerning remediation of site soil and site groundwater contaminated with compounds related to petroleum refining. The Remedial Investigation Report and Risk Assessment Report are intended to document remediation of the site to meet Statewide Health and Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to

establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Pier 60, City of Philadelphia, **Bucks County**. William F. Schmidt, P. E., Pennoni Associates, Inc., 3000 Market Street, 2nd Floor, Philadelphia, PA 19104, Paul Martino, P. G., Pennoni Associates, Inc., 3000 Market Street, 2nd Floor, Philadelphia, PA 19104 on behalf of James Dougherty, Philadelphia Entertainment and Development Partner, 39 Norwich Westerly Road, Mashantucket, CT 06338 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PAHs lead, arsenic. The Final Report did not demonstrate attainment of the Site-Specific Standard and was disapproved by the Department of Environmental Protection on June 4, 2008.

Boiler Erection & Repair Company, Inc., Ambler Borough, **Montgomery County**. Jeffery Goudsward, Langan Engineering & Environmental Services, P. O. Box 1569 on behalf of John Carey, Sr., Industrial Management Associates, Inc., 200 South Main Street, Ambler, PA 19002 has submitted a Final Report concerning the remediation of site soil contaminated with PAHs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 2, 2008.

Warrington Shopping Center, Warrington Township, **Bucks County**. Thomas Jones, Penn Environmental & Remediation, Inc., 2755 Bergery Road, Hatfield, PA 19440 on behalf of Joan D'Agostino, Juniper Warrington Associates, 624 Harpers Lane, Huntington Valley, PA 19006 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Final Report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department of Environmental Protection on May 23, 2008.

Keystone Bank Site, Ridley Township, **Delaware County**. Joseph Diamadi, Marshall Geoscience, Inc., 170 First Avenue, Collegeville, PA 19426 on behalf of Richard Cutler, Charles Edward Realty LP, 191 Presidential Boulevard, Apt. 809, Bala Cynwyd, PA 19004 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 May 29, 2008.

Jim Rolli Building/Haly Oil Spill, Lower Merion Township, **Montgomery County**. Richard Trimpi, Trimpi Associates Inc., 1635 Old Plains Road, Pennsburg, PA

18073 on behalf of James Rolli, 222 West Lancaster Avenue, Ardmore, PA 19003 has submitted a Final Report concerning the remediation of site soil contaminated with petroleum. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 30, 2008.

William Property, West Goshen Township, **Chester County**. Michael Sarcinello, Aquaterra Technologies, Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Francine Williams, 1004 North New Street, West Chester, PA 19381 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 May 16, 2008.

US Steel Fairless Works Facility, Falls Township, **Bucks County**. Francis Adams, Golder Associates, Inc., 200 Century Parkway, Suite C, Mt. Laurel, NJ 08054 on behalf of Kathy Mayher, United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15219 has submitted a Risk Assessment and Cleanup Plan concerning the remediation of site soil contaminated with chlorinated solvents. The Risk Assessment and Cleanup Plan were approved by the Department of Environmental Protection on May 21, 2008.

Belmont Cleaners, Lower Merion Township, **Montgomery County**. Michael Christie, Penn Environmental & Remediation, Inc., 2755 Bergey Road, on behalf of Michael Kirschner, Kirschner Brother Company, 518 West Lancaster Avenue, P. O. Box 525, Haverford, PA 19041 has submitted a Remedial Investigation Report and Final Report concerning the remediation of site groundwater and soil contaminated with chlorinated solvents and mtbe. The Remedial Investigation Report and Final Report were approved by the Department of Environmental Protection on January 4, 2008.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

CPO 2 Inc., Mifflinburg Borough, **Union County**. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of CPO 2, Inc., 200 East Chestnut Street, Mifflinburg, PA 17844 has submitted a Final Report concerning remediation of site groundwater contaminated with No. 2 fuel oil and leaded gasoline. The Final Report demonstrated attainment of Statewide Health Standard and was approved by the Department of Environmental Protection on June 12, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. PAD987270725, Siemens Water Technologies, 432 Green Street, Sewickley, PA 15143. Approval of a Class 2 permit modification to operate a new residual waste storage tank area at its spent carbon regeneration plant located at 118 Park Road, Darlington Township, **Beaver County** on June 13, 2008.

Permit ID No. PAD000736942, Calgon Carbon Corporation, P. O. Box 717, Pittsburgh, PA 15230-0717. Permit application for renewal and modification of a hazardous and residual waste permit for a spent carbon regeneration plant located at 200 Neville Road in Neville Township, **Allegheny County** on June 13, 2008.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

GP3-22-03079: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17105) on June 12, 2008, for Portable Nonmetallic Mineral Processing Plants under GP3 in South Hanover Township, **Dauphin County**.

GP9-21-03086: Pennsy Supply, Inc. (P. O. Box 3331, 1001 Paxton Street, Harrisburg, PA 17105-3331) on June 12, 2008, for Diesel or No. 2 Fuel-fired Internal Combustion Engines under GP9 in Penn Township, **Cumberland County**.

GP9-22-03079: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17105) on June 12, 2008, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in South Hanover Township, **Dauphin County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

GP-33-165A: Snyder Brothers, Inc.—Shields Station (Brocius Road, Brookville, PA 15857) on June 30, 2008, for a natural gas fired compressor engine (BAQ-GPA/GP-5) in Clover Township, **Jefferson County**.

GP-33-173A: Snyder Brothers, Inc.—Sheesley Station (SR 2004, Bowersville, PA 15715) on June 30, 2008, for a natural gas fired compressor engine (BAQ-GPA/GP-5) in Gaskill Township, **Jefferson County**.

GP-42-198A: Elkhorn Gas Processing, LLC—Kane (6307 Route 6, Kane, PA 16701) on June 11, 2008, for a natural gas fired compressor engine (BAQ-GPA/GP-5) in Wetmore Township, **McKean County**.

GP-42-217A: Glenn O. Hawbaker, Inc.—Port Allegheny (257 Glass Place, Port Allegheny, PA 16743) on June 11, 2008, for a Portable Nonmetallic Mineral Processing Plant (BAQ-GPA/GP-3) in Liberty Township and Port Allegheny Borough, **McKean County**.

GP-42-217B: Glenn O. Hawbaker, Inc.—Port Allegheny (257 Glass Place, Port Allegheny, PA 16743) on June 11, 2008, for a Diesel or No. 2 fuel-fired Internal Combustion Engine (BAQ-GPA-GP-9) in Liberty Township and Port Allegheny Borough, **McKean 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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

05-03019A: Steckman Ridge, LP (890 Winter Street, Waltham, MA 02451-1470) on June 9, 2008, to construct a natural gas compressor station with two engine compressors controlled by an oxidation catalyst and dehydration units controlled by a thermal oxidizer and associated equipment at Monroe Township, **Bedford County**.

28-05004D: Grove US, LLC (1565 Buchanan TRL E, P. O. Box 21, Shady Grove, PA 17256) on June 10, 2008, to install a paint spray booth at their Shady Grove plant in Antrim Township, **Franklin County**.

ER-36-05027A: R. R. Donnelley—Lancaster East Facility (2216 Greenfield Road, Lancaster, PA 17601) on June 10, 2008, for an Air Quality Emission Reduction Credit approval of 18.3 tons of VOCs resulting from the November 30, 2005 and December 31, 2005, shutdown of two printing presses in the City of Lancaster, **Lancaster County**.

67-05091B: Metropolitan Edison Co. (P. O. Box 16001, Reading, PA 19612-6001) on June 9, 2008, to construct nine portable 2,000 kW diesel-fired peak electrical generating units at their Yorkana Substation in Lower Windsor Township, **York County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

10-281M: II—VI, Inc. (375 Saxonburg Boulevard, Saxonburg, PA 16056) on June 11, 2008, to construct an additional Hydrogen Selenide production process in the existing DH building in Saxonburg, **Butler County**. This is a State-only V facility.

24-083N: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) on June 11, 2008, to install a regenerative thermal oxidizer and SO₂ scrubber to replace existing oxidizers (C129 and C129A) for the control of sources 129, 129A and 404 in St. Marys City, **Elk County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

28-05011A: Waste Management Services of PA, Inc. (9446 Letzburg Road, Greencastle, PA 17225-9317) on June 1, 2008, to add a new enclosed ground flare to their existing Mountain View Reclamation facility in Antrim Township, **Franklin County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

32-00375A: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) on July 1, 2008, to transfer plan approval from Britt Energies, Inc. to Rosebud Mining Company and to extend the plan approval to allow the installation of a new coal crusher/screen powered by a diesel engine and assorted supporting equipment at the mouth of Lowry Deep Mine in White Township, **Indiana County**.

04-00033: NOVA Chemicals, Inc. (400 Frankfort Road, Monaca, PA 15061-2298) on July 2, 2008, for the D2 PES/ARCEL at their Beaver Valley Plant in Monaca, **Beaver County**. This Plan Approval has been extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

21-05009: PPL Martins Creek, LLC (2 North 9th Street, Allentown, PA 18101-1139) on June 11, 2008, to operate a combustion turbine site in Lower Allen Township, **Cumberland County**. This is a renewal of the Title V operating permit.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

65-00769: Raven Industries, Inc. (5049 Center Drive, Latrobe, PA 15650) on June 11, 2008, for a toner and developer manufacturing operation at their Latrobe facility in Unity Township, **Westmoreland County**. Emissions from this facility shall not exceed 100 tons SO₂, 100 tons NO_x, 100 tons PM₁₀, 50 tons VOC, 10 tons of a single HAP and 25 tons of all HAP combined. This is a State-only Operating Permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

31-03004: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664-0077) on June 12, 2008, to operate a limestone crushing plant and a concrete plant in Warriors Mark Township, **Huntingdon County**.

36-05003: Armstrong World Industries, Inc. (2500 Columbia Avenue, P. O. Box 3001, Lancaster, PA 17604-3001) on June 12, 2008, to operate their company's corporate campus (including R & D activities) in Manor Township, **Lancaster County**. This is a renewal of the State-only operating permit.

38-05028: Curwood Specialty Films Lebanon, Inc. (5 Keystone Drive, Lebanon Valley Business Park, Lebanon, PA 17042) on June 10, 2008, to operate a meat derived food stuff processing plant in the City of Lebanon, **Lebanon County**. This is a renewal of the State-only operating permit.

67-03055: Vulcan Construction Materials, LP (322 North Baker Road, York, PA 17404-5802) on June 11, 2008, to operate a limestone crushing plant at their Baker Quarry in West Manchester Township, **York County**. This is a renewal of the State-only operating permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

65-00769: Raven Industries, Inc. (5049 Center Drive, Latrobe, PA 15650) on June 11, 2008, for a toner and developer manufacturing operation at their Latrobe facility in Unity Township, **Westmoreland County**. Emissions from this facility shall not exceed 100 tons SO₂, 100 tons NO_x, 100 tons PM₁₀, 50 tons VOC, 10 tons of a single HAP and 25 tons of all HAP combined. This is a State-only Operating Permit.

sions from this facility shall not exceed 100 tons SO₂, 100 tons NO_x, 100 tons PM₁₀, 50 tons VOC, 10 tons of a single HAP and 25 tons of all HAP combined. This is a State-only Operating Permit.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19404, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

TVOP-23-00003: ConocoPhillips Co. Trainer—PA Refinery (4101 Post Road, Trainer, PA 19061) a facility located in Trainer Borough, **Delaware County**. The facility's major emission points include refinery operations, which emits major levels of all criteria pollutants.

The requested de minimis increase is for the temporary operation to cool the hot slurry oil product from the fluidized catalytic cracker. Typically, the operation has this hot oil product being blended with heavy cycle oil to make No. 6 Fuel Oil. Due to the current market conditions, the hot slurry oil will be segregated for storage and shipping. ConocoPhillips Company plans to install and operate a temporary cooling system consisting of heat exchangers, pumps, a cooling tower and ancillary hoses and fittings until a detailed analysis of the facility cooling water balance is performed and a permanent solution is engineered. The volatile organic emissions from the hot oil slurry and the cooling tower operations are considered to be negligible due to the physical and operational properties of the proposed system. The PM emissions from the proposed cooling tower will be increased by 0.17 tpy as calculated using the procedures outlined in AP-42 5th Edition, Volume 1, Chapter 13.4.

The previous emissions increases qualify as de minimis increases under 25 Pa. Code § 127.449.

The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

Permit Number 04971301 and NPDES Permit No. PA0215074, Rosebud Mining Company, (301 Market

Street, Kittanning, PA 16201), to renew the permit for the Beaver Valley Mine in Greene Township and Shippingport Borough, **Beaver County** and related NPDES permit. No additional discharges. Application received December 24, 2007. Permit issued June 10, 2008.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

11970201 and NPDES No. PA0234648. Maple Coal Company, 2593 Wexford-Bayne Road, Suite 100, Sewickley, PA 15143, permit renewal for the continued operation and restoration of a bituminous surface refuse reprocessing and beneficial use of ash mine in Barr and Blacklick Townships, **Cambria County**, affecting 471.1 acres. Receiving streams: UNT to/and Elk Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 22, 2008. Permit issued June 9, 2008.

11960107 and NPDES No. PA0234184. T. J. Mining, Inc., P. O. Box 370, Carrolltown, PA 15722, revision of an existing bituminous surface and auger mine to change land use from forestland and wildlife habitat to unmanaged natural habitat and industrial/commercial in Creson Township, **Cambria County**, affecting 62.0 acres. Receiving streams: UNT to Burgeon Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2008. Permit issued June 9, 2008.

11020103 and NPDES No. PA0249335. Gator Coal LP, P. O. Box 418, Elderton, PA 15736, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Susquehanna Township, **Cambria County**, affecting 324.5 acres. Receiving streams: Douglas Run, Peg Run, West Branch of Susquehanna River classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 16, 2008. Permit issued June 12, 2008.

56930102 and NPDES Permit No. PA0212407. Cooney Brothers Coal Company, P. O. Box 246, Creson, PA 16630, permit renewal for reclamation only of a bituminous surface and auger mine in Shade Township, **Somerset County**, affecting 178.6 acres. Receiving streams: Hinson Run, UNT to Hinson Run and two UNTs to Shade Creek and Shade Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 20, 2008. Permit issued June 13, 2008.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

26080102 and NPDES Permit No. PA0251321. Patterson Coal Company (20 Elizabeth Drive, Smithfield, PA 15478). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in German Township, **Fayette County**, affecting 41.3 acres. Receiving streams: UNTs to North Branch Browns Run to Browns Run. Application received February 13, 2008. Permit issued June 12, 2008.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33020104 and NPDES Permit No. PA0242161. AMFIRE Mining Company, LLC (One Energy Place, Suite 2800, Latrobe, PA 15650) Renewal of an existing bituminous strip and auger operation in Snyder Township, **Jefferson County** affecting 207.4 acres. Receiving

streams: Walburn Run. Application received April 24, 2008. Permit issued June 11, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17060102. Strishock Coal Company (220 Hillcrest Drive, DuBois, PA 15801). Commencement, operation and restoration of a bituminous surface mine in Brady Township, **Clearfield County**, affecting 140.0 acres. Receiving streams: UNT to Beech Run, Beech Run and East Branch Mahonning, classified for the following use: HQ-CWF. The first downstream potable water supply intake from the point of discharge is East Branch Mahonning Creek. Application received March 16, 2006. Permit issued June 9, 2008.

17050109 and NPDES No. PA0256293. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661). Revision of an existing bituminous surface mine to increase the mining area to 77.9 acres in Bloom Township, **Clearfield County**, affecting 116.0 acres. Receiving streams: UNT to Little Anderson Creek and UNT to Bell Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 28, 2008. Permit issued June 11, 2008.

Noncoal Permits Actions

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

4672SM10. I. A. Construction Corporation (158 Lindsay Road, Zelienople, PA 16063) Renewal of NPDES Permit No. PA0089184 in Limestone Township, **Warren County**. Receiving streams: Myers Run and Allegheny River. Application received April 21, 2008. Permit issued June 11, 2008.

37970302. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225) Renewal of NPDES permit No. PA0227579 in Slippery Rock Township, **Lawrence County**. Receiving streams: UNTs to Slippery Rock Creek. Application received April 24, 2008. Permit issued June 11, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08040810. Donald E. Johnson, Jr. (R. R. 2, Box 278C, Towanda, PA 18848). Noncoal mining operation in Asylum Township, **Bradford County**. Restoration of 1.0 acre completed. Application received May 30, 2008. Final bond release June 12, 2008.

17050801. Jody L. Thompson (5143 Philipsburg Bigler Highway, West Decatur, PA 16878). Noncoal mining operation in Decatur Township, **Clearfield County**. Restoration of 5.0 acres completed. Application received June 6, 2008. Final bond release June 16, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

35910301C4 and NPDES Permit No. PA0595209. West Mountain Sand, Stone & Aggregates, Ltd. (P. O. Box 389, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage in Newton and Ransom Townships, **Lackawanna County**, receiving stream: Keyser Creek. Application received April 25, 2008. Renewal issued June 10, 2008.

45020301C2 and NPDES Permit No. PA0224235. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage in Smithfield Township, **Monroe County**, receiving stream: Marshall Creek. Application received April 25, 2008. Renewal issued June 10, 2008.

7975SM1C10 and NPDES Permit No. PA0045047. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage in Hilltown Township, **Bucks County**, receiving stream: UNT to Morris Run. Application received April 25, 2008. Renewal issued June 10, 2008.

58080814. Todd W. Conroe, Sr., (R. R. 1, Box 1033, Nicholson, PA 18446), commencement, operation and restoration of a quarry operation in Lenox Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received February 7, 2008. Permit issued June 12, 2008.

58070864. Kevin Millard, (R. R. 2, Box 2128, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Jessup Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received October 26, 2007. Permit issued June 12, 2008.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

21084134. Warrens Excavating & Drilling, Inc., P. O. Box 1022, Honey Brook, PA 19344-0902, blasting activity permit issued for residential development in Hampden Township, **Cumberland County**. Blasting activity permit end date is May 1, 2009. Permit issued June 2, 2008.

21084135. Douglas Explosives, Inc., P. O. Box 77, Philipsburg, PA 16866-0077, blasting activity permit issued for residential development in Upper Allen Township, **Cumberland County**. Blasting activity permit end date is June 3, 2009. Permit issued June 4, 2008.

01084108. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for residential development in Cumberland Township, **Adams County**. Blasting activity permit end date is June 30, 2009. Permit issued June 4, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

36084168. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Newport Square Subdivision in Warwick Township and Lititz Borough, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 9, 2008.

45084126. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Highland Estates in Pocono Township, **Monroe County** with an expiration date of June 30, 2009. Permit issued June 9, 2008.

45084127. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Twin Lake Estates in Smithfield Township, **Monroe County** with an expiration date of June 30, 2009. Permit issued June 9, 2008.

45084128. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Lake in the Pines in Middle Smithfield Township, **Monroe County** with an expiration date of June 30, 2009. Permit issued June 9, 2008.

48084108. Austin Powder Company, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Hanover Corporate Center in Hanover and Lower Nazareth Townships, **Northampton County** with an expiration date of December 31, 2009. Permit issued June 9, 2008.

52084112. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Hemlock Farms in Blooming Grove, Dingman and Porter Townships, **Pike County** with an expiration date of June 30, 2009. Permit issued June 9, 2008.

52084113. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for a single dwelling on Timothy Lake Road in Lehman Township, **Pike County** with an expiration date of June 6, 2009. Permit issued June 9, 2008.

64084105. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Wallenpaupack Estates in Paupack Township, **Wayne County** with an expiration date of June 30, 2009. Permit issued June 9, 2008.

67084118. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for The Orchards in Hellam Township, **York County** with an expiration date of June 1, 2009. Permit issued June 9, 2008.

67084119. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Winter Ridge in Lower Windsor Township, **York County** with an expiration date of June 1, 2009. Permit issued June 9, 2008.

52084111. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Lake in the Clouds West in Greene Township, **Pike County** with an expiration date of June 1, 2009. Permit issued June 10, 2008.

67084001. Kinsley Construction Company, (231 Main Street, Loganville, PA 17432) and D. C. Guelich Explosives, (1442-18 Hollow Road, Clearfield, PA 16830), construction blasting for SR 0214-006 Project in Springfield Township, **York County** with an expiration date of July 1, 2009. Permit issued June 11, 2008.

06084112. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Brookfield Manor in Sinking Spring Borough, **Berks County** with an expiration date of June 1, 2009. Permit issued June 11, 2008.

06084113. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for The Hills at Woodgate in Exeter Township, **Berks County** with an expiration date of June 1, 2009. Permit issued June 11, 2008.

13084102. Austin Powder Company, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting at Penns Peak in Franklin Township, **Carbon County** with an expiration date of June 4, 2009. Permit issued June 11, 2008.

36084169. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Windy Hill in West Lampeter Township, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 11, 2008.

36084170. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Hunters Ridge in West Lampeter Township, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 11, 2008.

36084171. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Kolbacre Ridge in East Lampeter Township, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 11, 2008.

36084174. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Penns Crossing in Manheim Township, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 11, 2008.

36084176. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Brighton Development in Manheim Township, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 11, 2008.

15084108. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for CVS Frazer in East Whiteland Township, **Chester County** with an expiration date of June 1, 2009. Permit issued June 12, 2008.

22084106. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Wyndhurst Manor in Lower Paxton Township, **Dauphin County** with an expiration date of June 1, 2009. Permit issued June 12, 2008.

22084107. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for The Preserve at Bow Creek in East Hanover Township, **Dauphin County** with an expiration date of June 1, 2009. Permit issued June 12, 2008.

36084172. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Hampton Chase in Manor Township, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 12, 2008.

36084175. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Farmington Way in Warwick Township, **Lancaster County** with an expiration date of June 1, 2009. Permit issued June 12, 2008.

38084113. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Creekside Development in North Cornwall Township, **Lebanon County** with an expiration date of June 1, 2009. Permit issued June 12, 2008.

64084106. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting at Honesdale High School in Honesdale Borough, **Wayne County** with an expiration date of June 7, 2009. Permit issued June 13, 2008.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-1015. New Hanover Township, 2943 North Charlotte Street, Gilbertsville, PA 19525-9718, New Hanover Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the Westwood Maguire Tract Stream Relocation Project:

1. To relocate 240 linear feet of a UNT to the West Branch of Swamp Creek under a roadway widening

project associated with the construction of an adjacent residential subdivision situated southeast of Rhoads Road.

2. Work will include the placement of fill and associated grading with the existing stream and to excavate and perform grading associated with the construction of the new relocated stream.

The site is located on the east side of Rhodes Road and ends where the road crosses over the West Branch of Swamp Creek in New Hanover Township, Montgomery County (Sassamansville, PA Quadrangle N: 5.04 inches; W: 13.02 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

E09-917. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Tincum Township, **Bucks County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following activities across a UNT to Tincum Creek (EV) associated with the Red Hill Road bridge replacement and roadway improvement project:

1. To remove an existing simple span bridge and to construct and maintain, in its place, a 53-foot long single span bridge and associated rip-rap impacting 0.07 acre of EV wetland (PEM). The proposed structure will have a clear span of 49 feet and an underclearance of 5.56 feet.

2. To extend an existing 42-foot long, 24-inch diameter RCP culvert located approximately 70 feet northwest of the proposed bridge associated with approach roadway widening. The culvert will be extended approximately 9.5 feet on its downstream side.

3. To construct and maintain a temporary cofferdam associated with the diversion of stream flow through the project area.

The project will permanently impact approximately 0.03 acre of wetlands and temporarily impact 0.04 acre of wetlands. The project is located approximately 500 feet north of the intersection of Red Hill Road (SR 1009) and Hollow Horn Road in Tincum Township, Bucks County (Bedminster, PA USGS Quadrangle N: 15.36 inches; W: 0.06 inch).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

E09-915. Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Bedminster Township, **Bucks County**, United States Army Corps of Engineers, Philadelphia District.

To replace the existing three-span 73 feet long Kellers Church Road Bridge with a single-span 78.5 feet bridge over Deep Run (WWF). The bridge replacement involves the following water obstruction and encroachments:

1. To excavate approximately 118 square feet of streambed and conduct grading to remove center piers associated with existing bridge and to return the streambed to original grade.

2. To excavate approximately 26 square feet within the stream to accommodate the replacement of existing abutments and piers.

3. To construct in place rock slope protection to control upstream meandering of the stream at the designated areas as per the design drawings.

4. To construct a temporary road crossing to facilitate the easy access across the stream during construction.

5. To provide for and place within the stream and at various other areas within the floodway sandbags cofferdams, concrete barriers devices, J-hook vanes and other auxiliary water control structures to facilitate the construction design scheme.

6. To construct approximately 60 linear feet of rip rap scour protection at the entrance and exit points of the proposed bridge abutments as energy dissipaters.

The project will permanently impact approximately 241 linear feet of stream, fill in a net area of approximately 745 cubic yards of floodway and temporarily impact 417 linear feet of stream. The project is located approximately 159 feet south of the Meadow Lane and Kellers Church Road intersection in Bedminster Township, Bucks County (Bedminster, PA Quadrangle N: 6.81 inches; W: 7.04 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-443. Mark and Mary Stern, 221 West Main Street, Lock Haven, PA 17745. Water Obstruction and Encroachment Joint Permit Application for Proposed private residence on Lot 731, Section 14c in Treasure Lake, Sandy Township, **Clearfield County**, United States Army Corps of Engineers, Pittsburgh District (Sabula, PA Quadrangle N: 10.45 inches; W: 15.15 inches).

The applicant is authorized to place and maintain fill within 0.04 acre of PEM/PFO wetlands for the purposes of constructing a single-family residence within the existing Treasure Lake Development. The watershed has a Chapter 93 water use protection designation of CWF and the wetlands are classified as "other wetlands" by the Department of Environmental Protection (Department). Wetland replacement by the permittee will not be required as the wetland impacts are de minimis.

E19-270. Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. SR 42-047 Intersection Improvement Project in Hemlock and Mt. Pleasant Townships, **Columbia County**. Susquehanna River Basin District (Bloomsburg, PA Quadrangle N: 4.89 inches; W: 14.48 inches).

To replace the existing SR 4009 (Millville Road) bridge over Little Fishing Creek and reconstruction of the intersection (SR 0042 and SR 4009) just north of the bridge. Improvement of this intersection will also involve the addition of a traffic signal and highway widening for additional lanes on SR 0042 and SR 4009. Additionally, the intersection of existing township road, T-360 (Creek Road) with SR 0042 will be eliminated with construction of a new cul-de-sac on T-360 near the existing intersection and the profile on SR 0042 (Mall Boulevard) will be adjusted to improve sight distance.

The intent of the project is to improve motorist safety, increase the capacity of the intersection (reduce congestion) and update the existing bridge, which is deteriorating and obsolete. The various safety improvements in-

clude: the addition of two dedicated left turn lanes on northbound SR 4009 to southbound SR 0042, a dedicated right turn lane on northbound SR 0042 to southbound SR 4009, the addition of a traffic signal, intersection lighting, a wider bridge, access controls at two properties, constructing a cul-de-sac to eliminate the Creek Road intersection and improving the sight distance by modifying the existing crest vertical curve on Mall Boulevard. Also included will be the installation of new drainage facilities and the construction of a stormwater management basin to be located between Mall Boulevard and the proposed Creek Road cul-de-sac.

This project proposes to have a minimal impact on Little Fishing Creek, which is designated a CWF. This project does propose to permanently impact 0.276 acre of jurisdictional wetlands. Mitigation for the permanent impact will be made by payment to the Pennsylvania Wetlands Replacement Project. This permit also includes 401 Water Quality Certification.

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

E02-1567. Department of Transportation, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. To place fill with a drainage area in Marshall Township, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Mars, PA Quadrangle N: 4.5 inches; W: 13.5 inches, Latitude: 40° 39' 18"; Longitude: 80° 5' 12" to N: 3.1 inches; W: 14.3 inches, Latitude: 40° 39' 18"; Longitude 80° 5' 12" to N: 3.1 inches; W: 124.3 inches, Latitude: 40° 38' 52"; Longitude: 80° 6' 52"). To place and maintain fill in 320 feet of Brush Creek (WWF) floodway with a drainage area of 5 square miles, place and maintain fill in 0.036 acre of PEM wetland, relocate 124 feet of a UNT to Brush Creek with a drainage area of 130 acres, a temporary crossing for the construction of the stream relocation and associated stormwater outfalls. The applicant has provided wetland mitigation in the form of a payment to the Wetland Replacement Fund. The project is associated with the road widening and improvements needed for the Tech 21 Partners Research Park.

E02-1569. Allegheny County Airport Authority, Landside Terminal, 4th Floor, Mezzanine Level, Pittsburgh, PA 15231-0370. To construct a culvert and place fill in wetlands in Findlay Township, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Aliquippa, PA Quadrangle N: 1.3 inches; W: 2.2 inches, Latitude: 40° 30' 21"; Longitude: 80° 15' 18"). To construct and maintain and an approximately 200-ft. long stream enclosure, consisting of a 60-inch diameter culvert and to place and maintain fill in adjacent wetlands in association with extending Halverson Drive. These structures will affect approximately 274-ft. of a UNT within the Montour Run Watershed (TSF) and 0.33 acre of wetland (PEM). In addition, to construct and maintain a 42-inch diameter culvert and to place and maintain fill in adjacent watercourses and associated wetlands in association with providing roadway access from Clinton Road to the Dick's Sporting Goods Corporate Campus. These structures will affect approximately 366-ft. of unnamed watercourses within the Raredon Run Watershed (WWF) and 0.02 acre of wetland (PEM). The construction and maintenance of interior roads, retaining walls, embankments, a stormwater management basin, an airplane hanger and other associated infrastructure for the new headquarters complex will affect an additional 338-ft. of watercourse and 0.06 acre of wetland (PEM) within these

two watersheds. The project is located on the south side of Business Route 60, just south from the intersection of Business Route 60 and Moon Clinton Road (Aliquippa, PA Quadrangle N: 1.3 inches; W: 2.2 inches, Latitude: 40° 30' 21"; Longitude: 80° 15' 18") and will permanently and cumulatively impact 0.41 acre of wetlands (PEM) and 978 linear feet of watercourse. These impacts will be compensated for, by 152-ft. of stream mitigation along Raredon Run Road (Aliquippa, PA Quadrangle N: 8.53 inches; W: 7.14 inches, Latitude: 40° 32' 49"; Longitude: 80° 18' 5") and 826-ft of stream mitigation along Raccoon Creek Road (Aliquippa, PA Quadrangle N: 8.93 inches; W: 9.42 inches, Latitude: 40° 32' 57"; Longitude: 80° 19' 4") and 0.41 acre of replacement wetland (PEM) at the permittee's site 10.2 wetland replacement area (Clinton, PA Quadrangle N: 16.6 inches; W: 3.28 inches, Latitude: 40° 27' 59"; Longitude: 80° 16' 25"). In addition, additional utility lines will be extended through an existing right-of-way access across Raredon Run and approximately 0.3 acre of adjacent wetland. Trench plugs will be installed along wetland crossings. After construction, this area will be restored to original grade.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D14-120EA. Ferguson Township, 3147 Research Drive, State College, PA. Ferguson Township, **Center County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Ferguson Township Debris Basin 1 Dam across Slab Cabin Run (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 210 feet of stream channel. The dam is located approximately 750 feet north of the intersection of SR 45 and SR 26 (Pine Grove Mills, PA Quadrangle Latitude: 40° 44' 09"; Longitude: 77° 53' 08").

D21-021EA. Department of Corrections, 2120 Lisburn Road, Camp Hill, PA 17011. Lower Allen Township, Cumberland County, Fairview Township, **York County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Upper Mill Dam across Yellow Breeches Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,500 lineal feet of stream channel. The dam is located approximately 3,000 feet southeast of the intersection of Lisburn and Spanglers Mill Roads (Lemoyne, PA Quadrangle Latitude: 40° 12' 36"; Longitude: 76° 54' 24").

D26-128EA and D26-129EA. Western Pennsylvania Conservancy, Route 381, Mill Run, PA 15464. Stewart Township, **Fayette County**, United States Army Corps of Engineers, Pittsburgh District.

Project proposes to breach and remove Upper Bear Run Dam and Lower Bear Run Dam across Bear Run (EV) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The dams are also being removed to eliminate a barrier to resident fish species. The project will restore approximately 200 feet of stream channel. The dams are located approximately 1.3 miles northeast of the intersection of SR 381 and Maple Hill Road (SR 2017) (Mill Run, PA Quadrangle Latitude: 39° 53' 57"; Longitude: 79° 27' 31").

D67-481EA. Woodhaven Building & Development, Inc., 4175 Hanover Pike, Manchester, MD 21102. Penn and West Manheim Townships, **York County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove an unnamed dam across Indian Run (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 550 lineal feet of stream channel. The dam is located approximately 1,300 feet northwest of the intersection of Blue Hill and Beck Mill Roads (Hanover, PA Quadrangle Latitude: 39° 45' 48"; Longitude: 76° 58' 54").

[Pa.B. Doc. No. 08-1202. Filed for public inspection June 28, 2008, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: "Technical Guidance"). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2008.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Interim Final Guidance

DEP ID: 383-0400-114. Title: Pennsylvania Capability Enhancement Program. Description: This document provides guidance to all community, nontransient noncommunity and transient drinking water systems, as well as the Department's staff on the guidelines and implementation of Pennsylvania's Capability Enhancement Program. The purpose of this document is to establish a rational methodology to implement, track and allocate appropriate resources needed to meet the Federal requirements for a state capacity development strategy for all public water systems. Substantive revisions are proposed to the guidance in order to facilitate more effective use of grant funds from the United States Environmental Protection

Agency by adding source water protection as a component of the program and to incorporate principles for sustainable infrastructure. Written Comments: The Department is seeking comments on the substantive revisions to interim final technical guidance No. 383-0400-114. Interested persons may submit written comments on this guidance document by July 28, 2008. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Veronica Kasi, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, P. O. Box 8467, Harrisburg, PA 17105-8467, vbkasi@state.pa.us. Contact: Questions regarding the draft technical guidance document should be directed to Veronica Kasi at (717) 772-4053, vbkasi@state.pa.us. Interim Final Effective Date: June 28, 2008.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-1203. Filed for public inspection June 27, 2008, 9:00 a.m.]

Hybrid Electric Vehicle Rebate Program

The Department of Environmental Protection (Department) announces an opportunity for individuals to qualify for rebates under the Department's Hybrid Electric Vehicle Rebate Program. The program, authorized through the Alternative Fuel Incentive Act (Act 178 of 2004), provides \$500 rebates to assist with the incremental costs of purchasing or leasing a new hybrid electric vehicle. The total of both the EPA city miles per gallon (MPG) and the EPA highway MPG must meet or exceed 55 MPG to achieve the fuel efficiency requirements. The hybrid vehicle must also have a carbon footprint of less than 7.0 tons/year of CO₂ as accounted by www.fueleconomy.gov. The program was established to help reduce the Commonwealth's dependence on imported oil and to improve the environmental quality by using alternative fuels.

To qualify for the \$500 rebate, the hybrid electric vehicle must be registered in Pennsylvania and primarily operated within the Commonwealth. A list of eligible vehicles may be obtained from the Department's web site at www.depweb.state.pa.us (DEP Keyword: "Hybrid Vehicle Rebates"). The rebates will be offered on a first-come, first-served basis as long as funds are available. A total of \$1.5 million is available for allocation under the program. Rebate request forms and required documentation must be postmarked no later than 6 months after the vehicle is purchased or leased.

Rebate forms, along with additional information about the program, may be obtained on the Department's web site at www.depweb.state.pa.us (DEP Keyword: "Alternative Fuels") or by contacting the Hybrid Electric Vehicle Program at (866) 294-3854, (717) 214-3492 or epafinfo@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-1204. Filed for public inspection June 27, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Clinical Nephrology Associates, Ltd. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Clinical Nephrology Associates, Ltd. has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 3.7-2.4.2.1(1) (relating to phase II recovery), 3.7-2.5.1 (relating to restricted corridor control station) and 3.7-2.5.7.4 (relating to stretcher storage).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 08-1205. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application of Clinical Nephrology Associates, Ltd. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Clinical Nephrology Associates, Ltd. has requested an exception to the requirements of 28 Pa. Code §§ 551.3 and 553.31(a) (relating to definitions; and licensure).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons VTT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

[Pa.B. Doc. No. 08-1206. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application of Eastern Pennsylvania Nephrology Associates, P.C. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Eastern Pennsylvania Nephrology Associates, P.C. has requested an exception to the requirements of 28 Pa. Code §§ 551.3 and 553.31(a) (relating to definitions; and licensure).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-1207. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application of The Hospital of the University of Pennsylvania/Radiation Oncology Unit for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Hospital of the University of Pennsylvania/Radiation Oncology Unit has requested an exception to the requirements of 28 Pa. Code § 127.31(b) (relating to policies and procedures).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-1208. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application of Metropolitan Nephrology Associates, P.C. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Metropolitan Nephrology Associates, P.C. has requested an exception to the requirements of 28 Pa. Code §§ 551.3 and 553.31(a) (relating to definitions; and licensure).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-1209. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application of Metropolitan Nephrology Associates, PC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Metropolitan Nephrology Associates, PC has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 3.7-2.4.2.1(1) (relating to phase II recovery), 3.7-2.5.1 (relating to restricted corridor control station) and 3.7-2.5.7.4 (relating to stretcher storage).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 08-1210. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application of Nephrology/Hypertension Associates of Lehigh Valley for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Nephrology/Hypertension Associates of Lehigh Valley has requested an exception to the requirements of 28 Pa. Code §§ 551.3 and 553.31(a) (relating to definitions; and licensure).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-1211. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application of The Washington Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Washington Hospital has requested an exception to the requirements of 28 Pa. Code § 107.26(b)(2) (relating to additional committees).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 08-1212. Filed for public inspection June 27, 2008, 9:00 a.m.]

Chronic Renal Disease Advisory Committee Meeting

The Renal Disease Advisory Committee, established by section 4 of the act of June 23, 1970 (P. L. 419, No. 14) (35 P. S. § 6204), will hold a public meeting on Friday, July 25, 2008, from 11 a.m. to 3 p.m. The meeting will be held in the Health and Welfare Building, Conference Room 327, Seventh and Forster Streets, Harrisburg, PA 17120.

For additional information, contact Carolyn S. Cass, Director, Division of Child and Adult Health Services, Department of Health, Health and Welfare Building, Seventh Floor, East Wing, Seventh and Forster Streets, Harrisburg, PA 17120 or (717) 772-2762. Persons who wish to attend this meeting, or a person with a disability

and desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Carolyn Cass at the previous number or for alternative formats such as audiotape, Braille or TDD contact V/TT at (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

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

[Pa.B. Doc. No. 08-1213. Filed for public inspection June 27, 2008, 9:00 a.m.]

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301 and 317 of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Wednesday, July 16, 2008, from 9 a.m. to 4 p.m. and Thursday, July 17, 2008, from 9 a.m. until 2 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Kenneth McGarvey at the previous number or at V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

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

[Pa.B. Doc. No. 08-1214. Filed for public inspection June 27, 2008, 9:00 a.m.]

Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Maximum Allowable Prices and Competitive Prices

Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) (relating to selection criteria for authorization and reauthorization; terms and conditions of participation) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties.

Maximum Allowable Prices

Effective July 1, 2008, through September 30, 2008, the maximum allowable prices the Department of Health (Department) will pay Type 1 Stores in Regular Cost Counties for WIC Allowable Foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.55
12 oz. Evaporated Milk	\$1.17
16 oz. Dry Milk	\$6.01
1 qt. Lactose Reduced Milk	\$2.11
1/2 gal. Kosher Milk	\$2.81
4 oz. Kosher Infant Juice	\$0.70
8 oz. Kosher Infant Cereal	\$1.98
1 doz. Grade A Eggs	\$2.02
1 lb. Fresh Carrots	\$1.08
14 to 20 oz. Canned Carrots	\$1.08
1 lb. Cheese	\$7.58
1 lb. Kosher Cheese	\$7.80
1 lb. Dry Beans or Peas	\$1.76
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$1.98
15 to 18 oz. Peanut Butter	\$3.19
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.12
6 oz. Cans Juice	\$1.61
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.05
4 oz. Gerber Infant Juice	\$0.70
32 oz. Alimentum Advance Ready-to-Feed Formula	\$8.91
16 oz. Alimentum Advance Powder Formula	\$25.27
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$13.86
13 oz. Isomil Advance Concentrate Formula	\$4.82
32 oz. Isomil Advance Ready-to-Feed Formula ..	\$5.97
12.9 oz. Isomil Advance Powder Formula	\$14.48
12.9 oz. Similac Go & Grow Soy	\$12.61
24 oz. Similac Go & Grow Soy	\$22.58
13 oz. Isomil with Iron Concentrate Formula	\$4.56
12.9 oz. Isomil with Iron Powder Formula	\$13.03
32 oz. Isomil DF Ready-to-Feed Formula	\$6.21
13 oz. Nutramigen Lipil Concentrate Formula ..	\$7.01
32 oz. Nutramigen Lipil Ready-to-Feed Formula ..	\$8.98
16 oz. Nutramigen Lipil Powder Formula	\$25.26
8 oz. Pediasure Ready-to-Feed Formula	\$1.80
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$1.84
13 oz. Similac Advance Concentrate Formula	\$4.32
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.25
12.9 oz. Similac Advance Powder Formula	\$13.20
12.9 oz. Similac Go & Grow Milk	\$12.44
24 oz. Similac Go & Grow Milk	\$22.27
13 oz. Similac with Iron Concentrate Formula ..	\$4.19
32 oz. Similac with Iron Ready-to-Feed Formula ..	\$5.60
12.9 oz. Similac with Iron Powder Formula	\$12.75
13 oz. Similac Sensitive Concentrate Formula ..	\$4.83
32 oz. Similac Sensitive Ready-to-Feed Formula ..	\$5.94
32 oz. Similac Sensitive RS Ready-to-Feed Formula	\$5.96
12.9 oz. Similac Sensitive Powder	\$14.62
12.8 oz. Similac Neosure Advance Powder Formula	\$15.03
32 oz. Similac Neosure Advance RTF Formula ..	\$7.40

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2008, through September 30, 2008, the Competitive Prices for WIC Authorization for Type 1 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.36
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.41
12 oz. Evaporated Milk	\$1.10
16 oz. Dry Milk	\$5.69
1 doz. Grade A Eggs	\$1.91
1 lb. Fresh Carrots	\$1.03
14 to 20 oz. Canned Carrots	\$0.96
1 lb. Cheese	\$6.69
1 lb. Kosher Cheese	\$7.73
1 lb. Dry Beans or Peas	\$1.54
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$1.98
15 to 18 oz. Peanut Butter	\$2.84
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.85
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$0.98
4 oz. Gerber Infant Juice	\$0.70
13 oz. Isomil Advance Concentrate Formula	\$4.82
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$5.97
12.9 oz. Isomil Advance Powder Formula	\$14.48
13 oz. Similac Advance Concentrate Formula	\$4.32
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.25
12.9 oz. Similac Advance Powder Formula	\$13.20

Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties.

Maximum Allowable Prices

Effective July 1, 2008, through September 30, 2008, the maximum allowable prices the Department will pay Type 2 Stores in Regular Cost Counties for WIC Allowable Foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.55
12 oz. Evaporated Milk	\$1.33
16 oz. Dry Milk	\$6.01
1 qt. Lactose Reduced Milk	\$2.17
1/2 gal. Kosher Milk	\$2.81
4 oz. Kosher Infant Juice	\$0.74
8 oz. Kosher Infant Cereal	\$2.05
1 doz. Grade A Eggs	\$2.07
1 lb. Fresh Carrots	\$1.08
14 to 20 oz. Canned Carrots	\$1.10
1 lb. Cheese	\$7.58
1 lb. Kosher Cheese	\$8.78
1 lb. Dry Beans or Peas	\$1.96
1 oz. Adult WIC Cereal	\$0.36
8 oz. Gerber Infant Cereal	\$2.05
15 to 18 oz. Peanut Butter	\$3.19

Maximum Allowable Price

<i>Description</i>	<i>Maximum Allowable Price</i>
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.31
6 oz. Cans Juice	\$1.61
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.11
4 oz. Gerber Infant Juice	\$0.74
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.43
16 oz. Alimentum Advance Powder Formula	\$26.86
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$14.44
13 oz. Isomil Advance Concentrate Formula	\$4.95
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$6.16
12.9 oz. Isomil Advance Powder Formula	\$14.83
12.9 oz. Similac Go & Grow Soy	\$12.66
24 oz. Similac Go & Grow Soy	\$22.67
13 oz. Isomil with Iron Concentrate Formula	\$4.81
12.9 oz. Isomil with Iron Powder Formula	\$13.88
32 oz. Isomil DF Ready-to-Feed Formula	\$6.34
13 oz. Nutramigen Lipil Concentrate Formula ...	\$7.30
32 oz. Nutramigen Lipil Ready-to-Feed Formula ..	\$9.20
16 oz. Nutramigen Lipil Powder Formula	\$26.93
8 oz. Pediasure Ready-to-Feed Formula	\$2.06
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$2.09
13 oz. Similac Advance Concentrate Formula	\$4.49
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.38
12.9 oz. Similac Advance Powder Formula	\$13.72
12.9 oz. Similac Go & Grow Milk	\$12.44
24 oz. Similac Go & Grow Milk	\$22.27
13 oz. Similac with Iron Concentrate Formula ...	\$4.23
32 oz. Similac with Iron Ready-to-Feed Formula ..	\$5.60
12.9 oz. Similac with Iron Powder Formula	\$13.20
13 oz. Similac Sensitive Concentrate Formula ...	\$5.21
32 oz. Similac Sensitive Ready-to-Feed Formula ..	\$6.18
32 oz. Similac Sensitive RS Ready-to-Feed Formula	\$6.32
12.9 oz. Similac Sensitive Powder	\$15.07
12.8 oz. Similac Neosure Advance Powder Formula	\$15.89
32 oz. Similac Neosure Advance RTF Formula ...	\$7.65

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2008, through September 30, 2008, the Competitive Prices for WIC Authorization for Type 2 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.36
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.41
12 oz. Evaporated Milk	\$1.24
16 oz. Dry Milk	\$5.69
1 doz. Grade A Eggs	\$1.98
1 lb. Fresh Carrots	\$1.05

<i>Description</i>	<i>Competitive Prices</i>
14 to 20 oz. Canned Carrots	\$1.00
1 lb. Cheese	\$6.69
1 lb. Kosher Cheese	\$8.67
1 lb. Dry Beans or Peas	\$1.73
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$2.05
15 to 18 oz. Peanut Butter	\$2.84
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.98
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.04
4 oz. Gerber Infant Juice	\$0.74
13 oz. Isomil Advance Concentrate Formula	\$4.95
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$6.16
12.9 oz. Isomil Advance Powder Formula	\$14.83
13 oz. Similac Advance Concentrate Formula	\$4.49
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.38
12.9 oz. Similac Advance Powder Formula	\$13.72

Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties.

Maximum Allowable Prices

Effective July 1, 2008, through September 30, 2008, the maximum allowable prices the Department will pay Type 3 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.55
12 oz. Evaporated Milk	\$1.33
16 oz. Dry Milk	\$6.01
1 qt. Lactose Reduced Milk	\$2.17
1/2 gal. Kosher Milk	\$2.81
4 oz. Kosher Infant Juice	\$0.77
8 oz. Kosher Infant Cereal	\$2.18
1 doz. Grade A Eggs	\$2.09
1 lb. Fresh Carrots	\$1.09
14 to 20 oz. Canned Carrots	\$1.10
1 lb. Cheese	\$7.58
1 lb. Kosher Cheese	\$8.78
1 lb. Dry Beans or Peas	\$1.96
1 oz. Adult WIC Cereal	\$0.37
8 oz. Gerber Infant Cereal	\$2.18
15 to 18 oz. Peanut Butter	\$3.19
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.31
6 oz. Cans Juice	\$1.61
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.11
4 oz. Gerber Infant Juice	\$0.77
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.43
16 oz. Alimentum Advance Powder Formula	\$26.99
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$14.44
13 oz. Isomil Advance Concentrate Formula	\$5.45
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$7.39
12.9 oz. Isomil Advance Powder Formula	\$16.09
12.9 oz. Similac Go & Grow Soy	\$12.66
24 oz. Similac Go & Grow Soy	\$22.67
13 oz. Isomil with Iron Concentrate Formula	\$5.41

<i>Description</i>	<i>Maximum Allowable Price</i>
12.9 oz. Isomil with Iron Powder Formula	\$14.74
32 oz. Isomil DF Ready-to-Feed Formula	\$8.19
13 oz. Nutramigen Lipil Concentrate Formula ...	\$7.79
32 oz. Nutramigen Lipil Ready-to-Feed Formula ..	\$9.20
16 oz. Nutramigen Lipil Powder Formula	\$28.36
8 oz. Pediasure Ready-to-Feed Formula	\$2.58
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$2.63
13 oz. Similac Advance Concentrate Formula	\$5.17
32 oz. Similac Advance Ready-to-Feed Formula ..	\$7.18
12.9 oz. Similac Advance Powder Formula	\$15.02
12.9 oz. Similac Go & Grow Milk	\$12.44
24 oz. Similac Go & Grow Milk	\$22.27
13 oz. Similac with Iron Concentrate Formula ...	\$4.60
32 oz. Similac with Iron Ready-to-Feed Formula ..	\$6.95
12.9 oz. Similac with Iron Powder Formula	\$14.64
13 oz. Similac Sensitive Concentrate Formula ...	\$5.21
32 oz. Similac Sensitive Ready-to-Feed Formula ..	\$6.63
32 oz. Similac Sensitive RS Ready-to-Feed Formula	\$7.50
12.9 oz. Similac Sensitive Powder	\$15.12
12.8 oz. Similac Neosure Advance Powder Formula	\$15.89
32 oz. Similac Neosure Advance RTF Formula ...	\$9.23

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2008, through September 30, 2008, the Competitive Prices for WIC Authorization for Type 3 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.36
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.41
12 oz. Evaporated Milk	\$1.25
16 oz. Dry Milk	\$5.69
1 doz. Grade A Eggs	\$1.98
1 lb. Fresh Carrots	\$1.08
14 to 20 oz. Canned Carrots	\$1.02
1 lb. Cheese	\$6.69
1 lb. Kosher Cheese	\$8.67
1 lb. Dry Beans or Peas	\$1.73
1 oz. Adult WIC Cereal	\$0.34
8 oz. Gerber Infant Cereal	\$2.18
15 to 18 oz. Peanut Butter	\$2.84
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.00
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.04
4 oz. Gerber Infant Juice	\$0.77
13 oz. Isomil Advance Concentrate Formula	\$5.45
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$7.39
12.9 oz. Isomil Advance Powder Formula	\$16.09
12.9 oz. Similac Advance Powder Formula	\$16.09
13 oz. Similac Advance Concentrate Formula	\$5.17
32 oz. Similac Advance Ready-to-Feed Formula ..	\$7.18

<i>Description</i>	<i>Competitive Prices</i>
12.9 oz. Similac Advance Powder Formula	\$15.02

Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties.

Maximum Allowable Prices

Effective July 1, 2008, through September 30, 2008, the maximum allowable prices the Department will pay Type 1 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.57
12 oz. Evaporated Milk	\$1.27
16 oz. Dry Milk	\$6.01
1 qt. Lactose Reduced Milk	\$2.15
1/2 gal. Kosher Milk	\$2.81
4 oz. Kosher Infant Juice	\$0.74
8 oz. Kosher Infant Cereal	\$2.03
1 doz. Grade A Eggs	\$2.20
1 lb. Fresh Carrots	\$1.09
14 to 20 oz. Canned Carrots	\$1.09
1 lb. Cheese	\$7.84
1 lb. Kosher Cheese	\$7.80
1 lb. Dry Beans or Peas	\$1.91
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$2.03
15 to 18 oz. Peanut Butter	\$3.38
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.30
6 oz. Cans Juice	\$1.61
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.24
4 oz. Gerber Infant Juice	\$0.74
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.18
16 oz. Alimentum Advance Powder Formula	\$26.21
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$14.39
13 oz. Isomil Advance Concentrate Formula	\$4.88
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$6.00
12.9 oz. Isomil Advance Powder Formula	\$14.68
12.9 oz. Similac Go & Grow Soy	\$12.81
24 oz. Similac Go & Grow Soy	\$22.93
13 oz. Isomil with Iron Concentrate Formula	\$4.61
12.9 oz. Isomil with Iron Powder Formula	\$13.28
32 oz. Isomil DF Ready-to-Feed Formula	\$6.32
13 oz. Nutramigen Lipil Concentrate Formula ...	\$7.17
32 oz. Nutramigen Lipil Ready-to-Feed Formula ..	\$9.02
16 oz. Nutramigen Lipil Powder Formula	\$26.02
8 oz. PediaSure Ready-to-Feed Formula	\$1.85
8 oz. PediaSure with Fiber Ready-to-Feed Formula	\$1.92
13 oz. Similac Advance Concentrate Formula	\$4.43
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.34
12.9 oz. Similac Advance Powder Formula	\$13.60
12.9 oz. Similac Go & Grow Milk	\$12.62
24 oz. Similac Go & Grow Milk	\$22.59
13 oz. Similac with Iron Concentrate Formula ...	\$4.23
32 oz. Similac with Iron Ready-to-Feed Formula ..	\$5.62
12.9 oz. Similac with Iron Powder Formula	\$12.99

<i>Description</i>	<i>Maximum Allowable Price</i>
13 oz. Similac Sensitive Concentrate Formula ...	\$4.94
32 oz. Similac Sensitive Ready-to-Feed Formula ..	\$6.10
32 oz. Similac Sensitive RS Ready-to-Feed Formula	\$6.14
12.9 oz. Similac Sensitive Powder	\$14.86
12.8 oz. Similac Neosure Advance Powder Formula	\$15.60
32 oz. Similac Neosure Advance RTF Formula ...	\$7.62

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2008, through September 30, 2008, the Competitive Prices for WIC Authorization for Type 1 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.40
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.41
12 oz. Evaporated Milk	\$1.17
16 oz. Dry Milk	\$5.69
1 doz. Grade A Eggs	\$2.09
1 lb. Fresh Carrots	\$1.06
14 to 20 oz. Canned Carrots	\$1.00
1 lb. Cheese	\$6.69
1 lb. Kosher Cheese	\$7.73
1 lb. Dry Beans or Peas	\$1.66
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$2.03
15 to 18 oz. Peanut Butter	\$2.99
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.97
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.11
4 oz. Gerber Infant Juice	\$0.74
13 oz. Isomil Advance Concentrate Formula	\$4.88
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$6.00
12.9 oz. Isomil Advance Powder Formula	\$14.68
13 oz. Similac Advance Concentrate Formula	\$4.43
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.34
12.9 oz. Similac Advance Powder Formula	\$13.60

Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties.

Maximum Allowable Prices

Effective July 1, 2008, through September 30, 2008, the maximum allowable prices the Department will pay Type 2 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.57
12 oz. Evaporated Milk	\$1.35
16 oz. Dry Milk	\$6.01
1 qt. Lactose Reduced Milk	\$2.21
1/2 gal. Kosher Milk	\$3.05
4 oz. Kosher Infant Juice	\$0.78
8 oz. Kosher Infant Cereal	\$2.18
1 doz. Grade A Eggs	\$2.20
1 lb. Fresh Carrots	\$1.14
14 to 20 oz. Canned Carrots	\$1.14
1 lb. Cheese	\$7.84
1 lb. Kosher Cheese	\$8.78
1 lb. Dry Beans or Peas	\$1.96
1 oz. Adult WIC Cereal	\$0.36
8 oz. Gerber Infant Cereal	\$2.18
15 to 18 oz. Peanut Butter	\$3.38
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.32
6 oz. Cans Juice	\$1.61
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.24
4 oz. Gerber Infant Juice	\$0.78
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.74
16 oz. Alimentum Advance Powder Formula	\$27.51
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$15.12
13 oz. Isomil Advance Concentrate Formula	\$5.24
32 oz. Isomil Advance Ready-to-Feed Formula ..	\$6.47
12.9 oz. Isomil Advance Powder Formula	\$15.48
12.9 oz. Similac Go & Grow Soy	\$13.21
24 oz. Similac Go & Grow Soy	\$23.58
13 oz. Isomil with Iron Concentrate Formula	\$5.00
12.9 oz. Isomil with Iron Powder Formula	\$14.29
32 oz. Isomil DF Ready-to-Feed Formula	\$6.34
13 oz. Nutramigen Lipil Concentrate Formula ..	\$7.51
32 oz. Nutramigen Lipil Ready-to-Feed Formula ..	\$9.20
16 oz. Nutramigen Lipil Powder Formula	\$27.39
8 oz. Pediasure Ready-to-Feed Formula	\$2.17
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$2.22
13 oz. Similac Advance Concentrate Formula	\$4.70
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.71
12.9 oz. Similac Advance Powder Formula	\$14.44
12.9 oz. Similac Go & Grow Milk	\$13.04
24 oz. Similac Go & Grow Milk	\$23.27
13 oz. Similac with Iron Concentrate Formula ..	\$4.35
32 oz. Similac with Iron Ready-to-Feed Formula ..	\$5.81
12.9 oz. Similac with Iron Powder Formula	\$13.61
13 oz. Similac Sensitive Concentrate Formula ..	\$5.21
32 oz. Similac Sensitive Ready-to-Feed Formula ..	\$6.51
32 oz. Similac Sensitive RS Ready-to-Feed Formula	\$6.56
12.9 oz. Similac Sensitive Powder	\$15.58
12.8 oz. Similac Neosure Advance Powder Formula	\$16.68
32 oz. Similac Neosure Advance RTF Formula ..	\$7.93

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2008, through September 30, 2008, the Competitive Prices for WIC Authorization for Type 2 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.40
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.64
12 oz. Evaporated Milk	\$1.27
16 oz. Dry Milk	\$5.79
1 doz. Grade A Eggs	\$2.09
1 lb. Fresh Carrots	\$1.12
14 to 20 oz. Canned Carrots	\$1.02
1 lb. Cheese	\$6.69
1 lb. Kosher Cheese	\$8.67
1 lb. Dry Beans or Peas	\$1.73
1 oz. Adult WIC Cereal	\$0.36
8 oz. Gerber Infant Cereal	\$2.18
15 to 18 oz. Peanut Butter	\$2.99
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.07
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.11
4 oz. Gerber Infant Juice	\$0.78
13 oz. Isomil Advance Concentrate Formula	\$5.24
32 oz. Isomil Advance Ready-to-Feed Formula ..	\$6.47
12.9 oz. Isomil Advance Powder Formula	\$15.48
13 oz. Similac Advance Concentrate Formula	\$4.70
32 oz. Similac Advance Ready-to-Feed Formula ..	\$6.71
12.9 oz. Similac Advance Powder Formula	\$14.44

Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties.

Maximum Allowable Prices

Effective July 1, 2008, through September 30, 2008, the maximum allowable prices the Department will pay Type 3 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.57
12 oz. Evaporated Milk	\$1.35
16 oz. Dry Milk	\$6.01
1 qt. Lactose Reduced Milk	\$2.28
1/2 gal. Kosher Milk	\$3.27
4 oz. Kosher Infant Juice	\$0.82
8 oz. Kosher Infant Cereal	\$2.34
1 doz. Grade A Eggs	\$2.20
1 lb. Fresh Carrots	\$1.14
14 to 16 oz. Canned Carrots	\$1.14
1 lb. Cheese	\$7.84
1 lb. Kosher Cheese	\$8.90
1 lb. Dry Beans or Peas	\$1.96
1 oz. Adult WIC Cereal	\$0.38
8 oz. Gerber Infant Cereal	\$2.34
15 to 18 oz. Peanut Butter	\$3.38

<i>Description</i>	<i>Maximum Allowable Price</i>
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.32
6 oz. Cans Juice	\$1.61
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.24
4 oz. Gerber Infant Juice	\$0.82
32 oz. Alimentum Advance Ready-to-Feed Formula	\$10.33
16 oz. Alimentum Advance Powder Formula	\$30.11
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$17.26
13 oz. Isomil Advance Concentrate Formula	\$6.03
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$8.26
12.9 oz. Isomil Advance Powder Formula	\$17.42
12.9 oz. Similac Go & Grow Soy	\$15.16
24 oz. Similac Go & Grow Soy	\$27.14
13 oz. Isomil with Iron Concentrate Formula	\$6.10
12.9 oz. Isomil with Iron Powder Formula	\$16.08
32 oz. Isomil DF Ready-to-Feed Formula	\$8.22
13 oz. Nutramigen Lipil Concentrate Formula ...	\$8.63
32 oz. Nutramigen Lipil Ready-to-Feed Formula ..	\$10.94
16 oz. Nutramigen Lipil Powder Formula	\$30.29
8 oz. PediaSure Ready-to-Feed Formula	\$2.64
8 oz. PediaSure with Fiber Ready-to-Feed Formula	\$2.63
13 oz. Similac Advance Concentrate Formula ...	\$5.59
32 oz. Similac Advance Ready-to-Feed Formula ..	\$8.04
12.9 oz. Similac Advance Powder Formula	\$16.51
12.9 oz. Similac Go & Grow Milk	\$15.07
24 oz. Similac Go & Grow Milk	\$26.76
13 oz. Similac with Iron Concentrate Formula ...	\$5.58
32 oz. Similac with Iron Ready-to-Feed Formula ..	\$7.91
12.9 oz. Similac with Iron Powder Formula	\$16.18
13 oz. Similac Sensitive Concentrate Formula ...	\$6.03
32 oz. Similac Sensitive Ready-to-Feed Formula ..	\$8.42
32 oz. Similac Sensitive RS Ready-to-Feed Formula	\$8.43
12.9 oz. Similac Sensitive Powder	\$17.38
12.8 oz. Similac Neosure Advance Powder Formula	\$19.19
32 oz. Similac Neosure Advance RTF Formula ...	\$9.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at, or below, the Competitive Prices listed for the store's peer group. Effective July 1, 2008, through September 30, 2008, the Competitive Prices for WIC Authorization for Type 3 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.53
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.88
12 oz. Evaporated Milk	\$1.27
16 oz. Dry Milk	\$5.91
1 doz. Grade A Eggs	\$2.09
1 lb. Fresh Carrots	\$1.12

<i>Description</i>	<i>Competitive Prices</i>
14 to 20 oz. Canned Carrots	\$1.08
1 lb. Cheese	\$6.69
1 lb. Kosher Cheese	\$8.67
1 lb. Dry Beans or Peas	\$1.73
1 oz. Adult WIC Cereal	\$0.38
8 oz. Gerber Infant Cereal	\$2.34
15 to 18 oz. Peanut Butter	\$2.99
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.07
6 to 6.5 oz. Chunk Light Tuna Packed in Water ..	\$1.11
4 oz. Gerber Infant Juice	\$0.82
13 oz. Isomil Advance Concentrate Formula	\$6.03
32 oz. Isomil Advance Ready-to-Feed Formula ...	\$8.26
12.9 oz. Isomil Advance Powder Formula	\$17.42
13 oz. Similac Advance Concentrate Formula	\$5.59
32 oz. Similac Advance Ready-to-Feed Formula ..	\$8.04
12.9 oz. Similac Advance Powder Formula	\$16.51

Persons with a disability who require an alternative format of this listing (for example, large print, audiotape, Braille), should contact Chris Harr, Department of Health, Division of WIC, 2150 Herr Street, 1st Floor, Harrisburg, PA 17105, (717) 783-1289 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

[Pa.B. Doc. No. 08-1215. Filed for public inspection June 27, 2008, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Additional Class of Payments to Qualifying Acute Care General Hospitals

The purpose of this notice is to announce the Department of Public Welfare's (Department) intent to distribute funding for Fiscal Year (FY) 2007-2008 disproportionate share hospital (DSH) payments to certain qualifying acute care general hospitals enrolled in the Medical Assistance (MA) Program that provide a high volume of MA births.

There will be no change to the qualifying criteria for determining eligibility for these one-time payments.

In making these one-time payments, the Department will ensure that no acute care general hospital will receive any DSH payment that is in excess of its hospital-specific DSH upper payment limit and the Commonwealth will not exceed its aggregate annual DSH allotment.

Fiscal Impact

For FY 2007-2008, the fiscal impact related to these payments is \$2.722 million (\$1.25 million in State funds).

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department at the following address Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg,

PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-563. (1) General Fund; (2) Implementing Year 2007-08 is \$1,250,000; (3) 1st Succeeding Year 2008-09 is \$0; 2nd Succeeding Year 2009-10 is \$0; 3rd Succeeding Year 2010-11 is \$0; 4th Succeeding Year 2011-12 is \$0; 5th Succeeding Year 2012-13 is \$0; (4) 2006-07 Program—\$0; 2005-06 Program—\$0; 2004-05 Program—\$0; (7) Facilities and Services Enhancements; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 08-1216. Filed for public inspection June 27, 2008, 9:00 a.m.]

Availability of the Low-Income Home Energy Assistance Program; Proposed State Plan and Public Hearing Schedule

Purpose of Notice

The Department of Public Welfare (Department) is making available for public review and comment the Fiscal Year (FY) 2008-2009 Low-Income Home Energy Assistance Program (LIHEAP) proposed State Plan. Comments on this notice and testimony received at public hearings will be used to formulate the Department's Final State Plan for using Federal funds in the FY 2008-2009 LIHEAP.

The Department has made the proposed State Plan available to the public through the Department web site at www.dpw.state.pa.us/ServicesPrograms/LIHEAP/. Individuals who would like copies can obtain them by contacting their local county assistance office.

The Department will hold three public hearings throughout this Commonwealth to allow testimony on the proposed State Plan and fulfill the Federal mandate for public input into the planning process. This mandate appears in Title XXVI (The Low-Income Home Energy Assistance Act of 1981) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35, 42 U.S.C.A. §§ 8621—8629) as amended by the Human Services Reauthorization Act of 1984 (Pub. L. No. 98-558), the Human Services Reauthorization Act of 1986 (Pub. L. No. 99-425), the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. No. 101-501), the National Institutes of Health Revitalization Act of 1993 (Pub. L. No. 103-43), the Low-Income Home Energy Assistance Amendments of 1994 (Pub. L. No. 103-252), the Coats Human Services Reauthorization Act of 1998 (Pub. L. No. 105-285) and the Energy Policy Act of 2005 (Pub. L. No. 109-58).

Public Hearing Schedule:

July 10, 2008
10 a.m.—1 p.m.
Philadelphia State Office Building
Rooms 602 and 604, 6th Floor
1400 Spring Garden Street
Philadelphia, PA

July 11, 2008
9:30 a.m.—1 p.m.
Health and Welfare Building
Room 812, 8th Floor
Commonwealth and Forster Streets
Harrisburg, PA

July 17, 2008
9 a.m.—12 p.m.
Allegheny County Courthouse
Gold Room, 4th Floor
436 Grant Street
Pittsburgh, PA

This notice shall take effect upon publication in the *Pennsylvania Bulletin*.

Public Comment

Persons who wish to testify on the proposed State Plan at a public hearing should arrange a time by telephoning (717) 772-7906. Persons from outside the Harrisburg area should call (800) 692-7462 or send a written request, including telephone number, to Tammy Sampson, Federal Programs and Program Management, Room 224, Willow Oak Building No. 42, DGS Annex Complex, P. O. Box 2675, Harrisburg, PA 17105-2675.

Persons with a disability who require auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

[Pa.B. Doc. No. 08-1217. Filed for public inspection June 27, 2008, 9:00 a.m.]

Payment for Nursing Facility Services; General Nursing Facility Supplemental Payment and County Nursing Facility MA Day One Incentive Payment

The purpose of this announcement is to provide advance notice that the Department of Public Welfare (Department) intends to make changes in its methods and standards for payment of Medical Assistance (MA) nursing facility services beginning in Fiscal Year (FY) 2008-2009.

Background

Under the act of September 30, 2003 (P. L. 169, No. 25) (Act 25) directed the Department to "implement a monetary assessment" on nonpublic licensed nursing facilities beginning July 1, 2003, and ending June 30, 2007, (hereafter referred to as the "Assessment Program"). See sections 801-A and 815-A of Act 25. The act of June 30, 2007 (P. L. 49, No. 16) (Act 16) directed the Department to continue the Assessment Program beginning FY 2007-2008 through 2011-2012 and also provided the Department with the authority to include the county nursing facilities in the Assessment Program beginning July 1, 2007. See sections 801-A, 802-A, 813-A and 815-A of Act 16.

The Commonwealth budget for MA long-term care services for FY 2008-2009 estimates that \$378.315 million will be derived from State revenue collected from the

Assessment Program and related Federal matching funds. A portion of the revenue generated from the assessment will enable the Department to continue to set rates for MA nursing facility services under the payment methodologies contained in 55 Pa. Code Chapters 1187 and 1189 (relating to nursing facility services; and county nursing facility services) and the Commonwealth's State Plan.

For general nursing facilities, in addition to reimbursing the MA allowable assessment cost, the Department intends to use a portion of the revenue to continue the supplemental payments as described in the Department's currently approved State Plan.

For county nursing facilities, a portion of the revenue generated by the assessment will be used to increase the funding level for the county nursing facility MA Day One Incentive Payments (MDOI) provided for in the Department's currently approved State Plan. To authorize the increase in the funding level for the MDOI for FY 2008-2009, the Department will submit a State Plan amendment to CMS.

If CMS approves the State Plan amendment for the increase in the MDOI payments, the Department will have the authority to pay the increased MDOI payments to county nursing facilities.

The increased MDOI payments to county nursing facilities will provide incentives to county nursing facilities to admit individuals who are MA eligible on the day of admission. Nursing facilities are often reluctant to admit residents whose only source of coverage for nursing facility services is MA. County nursing facilities have traditionally acted as the safety net for those residents who have been denied admission to other nursing facilities. The MDOI payments are intended to assure that county nursing facilities continue to provide access to care for these individuals. These payments provide an incentive to county nursing facilities to continue to operate as safety net providers for the poor and indigent citizens of Pennsylvania.

Fiscal Impact

As a result of this proposed policy change, the Department estimates that the annual aggregate assessment fees for nonexempt nursing facilities will total \$378.315 million for FY 2008-2009. All of the revenue derived from the assessment fees and associated Federal matching funds will be used to make payments to qualified MA nursing facility providers in accordance with applicable law and regulations.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Long-Term Living, Attention: Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with disability who require an auxiliary aid or service may submit comments using AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-558. No fiscal impact; (8) recommends adoption. The amount of \$378,315,000 which includes both increased revenue and matching Federal funds is expected to be generated for Fiscal Years 2008-09, 2009-10, 2010-11 and 2011-12.

[Pa.B. Doc. No. 08-1218. Filed for public inspection June 27, 2008, 9:00 a.m.]

Payment for Nursing Facility Services Provided by County and Nonpublic Nursing Facilities; Notice of Change in Methods and Standards of Setting Payment Rates

The purpose of this announcement is to provide advance notice that the Department of Public Welfare (Department) intends to change its methods and standards for payment of Medical Assistance (MA) nursing facility services for Fiscal Years (FY) 2008-2011 to authorize the continued use of a budget adjustment factor (BAF).

Proposed Change in Methods and Standards

Under the proposed State Plan Amendment, the Department will apply a BAF and make adjustments to county and nonpublic nursing facility payment rates in each fiscal year during the period of July 1, 2008, through June 30, 2011. The BAF for each fiscal year will limit the estimated Statewide day-weighted average payment rate for that fiscal year so that the aggregate increase in the Statewide day-weighted average payment rate over the period commencing July 1, 2005, and ending June 30 of the fiscal year in which the BAF is applied does not exceed the percentage rate of increase permitted by the funds appropriated for nursing facility services in the General Appropriations Acts for those fiscal years.

Once the Department determines the percentage rate of increase permitted by the General Appropriations Act for a fiscal year, the Department will use the following formula to determine the BAF which it will apply in setting rates for nonpublic nursing facilities:

- (nonpublic nursing facilities' share of total appropriated funds + estimated annual patient pay amount) divided by
- estimated acuity-adjusted annual payments.

The Department will use the following formula to determine the BAF which will apply in setting rates for county nursing facilities:

- $BAF = 1.00 + \text{the percent increase permitted by the General Appropriations Act.}$

If the General Assembly appropriates the level of funding set forth in the Governor's Proposed Budget for FY 2008-2009, the Department estimates that the Statewide day-weighted average payment rate over the 4-year period commencing July 1, 2005, and ending June 30, 2009, will increase in the aggregate by 10.12% from the Statewide day-weighted average payment rate for MA nursing facility services in FY 2004-2005. Based on this percentage rate of increase, the Department estimates that the BAF for nonpublic nursing facility payment rates will equal .90551 and the BAF for county nursing facility payment rates will equal 1.00.

For FY 2008-2009, a nonpublic nursing facility's case-mix per diem rate for an MA resident day will be the sum of the nursing facility's three net operating components and its capital rate component, multiplied by the nonpublic BAF. A county nursing facility's per diem rate for an MA resident will be the facility's July 1, 2007, per diem rate as calculated under Chapter 1189, Subchapter D (relating to rate setting) and § 1189.91(b) (relating to per diem rates for county nursing facilities) multiplied by the county BAF.

The Department will recalculate the BAF once the General Assembly has enacted a General Appropriations Act for FY 2008-2009 and will include the BAF in its notice announcing final MA nursing facility payment rates for the rate-setting year. For future rate years the Department will announce the BAF for nonpublic and county nursing facilities as part of the rate setting process.

Fiscal Impact

No fiscal impact is anticipated as a result of these changes in FY 2008-2009.

Public Comment

Interested persons are invited to submit written comments regarding the BAF formula to the Department of Public Welfare, Office of Long-Term Living, Attention: Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Services at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-555. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 08-1219. Filed for public inspection June 27, 2008, 9:00 a.m.]

Payment for Nursing Facility Services Provided by Nonpublic Nursing Facilities; Notice of Change in Methods and Standards of Setting Payment Rates

The purpose of this announcement is to provide advance notice that the Department of Public Welfare (Department) intends to amend the Commonwealth's Title XIX State Plan provisions to make changes in its methods and standards for payment of Medical Assistance (MA) nursing facility services for nonpublic nursing facilities for Fiscal Year (FY) 2008-2009.

Background

In July 2006, the Department changed its methods and standards for payments to county nursing facilities to recognize the costs that are incurred by county nursing facilities to provide nursing facility services to MA eligible residents as MA Program expenditures, so long as the costs are allowable under Department regulations and the costs are reported and certified by the county nursing facilities in a form and manner specified by the Department.

To implement this change, the Department promulgated 55 Pa. Code Chapter 1189 (relating to county nursing facility services) for county nursing facilities. Chapter 1189 sets forth the methods and standards that the Department uses to reimburse county nursing facilities. Corresponding amendments were also made to 55 Pa. Code Chapter 1187 (relating to nursing facility services), to make the chapter applicable solely to nonpublic nursing facilities. To mitigate the impact of these changes on the rates of nonpublic nursing facilities, the Department amended the case-mix payment system set forth in Chapter 1187 to continue to include county nursing facilities in the process of computing the peer group prices used to set per diem rates for nonpublic facilities for the 2006-2007 and 2007-2008 rate years.

The Department proposes to continue to include county nursing facilities in the process of computing the peer group prices used to set per diem rates for nonpublic facilities for rate year 2008-2009.

In addition, the current provisions contained in § 1187.97(2) (relating to rates for new nursing facilities with a change of ownership, reorganized nursing facilities, and former prospective payment nursing facilities) only addresses payment for county nursing facilities that privatize between July 1, 2006 and June 30, 2008. The Department is proposing to extend this time frame through FY 2008-2009.

To authorize the continuation of these provisions for FY 2008-2009, the Department will submit a State Plan Amendment (SPA) to the Federal Centers for Medicare and Medicaid Services (CMS).

Contingent upon the approval by CMS of the SPA, the Department will continue to include county nursing facilities in the process of computing the peer group prices used to set per diem rates for nonpublic facilities for rate year 2008-2009 and calculate rates for county nursing facilities that privatize as set forth in § 1187.97(2).

Fiscal Impact

No fiscal impact is anticipated as a result of the proposed rates in FY 2008-2009.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Long-Term Living, Attention Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days of publication of this notice in the *Pennsylvania Bulletin* will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-562. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 08-1220. Filed for public inspection June 27, 2008, 9:00 a.m.]

DEPARTMENT OF REVENUE

Adjustment of Program Service Revenue Amounts

In accordance with section 6(a)(5) of the Institutions of Purely Public Charity Act (act) (10 P. S. § 376(a)(5)), the Department of Revenue is required to adjust the annual program service revenue amount used as a benchmark in section 6(a)(1) and (2) of the act (10 P. S. § 376(a)(1) and (2)) for the purpose of asserting a rebuttable presumption.

The annual program service revenue amounts referred to in section 6(a)(1) and (2) of the act shall be increased by 1% as follows:

- (1) Effective July 1, 1999—Program Service Revenues—\$10,100,000.
- (2) Effective July 1, 2000—Program Service Revenues—\$10,201,000.
- (3) Effective July 1, 2001—Program Service Revenues—\$10,303,010.
- (4) Effective July 1, 2002—Program Service Revenues—\$10,406,040.
- (5) Effective July 1, 2003—Program Service Revenues—\$10,510,100.
- (6) Effective July 1, 2004—Program Service Revenues—\$10,615,201.
- (7) Effective July 1, 2005—Program Service Revenues—\$10,721,353.
- (8) Effective July 1, 2006—Program Service Revenues—\$10,828,567.
- (9) Effective July 1, 2007—Program Service Revenues—\$10,936,853.
- (10) Effective July 1, 2008—Program Service Revenues—\$11,046,222.

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 08-1221. Filed for public inspection June 27, 2008, 9:00 a.m.]

Realty Transfer Tax; Revised 2007 Common Level Ratio Real Estate Valuation Factor

The following real estate valuation factor is based on sales data compiled by the State Tax Equalization Board (Board) in 2007. This factor is the mathematical reciprocal of the actual common level ratio. For Pennsylvania Realty Transfer Tax purposes, this factor is applicable for documents accepted from July 1, 2008, to June 30, 2009. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument (61 Pa. Code § 91.102 (relating to acceptance of documents)).

<i>County</i>	<i>Revised Common Level Ratio Factor</i>
Venango	1.06

The change to the factor for Venango County, from the number previously published at 38 Pa.B. 3337 (June 14, 2008), resulted from an adjustment of the Common Level Ratio by the Board.

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 08-1222. Filed for public inspection June 27, 2008, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Contemplated Sale of Land No Longer Needed for Transportation Purposes

[Correction]

The Department of Transportation (Department) under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department located in Bradford Township, Clearfield County. The parcel contains 7,079.37 square feet of vacant land on SR 970, Woodland, PA and will be sold "as is." Estimated fair market value is \$3,500. Interested public entities are invited to express their interest in purchasing the site within 30-calendar days from the date of publication of this notice to: 1924 Daisy Street Extension, Clearfield, PA 16830, Attention: Right-of-Way.

[Pa.B. Doc. No. 08-1167. Filed for public inspection June 20, 2008, 2008, 9:00 a.m.]

Finding Indiana County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 575(b)), the Director of the Bureau of Design, as designated by the Secretary for Transportation, makes the following written finding:

The Federal Highway Administration (FHWA) and the Department of Transportation are planning to replace two bridges in Clymer Borough, Indiana County. The bridges carry SR 0403 over Two Lick Creek and Dixon Run.

The FHWA has determined that this project will have a de minimis use of two baseball fields, one owned by Clymer Little League and the other owned by Clymer Borough, which qualify as section 4(f)/section 2002 resources.

Therefore, a Programmatic Section 4(f) De minimis Use checklist has been prepared and approved to evaluate the potential environmental impacts caused by the subject project. It also serves as the section 2002 Evaluation to evaluate the potential impacts to section 4(f)/section 2002 resources caused by the subject project.

Based upon studies, there is no feasible and prudent alternative to the proposed action. Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation and the Programmatic Section 4(f) De minimis Use checklist.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code 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 the effects.

BRIAN G. THOMPSON, P. E.,
Director, Bureau of Design

[Pa.B. Doc. No. 08-1223. Filed for public inspection June 27, 2008, 9:00 a.m.]

Finding Synder County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 575(b)), the Director of the Bureau of Design, as designated by the Secretary for Transportation, makes the following written finding:

The Federal Highway Administration (FHWA) and the Department of Transportation (Department) are planning to remove and replace the existing bridge carrying SR 4007 over Middle Creek in Beaver Township, Snyder County. This project will require a minor amount of right-of-way from State Game Land No. 188.

The subject project is considered a Level 2 Categorical Exclusion in accordance with 23 CFR Part 771.117 (relating to categorical exclusions).

State Game Lands are a section 2002/section 4(f) resource. Impact to this resource will constitute a use of the section 2002/section 4(f) resource.

Based upon studies, there is no feasible and prudent 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 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 harm to the section 2002 resource.

BRIAN G. THOMPSON, P. E.,
Director, Bureau of Design

[Pa.B. Doc. No. 08-1224. Filed for public inspection June 27, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10:30 a.m., Thursday, June 19, 2008, and announced the following:

Approval Order

Public Meeting held
June 19, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Nancy Sabol Frantz, Esq., Abstained; Karen A. Miller; John F. Mizner, Esq.

*Department of Education—
Charter School and Cyber Charter School Services and
Programs for Children with Disabilities;
Regulation No. 6-308 (#2653)*

On November 28, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Education (Department). This rulemaking amends 22 Pa. Code Chapter 711. The proposed regulation was published in the December 8, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 16, 2008.

This regulation amends requirements for identification screening and evaluation of students with disabilities in charter schools and cyber charter schools.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. §§ 17-173-A(c), 17-1749-A(b)(8) and 17-1751-A) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1225. Filed for public inspection June 27, 2008, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-419	State Architects Licensure Board Requirements for Examination Eligibility	6/13/08	7/24/08
16A-5415	State Board of Pharmacy Supplies and Equipment	6/13/08	7/24/08

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1226. Filed for public inspection June 27, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority

Vincetian Home has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Vincentian Villa in Pittsburgh, PA. The initial filing was received on June 13, 2008, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1227. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application for Approval to Acquire Control

PMSLIC Insurance Company has filed an application to acquire control of Millennium Insurance Company and Pennsylvania Medical Reinsurance Company, both are a Pennsylvania domiciled stock casualty insurance company. The filing was made under the requirements set forth under the Insurance Holding Companies Act (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 30 days from the date of this issue of the *Pennsylvania Bulletin*. 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 to (717) 787-8557 or rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1228. Filed for public inspection June 27, 2008, 9:00 a.m.]

Application for Approval of Proposed Mergers

PMSLIC Insurance Company, a domestic stock casualty insurance company, has filed an application for approval to merge with Millennium Insurance Company and Pennsylvania Medical Reinsurance Company, both domestic stock casualty insurance companies, with PMSLIC Insurance Company surviving the merger. The filing was made under the requirements set forth under the Insurance

Holding Companies Act (40 P.S. §§ 991.1401—991.1413), Subchapter C of Chapter 19 of the Business Corporation Law (15 Pa.C.S. §§ 1921—1932), and the GAA Amendments Act of 1990 (15 P.S. §§ 21101—21404). Persons wishing to comment on the merger 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*. Written statement must include name, address and telephone number of the author, 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, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1229. Filed for public inspection June 27, 2008, 9:00 a.m.]

Exxon Service Station 9899; Hearing

Appeal of Exxon Service Station 9899 under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2005-0109(M); Doc. No. UT07-07-021

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A hearing is scheduled for September 10 and 11, 2008, beginning at 10 a.m. each day in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Motions preliminary to those at hearing, if any, must be filed on or before August 20, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Responses to preliminary motions, if any shall be filed on or before September 2, 2008.

On or before September 3, 2008, each party shall file with the Administrative Hearings Office and server on the opposing party a prehearing statement which shall contain: (a) names and address of witnesses along with the specialties of experts to be called; (b) a list of documents to be used at the hearing; and (c) a summary of special evidentiary or other legal issues. A jointly executed stipulation of facts may be presented for admission into the record at the beginning of the hearing.

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 Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1230. Filed for public inspection June 27, 2008, 9:00 a.m.]

RiverSource Life Insurance Company; Rate Increase Filing for LTC Form 30160A-PA; Rate Filing

RiverSource Life Insurance Company (previously called IDS Life Insurance Company) is requesting approval to increase the premium 10% on Long-Term Care policy form 30160A-PA. A total of 2,249 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to September 11, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at www.ins.state.pa.us. Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1231. Filed for public inspection June 27, 2008, 9:00 a.m.]

State Farm Fire and Casualty Company; Private Passenger Automobile; Rate and Rule Revisions; Rate Filing

On June 12, 2008, the Insurance Department (Department) received from State Farm Fire and Casualty Company a filing for rate level changes for private passenger automobile insurance.

The company requests an overall 3.0% increase amounting to \$3.1 million annually, to be effective September 29, 2008, for all business.

Unless formal administrative action is taken prior to August 11, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional office.

Interested parties are invited to submit written comments, suggestions or objections to Eric Zhou, Insurance Department, Insurance Product Regulation and Market

Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, gzhou@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1232. Filed for public inspection June 27, 2008, 9:00 a.m.]

State Farm Mutual Automobile Insurance; Private Passenger Automobile; Rate and Rule Revisions; Rate Filing

On June 12, 2008, the Insurance Department (Department) received from State Farm Mutual Automobile Insurance a filing for rate level changes for private passenger automobile insurance.

The company requests an overall 3.0% increase amounting to \$37.2 million annually, to be effective September 29, 2008, for all business.

Unless formal administrative action is taken prior to August 11, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional office.

Interested parties are invited to submit written comments, suggestions or objections to Eric Zhou, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, gzhou@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1233. Filed for public inspection June 27, 2008, 9:00 a.m.]

Saul D. Wolfson, M. D.; Hearing

Appeal of Saul D. Wolfson, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM07-07-049

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

The hearing scheduled for June 17, 2008, at 10 a.m. in the Administrative Hearings Office, Room 200, 901 North Seventh Street, Harrisburg, PA is postponed to August 12, 2008, at 10 a.m. The parties may present jointly executed stipulations, if any, at the beginning of the rescheduled hearing. The stipulations will be marked for identification as "JS1."

On or before July 30, 2008, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) names and address of witnesses along with the specialties of experts, if any, to be called; and (2) a list and description of documents to be used at the hearing. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

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 Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1234. Filed for public inspection June 27, 2008, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule for All Milk Marketing Areas; Container Costs

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area Nos. 1—6 on September 3, 2008, at 9:30 a.m. in Room 309 of the Department of Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning container costs and their effects on minimum wholesale and retail prices. Evidence will be based on a representative cross section of milk dealers doing business in each of the Milk Marketing Areas. Evidence will be based on July 2008 or later invoices.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on August 15, 2008, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on August 15, 2008, notification of their desire to be included as a party. Parties may indicate in their notices of appearance if alternate means of service, such as, email or fax, are acceptable. Notices of appearance filed electronically should be directed to deberly@state.pa.us.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on August 20, 2008, the petitioner shall file with the Board, in person or by mail, one original and eight copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on August 26, 2008, each responding party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on August 29, 2008, parties shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties who wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or wish the Board to take official notice of facts shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on August 21, 2008.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 08-1235. Filed for public inspection June 27, 2008, 9:00 a.m.]

Hearing and Presubmission Schedule Milk Marketing Area No. 5; General Price Hearing

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 5 on August 6, 2008, at 9:30 a.m. in Room 202 of the Department of Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive evidence to establish minimum wholesale and minimum retail prices in Milk Marketing Area No. 5.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on July 18, 2008, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the

Board on or before 4 p.m. on July 18, 2008, notification of their desire to be included as a party. Parties should indicate in their notices of appearance if alternate means of service, that is, email or fax, are acceptable.

The parties shall observe the following requirements for advance filing of witness information and exhibits:

1. By 4 p.m. on July 23, 2008, the petitioner shall file with the Board, in person or by mail, one original and eight copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on July 29, 2008, each responding party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on August 1, 2008, parties shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on July 24, 2008.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 08-1236. Filed for public inspection June 27, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made

with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by July 14, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-2008-2045163. Mahmoud Awad (4610 Jonestown Road, Apt. No. 46, Harrisburg, Dauphin County, PA 17109)—persons upon call or demand, in the Borough of State College, Centre County.

A-2008-2046313. Tell Logistics Corp. (18 Richard Road, Lititz, Lancaster County, PA 17543), a corporation of the Commonwealth—persons, in limousine service, from points in the County of Lancaster to points in Pennsylvania, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.*

A-2008-2045120. Hi-Line Limousine Service, Inc. (1800 Byberry Road, Suite 905, Huntingdon Valley, Montgomery County, PA 19006)—a corporation of the Commonwealth—in limousine, which is to be a transfer of all rights authorized under the certificate issued at A-00111376 to Ultimate Ride, Inc., subject to the same limitations and conditions. *Attorney:* David P. Temple, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.*

A-2008-2042566. Blaise Rolison, t/a Pioneer City Cab (P. O. Box 141, Waymart, Wayne County, PA 18472)—persons, in paratransit service, between points within an airline radius of 5 statute miles of Carbondale, Lackawanna County and within an airline radius of 5 statute miles of Honesdale, Wayne County.

Application of the following for approval to *begin operating as contract carriers for transportation of persons as described under each application.*

A-2008-2046085. Tafadzwa Y Mupfumbu (111 Macdade Boulevard, No. A3, Folsom, Delaware County, PA 19033)—contract carrier—persons, in paratransit service: (1) for Logisticare Solutions, LLC, from points in the City and County of Philadelphia, to points in Pennsylvania, and return; and (2) for Community Transit of Delaware County, Inc., from points in the County of Delaware, to points in Pennsylvania, and return.

Applications of the following for the approval of the *transfer of stock as described under each application.*

A-2008-2042214. Classic Limousine Transportation, LLC (1001 Third Avenue, Coraopolis, Allegheny County, PA 15108), a limited liability company of the Commonwealth—ownership transfer—for the approval of the transfer of all (100%) membership interest of the issued and outstanding membership interest from ATM Holdings, Inc. to Francis H. Azur. *Attorney:* William A. Gray, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219-2383.

A-2008-2045087. American Eagle Bus and Limo, Inc. (621 South Keyser Avenue, Taylor, PA 18517)—a corporation of the Commonwealth—for the approval of the transfer of the issued and outstanding stock, from John Weisenfluh (1 share), to Lackawanna Ambulance, Inc. *Attorney:* Christina M. Mellot, 5010 East Trindle Road, Suite 202, Mechanicsburg, PA 17050.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1237. Filed for public inspection June 27, 2008, 9:00 a.m.]

Water

A-2008-2046001 and A-2008-2046002. Aqua Pennsylvania, Inc., and Honesdale Consolidated Water Company. Joint application of Aqua Pennsylvania, Inc., and Honesdale Consolidated Water Company for approval of the transfer, by merger, of all of the stock and rights of Honesdale Consolidated Water Company to Aqua Pennsylvania, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 14, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc., Honesdale Consolidated Water Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Long, Niesen and Kennard, Suite 500, 212 Locust Street, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1238. Filed for public inspection June 27, 2008, 9:00 a.m.]

Water Service

A-2008-2046291 and A-2008-2046292. The York Water Company and Stahlman Enterprises, LLC (also known as Asbury Pointe Water and Sewer Company). Joint application of The York Water Company and Stahlman Enterprises, LLC (also known as Asbury Pointe Water and Sewer Company) for approval of: 1) the transfer by sale of certain public water facilities and rights from Stahlman Enterprises, LLC to the York Water Company; and 2) the abandonment by Stahlman Enterprises, LLC of water service to the public in East Manchester Township, York County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 14, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the

hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the Applicant's business address.

Applicant: The York Water Company, Stahlman Enterprises, LLC

Through and By Counsel: Michael W. Hassell, Esquire, Anthony D. Kanagy, Esquire, Post & Schell, PC, 17 North Second Street-12th Floor, Harrisburg, PA 17101-1601

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1239. Filed for public inspection June 27, 2008, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

Bureau of Professional and Occupational Affairs v. WW Ventures, Inc.; File No. 08-56-00213

On March 3, 2008, WW Ventures, license no. RR-000058-C, of Bromall and Marple, Delaware County and Southfield, MI, was indefinitely suspended for having violated a lawful Order of the Real Estate Commission in connection with an unpaid \$250 citation.

Individuals may obtain a copy of the order by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the State Real Estate Commissioner's (Commission) 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 Commission with a copy of their petition for review. The Commission contact for receiving service of the appeals is the previously-named Board Counsel.

ANNIE HANNA CESTRA,
Chairperson

[Pa.B. Doc. No. 08-1240. Filed for public inspection June 27, 2008, 9:00 a.m.]

Bureau of Professional and Occupational Affairs v. Ronald L. Wynn, Sr.; File No. 08-56-01100

On March 3, 2008, Ronald L. Wynn, Sr., license no. RS-279564-L, of Philadelphia, Philadelphia County, was indefinitely suspended for having violated a lawful order of the State Real Estate Commission in connection with an unpaid civil penalty.

Individuals may obtain a copy of the order by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the State Real Estate Commissioner's (Commission) 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 Commission with a copy of their petition for review. The Commission contact for receiving service of the appeals is the previously-named Board Counsel.

ANNIE HANNA CESTRA,
Chairperson

[Pa.B. Doc. No. 08-1241. Filed for public inspection June 27, 2008, 9:00 a.m.]

**Bureau of Professional and Occupational Affairs v.
James Monroe Company and James M. Zinkand;
File Nos. 08-56-01875 and 08-56-01876**

On March 3, 2008, James Monroe Company, license no. RB051313C, of Plymouth Meeting and Flourtown, Montgomery County and James M. Zinkand, license nos. RS098423A, AB041750A, RB041750A and RM041750A, of Ft. Washington and Flourtown, Montgomery County, had their licenses automatically suspended based on a payment totaling \$24,000 being made from the Real Estate Recovery Fund to satisfy the claim of Kwabena Badu, c/o Judith Szynter, Esquire who has uncollectible civil judgments against them.

Individuals may obtain a copy of the order by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the State Real Estate Commissioner's (Commission) 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 Commission with a copy of their petition for review. The Commission contact for receiving service of the appeals is the previously-named Board Counsel.

ANNIE HANNA CESTRA,
Chairperson

[Pa.B. Doc. No. 08-1242. Filed for public inspection June 27, 2008, 9:00 a.m.]

STATE TAX EQUALIZATION BOARD

2007 Common Level Ratios

The State Tax Equalization Board (Board) has established a Common Level Ratio for each county in the Commonwealth for the calendar year 2007. The ratios were mandated by Act 267-1982.

The law requires the Board to use statistically acceptable techniques, to make the methodology for computing ratios public and to certify, prior to July 1, the ratio to the Chief Assessor of each county each year.

The statistical technique which the Board used for the 2007 Common Level Ratio is to determine the arithmetic mean of the individual sales ratios for every valid sale received from the county for the calendar year 2007.

The methodology used is to include every valid sale with a ratio from 1% to 100% and compute a mean. Using this mean as a base, the Board has defined high and low limits by multiplying and dividing this computed mean by 4. Using these computed limits, the State Tax Equalization Board has utilized the valid sales, rejecting those sales, which exceed the limits. The resulting arithmetic mean ratio is the ratio which the State Tax Equalization Board is certifying as the Common Level Ratio for each county for 2007.

There is one exception to this procedure. The original mean ratio for those counties which have a predetermined assessment ratio for 2007 of 100% will utilize valid sales from 1% to 200%.

2007 COMMON LEVEL RATIOS

<i>County</i>	<i>Ratio</i>
ADAMS	22.0
*ALLEGHENY	86.5
ARMSTRONG	34.9
BEAVER	29.2
*BEDFORD	15.5
*BERKS	65.7
BLAIR	8.3
BRADFORD	35.8
*BUCKS	9.4
BUTLER	9.3
*CAMBRIA	33.2
CAMERON	35.1
CARBON	31.3
CENTRE	27.6
*CHESTER	51.7
CLARION	19.4
CLEARFIELD	17.6
CLINTON	22.2
COLUMBIA	26.6
CRAWFORD	33.6
*CUMBERLAND	79.3
*DAUPHIN	68.5
*DELAWARE	58.3
ELK	40.1
*ERIE	82.8
*FAYETTE	85.4
FOREST	23.8
*FRANKLIN	10.4
*FULTON	33.5
*GREENE	80.4
HUNTINGDON	11.6
*INDIANA	16.8
*JEFFERSON	48.9
*JUNIATA	15.8
*LACKAWANNA	15.0
*LANCASTER	73.6
*LAWRENCE	89.2

*LEBANON	13.5	SOMERSET	33.6
LEHIGH	27.0	*SULLIVAN	64.7
LUZERNE	4.8	SUSQUEHANNA	33.7
*LYCOMING	80.0	*TIOGA	73.0
*MCKEAN	88.7	*UNION	86.4
*MERCER	28.4	*VENANGO	94.5
MIFFLIN	43.7	WARREN	33.8
MONROE	12.8	WASHINGTON	13.2
*MONTGOMERY	50.8	*WAYNE	72.9
*MONTOUR	85.1	*WESTMORELAND	20.4
NORTHAMPTON	27.7	WYOMING	19.9
*NORTHUMBERLAND	21.7	*YORK	76.0
*PERRY	67.2		
PHILADELPHIA	28.2		
PIKE	16.2		
*POTTER	35.0		
SCHUYLKILL	37.3		
*SNYDER	19.8		

*** Counties with a Predetermined Assessment Ratio of 100%**

JAMES A. ZURICK,
Chairperson

[Pa.B. Doc. No. 08-1243. Filed for public inspection June 27, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 22—EDUCATION

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 14]

Special Education Services and Programs

The State Board of Education (Board) amends Chapter 14 (relating to special education services and programs) to read as set forth in Annex A. Notice of proposed rulemaking was published at 37 Pa.B. 2961 (June 30, 2007).

Statutory Authority

The Board acts under the authority of sections 1372 and 2603-B of the Public School Code of 1949 (code) (24 P. S. §§ 13-1372 and 26-2603-B).

Background

This final-form rulemaking establishes procedures for the identification of students who are disabled and in need of special education services and programs. This final-form rulemaking sets forth requirements and procedures for the delivery of those services and programs. As provided in the code, Chapter 14 does not apply to public charter schools or cyber charter schools. Instead these schools must follow the regulations of the Department of Education (Department) in Chapter 711 (relating to charter school services and programs for children with disabilities). See 38 Pa.B. 3593 (June 28, 2008).

A committee of the Board (Chapter 14 Committee) held five regional public roundtable meetings during December 2006 and January 2007, where stakeholders were provided the opportunity to share their concerns about special education. The Chapter 14 Committee then circulated draft regulations and conducted three regional public hearings to solicit public input on the draft regulations in March 2007. Notices of the meetings were distributed to those on the Board's stakeholder list, school district superintendents, intermediate unit executive directors, area vocational technical school directors and others through the Department's PennLINK email system. Legal notices of the hearings were published in regional newspapers, public notice was posted on the Board web site, and Sunshine Act notices were posted at the meeting sites. State education groups alerted their members and others about the meetings through e-mail distribution lists, web sites and publications.

Throughout the process of drafting the proposed and final-form rulemaking, the Board prepared and posted updated drafts on the Board's web site. The Chapter 14 Committee met in public meetings on November 14, 2006, and during 2007 on January 17, March 21, May 16, June 28, September 19, November 1 and November 14. Drafts of both the proposed and final-form rulemaking were reviewed and discussed at the meetings. Members of the public were provided opportunities to provide comments at these meetings.

Notice of proposed rulemaking was published at 37 Pa.B. 2961. The Board received comments from 257 individuals and organizations during the 30-day public comment period. In addition, the Board received an additional 53 letters and e-mails after the 30-day public comment period.

The revisions to Chapter 14 are designed to align the chapter with the Individuals With Disabilities Education Act (IDEA) (20 U.S.C.A. §§ 1400—1482), as amended December 3, 2004, related Federal regulations and applicable provisions of Pennsylvania statutes, court decisions and settlement agreements. The Federal regulations are available at www.idea.ed.gov/explore/home. The Board also addressed issues raised by stakeholders throughout its public outreach and review process.

The Board determined that many areas in the Federal rules are sufficiently detailed to provide for effective implementation and, therefore, are proposed to be incorporated by reference.

Additional language is found in this proposal when: 1) Federal rules require greater detail for implementation; 2) court decisions or settlement agreements applicable to the Commonwealth require regulation; 3) State statute requires regulation; and 4) the current practice of special education in this Commonwealth requires regulation.

This rulemaking will become part of the eligibility grant application to the United States Department of Education under IDEA ensuring the provision of a free, appropriate public education to students and children with disabilities. The Commonwealth must demonstrate a good faith effort to align its policies with IDEA and its implementing regulations to be eligible to receive Federal funds. Copies of the eligibility grant application will be made available to the public through the Department.

Summary of Public Comments and Responses to Proposed Rulemaking

The proposed rulemaking was published at 37 Pa.B. 2961 and was available on the Department's web site at www.pde.state.pa.us. The Board accepted formal written comments during a 30-day public comment period that began upon publication of the proposed rulemaking. The Senate Education Committee held a hearing on September 18, 2007, and the House Education Committee held hearings on September 27, 2007, and October 31, 2007. The Board also discussed the proposed rulemaking with numerous individuals, education groups and individual members of the General Assembly.

The Board received written comments directly from 257 individuals and organizations during the 30-day public comment period. An additional 53 comments were received after the comment period. Rather than provide a lengthy listing of the organizations and comments and responses in the preamble, the Board prepared a separate document that outlines the comments and the Board's response. This document was sent to each commentator and is posted on the Board's web page on the Department web site.

A summary of substantive changes is provided as follows:

§ 14.102 (relating to purpose)

The reference to 34 CFR 300.160 (relating to participation in assessments) is added to the list of Federal regulations that are adopted by reference. The reference was left out of the proposed regulation through an oversight.

§ 14.103 (relating to terminology related to Federal regulations)

Several comments were received that suggested that 34 CFR 300.518 (relating to child's status during proceed-

ings) be adopted by reference. The United States Court of Appeals for the Third Circuit issued a ruling in *Pardini v. Allegheny Intermediate Unit*, 420 F.3rd 181 (3rd Cir. 2005), cert. denied, 547 U.S. 1050 (2006) which conflicts with the Federal regulation. The Commonwealth must adhere to the ruling of the Federal court that has jurisdiction over the Commonwealth and its political subdivisions.

§ 14.105 (relating to personnel)

Numerous comments were received regarding the proposed qualifications for educational paraprofessionals. In response, the Board has added a definition of instructional paraprofessional and personal care assistant. The qualifications for instructional paraprofessionals are revised to, beginning in July 2010, require they meet one of the following: 1) Associates Degree; or 2) completed 2 years of college; or 3) show evidence of mastery of concepts through a State or local assessment. The provision also adds a requirement that paraprofessionals and personal care assistants complete 20 hours of continuing professional education annually.

Numerous comments were also received about the qualifications established for educational interpreters. The act of July 11, 2006 (P. L. 1092, No. 114) designated the Board with the responsibility to define qualifications for educational interpreters. The final-form rulemakings include a definition of educational interpreter; and they establish qualifications for educational interpreters to either provide evidence of a minimum score of 3.5 on the Educational Interpreter Assessment (EIPA), or be a qualified educational interpreter or qualified transliterator under the Sign Language Interpreter and Transliterator Registration Act (63 P. S. §§ 1725.1—1725.12). It should be noted that extensive professional development has been provided by the Department for the past several years to assist individuals serving as educational interpreters to improve their skills, and meet pending qualifications.

The Board, in consultation with the Department, will review the EIPA score requirement every 2 years. Educational interpreters shall also annually provide evidence of 20 hours of staff development related to interpreting.

The Board believes this standard provides a realistic balance to ensure that quality educational interpreter services are available to students across the Commonwealth who need them.

A considerable number of comments were made relating to the proposed caseload requirements. The final-form rulemakings include caseload language and a chart that closely follows § 14.142 (relating to terminology related to educational placement) caseload requirements in the current regulations, and continues to provide requirements as to the maximum number of students on a teacher's caseload. The term "caseload" continues to refer to the number of students whose Individualized Education Program (IEP) the teacher oversees. This is consistent with the manner in which the term caseload has been interpreted in the past.

The types of service (such as, learning support, autistic support, life skills support, and the like) remain the same. Changes include specific percentages (of time the student receives specialized instruction) to define itinerant and full time services. The terms "resource" and "part-time" are replaced with one term, "supplemental." This change was made because the language used for these terms in the current regulation is vague, subject to various interpretations and is tied to location of services provided to students.

The final-form language clarifies that special education services can be provided in a specialized setting (such as, special education classroom) and can also be provided within the regular education classroom and other settings, as appropriate as specified by the IEP.

§§ 14.123 and 14.124 (relating to evaluation; and reevaluation)

The regulations clarify that when a parent makes a verbal request for an evaluation or reevaluation of a child, the school shall provide the parent with a Permission to Evaluate/Reevaluate Form within 10-calendar days.

There were a considerable number of comments concerning the maximum number of days a school may take to complete the evaluation or reevaluation of a student based on a parent request. The Board reduced the current requirement of 60 school days to 60 calendar days, with the summer vacation period excluded. The Board believes this change is reasonable and appropriate given that the 60 school day requirement allows for up to one-third of the school year to elapse from the date the parent submits the Permission to Evaluate or Reevaluate Form. In addition, the 60-school day requirement is one of the longest permitted of the 50 states.

§ 14.133 (relating to positive behavior support)

A significant number of comments were received on this section. Many commentators expressed a preference for the draft language contained in the March 2007, draft regulations over that in the proposed regulations. In these final-form regulations, the Board inserted the word "positive" in the heading of the section to reflect the intent and focus of the new provisions. Eligible young children receiving services through early intervention services are now included in the protections provided in this section. The new provisions require that behavior support programs and plans be based on a functional assessment of behavior. Restraints are only to be considered as a measure of last resort, only after other less restrictive measures have been used. New provisions are added regarding positive behavior support plans. It adds a definition of restraints and provides that when restraints are used the school entity shall notify the parent and have the IEP team meet within 10-school days unless the parent waives the need for a meeting. The revised provision also establishes criteria as to when the use of restraints may be included in a student's or eligible young child's IEP. Finally, the revised language provides that subsequent to a referral to law enforcement for those who already have a positive behavior support plan that an updated functional behavior assessment be performed and the plan updated.

§ 14.155 (relating to range of services)

The caseload provision for early intervention services is to be based on the basis of the amount of time required to fulfill eligible young children's IEP. Class size may have up to six young children and up to a maximum of 11 if one additional teacher or paraprofessional is assigned to the classroom.

§ 14.162 (relating to impartial due process hearing and expedited due process hearing)

Nearly every commentator addressed the issue of due process hearings and the appeal panels. There was near universal support for the elimination of the two-tier system. The Board determined it was in the best interest of all parties to eliminate the use of the appeal panels and to strengthen the first level hearings process. The

Board included provisions that require the Department to provide annual reports to the Board so it can monitor the effectiveness of the single tier system.

Fiscal Impact and Paperwork Requirements

As the current two-tier system for due process hearings and appeals transitions to a single level system over the next 2 years, schools will save approximately \$958,855 annually. The responsibility for the cost of hearing officers, transcripts, travel and related administrative costs will shift from local school entities to become that of the Department. With elimination of the appeals panels, the Department will save approximately \$251,000 annually in hearing officer, transcription services, travel and related costs.

With a reduction in the time frame for completion of evaluations and reevaluations from 60 school days to 60 calendar days, it is estimated that 10 to 20 additional school psychologists will be needed Statewide to complete the evaluations by the deadline in school entities with a high percentage of students with disabilities. With average salary/benefit costs of approximately \$75,000, the cost to school entities will total approximately \$1,125,000.

The Department will receive savings from the elimination of the appeals panel system. The Department will save approximately \$251,000 annually once all the appeals filed before July 1, 2008, are addressed by the panels. However, with the elimination of the appeals panels, the Department assumes responsibility for the costs associated with the first-level due process hearings which include the cost of hearing officers, court reporters, travel and related costs which were previously paid by local school entities. When the appeals panel system is eliminated, the single-level system will cost the Department approximately \$976,000 annually.

The final-form rulemaking requires that the Department report annually to the Board on the activities and results of due process hearings. Since the Department already collects this information, the cost of generating the annual report to the Board is minimal.

The final-form rulemaking adds a requirement that school entities maintain data on the use of restraints. This data will be reviewed as part of existing compliance reviews conducted by the Department. The cost to implement and administer this new requirement is minimal.

Requirements for the access to instructional materials as required by IDEA are added. The resource center is funded by the Federal government.

Under this final-form rulemaking, educational interpreters providing services to students who are deaf or hearing impaired employed by intermediate units and school districts will be required to meet the qualification of scoring a 3.5 or above on the Educational Interpreter Performance Assessment and participate in at least 20 hours of continuing professional education in interpreting or transliterating services each year to continue to provide education interpreting services to students. A number of intermediate units and the Pennsylvania Training and Technical Assistance network provide training at no or relatively small cost to educational interpreters to assist them in meeting these requirements.

Effective Date

The final-form rulemaking will become effective on July 1, 2008.

Sunset Date

In accordance with its policy and practice regarding regulations, the Board will review the effectiveness of these regulations after 4 years. Therefore, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 19, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 2961, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees (Committees) on Education for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 4, 2008, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 5, 2008, and approved the final-form rulemaking.

Contact Person

The official responsible for information on this final-form rulemaking is Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787, TDD (717) 787-7367.

Findings

The Board finds that:

- (1) Public notice of the intention to adopt this final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The final-form rulemaking is necessary and appropriate for the administration of the code.

Order

The Board, acting under authorizing statute, orders that:

- (a) The regulations of the Board, 22 Pa. Code Chapter 14, are amended by amending §§ 14.101—14.104, 14.121—14.124, 14.131—14.133, 14.143, 14.151, 14.153, 14.155 and 14.162; by deleting §§ 14.141, 14.142 and 14.161; and by adding §§ 14.105—14.108, 14.125, 14.145, 14.146 and 14.163 to read as set forth in Annex A.
- (b) The Executive Director will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.
- (c) The Executive Director of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order is effective July 1, 2008.

JIM BUCKHEIT,
Executive Director

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 6-306 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS

GENERAL PROVISIONS

§ 14.101. Definitions.

In addition to the definitions in §§ 14.102 and 14.103 (relating to purposes; and terminology related to Federal regulations), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Early Intervention Services System Act (11 P. S. §§ 875-101—875-503).

Agency—A school entity, approved private school, State-operated program or facility or other public (excluding charter schools and cyber charter schools under Article XVII-A of the School Code (24 P. S. §§ 17-1701-A—17-1751-A)) or private organization providing educational services to children with disabilities or providing early intervention services.

Age of beginners—The minimum age established by the school district board of directors for admission to the district's first grade under § 11.15 (relating to admission of beginners).

Developmental areas—Cognitive, communicative, physical, social/emotional and self-help.

Developmental delay—A child who is less than the age of beginners and at least 3 years of age is considered to have a developmental delay when one of the following exists:

(i) The child's score, on a developmental assessment device, on an assessment instrument which yields a score in months, indicates that the child is delayed by 25% of the child's chronological age in one or more developmental areas.

(ii) The child is delayed in one or more of the developmental areas, as documented by test performance of 1.5 standard deviations below the mean on standardized tests.

ESY—Extended school year.

Early intervention agency—A school entity or licensed provider that has entered into a mutually agreed upon written arrangement (MAWA) with the Department to provide early intervention services to eligible young children in accordance with the act.

Early intervention services—As defined in section 103 of the act (11 P. S. § 875-103).

Eligible young child—A child who is less than the age of beginners and at least 3 years of age and who meets the criteria in 34 CFR 300.8 (relating to child with a disability).

IEP—Individualized education program.

IST—Instructional support team.

MDT—Multidisciplinary team.

Mutually agreed-upon written arrangement—As defined in section 103 of the act.

Parent—The term as defined in 34 CFR 300.30 (relating to parent) and also includes individuals appointed as foster parents under 55 Pa. Code § 3700.4 (relating to definitions).

School Code—The Public School Code of 1949 (24 P. S. §§ 1-101—27-2702).

School entity—A local public education provider such as a school district, area vocational-technical school or intermediate unit but excluding charter schools and cyber charter schools under Article XVII-A of the School Code.

Student with a disability—A child of school age who meets the criteria in 34 CFR 300.8 (relating to child with a disability).

§ 14.102. Purposes.

(a) It is the intent of the Board that children with disabilities be provided with quality special education services and programs. The purposes of this chapter are to serve the following:

(1) To adopt Federal regulations by incorporation by reference to satisfy the statutory requirements under the Individuals with Disabilities Education Act (20 U.S.C.A. §§ 1400—1482) and to ensure that:

(i) Children with disabilities have available to them a free appropriate public education which is designed to enable the student to participate fully and independently in the community, including preparation for employment or higher education.

(ii) Children with disabilities have access to the general curriculum, and participate in State and local assessments as established and described in Chapter 4 (relating to academic standards and assessment).

(iii) Children with disabilities are educated, to the maximum extent appropriate, with their nondisabled peers and are provided with supplementary aids and services.

(iv) School entities provide access to a full continuum of placement options.

(v) The rights of children with disabilities and parents of these children are protected.

(vi) The use of early intervening services promotes students' success in a general education environment.

(2) To adopt, except as expressly otherwise provided in this chapter, the requirements of 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities) as published at 71 FR 46540—46845 (August 14, 2006). The following sections are incorporated by reference:

(i) 34 CFR 300.4—300.6 (relating to act; assistive technology device; and assistive technology service).

(ii) 34 CFR 300.8(a) and (c) (relating to child with a disability).

(iii) 34 CFR 300.9—300.15 (relating to consent; core academic subjects; day, business day, school day; educational service agency; elementary school; equipment; and evaluation).

(iv) 34 CFR 300.17—300.20 (relating to free appropriate public education; highly qualified special education teachers; homeless children; and include).

(v) 34 CFR 300.22—300.24 (relating to individualized education program; individualized education program team; and individualized family service plan).

(vi) 34 CFR 300.27—300.30 (relating to limited English proficient; local educational agency; native language; and parent).

(vii) 34 CFR 300.32—300.37 (relating to personally identifiable; public agency; related services; scientifically based research; secondary school; and services plan).

(viii) 34 CFR 300.39 (relating to special education).

(ix) 34 CFR 300.41—300.45 (relating to State educational agency; supplementary aids and services; transition services; universal design; and ward of the State).

(x) 34 CFR 300.101 and 300.102 (relating to free appropriate public education (FAPE); and limitation—exception to FAPE for certain ages).

(xi) 34 CFR 300.104—300.108 (relating to residential placement; assistive technology; extended school year services; nonacademic services; and physical education).

(xii) 34 CFR 300.113 and 300.114(a)(2) (relating to routine checking of hearing aids and external components of surgically implanted medical devices; and LRE requirements).

(xiii) 34 CFR 300.115—300.117 (relating to continuum of alternative placements; placements; and nonacademic settings).

(xiv) 34 CFR 300.122 (relating to evaluation).

(xv) 34 CFR 300.130—300.144, regarding students enrolled by their parents in private schools.

(xvi) 34 CFR 300.148 (relating to placement of children by parents when FAPE is at issue).

(xvii) 34 CFR 300.160 (relating to participation in assessments).

(xviii) 34 CFR 300.172 (relating to access to instructional materials).

(xxix) 34 CFR 300.174 (relating to prohibition on mandatory medication).

(xx) 34 CFR 300.207 (relating to personnel development).

(xxi) 34 CFR 300.210—300.213 (relating to purchase of instructional materials; information for SEA; public information; and records regarding migratory children with disabilities).

(xxii) 34 CFR 300.224 (relating to requirements for establishing eligibility).

(xxiii) 34 CFR 300.226 (relating to early intervening services).

(xxiv) 34 CFR 300.300 and 300.301 (relating to parental consent; and initial evaluations).

(xxv) 34 CFR 300.302—300.307(a)(1) and (2) and (b) (relating to screening for instructional purposes is not evaluation; reevaluations; evaluation procedures; additional requirements for evaluations and reevaluations; determination of eligibility; and specific learning disabilities).

(xxvi) 34 CFR 300.308—300.311 (relating to additional group members; determining the existence of a specific learning disability; observation; and specific documentation for the eligibility determination).

(xxvii) 34 CFR 300.320—300.325 (relating to definition of individualized education program; IEP Team; parent participation; when IEPs must be in effect; development, review, and revision of IEP; and private school placement by public agencies).

(xxviii) 34 CFR 300.327 and 300.328 (relating to educational placements; and alternative means of meeting participation).

(xxix) 34 CFR 300.501—300.508 (relating to opportunity to examine records; parent participation in meetings; independent education evaluation; prior notice by the public agency, content of notice; procedural safeguards notice; electronic mail; mediation; filing a due process complaint; and due process complaint).

(xxx) 34 CFR 300.510—300.516 (relating to resolution process; impartial due process hearing; hearing rights; hearing decisions; finality of decisions, appeal; impartial review; timelines and convenience of hearings and reviews; and civil action).

(xxxi) 34 CFR 300.518(a), (b) and (d) and 300.519 (relating to child's status during proceedings; and surrogate parents).

(xxxii) 34 CFR 300.530—300.537 (relating to authority of school personnel; determination of setting; appeal; placement during appeals; protections for children not determined eligible for special education and related services; referral to and action by law enforcement and judicial authorities; change of placement because of disciplinary removals; and state enforcement mechanisms).

(xxxiii) 34 CFR 300.610—300.625 (relating to confidentiality; definitions; notice to parents; access rights; record of access; records on more than one child; list of types and locations of information; fees; amendment of records at parent's request; opportunity for a hearing; result of hearing; hearing procedures; consent; safeguards; destruction of information; and children's rights).

(3) To specify how the Commonwealth will meet its obligations to suspected and identified children with disabilities who require special education and related services.

(4) To provide to the Commonwealth, through the Department, general supervision of services and programs provided under this chapter.

(b) To provide services and programs effectively, the Commonwealth will delegate operational responsibility for school aged students to its school districts to include the provision of child find duties prescribed by 34 CFR 300.111 (relating to child find).

§ 14.103. Terminology related to Federal regulations.

For purposes of interfacing with 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities), the following term applies, unless the context clearly indicates otherwise:

Local educational agency—Where the Federal provision uses the term “local educational agency,” for purposes of this chapter, the term means an intermediate unit, school district, State operated program or facility or other public organization providing educational services to children with disabilities or providing early intervention services. Applicability of this term to public charter schools is found in Chapter 711 (relating to charter school services and programs for children with disabilities). In the application of 34 CFR 300.130—300.144, regarding children with disabilities enrolled by their parents in private schools, the intermediate unit shall be considered to be the local education agency.

§ 14.104. Special education plans.

(a) Each school district shall develop and implement a special education plan aligned with the strategic plan of

the school district under § 4.13 (relating to strategic plans). The special education plan shall be developed every 3 years consistent with the phase of the strategic plan of the school district. The Secretary will prescribe the format, content and time for submission of the special education plan.

(b) Each school district's special education plan must specify the special education programs that operate in the district and those that are operated in the district by intermediate units, area vocational technical schools and other agencies, and it must describe the following:

(1) Early intervening services under 34 CFR 300.226 (relating to early intervening services) and this chapter, if the services are provided by the school district.

(2) The school district procedures for complying with the State criteria for identifying children with specific learning disabilities.

(3) Examples of supplementary aids and services provided by the school district.

(4) Access to a full continuum of educational placements.

(5) Policies and procedures designed to prevent the inappropriate over-identification or disproportionate representation by race and ethnicity of children with disabilities, for those school districts identified with significant disproportionality in accordance with 34 CFR 300.646(a) (relating to disproportionality).

(6) School district procedures on behavior support services, including a description of the training provided to staff in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention.

(7) Parent training activities provided by the school district.

(c) Each school district's special education plan must include procedures for the education of all students with disabilities who are residents of the district, including those receiving special education in approved private schools and students with disabilities who are nonresidents placed in private homes or institutions in the school district under sections 1305, 1306 and 1306.2 of the School Code (24 P. S. §§ 13-1305, 13-1306 and 13-1306.2).

(d) Each intermediate unit shall prepare annually and submit to the Secretary a special education plan specifying the special education services and programs to be operated by the intermediate unit, including equitable services provided consistent with 34 CFR 300.130—300.144 and subsection (b)(2)—(4), (6) and (7). The Secretary will prescribe the format, content and time for submission of the intermediate units' plans.

(e) Each early intervention agency shall develop and submit to the Department an early intervention special education plan every year.

(f) The Department will approve plans in accordance with the following criteria:

(1) Services and programs are designed to meet the needs of students identified as children with disabilities within the school district or intermediate unit or eligible young children within the early intervention agency.

(2) The full range of services and programs under this chapter are available to children with disabilities and eligible young children.

(3) Placement of students with disabilities in settings other than regular education settings may not be based on lack of resources, facilities, staff or for administrative convenience.

(4) The plan meets the specifications defined in this chapter and the format, content and time for submission of the agency plans prescribed by the Secretary.

(g) Portions of the plans that do not meet the criteria for approval will be disapproved. Prior to disapproval, Department personnel will discuss disapproved portions of the plan and suggest modifications with appropriate intermediate unit or school district personnel. Portions of the plan that are not specifically disapproved will be deemed approved.

(h) When a portion of an intermediate unit, school district or early intervention plan is disapproved, the Department will issue a notice specifying the portion of the plan disapproved, and the rationale for the disapproval and the opportunity for a hearing under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice Procedure). If requested, the Department will convene a hearing within 30 days after the receipt of the request. The Department will render a decision within 30 days following the hearing.

(i) Each school entity shall maintain information concerning students with disabilities, the services provided, performance and discipline data, as specified by the Secretary, and report information in a form and at times as required by the Secretary.

§ 14.105. Personnel.

(a) *Paraprofessionals.*

(1) An instructional paraprofessional is a school employee who works under the direction of a certificated staff member to support and assist in providing instructional programs and services to children with disabilities or eligible young children. The support and assistance includes one-on-one or group review of material taught by certificated staff, classroom management and implementation of positive behavior support plans. Services may be provided in a special education class, regular education class or other instructional setting as provided in the student's IEP. Instructional paraprofessionals shall meet one of the following qualifications effective July 1, 2010:

(i) Have completed at least 2 years of postsecondary study.

(ii) Possess an associate degree or higher.

(iii) Meet a rigorous standard of quality as demonstrated through a State or local assessment.

(2) Nothing in subsection (a) should be construed to supersede the terms of a collective bargaining agreement in effect on July 1, 2008.

(3) Instructional paraprofessionals, each school year, shall provide evidence of 20 hours of staff development activities related to their assignment.

(4) A personal care assistant provides one-to-one support and assistance to a student, including support and assistance in the use of medical equipment (for example, augmentative communication devices; activities of daily living; and monitoring health and behavior). A personal care assistant may provide support to more than one student, but not at the same time. Personal care assistants shall provide evidence of 20 hours of staff development activities related to their assignment each school

year. The 20 hours of training may include training required by the school-based access program.

(b) *Educational interpreters.* An educational interpreter is an individual who provides students who are deaf or hard of hearing with interpreting or transliterating services in an educational setting.

(1) To serve as an educational interpreter, an individual shall meet the qualifications in subparagraph (i) or (ii) and subparagraph (iii):

(i) Achieve and provide evidence of a score of 3.5 on the Educational Interpreter Performance Assessment (EIPA) for the appropriate grade level to which the person has been assigned.

(ii) Be a qualified sign language interpreter or qualified transliterator under the Sign Language Interpreter and Transliterator Registration Act (63 P. S. §§ 1725.1—1725.12) and its implementing regulations.

(iii) Provide evidence of a minimum of 20 hours of staff development activities relating to interpreting or transliterating services annually.

(2) The Board, in consultation with the Department, will review the EIPA score requirement every 2 years.

(c) *Caseload.*

(1) The following words and terms, when used in this subsection, have the following meanings, unless the context clearly indicates otherwise:

(i) *Full-time.* Special education supports and services provided by special education personnel for 80% or more of the school day.

(ii) *Itinerant.* Special education supports and services provided by special education personnel for 20% or less of the school day.

(iii) *Supplemental.* Special education supports and services provided by special education personnel for more than 20% but less than 80% of the school day.

(2) The following chart represents the maximum number of students allowed on a teacher's caseload:

	<i>Itinerant (20% or Less)</i>	<i>Supplemental (Less Than 80% but More Than 20%)</i>	<i>Full-Time (80% or More)</i>
Learning Support	50	20	12
Life Skills Support	20	20	12 (Grades K-6) 15 (Grades 7-12)
Emotional Support	50	20	12
Deaf And Hearing Impaired Support	50	15	8
Blind And Visually Impaired Support	50	15	12
Speech And Language Support	65		8

	<i>Itinerant (20% or Less)</i>	<i>Supplemental (Less Than 80% but More Than 20%)</i>	<i>Full-Time (80% or More)</i>
Physical Support	50	15	12
Autistic Support	12	8	8
Multiple Disabilities Support	12	8	8

(3) Each student with a disability shall be assigned to a special education teacher's caseload.

(4) A school district may request approval for a caseload chart that varies from that in paragraph (2) as part of its special education plan consistent with § 14.104 (relating to special education plans). The caseload and supporting documents submitted must:

(i) Ensure the ability of assigned staff to provide the services required in each student's IEP.

(ii) Apply to special education classes operated in the school district.

(iii) Provide a justification for why the chart deviates from the caseload chart in paragraph (2).

(iv) Describe the opportunities for parents, teachers and other interested parties to review and comment on the chart prior to its submission. The district shall provide and include a copy of the notice to the public indicating the district intends to request a waiver of caseload regulations and a description of how parents, teachers and other interested parties were provided opportunities to give comment on the waiver request.

(5) Classes or programs with students from more than one district, regardless of whether operated by a school district, intermediate unit or agency, shall follow the caseload chart of the district where the class or program is located. Intermediate unit services provided to multiple districts must follow the caseload chart under paragraph (2).

(6) Caseloads are not applicable to approved private schools or to chartered schools for the deaf and blind.

(7) The Department may withdraw approval of variance in the caseload chart for a school district if its caseload is determined to be inadequate. The Department will consider at least the following indicators when making the determination:

(i) Graduation rates of students with a disability.

(ii) Drop-out rates of students with a disability.

(iii) Postsecondary transition of students with a disability.

(iv) Rate of grade level retentions.

(v) Statewide and district-wide assessment results as prescribed by §§ 4.51 and 4.52 (relating to State assessment system; and local assessment system).

§ 14.106. Access to instructional materials.

(a) The Board adopts the National Instructional Materials Accessibility Standard (NIMAS) as defined in section 674(e)(3)(B) of the Education of Individuals with Disabilities Education Act (20 U.S.C.A. § 1474(e)(3)(B)) and set forth in 71 FR 41084 (July 19, 2006) for the purpose of providing print instructional materials in alternate acces-

sible formats or specialized formats to blind persons or other persons with print disabilities in a timely manner. To ensure the timely provision of high quality, accessible instructional materials to children who are blind or other persons with print disabilities, agencies shall adopt the NIMAS. The NIMAS refers to a standard for source files of print instructional materials created by publishers that may be converted into accessible instructional materials.

(b) Agencies shall, in a timely manner, provide print instructional materials in specialized, accessible formats (that is, Braille, audio, digital, large-print, and the like) to children who are blind or other persons with print disabilities, as defined in 2 U.S.C.A. § 135a (regarding books and sound-reproduction records for blind and other physically handicapped residents; annual appropriations; and purchases).

(c) Agencies act in a timely manner in providing instructional materials under subsection (a) if they take steps to ensure that children who are blind or other persons with print disabilities have access to their accessible format instructional materials at the same time that students without disabilities have access to instructional materials. Agencies may not withhold instructional materials from other students until instructional materials in accessible formats are available.

(d) Receipt of a portion of the instructional materials in alternate accessible or specialized format will be considered receipt in a timely manner if the material received covers the chapters that are currently being taught in the student's class.

(e) If a child who is blind or other person with a print disability enrolls in school after the start of the school year, an agency shall take steps to ensure that the student has access to accessible format instructional materials within 10 school days from the time it is determined that the child requires printed instructional materials in an alternate accessible or specialized format.

(f) The Department or agencies may coordinate with the National Instructional Materials Access Center (NIMAC) to facilitate the production of and delivery of accessible materials to children who are blind or other persons with print disabilities. The NIMAC refers to the central repository, established under section 674(e) of the Education of Individuals with Disabilities Education Act, which is responsible for processing, storing and distributing NIMAS files of textbooks and core instructional materials.

(g) Agencies coordinating with NIMAC shall require textbook publishers to deliver the contents of print instructional materials to the NIMAC in NIMAS format files on or before delivery of the print instructional materials to the agency. Agencies that choose not to coordinate with NIMAC may require that publishers deliver the contents of print instructional materials to the NIMAC in NIMAS format files on or before delivery of the print instructional materials to the agency.

§ 14.107. Complaint procedure.

The Department will establish a complaint procedure consistent with 34 CFR 300.151—300.153 (relating to adoption of State complaint procedures; minimum State complaint procedures; and filing a complaint) and disseminate notice of that procedure.

§ 14.108. Access to classrooms.

Parents shall have reasonable access to their child's classrooms, within the parameters of local educational agency policy.

CHILD FIND, SCREENING AND EVALUATION

§ 14.121. Child find.

(a) In addition to the requirements incorporated by reference in 34 CFR 300.111 (relating to child find), each school district shall adopt and use a public outreach awareness system to locate and identify children thought to be eligible for special education within the school district's jurisdiction.

(b) Each school district shall conduct awareness activities to inform the public of its early intervention and special education services and programs and the manner in which to request services and programs. Written information shall be published in the school district handbook and school district web site. The public awareness effort must include information regarding potential signs of developmental delays and other risk factors that could indicate disabilities.

(c) Each school district shall provide annual public notification, published or announced in newspapers, electronic media and other media, with circulation adequate to notify parents throughout the school district of child identification activities and of the procedures followed to ensure confidentiality of information pertaining to students with disabilities or eligible young children in accordance with this chapter.

(d) Intermediate units are responsible for child find activities necessary to provide equitable services consistent with 34 CFR 300.130—300.144, regarding children with disabilities enrolled by their parents in private schools.

§ 14.122. Screening.

(a) Each school district shall establish a system of screening, which may include early intervening services, to accomplish the following:

(1) Identify and provide initial screening for students prior to referral for a special education evaluation.

(2) Provide peer support for teachers and other staff members to assist them in working effectively with students in the general education curriculum. To provide this support, school districts may implement instructional support teams according to Department guidelines or use an alternative process.

(3) Identify students who may need special education services and programs.

(b) The screening process must include:

(1) Hearing and vision screening in accordance with section 1402 of the School Code (24 P.S. § 14-1402) for the purpose of identifying students with hearing or vision difficulty so that they can be referred for assistance or recommended for evaluation for special education.

(2) Screening at reasonable intervals to determine whether all students are performing based on grade-appropriate standards in core academic subjects.

(c) Each school district may develop a program of early intervening services. In the case of school districts meeting the criteria in 34 CFR 300.646(b)(2) (relating to disproportionality), as established by the Department, the early intervening services are required and must include:

(1) A verification that the student was provided with appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C.A. § 6368(3)), and appropriate instruction in math.

(2) For students with academic concerns, an assessment of the student's performance in relation to State-approved grade level standards.

(3) For students with behavioral concerns, a systematic observation of the student's behavior in the school environment where the student is displaying difficulty.

(4) A research-based intervention to increase the student's rate of learning or behavior change based on the results of the assessments under paragraph (2) or (3).

(5) Repeated assessments of achievement or behavior, or both, conducted at reasonable intervals, reflecting formal monitoring of student progress during the interventions.

(6) A determination as to whether the student's assessed difficulties are the result of a lack of instruction or limited English proficiency.

(7) A determination as to whether the student's needs exceed the functional ability of the regular education program to maintain the student at an appropriate instructional level.

(8) Documentation that information about the student's progress as identified in paragraph (5) was periodically provided to the student's parents.

(d) Screening or early intervening activities do not serve as a bar to the right of a parent to request an evaluation, at any time, including prior to or during the conduct of early intervening activities.

§ 14.123. Evaluation.

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.306 (relating to determination of eligibility), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.

(b) In addition to the requirements incorporated by reference in 34 CFR 300.301 (relating to initial evaluations), the initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60-calendar days after the agency receives written parental consent for evaluation, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.

(c) Parents may request an evaluation at any time, and the request must be in writing. The school entity shall make the permission to evaluate form readily available for that purpose. If a request is made orally to any professional employee or administrator of the school entity, that individual shall provide a copy of the permission to evaluate form to the parents within 10-calendar days of the oral request.

(d) Copies of the evaluation report shall be disseminated to the parents at least 10 school days prior to the meeting of the IEP team, unless this requirement is waived by a parent in writing.

§ 14.124. Reevaluation.

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.303 (relating to reevaluations), shall include a certified school psychologist when evaluating a child for autism, emo-

tional disturbance, mental retardation, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury.

(b) In addition to the requirements incorporated by reference in 34 CFR 300.303, the reevaluation time line will be 60-calendar days, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.

(c) Students with disabilities who are identified as mentally retarded shall be reevaluated at least once every 2 years.

(d) Copies of the reevaluation report shall be disseminated to the parents at least 10 school days prior to the meeting of the IEP team, unless this requirement is waived by a parent in writing.

§ 14.125. Criteria for the determination of specific learning disabilities.

This section contains the State-level criteria for determining the existence of a specific learning disability. Each school district and intermediate unit shall develop procedures for the determination of specific learning disabilities that conform to criteria in this section. These procedures shall be included in the school district's and intermediate unit's special education plan in accordance with § 14.104(b) (relating to special education plans). To determine that a child has a specific learning disability, the school district or intermediate unit shall:

(1) Address whether the child does not achieve adequately for the child's age or meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and scientifically based instruction appropriate for the child's age or State-approved grade-level standards:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading fluency skills.
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving.

(2) Use one of the following procedures:

(i) A process based on the child's response to scientific, research-based intervention, which includes documentation that:

(A) The student received high quality instruction in the general education setting.

(B) Research-based interventions were provided to the student.

(C) Student progress was regularly monitored.

(ii) A process that examines whether a child exhibits a pattern of strengths and weaknesses, relative to intellectual ability as defined by a severe discrepancy between intellectual ability and achievement, or relative to age or grade.

(3) Have determined that its findings under this section are not primarily the result of:

- (i) A visual, hearing or orthopedic disability.
- (ii) Mental retardation.

- (iii) Emotional disturbance.
- (iv) Cultural factors.
- (v) Environmental or economic disadvantage.
- (vi) Limited English proficiency.

(4) Ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics by considering documentation that:

(i) Prior to, or as a part of, the referral process, the child was provided scientifically-based instruction in regular education settings, delivered by qualified personnel, as indicated by observations of routine classroom instruction.

(ii) Repeated assessments of achievement were conducted at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

IEP

§ 14.131. IEP.

(a) In addition to the requirements incorporated by reference (see 34 CFR 300.320—300.324), the IEP of each student with a disability must include:

(1) A description of the type or types of support as defined in this paragraph that the student will receive, the determination of which may not be based on the categories of the child's disability alone. Students may receive more than one type of support as appropriate and as outlined in the IEP and in accordance with this chapter. Special education supports and services may be delivered in the regular classroom setting and other settings as determined by the IEP team. In determining the educational placement, the IEP team must first consider the regular classroom with the provision of supplementary aids and services before considering the provision of services in other settings.

(i) *Autistic support.* Services for students with the disability of autism who require services to address needs primarily in the areas of communication, social skills or behaviors consistent with those of autism spectrum disorders. The IEP for these students must address needs as identified by the team which may include, as appropriate, the verbal and nonverbal communication needs of the child; social interaction skills and proficiencies; the child's response to sensory experiences and changes in the environment, daily routine and schedules; and, the need for positive behavior supports or behavioral interventions.

(ii) *Blind-visually impaired support.* Services for students with the disability of visual impairment including blindness, who require services to address needs primarily in the areas of accessing print and other visually-presented materials, orientation and mobility, accessing public and private accommodations, or use of assistive technologies designed for individuals with visual impairments or blindness. For students who are blind or visually impaired, the IEP must include a description of the instruction in Braille and the use of Braille unless the IEP team determines, after the evaluation of the child's reading and writing needs, and appropriate reading and writing media, the extent to which Braille will be taught and used for the student's learning materials.

(iii) *Deaf and hard of hearing support.* Services for students with the disability of deafness or hearing impairment, who require services to address needs primarily in the area of reading, communication, accessing public and private accommodations or use of assistive technolo-

gies designed for individuals with deafness or hearing impairment. For these students, the IEP must include a communication plan to address the language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and assistive technology devices and services.

(iv) *Emotional support.* Services for students with a disability who require services primarily in the areas of social or emotional skills development or functional behavior.

(v) *Learning support.* Services for students with a disability who require services primarily in the areas of reading, writing, mathematics, or speaking or listening skills related to academic performance.

(vi) *Life skills support.* Services for students with a disability who require services primarily in the areas of academic, functional or vocational skills necessary for independent living.

(vii) *Multiple disabilities support.* Services for students with more than one disability the result of which is severe impairment requiring services primarily in the areas of academic, functional or vocational skills necessary for independent living.

(viii) *Physical support.* Services for students with a physical disability who require services primarily in the areas of functional motor skill development, including adaptive physical education or use of assistive technologies designed to provide or facilitate the development of functional motor capacity or skills.

(ix) *Speech and language support.* Services for students with speech and language impairments who require services primarily in the areas of communication or use of assistive technologies designed to provide or facilitate the development of communication capacity or skills.

(2) Supplementary aids and services in accordance with 34 CFR 300.42 (relating to supplementary aids and services).

(3) A description of the type or types of support as defined in § 14.105 (relating to personnel).

(4) The location where the student attends school and whether this is the school the student would attend if the student did not have an IEP.

(5) For students who are 14 years of age or older, a transition plan that includes appropriate measurable postsecondary goals related to training, education, employment and, when appropriate, independent living skills.

(6) The IEP of each student shall be implemented as soon as possible, but no later than 10 school days after its completion.

(7) Every student receiving special education and related services provided for in an IEP developed prior to July 1, 2008, shall continue to receive the special education and related services under that IEP, subject to the terms, limitations and conditions set forth in law.

(b) In addition to the requirements incorporated by reference in 34 CFR 300.324 (relating to development, review, and revision of IEP), each school entity shall designate persons responsible to coordinate transition activities.

§ 14.132. ESY.

(a) In addition to the requirements incorporated by reference in 34 CFR 300.106 (relating to extended school year services), school entities shall use the following standards for determining whether a student with disabilities requires ESY as part of the student's program:

(1) At each IEP meeting for a student with disabilities, the school entity shall determine whether the student is eligible for ESY services and, if so, make subsequent determinations about the services to be provided.

(2) In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors; however, no single factor will be considered determinative:

(i) Whether the student reverts to a lower level of functioning as evidenced by a measurable decrease in skills or behaviors which occurs as a result of an interruption in educational programming (Regression).

(ii) Whether the student has the capacity to recover the skills or behavior patterns in which regression occurred to a level demonstrated prior to the interruption of educational programming (Recoupment).

(iii) Whether the student's difficulties with regression and recoupment make it unlikely that the student will maintain the skills and behaviors relevant to IEP goals and objectives.

(iv) The extent to which the student has mastered and consolidated an important skill or behavior at the point when educational programming would be interrupted.

(v) The extent to which a skill or behavior is particularly crucial for the student to meet the IEP goals of self-sufficiency and independence from caretakers.

(vi) The extent to which successive interruptions in educational programming result in a student's withdrawal from the learning process.

(vii) Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe mental retardation, degenerative impairments with mental involvement and severe multiple disabilities.

(b) Reliable sources of information regarding a student's educational needs, propensity to progress, recoupment potential and year-to-year progress may include the following:

(1) Progress on goals in consecutive IEPs.

(2) Progress reports maintained by educators, therapists and others having direct contact with the student before and after interruptions in the education program.

(3) Reports by parents of negative changes in adaptive behaviors or in other skill areas.

(4) Medical or other agency reports indicating degenerative-type difficulties, which become exacerbated during breaks in educational services.

(5) Observations and opinions by educators, parents and others.

(6) Results of tests, including criterion-referenced tests, curriculum-based assessments, ecological life skills assessments and other equivalent measures.

(c) The need for ESY services will not be based on any of the following:

(1) The desire or need for day care or respite care services.

(2) The desire or need for a summer recreation program.

(3) The desire or need for other programs or services that, while they may provide educational benefit, are not required to ensure the provision of a free appropriate public education.

(d) Students with severe disabilities such as autism/pervasive developmental disorder, serious emotional disturbance; severe mental retardation; degenerative impairments with mental involvement; and severe multiple disabilities require expeditious determinations of eligibility for ESY services to be provided as follows:

(1) Parents of students with severe disabilities shall be notified by the school entity of the annual review meeting to encourage their participation.

(2) The IEP review meeting must occur no later than February 28 of each school year for students with severe disabilities.

(3) The Notice of Recommended Educational Placement shall be issued to the parent no later than March 31 of the school year for students with severe disabilities.

(4) If a student with a severe disability transfers into a school entity after the dates in paragraphs (2) and (3), and the ESY eligibility decision has not been made, the eligibility and program content must be determined at the IEP meeting.

(e) School entities shall consider the eligibility for ESY services of all students with disabilities at the IEP meeting. ESY determinations for students other than those described in subsection (d) are not subject to the time lines in subsection (d). However, these determinations shall still be made in a timely manner. If the parents disagree with the school entity's recommendation on ESY, the parents will be afforded an expedited due process hearing.

§ 14.133. Positive behavior support.

(a) Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's or eligible young child's opportunity for learning and self-fulfillment. Behavior support programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student or eligible young child shall be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques, in accord with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324 and 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques—Deliberate activities designed to establish a negative association with a specific behavior.

Behavior support—The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive behavior support plans—A plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment, and become part of the individual eligible young child's or student's IEP. These plans must include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints—

(i) The application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's or eligible young child's body.

(ii) The term does not include briefly holding, without force, a student or eligible young child to calm or comfort him, guiding a student or eligible young child to an appropriate activity, or holding a student's or eligible young child's hand to safely escort her from one area to another.

(iii) The term does not include hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's or eligible young child's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by subsection (d).

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

(2) The use of restraints may only be included in a student's or eligible young child's IEP when the following conditions apply:

(i) The restraint is utilized with specific component elements of positive behavior support.

(ii) The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.

(iii) Staff are authorized to use the procedure and have received the staff training required.

(iv) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.

(3) The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student or eligible young child is held face down on the floor.

(4) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.

(5) School entities shall maintain and report data on the use of restraints as prescribed by the Secretary. The report shall be reviewed during cyclical compliance monitoring conducted by the Department.

(d) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints shall prevent a student from injuring himself or others or promote normative body positioning and physical functioning.

(e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:

(1) Corporal punishment.

(2) Punishment for a manifestation of a student's disability.

(3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit.

(4) Noxious substances.

(5) Deprivation of basic human rights, such as withholding meals, water or fresh air.

(6) Suspensions constituting a pattern under § 14.143(a) (relating to disciplinary placement).

(7) Treatment of a demeaning nature.

(8) Electric shock.

(f) School entities have the primary responsibility for ensuring that positive behavior support programs are in accordance with this chapter, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of positive behavior support techniques and obtaining parental consent prior to the use of restraints or intrusive procedures as provided in subsection (c).

(g) In accordance with their plans, agencies may convene a review, including the use of human rights committees, to oversee the use of restrictive or intrusive procedures or restraints.

(h) Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan shall be required.

EDUCATIONAL PLACEMENT

§ 14.141. (Reserved).

§ 14.142. (Reserved).

§ 14.143. Disciplinary placements.

(a) Notwithstanding the requirements incorporated by reference in 34 CFR 300.530(b) and 300.536 (relating to authority of school personnel; and change of placement because of disciplinary removals), a disciplinary exclusion of a student with a disability for more than 15 cumulative

school days in a school year will be considered a pattern so as to be deemed a change in educational placement.

(b) A removal from school is a change of placement for a student who is identified with mental retardation, except if the student's actions are consistent with 34 CFR 300.530—300.535 (relating to authority of school personnel; determination of setting; appeal; placement during appeals; protections for children not determined eligible for special education and related services; referral to and action by law enforcement; and judicial authorities).

§ 14.145. Least restrictive environment requirements.

Students with disabilities shall be educated in the least restrictive environment. Each school entity shall ensure that:

(1) To the maximum extent appropriate, and as provided in the IEP, the student with a disability is educated with nondisabled peers.

(2) Special classes, separate schooling or other removal of a student with a disability from the regular education class occurs only when the nature or severity of the disability is such that education in the regular education class with the use of appropriate supplementary aids and services cannot be achieved satisfactorily.

(3) A student may not be determined to require separate education because the child cannot achieve at the same level as classmates who do not have disabilities if the child can, with the full range of supplementary aids and services, make meaningful progress in the goals included in the student's IEP.

(4) A student may not be removed from or determined to be ineligible for placement in a regular education classroom solely because of the nature or severity of the student's disability, or solely because educating the student in the regular education classroom would necessitate additional cost or for administrative convenience.

(5) School entities shall be required to provide access to a full continuum of placement options.

§ 14.146. Age range restrictions.

(a) The maximum age range in specialized settings shall be 3 years in elementary school (grades K—6) and 4 years in secondary school (grades 7—12).

(b) A student with a disability may not be placed in a class in which the chronological age from the youngest to the oldest student exceeds these limits unless an exception is determined to be appropriate by the IEP team of that student and is justified in the IEP.

EARLY INTERVENTION

§ 14.151. Purpose.

(a) This section and §§ 14.152—14.158 (relating to early intervention) apply to services and programs for eligible young children.

(b) Notwithstanding the requirements incorporated by reference, with regard to early intervention services:

(1) The Department will provide for the delivery of early intervention services.

(2) The Department may provide for the delivery of some or all of these services through mutually agreed-upon written arrangements. Each mutually agreed-upon written arrangement may include memoranda of understanding under an approved plan submitted to the Department by a school entity or other agencies.

§ 14.153. Evaluation.

Notwithstanding the requirements in 34 CFR 300.122 (relating to evaluation):

(1) Evaluations shall be conducted by early intervention agencies for children who are thought to be eligible for early intervention and who are referred for evaluation.

(2) Evaluations shall be sufficient in scope and depth to investigate information relevant to the young child's suspected disability, including physical development, cognitive and sensory development, learning problems, learning strengths and educational need, communication development, social and emotional development, self-help skills and health considerations, as well as an assessment of the family's perceived strengths and needs which will enhance the child's development.

(3) The assessment must include information to assist the group of qualified professionals and parents to determine whether the child has a disability and needs special education and related services.

(4) The following time line applies to the completion of evaluations and reevaluations under this section:

(i) Initial evaluation or reevaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60 calendar days after the early intervention agency receives written parental consent.

(ii) Notwithstanding the requirements incorporated by reference in 34 CFR 300.303 (relating to reevaluations), a reevaluation report shall be provided within 60 calendar days from the date that the parental consent for reevaluation was received.

(iii) Reevaluations shall occur at least every 2 years.

(5) Each eligible young child shall be evaluated by an MDT, to make a determination of continued eligibility for early intervention services and to develop an evaluation report in accordance with the requirements concerning evaluation under § 14.123 (relating to evaluation), excluding the provision to include a certified school psychologist where appropriate under § 14.123(a).

§ 14.154. IEP.

(a) An IEP is a written plan for the provision of appropriate early intervention services to an eligible young child, including services to enable the family to enhance the young child's development. The IEP shall be based on and be responsive to the results of the evaluation.

(b) Notwithstanding the requirements incorporated by reference, the IEP team shall include:

(1) At least one special education teacher or special education provider.

(2) An agency representative familiar with appropriate activities for preschool children and knowledgeable about the availability of the resources of the early intervention agency. With regard to the adoption of 34 CFR 300.344(a)(4) (relating to IEP team), the agency representative shall be qualified to provide or supervise the provision of specially designed instruction to meet the needs of children with disabilities. This could include a preschool supervisor or service coordinator or designee of the early intervention agency.

(c) With parental consent, the IEP must include a section on family services, which provides for appropriate services to assist the family in supporting the eligible young child's development.

(d) Notwithstanding the requirements incorporated by reference, the following time lines govern the preparation and implementation of IEPs:

(1) The IEP of each eligible young child shall be implemented as soon as possible, but no later than 14 calendar days after the completion of the IEP.

(2) The IEP of each eligible young child shall be reviewed by the IEP team at least annually.

(e) For children who are within 1 year of transition to a program for school age students, the IEP must contain goals and objectives which address the transition process.

(f) Progress indicators include, but are not limited to, IEP annotation, dated progress and documented parental feedback.

(g) If an eligible young child moves from one early intervention agency to another in this Commonwealth, the new early intervention agency shall implement the existing IEP to the extent possible or shall provide services and programs specified in an interim IEP agreed to by the parents until a new IEP is developed and implemented or until the completion of due process proceedings under this chapter.

(h) Every eligible young child receiving special education and related services provided for in the IEP developed prior to July 1, 2008, shall continue to receive the special education and related services under that IEP subject to the terms, limitations and conditions set forth in law.

§ 14.155. Range of services.

(a) The Department will ensure that options are available to meet the needs of children eligible for early intervention. The options may be made available directly by early intervention agencies or through contractual arrangements for services and programs with other agencies in the community, including preschools, provided that the other agencies are subject to the supervision or licensure of the Department of Public Welfare or licensed by the State Board of Private Academic Schools.

(b) The IEP team shall recommend early intervention services to be provided in the least restrictive environment with appropriate and necessary supplementary aids and services. The placement options may include one or more of the following:

(1) *Early childhood environment.* Services provided in a typical preschool program with noneligible young children.

(2) *Early childhood special education environment.* Services provided in a special education preschool program funded by the early intervention agency.

(3) *Home environment.* Services provided in the home.

(4) *Services outside of the home environment.* Services provided outside of the home environment.

(5) *Specialized environment.* Services provided in a specialized setting, including the following:

(i) An approved private school.

(ii) A residential school, residential facility, State school or hospital or special secure setting.

(iii) An approved out-of-State program.

(c) The duration of early intervention services, in terms of program days and years, must accommodate the individual needs of eligible young children.

(1) The duration of early intervention services shall be developed by each early intervention agency in accordance with the Mutually Agreed upon Written Arrangement (MAWA) and shall be included in the MAWA's plan under § 14.104 (relating to educational plans).

(2) Some eligible young children may lose skills over breaks and have difficulty in regaining these skills as evidenced through child performance data. In those cases, the IEP team shall consider whether services should be provided during the break period to maintain skills.

(d) The caseloads of professional personnel shall be determined on the basis of the amount of time required to fulfill eligible young children's IEPs. The following caseload requirements shall be used for preschool early intervention programs:

(1) *Early intervention itinerant teachers.* Teachers who provide services in a typical preschool, community program or the child's home, shall have a caseload range of 20—40 children, based on the duration and frequency of service as indicated on each IEP.

(2) *Early intervention classroom teachers.* Early intervention classroom teachers, who provide specialized instruction in an early intervention classroom, may have up to 6 young children in their classroom and may have additional children up to a maximum of 11, provided that one additional teacher or paraprofessional is assigned to the classroom.

(3) *Speech therapists.* Speech therapists who provide services in classrooms, typical preschools, community programs or the child's home shall have 25—50 children based on the duration and frequency of service as indicated on each IEP.

PROCEDURAL SAFEGUARDS

§ 14.161. (Reserved).

§ 14.162. Impartial due process hearing and expedited due process hearing.

(a) In addition to the requirements incorporated by reference in 34 CFR 300.504 (relating to procedural safeguard notice), with regard to a student who is mentally retarded or thought to be mentally retarded, a notice when mailed shall be issued to the parent by certified mail (addressee only, return receipt requested).

(b) If parents disagree with the school district's, or the early intervention agency's in the case of a young child, identification, evaluation, or placement of, or the provision of a free appropriate public education to the student or young child, the parent may request an impartial due process hearing.

(c) A school district or early intervention agency may request a hearing to proceed with an initial evaluation or a reevaluation when a parent fails to respond to the district or early intervention agency's proposed evaluation or reevaluation. When a parent rejects the district or early intervention agency's proposed identification of a child, proposed evaluation, proposed provision of a free appropriate public education or proposed educational placement, other than the initial placement, the school district or early intervention agency may request an impartial due process hearing. If the parent fails to respond or refuses to consent to the initial provision of special education services, neither due process nor mediation may be used to obtain agreement or a ruling that the services may be provided.

(d) The hearing for a school aged child with a disability or thought to be a child with a disability shall be held in the school district at a place and time reasonably convenient to the parents and child involved. A hearing for an eligible young child or thought to be an eligible young child shall be conducted at a place and time reasonably convenient to the parents and child involved. These options shall be set forth in the notice provided for requesting a hearing.

(e) The hearing shall be an oral, personal hearing and shall be closed to the public unless the parents request an open hearing. If the hearing is open, the decision issued in the case, and only the decision, shall be available to the public. If the hearing is closed, the decision shall be treated as a record of the student or young child and may not be available to the public.

(f) The decision of the hearing officer shall include findings of fact, discussion and conclusions of law. Although technical rules of evidence will not be followed, the decision shall be based solely upon the substantial evidence presented at the hearing.

(g) The hearing officer shall have the authority to order that additional evidence be presented.

(h) A written or at the option of the parents, electronic verbatim record of the hearing shall, upon request, be made and provided to parents at no cost.

(i) Parents may be represented by legal counsel and accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities.

(j) A parent or parent's representative shall be given access to educational records, including any tests or reports upon which the proposed action is based.

(k) A party may prohibit the introduction of evidence at the hearing that has not been disclosed to that party at least 5-business days before the hearing.

(l) A party has the right to compel the attendance of and question witnesses who may have evidence upon which the proposed action might be based.

(m) A party has the right to present evidence and testimony, including expert medical, psychological or educational testimony.

(n) A party to a hearing has the right to obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(o) The decision of the hearing officer regarding a child with a disability or thought to be a child with a disability may be appealed to a court of competent jurisdiction. In notifying the parties of the decision, the hearing officer shall indicate the courts to which an appeal may be taken.

(p) The following applies to coordination services for hearings and to hearing officers:

(1) The Secretary may contract for coordination services for hearings related to a child with a disability or thought to be a child with a disability. The coordination services may include arrangements for stenographic services, arrangements for hearing officer services (including the compensation of hearing officers), scheduling of hearings and other functions in support of procedural consistency and the rights of the parties to hearings. The

compensation of hearing officers does not cause them to become employees of the Department.

(2) A hearing officer may not be an employee or agent of the school entity in which the parents or the child with a disability or thought to be a child with a disability resides, or of an agency that is responsible for the education or care of the child with a disability or thought to be a child with a disability or by a person having a personal or professional interest that would conflict with the person's objectivity in the hearing. A hearing officer shall promptly inform the parties of a personal or professional relationship the officer has or has had with any of the parties.

(q) The following time line applies to due process hearings:

(1) A hearing shall be held after the conclusion of the resolution session under 34 CFR 300.510 (relating to resolution process) or after one of the parties withdraws from mediation or the parties agree to waive or agree to end the resolution session.

(2) The hearing officer's decision shall be issued within 45 days after the resolution or mediation session ends without resolution or agreement date.

(3) A hearing officer may grant specific extensions of time beyond the periods in paragraphs (1) and (2) at the request of either party.

(4) If an expedited hearing is conducted under 34 CFR 300.532 (relating to appeals), the hearing officer decision shall be mailed within 30 school days of the public agency's receipt of the request for the hearing without exceptions or extensions.

(r) Each school district and early intervention agency shall keep a list of the persons who serve as hearing officers. The list must include the qualifications of each hearing officer. School districts and early intervention agencies shall provide parents with information as to the availability of the list and shall make copies of it available upon request.

(s) Except as provided in 34 CFR 300.533 (relating to mediation during appeals), during the pendency of any mediation proceeding conducted in accordance with 34 CFR 300.506 (relating to mediation), unless the school entity and the parents of the child agree otherwise, the child that is the subject of the mediation shall remain in the current education placement until the mediation process is concluded.

(t) The Department will report to the Board by September 1 each year on the number of impartial due process hearings held during the previous school year. The report will also provide a Statewide summary of the results of the hearings in a manner that will not violate the confidentiality of children and families. The report will also address actions taken during the previous school year and future plans to strengthen the activities of due process hearing proceedings.

§ 14.163. Resolution session.

The resolution session required under 34 CFR 300.510 (relating to resolution process) will be available to parents of both school age and eligible young children with disabilities. Parent advocates may attend the sessions.

[Pa.B. Doc. No. 08-1244. Filed for public inspection June 27, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 711]

Charter School and Cyber Charter School Services and Programs for Children with Disabilities

The Department of Education (Department) amends Chapter 711 (relating to charter school and cyber charter school services and programs for children with disabilities) to read as set forth in Annex A.

Statutory Authority

The Department acts under the authority of sections 1732-A(c)(2) and 1749-A(b)(8) of the Charter School Law (24 P. S. 17-1732-A(c)(2) and 17-1749-A(b)(8)).

Background

This final-form rulemaking establishes procedures for the education of students with disabilities who attend public charter schools or cyber charter schools, and sets forth requirements and procedures for the delivery of services and programs for those students. This final-form rulemaking is promulgated to facilitate compliance with Federal statute, regulation and court decrees that apply to students with disabilities. The regulation adopts by reference the IDEA requirements, the Federal regulation adopted by reference may be found at www.idea.ed.gov/explore/home. Chapter 14 (relating to special education services and programs) which governs programs for students with disabilities who are served by school districts, does not apply to students with disabilities who attend charter schools and cyber charter schools. Instead, these schools must follow the regulation of the Department in Chapter 711, as required by sections 1732-A(b) and 1749-A(b)(8) of the Charter School Law. See 38 Pa.B. 3575 (June 28, 2008).

Summary of the Final-Form Rulemaking

The final-form rulemaking is designed to align the chapter with the Individuals with Disabilities Education Improvement Act (IDEA) (20 U.S.C.A. §§ 1400—1419), as amended December 3, 2004, related Federal regulation and applicable provisions of Pennsylvania statutes.

Section 711.1 (relating to definitions)

The final-form rulemaking revises the definitions of “charter school,” “cyber charter school” and “regional charter school” to rely on the definitions contained in statute. This change was made so that these definitions would be consistent and because the Department did not desire, nor did it see a need to expand upon or explain the definitions in the Charter School Law.

Section 711.2 (relating to purposes and intent)

The final-form rulemaking adds to this section that charter schools and cyber charter schools must provide students with disabilities access to the general curriculum and assessments described in Chapter 4 (relating to academic standards and assessment) and also that the Department supports the use of prereferral intervention strategies in cyber and charter schools. This was added to emphasize the importance of the participation of students with disabilities in the general curriculum. This language was also included in Chapter 14 concerning students with disabilities.

Section 711.5 (relating to personnel)

The final-form rulemaking adds this section which specifies qualifications necessary for paraprofessionals and educational interpreters who deliver part of the individualized education program to students with disabilities. These qualifications mirror those in Chapter 14. In considering comments received on these issues, the Department determined that the requirements that were applicable to these staff in school district programs were equally appropriate and necessary in charter schools and cyber charter schools.

Section 711.21 (relating to child find)

The final-form rulemaking adds requirements that written information regarding the child find procedures be included in the school handbook and web site. The Department determined that notice of the child find procedures should be more readily available to parents and the general public.

Sections 711.22 and 771.24 (relating to reevaluation; and evaluation)

The final-form rulemaking amends the reevaluation and evaluation time frames to 60-calendar days with the exception of days when school is on summer break. These requirements mirror those in Chapter 14 and it was felt that the time lines should be consistent in all public placements.

Section 711.44 (relating to ESY)

The Department amended the final-form rulemaking to mirror the Extended School Year (ESY) section in Chapter 14. See § 14.132 (relating to evaluation). This language adds to the regulation the guidance on ESY that has been given to other public schools by the Department for a number of years.

Section 711.45 (relating to positive behavior support)

Significant changes were made in response to the many comments received by parents, advocates and other interested parties. The amendment clearly distinguishes positive behavior support from the use of aversive techniques. The amendment stipulates that positive behavior support plans must be based on a functional behavioral analysis. The amendment clearly defines restraint and clearly prohibits the use of face-down prone restraints. The amendment requires that subsequent to a referral to law enforcement for a student with a disability who has a positive behavior support plan, functional behavior assessment must be conducted and positive behavior support plan updated. Upon reviewing each of these issues the Department determined that the changes were necessary to insure that appropriate behavior support was also made available in charter and cyber charter schools.

Section 711.61 (relating to suspension and expulsion)

Subsection (e) was added to provide that a disciplinary exclusion of a student with a disability for more than 15 cumulative school days in a school year will be considered a pattern and therefore a change in educational placement. This change, again, was made to mirror the comparable provision in Chapter 14 and was seen as a protection that should be afforded to students in charter and cyber charter schools.

Section 711.62 (relating to procedural safeguards)

This section is amended in final-form rulemaking to mirror the procedural safeguards provision in Chapter 14.

This was done to provide the same single tier administrative appeal in the case of disputes between families and charter or cyber charter schools.

Public Comments and Responses to Proposed Rulemaking

The proposed rulemaking was published at 37 Pa.B. 6405 (December 8, 2008). The proposed rulemaking was also available on the Department's web site and the Department held three public hearings regarding the proposed amendments in Pittsburgh, Harrisburg and King of Prussia. The Department accepted formal written comments during the 30-day public comment period that began upon publication of the proposed rulemaking.

The Department received comments from the Independent Regulatory Review Commission (IRRC), VALUE Coalition, the Pennsylvania Education Association, Pennsylvania RID, Vision for Equality, Inc. and the International Association of Nonviolent Crisis Intervention Certified Instructors. Several of the changes discussed previously were made as a result of the comments received. A detailed Comment and Response Document may be obtained by contacting Dr. Linda Rhen, Director of School Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 705-5014, TDD (717) 787-7367.

Affected Parties

The final-form rulemaking will affect students with disabilities and employees of charter schools and cyber charter schools in this Commonwealth.

Fiscal Impact and Paperwork Requirements

As the current two-tier system for due process hearings and appeals transitions to a single level system in the next year, charter schools and cyber charter schools will save approximately \$12,500, because the responsibility for a share of the cost of hearing officers, transcripts, travel and related administrative costs will shift from charter schools and cyber charter schools to the Department. With elimination of the appeals panels, the Department will save approximately \$5,000 annually in appeals panel costs related to charter schools and cyber charter schools. It is estimated that annual increased costs to the Department for implementation of the new single tier system, combined with the total costs of hearing officers, transcripts, travel and administrative costs will be approximately \$17,500.

The final-form rulemaking requires that the Department report annually to the Board on the activities and results of due process hearings. Since the Department already collects this information, the cost of generating the annual report to the Board is minimal.

The final-form rulemaking adds a requirement that school entities maintain data on the use of restraints. This data will be reviewed as part of existing compliance reviews conducted by the Department. The cost to implement and administer this new requirement is minimal.

Requirements for the access to instructional materials as required by IDEA are added. The resource center is funded by the Federal government.

Under this final-form rulemaking, educational interpreters providing services to students who are deaf or hearing impaired employed by charter schools and cyber charter schools need to meet the qualification of scoring a 3.5 or above on the Educational Interpreter Performance Assessment and participate in at least 20 hours of continuing professional education in interpreting or transliterating services each year to continue to provide educa-

tion interpreting services to students. A number of intermediate units and the Pennsylvania Training and Technical Assistance Network provide training at no or relatively small cost to educational interpreters to assist them in meeting these requirements.

Effective Date

The final-form rulemaking will become effective July 1, 2008, following final-form publication in the *Pennsylvania Bulletin*.

Sunset Date

In accordance with its policy and practice regarding final-form rulemaking, the Department will review the effectiveness of this chapter after 4 years. Therefore, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 28, 2007, the Department submitted a copy of the proposed rulemaking and a copy of the Regulatory Analysis Form to the IRRC and to the Chairpersons of the House and Senate Committees (Committees) on Education. A copy of this material is available to the public upon request.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745a(j.2)), on June 18, 2008, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 19, 2008, and approved the final-form rulemaking.

Contact Person

The official responsible for information on this final-form rulemaking is Dr. Linda Rhen, Director of School Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 705-5014, TDD (717) 787-7367.

Findings

The Department finds that:

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

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

(3) The final-form rulemaking is necessary and appropriate for the administration of the Charter School Law.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 22 Pa. Code Chapter 711, are amended by amending §§ 711.1—711.9, 711.21, 711.22, 711.41—711.44, 711.61 and 711.62; and by adding §§ 711.10, 711.23—711.25, 711.45 and 711.46 to read as set forth in Annex A.

(b) The Secretary will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Secretary of Education will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This Order is effective July 1, 2008.

GERALD L. ZAHORCHAK,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3564 (June 28, 2008).)

Fiscal Note: Fiscal Note 6-308 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 22. EDUCATION

PART XX. CHARTER SCHOOLS

CHAPTER 711. CHARTER SCHOOL AND CYBER CHARTER SCHOOL SERVICES AND PROGRAMS FOR CHILDREN WITH DISABILITIES

GENERAL PROVISIONS AND SUPERVISION

§ 711.1. Definitions.

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

Act—The Charter School Law (24 P. S. §§ 17-1701-A—17-1723-A).

Charter school—An independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend. A charter school shall be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

Child with a disability—As defined in 34 CFR 300.8 (relating to child with a disability).

Cyber charter school—As defined in section 1703-A of the act (24 P. S. § 17-1703-A).

Department—The Department of Education of the Commonwealth.

ESY—Extended school year.

FAPE—Free appropriate public education.

IDEA—Individuals with Disabilities Education Act (20 U.S.C.A. §§ 1400—1419).

IEP—Individualized education program.

Regional charter school—As defined in section 1703-A of the act.

SEA—State education agency—The Department of Education of the Commonwealth.

School entity—A school district, intermediate unit, joint school or area vocational technical school.

Secretary—The Secretary of the Department.

Section 504—Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794).

§ 711.2. Purposes and intent.

(a) This chapter specifies how the Commonwealth, through the Department, will meet its obligation to ensure that charter schools and cyber charter schools comply with IDEA and its implementing regulations in 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities), and Section 504 and its implementing regulations in 34 CFR Part 104

(relating to nondiscrimination on the basis of handicap in programs and activities receiving federal financial assistance).

(b) This chapter does not prevent a charter school or cyber charter school and a school district from entering into agreements regarding the provision of services and programs to comply with this chapter, whether or not the agreements involve payment for the services and programs by the charter school or the cyber charter school.

(c) Charter schools and cyber charter schools are exempt from Chapter 14 (relating to special education services and programs). See 24 P. S. § 17-1732-A.

(d) Children with disabilities shall have access to the general curriculum, and participate in State and local assessments as established and described in Chapter 4 (relating to academic standards and assessment).

(e) The Department supports the use of prereferral intervention strategies, in accordance with 34 CFR 300.226 (relating to early intervening services) and as outlined in § 711.23(c) (relating to screening) to promote students' success in the general education environment.

§ 711.3. Incorporation of Federal regulations.

(a) Charter schools and cyber charter schools assume the duty to ensure that a FAPE is available to a child with a disability in compliance with IDEA and its implementing regulations in 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities) and section 504 and its implementing regulations in 34 CFR Part 104 (relating to nondiscrimination on the basis of handicap in programs and activities receiving federal financial assistance).

(b) The requirements of 34 CFR Part 300 as published at 64 FR 46450—46845 (August 14, 2006) are incorporated by reference, as follows:

(1) 34 CFR 300.4—300.8(a) and (c) (relating to act; assistive technology device; assistive technology service; charter school; and child with a disability).

(2) 34 CFR 300.9—300.15 (relating to consent; core academic subjects; day; business day; school day; educational service agency; elementary school; equipment; and evaluation).

(3) 34 CFR 300.17—300.19 (relating to free appropriate public education; highly qualified special education teachers; and homeless children).

(4) 34 CFR 300.22 and 300.23 (relating to individualized education program; and individualized education program team).

(5) 34 CFR 300.27—300.30 (relating to limited English proficient; local educational agency; native language; and parent).

(6) 34 CFR 300.32—300.37 (relating to personally identifiable; public agency; related services; scientifically based research; and secondary school).

(7) 34 CFR 300.39 (relating to special education).

(8) 34 CFR 300.41—300.45 (relating to State educational agency; supplementary aids and services; transition services; universal design; and ward of the state).

(9) 34 CFR 300.101 and 34 CFR 300.102 (relating to free appropriate public education (FAPE); and limitation—exception to FAPE for certain ages).

(10) 34 CFR 300.104—300.108 (relating to residential placement; assistive technology; extended school year services; nonacademic services; and physical education).

(11) 34 CFR 300.113 and 300.114(a)(2) (relating to routine checking of hearing aids and external components of surgically implanted medical devices; and LRE requirements).

(12) 34 CFR 300.115—300.117 (relating to continuum of alternative placements; placements; and nonacademic settings).

(13) 34 CFR 300.122 (relating to evaluation).

(14) 34 CFR 300.148 (relating to placement of children by parents when FAPE is at issue).

(15) 34 CFR 300.160 (relating to participation in assessments).

(16) 34 CFR 300.172 (relating to access to instructional materials).

(17) 34 CFR 300.174 (relating to prohibition on mandatory medication).

(18) 34 CFR 300.207 (relating to personnel development).

(19) 34 CFR 300.210—300.213 (relating to purchase of instructional materials; information for SEA; public information; and records regarding migratory children with disabilities).

(20) 34 CFR 300.226 (relating to early intervening services).

(21) 34 CFR 300.300 and 300.301 (relating to parental consent; and initial evaluations).

(22) 34 CFR 300.302—300.307(a)(1)(2) and (b) (relating to screening for instructional purposes is not evaluation; reevaluations; evaluation procedures; additional requirements for evaluations and reevaluations; determination of eligibility; and specific learning disabilities).

(23) 34 CFR 300.308—300.311 (relating to additional group members; determining the existence of a specific learning disability; observation; and specific documentation for the eligibility determination).

(24) 34 CFR 300.320—300.325 (relating to definition of individualized education program; IEP Team; parent participation; when IEPs must be in effect; development, review, and revision of IEP; and private school placement by public agencies).

(25) 34 CFR 300.327 and 300.328 (relating to educational placements; and alternative means of meeting participation).

(26) 34 CFR 300.501—300.508 (relating to opportunity to examine records; parent participation in meetings; independent education evaluation; prior notice by the public agency, content of notice; procedural safeguards notice; electronic mail; mediation; filing a due process complaint; and due process complaint).

(27) 34 CFR 300.510—300.516 (relating to resolution process; impartial due process hearing; hearing rights; hearing decisions; finality of decision; appeal; partial review; timelines and convenience of hearings and reviews; and civil action).

(28) 34 CFR 300.518(a), (b) and (d) and 300.519 (relating to child's status during proceedings; and surrogate parents).

(29) 34 CFR 300.530—300.537 (relating to authority of school personnel; determination of setting; appeal; placement during appeals; protections for children not determined eligible for special education and related services; referral to and action by law enforcement and judicial

authorities; change of placement because of disciplinary removals; and state enforcement mechanisms).

(30) 34 CFR 300.610—300.625 (relating to confidentiality; definitions; notice to parents; access rights; record of access; records on more than one child; list of types and locations of information; fees; amendment of records at parent request; opportunity for a hearing; result of hearing; hearing procedures; consent; safeguards; destruction of information; and children's rights).

(c) The requirements of 34 CFR Part 104 are incorporated by reference as follows:

(1) 104.3(f), (h)—(j), (k)(2) and (l) (relating to definitions).

(2) 104.4—104.8, regarding discrimination prohibited; assurances required; remedial action; designation of responsible employee; and notice.

(3) 104.10 (relating to effect of state or local law or other requirements and effect of employment opportunities).

(4) 104.11 and 104.12 (relating to discrimination prohibited; and reasonable accommodation).

(5) 104.21—104.37, regarding accessibility.

§ 711.4. Supervision.

(a) The Commonwealth, through the Department will provide general supervision of special education services and programs provided under this chapter to ensure that charter schools and cyber charter schools comply with § 711.3 (relating to incorporation of Federal regulations).

(b) The Department will supervise charter schools' and cyber charter schools' compliance with IDEA in accordance with the policies and procedures in the Department's IDEA grant application under 34 CFR 300.100 (relating to eligibility for assistance) and as approved by the United States Department of Education.

(c) Charter schools and cyber charter schools shall:

(1) Comply with the Department's compliance monitoring requirements.

(2) Provide the information requested by the Department.

(3) Complete the corrective action required by the Department.

§ 711.5. Personnel.

(a) *Appropriate certification required.* Persons who provide special education or related services to children with disabilities in charter schools and cyber charter schools shall have appropriate certification, notwithstanding section 1724-A of the act (24 P. S. § 17-1724-A).

(b) *Educational interpreters.* An educational interpreter is an individual who provides students who are deaf or hard of hearing with interpreting or transliterating services in an educational setting. To serve as an educational interpreter at a charter school or cyber charter school, consistent with the Sign Language Interpreter/Transliterator State Registration Act (63 P. S. §§ 1725.1—1725.12), an individual shall meet the qualifications in paragraph (1) or (2) and paragraph (3):

(1) Achieve and provide evidence of a score of 3.5 on the Educational Interpreter Performance Assessment (EIPA) for the appropriate grade level to which the person has been assigned.

(2) Be a qualified sign language interpreter or qualified transliterator under the Sign Language Interpreter or Transliterator State Registration Act and its implementing regulations.

(3) Provide evidence of a minimum of 20 hours of staff development activities relating to interpreting or transliterating services annually.

(c) *Review of EIPA score.* The Department, in consultation with the State Board of Education will review the EIPA score requirement every 2 years.

(d) *Paraprofessionals.*

(1) An instructional paraprofessional is a charter school or cyber charter school employee who works under the direction of a certificated staff member to support and assist in providing instructional programs and services to students with disabilities. This support and assistance includes one-on-one or group review of material taught by certificated staff, classroom management and implementation of positive behavior support plans. Services may be provided in a special education class, regular education class or other instructional setting as provided in the student's IEP. Special education instructional paraprofessionals shall meet one of the following qualifications effective July 1, 2010:

(i) Have completed at least 2 years of postsecondary study.

(ii) Possess an associate degree or higher.

(iii) Meet a rigorous standard of quality as demonstrated through a State or local assessment.

(2) Nothing in subsection (a) should be construed to supersede the terms of a collective bargaining agreement in effect on July 1, 2008.

(3) Each school year, instructional paraprofessionals shall provide evidence of 20 hours of staff development activities related to their assignment.

(4) A personal care assistant provides one-to-one support and assistance to a student, including support and assistance in the use of medical equipment (for example, augmentative communication devices; activities of daily living; and monitoring health and behavior). A personal care assistant may provide support to more than one student, but not at the same time. Personal care assistants shall provide evidence of 20 hours of staff development activities related to their assignment each school year. The 20 hours of training may include training required by the school-based access program.

§ 711.6. Annual report.

(a) The annual report required under section 1728-A(b) of the act (24 P. S. § 17-1728-A(b)) must include:

(1) The number of children with disabilities in special education.

(2) The services, programs and resources being implemented by the charter school or cyber charter school staff.

(3) The services and programs utilized by the charter school or the cyber charter school through contracting with another public agency, other organizations or individuals.

(4) The services and programs utilized by the charter school or the cyber charter school through the assistance of an intermediate unit as prescribed under sections 1725-A(a)(4) and 1744-A(3) of the act (24 P. S. §§ 17-1725-A(a)(4) and 1744-A(3)).

(5) Staff training in special education utilized by the charter school or the cyber charter school through the Department's training and technical assistance network and intermediate unit.

(b) The annual report must include an assurance that the charter school or the cyber charter school is in compliance with Federal laws and regulations governing children with disabilities and the requirements of this chapter.

(c) The annual report must include the age and type of exceptionality for each enrolled child with a disability; the level of intervention provided to each child with a disability; certification of staff providing services to each child with a disability; and programs and services available to children with a disability.

§ 711.7. Enrollment.

(a) A charter school or cyber charter school may not deny enrollment or otherwise discriminate in its admission policies or practices on the basis of a child's disability or the child's need for special education or supplementary aids or services.

(b) Subject to subsection (a), a charter school or cyber charter school may limit admission to a particular grade level or areas of concentration of the school such as mathematics, science or the arts. A charter school or cyber charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school charter.

(c) A charter school or cyber charter school may not discriminate in its admission policies or practices on the basis of intellectual ability. Admission criteria may not include measures of achievement or aptitude.

§ 711.8. Education records.

(a) When the educational records for a child with a disability are transferred from a public agency, private school, approved private school or private agency, to a charter school or cyber charter school, the public agency, private school, approved private school or private agency from which the child transferred shall forward all of the child's educational records, including the most recent IEP, within 10 days after the public agency, private school, approved private school or private agency is notified in writing that the child is enrolled in a charter school or cyber charter school.

(b) When the educational records for a child with a disability are transferred to a public agency, private school, approved private school or private agency from a charter school or cyber charter school, the charter school or cyber charter school shall forward the child's educational records, including the most recent IEP, within 10 school days after the charter school or cyber charter school is notified in writing that the child is enrolled at another public agency, private school, approved private school or private agency.

(c) Charter schools and cyber charter schools shall maintain educational records for children with disabilities consistent with the regulations for the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.A. §§ 1221 note and 1232g) in 34 CFR Part 99 (relating to family educational rights and privacy).

§ 711.9. Payments.

(a) The child's school district of residence shall provide the special education payments required by section 1725-A(a)(3) of the act (24 P. S. § 17-1725-A(a)(3)) to the charter school either when:

(1) A child with an IEP begins attending the charter school or cyber charter school.

(2) The charter school or cyber charter school has identified an enrolled child as a child with a disability under IDEA, has developed an IEP for the child and notifies the district of residence of the identification.

(b) When a child for whom a charter school or cyber charter school received the special education payment required under section 1725-A(a)(3) of the act enrolls in another public agency, private school or private agency, the charter school or cyber charter school shall immediately inform the child's school district of residence that its payment responsibilities under section 1725-A(a)(3) of the act have ceased.

§ 711.10 Complaint procedure.

The Department will establish a complaint procedure consistent with 34 CFR 300.151—300.153 (relating to adoption of State complaint procedures; minimum State complaint procedures; and filing a complaint) and disseminate notice of that procedure.

IDENTIFICATION AND EVALUATION

§ 711.21. Child find.

(a) To enable the Commonwealth to meet its obligations under 34 CFR 300.111 (relating to child find), each charter school and cyber charter school shall establish written policies and procedures to ensure that all children with disabilities who are enrolled in the charter school or cyber charter school, and who are in need of special education and related services, are identified, located and evaluated.

(b) Each charter school's or cyber charter school's written policy must include:

(1) Public awareness activities sufficient to inform parents of children applying to or enrolled in the charter school or cyber charter school of available special education services and programs and how to request those services and programs. Written information shall be published in the charter school or cyber charter school handbook and web site.

(2) Systematic screening activities that lead to the identification, location and evaluation of children with disabilities enrolled in the charter school or cyber charter school.

§ 711.22. Reevaluation.

(a) The parent or teacher of a child with a disability has the right under 34 CFR Part 300.303(b) (relating to reevaluations) to request a reevaluation annually. More frequent reevaluations may only occur if the parent and charter school or cyber charter school agree. In addition to the requirements incorporated by reference in 34 CFR 300.303 (relating to reevaluation), reevaluation time line will be 60 calendar days, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.

(b) Charter schools and cyber charter schools shall reevaluate students with disabilities at least once every 3 years.

(c) Children with disabilities who are identified as mentally retarded shall be reevaluated at least once every 2 years.

§ 711.23. Screening

(a) Each charter school and cyber charter school shall establish a system of screening which may include prereferral intervention services to accomplish the following:

(1) Identification and provision of initial screening for students prior to referral for a special education evaluation, including those services outlined in subsection (c).

(2) Provision of peer support for teachers and other staff members to assist them in working effectively with students in the general education curriculum.

(3) Identification of students who may need special education services and programs.

(b) The screening process must include:

(1) Hearing and vision screening in accordance with section 1402 of the Public School Code of 1949 (24 P. S. § 14-1402) for the purpose of identifying students with hearing or vision difficulty so that they can be referred for assistance or recommended for evaluation for special education.

(2) Screening at reasonable intervals to determine whether all students are performing based on grade-appropriate standards in core academic subjects.

(c) Each charter school and cyber charter school may develop a program of prereferral intervention services. In the case of charter schools and cyber charter schools meeting the criteria in 34 CFR 300.646(b)(2) (relating to disproportionality), as established by the Department, the services are required and include:

(1) A verification that the student was provided with appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act (ESEA) (20 U.S.C.A. § 6368(3)), and appropriate instruction in math.

(2) For students with academic concerns, an assessment of the student's performance in relation to State-approved grade level standards.

(3) For students with behavioral concerns, a systematic observation of the student's behavior in the school environment where the student is displaying difficulty.

(4) A research-based intervention to increase the student's rate of learning or behavior change based on the results of the assessments under paragraph (2) or (3), or both.

(5) Repeated assessments of achievement or behavior, or both, conducted at reasonable intervals, reflecting formal monitoring of student progress during the interventions.

(6) A determination as to whether the student's assessed difficulties are the result of a lack of instruction or limited English proficiency.

(7) A determination as to whether the student's needs exceed the functional ability of the regular education program to maintain the student at an appropriate instructional level.

(8) Documentation that information about the student's progress as identified in paragraph (5) was periodically provided to the student's parents.

(d) Screening or prereferral intervention activities may not serve as a bar to the right of a parent to request an evaluation, at any time, including prior to or during the conduct of screening or prereferral intervention activities.

§ 711.24. Evaluation.

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.306 (relating to determination of eligibility), must include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.

(b) In addition to the requirements incorporated by reference in 34 CFR 300.301 (relating to initial evaluations), the initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60 calendar days after the agency receives written parental consent for evaluation, except that the calendar days from the day of the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.

(c) Parents may request an evaluation at any time, and the request must be in writing. The charter school or cyber charter school shall make the permission to evaluate form readily available for that purpose. If a request is made orally to any professional employee or administrator of the charter school or cyber charter school, that individual shall provide a copy of the permission to evaluate form to the parents within 10 calendar days of the oral request.

(d) Copies of the evaluation report shall be disseminated to the parents at least 10 school days prior to the meeting of the IEP team unless this requirement is waived by a parent in writing.

§ 711.25. Criteria for the determination of specific learning disabilities.

Following are State-level criteria for determining the existence of a specific learning disability. Each charter school and cyber charter school shall develop procedures for the determination of specific learning disabilities that conform to criteria in this section. These procedures shall be included in the school's charter application and annual report. To determine that a child has a specific learning disability, the charter school or cyber charter school shall:

(1) Address whether the child does not achieve adequately for the child's age or meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and scientifically based instruction appropriate for the child's age or State-approved grade-level standards:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading fluency skills.
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving.

(2) Use one of the following procedures:

(i) A process based on the child's response to scientific, research-based intervention, which includes documentation that:

(A) The student received high quality instruction in the general education setting.

(B) Research-based interventions were provided to the student.

(C) Student progress was regularly monitored.

(ii) A process that examines whether a child exhibits a pattern of strengths and weaknesses, relative to intellectual ability as defined by a severe discrepancy between intellectual ability and achievement, or relative to age or grade.

(3) Have determined that its findings under this section are not primarily the result of any of the following:

- (i) A visual, hearing or orthopedic disability.
- (ii) Mental retardation.
- (iii) Emotional disturbance.
- (iv) Cultural factors.
- (v) Environmental or economic disadvantage.
- (vi) Limited English proficiency.

(4) Ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics by considering documentation that:

(i) Prior to, or as a part of, the referral process, the child was provided scientifically-based instruction in regular education settings, delivered by qualified personnel, as indicated by observations of routine classroom instruction.

(ii) Repeated assessments of achievement were conducted at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

IEP

§ 711.41. IEP.

(a) When a child with an IEP transfers to a charter school or cyber charter school, the charter school or cyber charter school is responsible upon enrollment for ensuring that the child receives special education and related services in conformity with the IEP, either by adopting the existing IEP or by developing a new IEP for the child in accordance with the requirements of IDEA.

(b) For students who are 14 years of age or older, the charter school or cyber charter school shall include a transition plan which includes appropriate measurable postsecondary goals related to training, education, employment and, when appropriate, independent living skills.

(c) The IEP of each student shall be implemented as soon as possible but no later than 10 school days after its completion.

§ 711.42. Transportation.

(a) School districts shall provide transportation to students with disabilities eligible under IDEA and to protected handicapped students under Section 504, to the charter school in which they are enrolled, if the charter school is located in their school district of residence, a regional charter school of which the school district is a part or a charter school located outside district boundaries at a distance not exceeding 10 miles by the nearest public highway. This includes transportation to an ESY program, if that program is held at the charter school.

(b) Students with disabilities and Section 504 students may require modifications or accommodations for transportation to the charter school. Provision of modifications or accommodations, including specialized equipment and

bus aides, in a student's IEP or Section 504 Service Agreement, are the obligation of the charter school.

(c) Cyber charter school students are not required to attend a specific facility to receive their educational services. The act does not require that a student's school district of residence provide transportation for cyber charter school students. If transportation is required as a related service in the IEP of the student with disabilities, who is enrolled in a cyber charter school, the cyber charter school shall provide the required transportation.

(d) This chapter does not prohibit a charter school or cyber charter school and a school district from entering into agreements regarding the provision of transportation as a related service or accommodation to children with disabilities eligible under IDEA, or students eligible under Section 504.

§ 711.43. Educational placement.

When the IEP team at a charter school or cyber charter school places a child in another public agency, private school or private agency, and the parents choose to keep their child enrolled in the charter school or cyber charter school, the charter school or cyber charter school is obligated to pay for that placement.

§ 711.44. ESY.

(a) In addition to the requirements incorporated by reference in 34 CFR 300.106 (relating to extended school year services), charter schools and cyber charter schools shall use the following standards for determining whether a student with disabilities requires ESY as part of the student's program:

(1) At each IEP meeting for a student with disabilities, the charter school or cyber charter school shall determine whether the student is eligible for ESY services and if so, make subsequent determinations about the services to be provided.

(2) In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors, however, no single factor will be considered determinative:

(i) Whether the student reverts to a lower level of functioning as evidenced by a measurable decrease in skills or behaviors which occurs as a result of an interruption in educational programming (Regression).

(ii) Whether the student has the capacity to recover the skills or behavior patterns in which regression occurred to a level demonstrated prior to the interruption of educational programming (Recoupment).

(iii) Whether the student's difficulties with regression and recoupment make it unlikely that the student will maintain the skills and behaviors relevant to IEP goals and objectives.

(iv) The extent to which the student has mastered and consolidated an important skill or behavior at the point when educational programming would be interrupted.

(v) The extent to which a skill or behavior is particularly crucial for the student to meet the IEP goals of self-sufficiency and independence from caretakers.

(vi) The extent to which successive interruptions in educational programming result in a student's withdrawal from the learning process.

(vii) Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe mental retardation, degenerative impairments with mental involvement and severe multiple disabilities.

(b) Reliable sources of information regarding a student's educational needs, propensity to progress, recoupment potential and year to year progress may include the following:

(1) Progress on goals in consecutive IEPs.

(2) Progress reports maintained by educators, therapists and others having direct contact with the student before and after interruptions in the education program.

(3) Reports by parents of negative changes in adaptive behaviors or in other skill areas.

(4) Medical or other agency reports indicating degenerative-type difficulties, which become exacerbated during breaks in educational services.

(5) Observations and opinions by educators, parents and others.

(6) Results of tests, including criterion-referenced tests, curriculum-based assessments, ecological life skills assessments and other equivalent measures.

(c) The need for ESY services will not be based on any of the following:

(1) The desire or need for day care or respite care services.

(2) The desire or need for a summer recreation program.

(3) The desire or need for other programs or services that while they may provide educational benefit, are not required to ensure the provision of a FAPE.

(d) Students with severe disabilities such as autism/pervasive developmental disorder, serious emotional disturbance; severe mental retardation; degenerative impairments with mental involvement; and severe multiple disabilities require expeditious determinations of eligibility for ESY services to be provided as follows:

(1) Parents of students with severe disabilities shall be notified by the charter school or cyber charter school of the annual review meeting to ensure their participation.

(2) An IEP review meeting must occur no later than February 28 of each school year for students with severe disabilities.

(3) The notice of recommended educational placement (NOREP) shall be issued to the parent no later than March 31 of the school year for students with severe disabilities.

(4) If a student with a severe disability transfers into a charter school or cyber charter school after the dates in paragraphs (2) and (3), and the ESY eligibility decision has not been made, the eligibility and program content must be determined at the IEP meeting.

(e) Charter schools and cyber charter schools shall consider the eligibility for ESY services of all students with disabilities at the IEP meeting. ESY determinations for students other than those described in subsection (d) are not subject to the time lines in subsection (d). However, these determinations shall still be made in a timely manner. If the parents disagree with the charter

school's or cyber charter school's recommendation on ESY, the parents will be afforded an expedited due process hearing.

§ 711.45. Access to instructional materials.

(a) The Department adopts the National Instructional Materials Accessibility Standard (NIMAS) as defined in section 674(e)(3)(B) of IDEA (20 U.S.C.A. § 1474(e)(3)(B)), and set forth at 71 FR 41084 (July 19, 2006) for the purpose of providing print instructional materials in alternate accessible formats or specialized formats to blind persons or other persons with print disabilities in a timely manner. To insure the timely provision of high quality, accessible instructional materials to children who are blind or other persons with print disabilities, charter schools and cyber charter schools shall adopt the NIMAS. The NIMAS refers to a standard for source files of print instructional materials created by publishers that may be converted into accessible instructional materials.

(b) Charter schools and cyber charter schools shall, in a timely manner, provide print instructional materials in specialized, accessible formats (that is, Braille, audio, digital, large-print, and the like) to children who are blind or other persons with print disabilities, as defined in 2 U.S.C.A. § 135a regarding books and sound reproduction records for blind and other physically handicapped residents annual appropriations and purchases.

(c) Charter schools and cyber charter schools act in a timely manner in providing instructional materials under subsection (a) if they take all reasonable steps to ensure that children who are blind or other persons with print disabilities have access to their accessible format instructional materials at the same time that students without disabilities have access to instructional materials. Charter schools and cyber charter schools may not withhold instructional materials from other students until instructional materials in accessible formats are available.

(d) Receipt of a portion of the instructional materials in alternate accessible or specialized format shall be considered receipt in a timely manner if the material received covers the chapters that are currently being taught in the student's class.

(e) If a child who is blind or other person with a print disability enrolls in school after the start of the school year, a charter school or cyber charter school shall take all reasonable steps to ensure that the student has access to accessible format instructional materials within 10 school days from the time it is determined that the child requires printed instructional materials in an alternate accessible or specialized format.

(f) The Department, charter schools or cyber charter schools may coordinate with the National Instructional Materials Access Center (NIMAC) to facilitate the production of and delivery of accessible materials to children who are blind or other persons with print disabilities. The NIMAC refers to the central repository, established under section 674(e) of IDEA (20 U.S.C.A. § 1474(e)), which is responsible for processing, storing and distributing NIMAS files of textbooks and core instructional materials.

(g) Charter schools and cyber charter schools coordinating with NIMAC shall require textbook publishers to deliver the contents of print instructional materials to the NIMAC in NIMAS format files on or before delivery of the print instructional materials to the charter schools or cyber charter schools. Charter schools or cyber charter schools that choose not to coordinate with NIMAC may require that publishers deliver the contents of print instructional materials to the NIMAC in NIMAS format

files on or before delivery of the print instructional materials to the charter schools or cyber charter schools.

§ 711.46. Positive behavior support.

(a) Positive rather than negative measures shall form the basis of positive behavior support programs to ensure that all students shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's opportunity for learning and self-fulfillment. Behavior support programs and plans shall be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student must be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including deescalation techniques in accordance with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324, 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques—Deliberate activities designed to establish a negative association with a specific behavior.

Positive behavior support plan—A plan for students with disabilities who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment and become part of the student's IEP. These plans include methods that utilize positive reinforcement and other positive techniques to shape a student's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints—

(i) The application of physical force, with or without the use of a device, for the purpose of restraining the free movement of a student's body. The term does not include briefly holding, without force, a student to calm or comfort him, guiding a student to an appropriate activity, or holding a student's hand to safely escort him from one area to another.

(ii) Excluded from this definition are hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheel chairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by subsection (d).

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student shall cause the charter school or cyber charter school to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student needs a functional behavioral assessment, re-evaluation, a new or revised positive behavior support plan or a change of placement to address the inappropriate behavior.

(2) The use of restraints may only be included in a student's IEP when:

(i) Utilized with specific component elements of positive behavior support.

(ii) Used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.

(iii) Staff are authorized to use the procedure and have received the staff training required.

(iv) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.

(3) The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student is held face down on the floor.

(4) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program or employed as punishment.

(5) Charter schools and cyber charter schools shall maintain and report data on the use of restraints as prescribed by the Secretary. The report will be reviewed during cyclical compliance monitoring conducted by the Department.

(d) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints must prevent a student from injuring himself or others or promote normative body positioning and physical functioning.

(e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by charter schools or cyber charter schools in educational programs:

(1) Corporal punishment.

(2) Punishment for a manifestation of a student's disability.

(3) Locked rooms, locked boxes or other locked structures or spaces from which the student cannot readily exit.

(4) Noxious substances.

(5) Deprivation of basic human rights, such as withholding meals, water or fresh air.

(6) Suspensions constituting a pattern.

(7) Treatment of a demeaning nature.

(8) Electric shock.

(f) Charter schools and cyber charter schools have the primary responsibility for ensuring that behavior support programs are in accordance with this chapter, including

the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of behavior support techniques and obtaining parental consent prior to the use of restrictive or intrusive procedures or restraints.

(g) Charter schools and cyber charter schools may convene a review, including the use of human rights committees, to oversee the use of restrictive or intrusive procedures or restraints.

(h) Subsequent to a referral to law enforcement, for a student with a disability who has a positive behavior support plan, an updated functional behavior assessment and positive behavior support plan shall be required.

PROCEDURAL SAFEGUARDS

§ 711.61. Suspension and expulsion.

(a) For purposes of this chapter, the terms "suspension" and "expulsion" have the meanings set forth in § 12.6 (relating to exclusions from school).

(b) Charter schools and cyber charter schools shall comply with Chapter 12 (relating to students) and 34 CFR 300.530—300.537, regarding discipline procedures.

(c) Any removal from the current educational placement is a change of placement for a student who is identified with mental retardation.

(d) When a child with a disability has been expelled from a charter school or cyber charter school, the charter school or cyber charter school shall provide the child with a disability with the education required under § 12.6(e) until the charter school or cyber charter school is notified in writing that the child is enrolled in another public agency, private school, approved private school or private agency.

(e) Notwithstanding the requirements incorporated by reference in 34 CFR 300.530(b) and 300.536 (relating to authority of school personnel; and change of placement because of disciplinary removals), a disciplinary exclusion of a student with a disability for more than 15 cumulative school days in a school year will be considered a pattern so as to be deemed a change in educational placement.

§ 711.62. Procedural safeguards.

(a) The charter school or cyber charter school shall ensure that procedures are established and implemented to allow parties to disputes regarding any matter described in 34 CFR 300.503(a)(1) (relating to prior notice by the public agency, content of notice), to resolve the dispute through a mediation process that, at a minimum, must be available whenever a hearing is requested under 34 CFR 300.507 (relating to filing a due process complaint) or 34 CFR 300.530—300.537, regarding discipline procedures.

(b) The following apply to coordination services for special education and Section 504 hearings and to hearing officers:

(1) The Secretary may contract for coordination services in support of hearings conducted by local charter schools or cyber charter schools. The coordination services shall be provided on behalf of charter schools or cyber charter schools and may include arrangements for stenographic services, arrangements for hearing officer services, scheduling of hearings and other functions in support of procedural consistency and the rights of the parties to hearings.

(2) A hearing officer may not be an employee or agent of a charter school or cyber charter school which is responsible for the education of the student, or of the school district in which the parents or student reside or of any other agency which is responsible for the education or care of the student. A hearing officer shall promptly inform the parties of a personal or professional relationship the officer has or has had with any of the parties.

(c) A charter school or cyber charter school may request a hearing to proceed with an initial evaluation or a reevaluation when a parent fails to respond to the charter school's or cyber charter school's evaluation or reevaluation. When a parent rejects the charter school's or cyber charter school's proposed identification of a child, proposed evaluation, proposed provision of a FAPE or proposed educational placement, other than the initial placement, the charter school or cyber charter school may request an impartial due process hearing. If the parent fails to respond or refuses to consent to the initial provision of special education services, neither due process nor mediation may be used to obtain agreement or a ruling that the services may be provided.

(d) The following time line applies to due process hearings:

(1) A hearing shall be held after the conclusion of the resolution session under 34 CFR 300.510 (relating to resolution process) or after one of the parties withdraws from mediation or the parties agree to waive or end the resolution session.

(2) The hearing officer's decision shall be issued within 45 days after the resolution or mediation session ends without resolution or agreement date.

(e) Except as provided by 34 CFR 300.533 (relating to placement during appeals), during the pendency of any mediation proceeding conducted in accordance with 34 CFR 300.506 (relating to mediation), unless the charter school or cyber charter school and the parents of the child agree otherwise, the child that is the subject of the mediation shall remain in the child's then current education placement until the mediation process is concluded.

(f) The resolution session required by 34 CFR 300.510 shall be available to parents of both school age and eligible young children with disabilities. Parent advocates may attend the sessions.

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