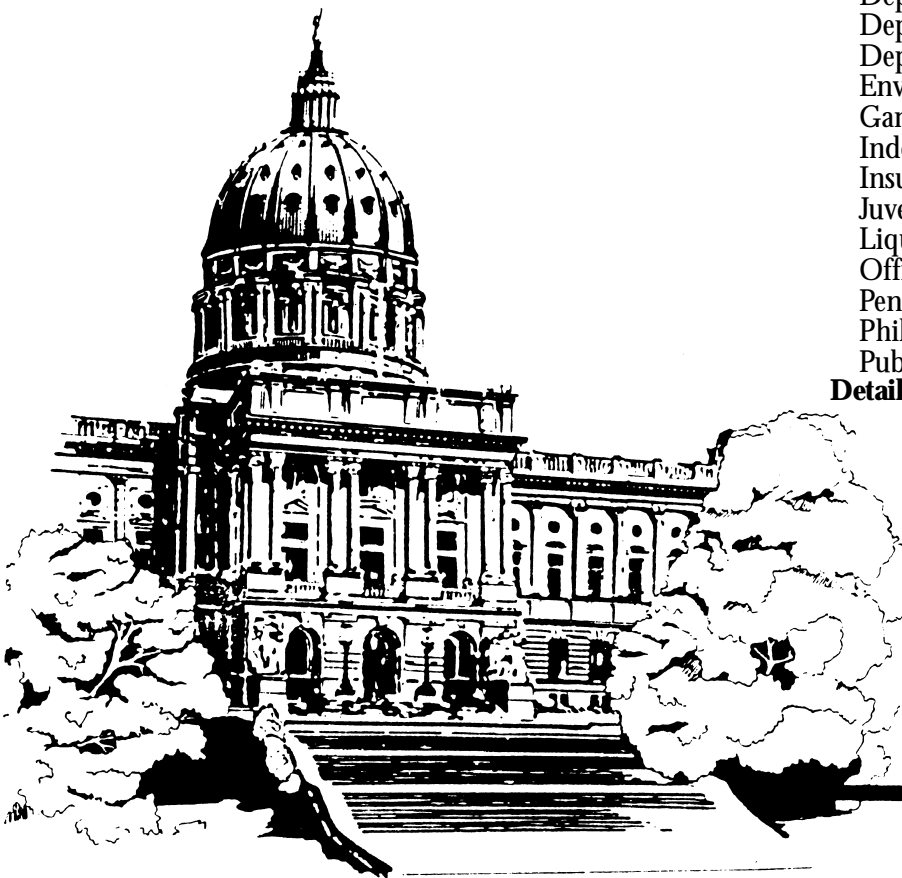


# PENNSYLVANIA BULLETIN

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**No. 405, August 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.

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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***

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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).

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### **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*.

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

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

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

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# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2008.

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# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CH. 6 ]

Order Amending Rules 644 and 646; Criminal Procedural Rules; No. 367; Doc. No. 2

### Order

*Per Curiam:*

Now, this 7th day of August, 2008, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 38 Pa.B. 1816 (April 19, 2008), and in the Atlantic Reporter (Second Series Advance Sheets, Vol. 865), and a *Final Report* to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 644 is amended and the *Comment* to Rule 646 is revised in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

#### PART C(2). CONDUCT OF JURY TRIAL

#### Rule 644. Note Taking by Jurors.

\* \* \* \* \*

[ (C) This rule is rescinded three years from the effective date. ]

#### Comment

This rule was adopted in 2005 to permit the jurors to take notes during the course of any trial that is expected to last more than two days. Pursuant to this rule, except for trials expected to last two days or less, the jury may take notes as a matter of right without the permission of the court. See, e.g., ABA Standards For Criminal Justice, Second Edition, Standard 15-3.2 (Note taking by jurors) (1980). [ **This is a temporary rule promulgated for the purpose of assessing whether juror note taking in criminal cases is beneficial to the system of justice in Pennsylvania.** ] This rule was originally adopted as a temporary rule for the purpose of assessing whether juror note taking in criminal cases is beneficial to the system of justice in Pennsylvania. As the rule has found favor with the bench, bar, and public, the sunset provision of paragraph (C) has been rescinded and the rule has been made permanent.

\* \* \* \* \*

**Official Note:** Rule 1113 adopted January 24, 1968, effective August 1, 1968; renumbered Rule 644 and Comment revised March 1, 2000, effective April 1, 2001. Rule 644 rescinded June 30, 2005, effective August 1,

2005. New Rule 644 adopted June 30, 2005, effective August 1, 2005; **amended August 7, 2008, effective immediately.**

*Committee Explanatory Reports:*

\* \* \* \* \*

Final Report explaining the provisions of new Rule 644 allowing note taking by jurors published with the Court's Order at 35 Pa.B. [ 3919 ] 3917 (July 16, 2005).

**Final Report explaining the August 7, 2008 amendments making permanent the provisions of Rule 644 allowing note taking by jurors published with the Court's Order at 38 Pa.B. 4606 (August 23, 2008).**

#### Rule 646. Material Permitted in Possession of the Jury.

\* \* \* \* \*

#### Comment

\* \* \* \* \*

The 1996 amendment adding "or otherwise recorded" in paragraph (B)(2) is not intended to enlarge or modify what constitutes a confession under this rule. Rather, the amendment is only intended to recognize that a confession can be recorded in a variety of ways. See *Commonwealth v. Foster*, 425 Pa. Super. 61, 624 A.2d 144 (1993).

**Nothing in this rule is intended to preclude jurors from taking notes during testimony related to a defendant's confession and such notes may be in the jurors' possession during deliberations.**

Paragraph (C) was added in 2005 to make it clear that the notes the jurors take pursuant to Rule 644 may be used during deliberations.

\* \* \* \* \*

**Official Note:** Rule 1114 adopted January 24, 1968, effective August 1, 1968; amended June 28, 1974, effective September 1, 1974; Comment revised August 12, 1993, effective September 1, 1993; amended January 16, 1996, effective July 1, 1996; amended November 18, 1999, effective January 1, 2000; renumbered Rule 646 March 1, 2000, effective April 1, 2001; amended June 30, 2005, effective August 1, 2005[ , 35 Pa.B. 3917. ]; **amended August 7, 2008, effective immediately.**

*Committee Explanatory Reports:*

\* \* \* \* \*

Final Report explaining the **June 30, 2005** amendment concerning jurors' notes published with the Court's Order at 35 Pa.B. [ 3919 ] 3917 (July 16, 2005).

**Final Report explaining the August 7, 2008 revision to the Comment concerning jurors' notes related to a defendant's confession published with the Court's Order at 38 Pa.B. 4606 (August 23, 2008).**

#### FINAL REPORT<sup>1</sup>

*Amendment to Pa.R.Crim.P. 644 and Revision of the Comment to Pa.R.Crim.P. 646*

#### NOTE TAKING BY JURORS

On August 7, 2008, effective immediately, upon the recommendation of the Criminal Procedural Rules Com-

<sup>1</sup> The Committee's *Final Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the Committee's explanatory *Final Reports*.

mittee, the Court amended Rule 644 (Note Taking by Jurors) to make permanent the procedures permitting jurors to take notes in criminal cases. The Court also approved a revision to the *Comment* to Rule 646 (Materials Permitted in Possession of the Jury) to clarify that jurors may take notes during testimony related to a defendant's confession.

### **Permanent Juror Note Taking Rule**

Rule 644 was adopted on June 30, 2005, effective August 1, 2005, as a temporary measure, with an expiration date of August 1, 2008<sup>2</sup>, three years after the effective date. During the time since the adoption of this temporary rule, the Committee has received nothing but positive comments on the procedure from several sources. First, during the three-year trial period, as part of the regularly scheduled Committee meetings, the Committee hosted several "Meet the Judges" sessions. All the judges who participated in these sessions were asked about their experience with juror note taking. Their comments were uniformly positive and in favor of making the rule permanent. Additionally, the Committee members reported anecdotally that communications with the bench and bar have been uniformly positive. The Committee also has tracked press reports regarding cases using juror note taking and these too have been positive. Finally, the Committee published for comment a *Report* explaining the proposal to make the juror note taking provisions of Rule 644 permanent and received almost universally positive responses. See 38 Pa.B. 1816 (April 19, 2008).

The Court therefore has made the rule permanent. This has been accomplished by deleting paragraph (C) that contained the original "sunset" provision. Additional language comparable to the 2005 Explanatory Comment to Civil Rule 223.2, added when juror note taking in civil cases was made permanent, has been added to the *Comment* to elaborate on this point.

### **Note Taking During Confession Testimony**

In 2007, the Committee was alerted to an unreported Allegheny County Common Pleas case in which the trial judge refused to permit the jurors to take notes during the testimony of a police officer relating a confession made by the defendant. The trial judge's position was based on Rule 646(B)(2) that states the jury may not have in its possession for deliberations "a copy of any written or otherwise recorded confession by the defendant." The trial judge interpreted the "otherwise recorded" provision to include notes by the jurors recording portions of the confession related testimony.

Subsequent to the Allegheny County decision, a Berks County Court of Common Pleas judge approved of note taking during testimony related to a defendant's confes-

sion, at least by implication. In *Commonwealth v. Boyd-Tolver*, 2007 WL 5004356, the trial judge addressed the question of whether there was error in permitting the Commonwealth to publish to the jury the defendant's written statements by way of a Power Point presentation because the presentation allowed the jury to copy the written statements while taking notes and thus have access to them during deliberation. The judge held that notes taken during such a presentation did not rise to the level of providing a "copy" of the confession.

As a result of these cases, the Committee examined the history of the Rule 646(B)(2) prohibition that was added to then-Rule 1114 in 1974. The rationale for this preclusion was a series of cases in which the courts were concerned that the physical presence of the written confession in the jury room would be weighted too heavily over the other testimony that jurors heard only from the witness stand. This prohibition was extended to a confession recorded by other means. In *Commonwealth v. Foster*, 425 Pa.Super. 61, 624 A.2d 144 (1993), the Superior Court held that allowing the jurors to have a videotape of the defendant's confession during deliberations was an abuse of discretion since the concern that the possibility of overemphasis on this type of evidence was the same or greater than that of a written confession. The rule was ultimately amended by including the phrase "or otherwise recorded" to reflect the holding in this case.

From this rule history, the Committee reasoned that the main concern of the Rule 646(B)(2) prohibition is that the presence of the defendant's confession, which in written form bears the defendant's signature, is of such an overpowering authority that it would outweigh other evidence in trial. A videotape or audiotape bears the defendant's image and voice and would be of even greater danger of outweighing other evidence. Notes of a witness's testimony describing the defendant's confession do not rise to this level of impact. Such notes, in most cases, are not likely to be verbatim and therefore they are not "a copy" of the confession but rather are the note taker's impression of the testimony related to the confession. As such, notes of one juror based on testimony heard by all jurors would not have the same impact as a written or taped confession.

Therefore, the Court has approved the revision of the Rule 646 *Comment* to clarify that note taking during testimony related to a defendant's confession is permissible and that these notes may be used during deliberations.

[Pa.B. Doc. No. 08-1520. Filed for public inspection August 22, 2008, 9:00 a.m.]

<sup>2</sup> On July 31, 2008, the Court temporarily suspended the expiration provisions contained in paragraph (C) of Rule 644 until further order of the Court.

# RULES AND REGULATIONS

## Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CHS. 5 AND 102 ]

[L-00070185/57-256]

### Regarding Implementation of the Public Utility Confidential Security Information Disclosure Protection Act

The Pennsylvania Public Utility Commission on May 1, 2008, adopted a final-form rulemaking order which establishes protocols and procedures to be followed when public utilities file records with the Commission containing confidential security information and challenges to the utility's designations or requests to examine records containing confidential security information are made. The contact person is Carl Hisiro, Law Bureau, (717) 783-2812.

#### *Executive Summary*

On November 29, 2006, Governor Edward Rendell signed into law the Public Utility Confidential Security Information Disclosure Act (CSI Act) (35 P. S. §§ 2141.1—2141.6). The CSI Act provides safeguards for confidential security information of public utilities that is provided to State agencies from disclosure that may compromise security against sabotage or criminal or terrorist acts. In creating this mandate of nondisclosure of confidential security information, the CSI Act directs the Commission to develop, among other things: (1) filing protocols and procedures for public utilities to follow when submitting records containing confidential security information; and (2) protocols and procedures to address challenges to the designations or requests to examine records containing confidential security information. See 35 P. S. § 2141.3.

The rulemaking went through an advance notice and proposed rulemaking published in the *Pennsylvania Bulletin*, and the Commission received comments from a number of interested parties. The final regulations at 52 Pa. Code §§ 102.1—102.4 (relating to confidential security information) spell out the purpose of the new regulations; provide a series of definitions that are mostly identical to the corresponding definitions in the CSI Act; and address the filing and challenge procedures contemplated by the CSI Act. The final regulations address issues such as how a utility is to label confidential security information to be filed with the Commission, how the Commission is to handle previously-filed unmarked records in its possession and how electronic submissions will be treated. The final regulations also amend § 5.423 (relating to orders to limit availability of proprietary information) by adding a new subsection (g) whose sole purpose is to refer the reader to the new Chapter 102.

Public Meeting held  
May 1, 2008

*Commissioners Present:* Wendell F. Holland, Chairperson;  
James H. Cawley, Vice Chairperson; Tyrone J. Christy;  
Kim Pizzingrilli

*Final Rulemaking Regarding Implementation of the  
Public Utility Confidential Security Information  
Disclosure Protection Act;  
Doc. No. L-00070185*

### Final Rulemaking Order

*By the Commission:*

On September 4, 2007, the Commission entered an order proposing to adopt regulations that establish procedures that must be followed when: (1) public utilities file records with the Commission that contain confidential security information; and (2) challenges to the utility's designations or requests to examine records containing confidential security information are made by members of the public. The Commission proposed these regulations in response to the enactment of the Public Utility Confidential Security Information Disclosure Protection Act (35 P. S. §§ 2141.1—2141.6) (CSI Act). The CSI Act directs State agencies such as the Commission to create procedures that will safeguard confidential security information filed with the Commission by public utilities from disclosure that may compromise security against sabotage or criminal or terrorist acts.

The September 4, 2007, Order was published at 37 Pa.B. 6421 (December 8, 2007). On or about January 7, 2008, comments were received from the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the National Association of Water Companies, Pennsylvania Chapter (NAWC), the Pennsylvania Newspaper Association (PNA), the Energy Association of Pennsylvania (EAPA), and the Philadelphia Gas Works (PGW). The Commission also received comments from the Independent Regulatory Review Commission (IRRC) and the Office of Attorney General (OAG).

This final-form rulemaking Order discusses the comments received and sets forth, in Annex A, final amendments to the Commission's regulations establishing procedures for public utilities to follow when filing confidential security information with the Commission and for members of the public to follow when challenging the utility's designations or requesting review of records containing confidential security information.

#### *Section 102.2. Definitions*

Four changes were made in the definitions section of the regulation. First, to improve clarity, IRRC recommends as to the definition of "confidential security information" that we should simply reference the definition in the statute rather than repeat the definition in its entirety in the *Pennsylvania Code*. We agree with this recommendation and also apply it to other definitions in the section—"facilities," "mass destruction," "public utility" and "terrorist act"—that are identical to the statutory definition.

The second change was to include definitions for "challenger" and "requester" for the sake of clarity as recommended by the EAPA and PGW in their respective comments. The third change we made is to the definition of "member of the public." Both the OAG and IRRC raised concerns about limiting it to "any citizen of the Commonwealth" and we have agreed to broaden it "to a legal resident of the United States," which is also consistent with the definition of a "requester" in the Commonwealth's new Right-to-Know-Law. 2008 Pa. Legis. Serv. Act 2008-3 (S.B. 1) (65 P. S. §§ 67.101—67.3104). Finally,

the fourth change was to update the definition of the "Right-to-Know-Law" to reference the newly-enacted law.

### *Section 102.3. Filing Procedures*

The regulation in § 102.3 (relating to filing procedure) addresses the filing procedures mandated by the CSI Act. For clarity and consistency, we have changed the word "staff" to "employee" in subsection (a)(3).<sup>1</sup> Additionally, PNA raises the concern that the transmittal letter referenced in subsection (b)(1) must be a public document available to a person seeking to challenge a designation or request to review the confidential security information; otherwise members of the public will not have any knowledge that such a document even exists. PNA fears that without this change, the regulation may have the effect of encouraging public utilities to over-classify documents as confidential security information with no meaningful public oversight. We agree with the PNA's concern here and have added a sentence to subsection (b)(1) that makes clear that the transmittal letter will be treated as a public document.

IRRC raises several issues in its comments concerning subsection (a). First, IRRC asks in relation to subsection (a)(1) how the Commission will monitor "onsite maintenance" to verify that utilities are correctly classifying information as "confidential security information." The Commission will monitor compliance the same way it monitors compliance with Chapter 101 now: through onsite visits of the utility to review current operating procedures, which includes verifying that the utility's cyber security plans, emergency response plans, and the like, are current and up-to-date, and through the performance of management audits under section 516 of the Public Utility Code. See 66 Pa.C.S. § 516.

Second, in regard to subsection (a)(2), which requires a utility to certify that the record is present and up-to-date and references Chapter 101 (relating to public utility preparedness through self certification), IRRC asks if information would need to be added to the Self-Certification Form described in Chapter 101, and if so, what happens if confidential security information is added directly onto the Chapter 101 Form. Currently, we do not see any need to amend the Chapter 101 Form as we believe the current Form is sufficient; however, we will monitor the use of this Form and if we believe language needs to be added for clarity purposes, we will do so. As to what happens if confidential security information is added directly to the Form, the utility should label the Form consistent with subsection (b) of the final regulation; but in any event, even if the utility neglects to do so, the Form itself is not a public document and is automatically treated as a confidential document under 52 Pa. Code § 101.5 (relating to confidentiality self certification form).

IRRC also asks how long a utility is required to maintain confidential security records. Generally, for most of the type of records that will be labeled as containing "Confidential Security Information," such as vulnerability assessments, emergency response plans, cyber security plans, maps showing the location of community drinking wells and surface water intakes and the like, the utility must maintain those records onsite so long as that particular plan, map, and the like remains the current plan, map, and the like of the utility. Once the older version has been replaced or revised by a newer version, it will be subject to the utility's document retention program and may be destroyed consistent with that

program. For any other documents or records marked as containing confidential security information and maintained by the utility onsite, the retention period will be, at a minimum, whatever the utility's document retention program requires unless the Commission has directed a different retention period. As all these types of documents already exist and are subject to the retention policies outlined herein, we did not see the necessity of adding language to the final regulation addressing this issue further.

Finally, in regard to subsection (a), IRRC asks whether the utility is required to follow the same filing requirements that the CSI Act sets forth for public agencies and which requirements are the subject of this final regulation. For example, IRRC asks, does the regulation establish a "document tracking system" for utilities as required by the CSI Act? The simple answer is no; the CSI Act only applies to documents filed with a state agency such as the Commission and not to documents that are retained by the public utility. The final regulation, therefore, only addresses the procedures public utilities must use when they file records containing confidential security information with the Commission and challengers and requesters must use, respectively, to challenge designations of documents or to request review of documents containing confidential security information.

In subsection (b)(3), IRRC states the word "affected page" is ambiguous. To the extent that this language may be interpreted to protect entire pages that may contain confidential security information when such information may only be on part of the page, IRRC questions why redaction is not considered an option. We agree with IRRC's concern and have removed the word "affected" in subsection (b)(3). We have also added a new subsection (b)(4) to clarify that redaction is to be used to eliminate confidential security information from a page to allow the rest of the page to be made public, consistent with the statutory language that directs state agencies to use redaction of confidential security information before disclosure. See 35 P. S. § 2141.3(e).

In subsection (c), IRRC is concerned that using the word "will" in the third sentence is overly broad because not every record may be accessible under the Right-to-Know Law. IRRC suggests using "may" instead. We agree and have made that change.

We also added a new subsection (d) in response to concerns raised by the OCA, which has the effect of renumbering the old subsections (d)—(f) as the new (e)—(g). The OCA states that as originally drafted, the proposed regulation appeared to only provide for after-the-fact challenges to confidential security information designations, but that there should be some review by Commission staff when the records are first filed with the Commission. This initial review is necessary, according to the OCA, to ensure that only records that actually fall within the definition of confidential security information will be subject to the restrictions of the CSI Act. The OCA suggests that the Commission adopt the internal procedure already in use by the Department of Environmental Resources (Department) to help ensure that records marked as "Confidential Security Information" have been properly designated. The new subsection (d) does incorporate, to a large extent, the recommended Department procedures. We believe this new subsection provides a reasonable approach to the stated concern of the OCA and the PNA that without any upfront mechanism to examine confidential security information claims made by public utilities, utilities may be tempted to over-classify records

<sup>1</sup> For the same reason, we have made the identical change in § 102.4(a)(2)(i) and (iii).

as containing confidential security information knowing the records would be protected unless a party made a challenge at some later date.

In regard to subsection (e) regarding the status of previously-filed unmarked records, IRRC, EAPA and PGW each raise a concern with the administration of this process in terms of what will happen to previously-filed records that are replaced with new records that are properly stamped as containing confidential security information. In this regard, IRRC especially asks what guarantee will the Commission provide that the old files are now secure or have been destroyed and further asks the Commission to review and develop cost estimates for the fiscal impact of this requirement on the public utilities.

Consistent with the proposal offered by both EAPA and PGW, a new sentence is added at the end of subsection (e) that provides that within 30 days of refileing the new records, the Commission will either destroy the original records filed or will return them by a secure method to the utility. This change also addresses IRRC's concern as to how the Commission would guarantee that the old files have been securely returned or properly destroyed. As for developing cost estimates, it is impossible for the Commission to determine how many records may be required to be refiled to receive the protections of this provision that would allow us to determine the fiscal impact of this provision. Our general sense, however, is that the impact may be modest at best on the utility industry because most records that contain confidential security information are not filed with the Commission but are in the hands of the utilities under the self-certification process discussed previously.

Similarly, the Commission has added clarifying language to subsection (f) to remove any ambiguity as to the Commission's responsibility with unmarked records. In this regard, two changes were made. First, we make clear that the Law Bureau will provide the affected public utility "with written notification of its determination" that already filed records may contain confidential security information. Second, a new last sentence is added that provides that the failure of the public utility to act within 15 days from the date of this written notice will be deemed a negative response from the utility and the existing record will, therefore, remain in the public file. Additionally, we deleted the first sentence pursuant to IRRC's request because the sentence was redundant as subsection (c) already makes clear that the protections of the CSI Act and this final regulation do not apply when the public utility fails to designate a record as containing confidential security information and because the requirement that utilities are to refile unmarked records is already established in subsection (e).<sup>2</sup>

Finally, subsection (g) dealing with electronic submissions has been changed to address concerns submitted by IRRC. IRRC states that the proposed language was framed more as an announcement than a regulation defining current practice. IRRC suggests that the language should be rewritten to set clear compliance standards, which should explicitly prohibit the submission of confidential security information in any electronic form. IRRC adds that when the Commission is ready and able to accept filings electronically while maintaining their confidentiality and security, the Commission will then be

<sup>2</sup> IRRC also raises a concern about the second part of subsection (f) establishing what it describes as internal procedures for the Commission as opposed to establishing rules or standards that apply to a regulated utility. We believe with the added clarifying language noted above to this subsection, the subsection now more clearly establishes standards that directly pertain to regulated utilities.

able to amend the regulation to allow utilities to file electronically. The final-form regulation adopts IRRC's position on this issue.

#### *Section 102.4. Challenge Procedures to Confidentiality Designation*

Section 102.4 (relating to challenge procedures to confidentiality designation) addresses challenge procedures to confidentiality designations and requests to review records containing confidential security information. Subsection (a) spells out the general procedures that will be followed whenever there is a challenge or request to review. In the opening paragraph of subsection (a), the OAG and OSBA raise concerns about the language excluding "a statutory advocate or Commission staff" from challenging the public utility's designation of confidential security information in the first sentence and about the meaning of the last two sentences. In regard to the latter concern, the OAG and IRRC question the Commission's authority under the CSI Act to create the exception that records maintained onsite by the utility are not subject to challenge or requests to review.

We agree that the questioned language in both these cases should be stricken from the regulation. It was never our intent to exclude Commission staff or statutory advocates from challenging improper designations of confidential security information but that was the effect of the original language.<sup>3</sup> As for the last two sentences, while it was our intent to try to make clear that only records filed with the Commission are subject to this provision, the last two sentences are not necessary to accomplish this interpretation. The CSI Act only applies to records filed with the Commission. To the extent that records are maintained onsite by the utility, the CSI Act does not address this situation. Our proposed language, however, created an explicit exception where none existed in the CSI Act. We agree with the OAG and IRRC that this language could allow a public utility to define broadly confidential security information without any legal recourse if the information is not filed with the Commission. We did not intend this result and so have removed the language objected to by the OAG and IRRC.

The previous concerns have also led us to remove subsection (a)(1) and to create a new subsection (h) to address situations where confidential security information is requested by a party in litigation pending before the Commission. Based on these same comments and a closer reading of the CSI Act, we have concluded that the challenge and request to review procedures were only intended to apply in nonadversarial proceedings before the Commission and not in litigated proceedings. In the latter instance, existing time-honored safeguards are already in place through the issuance of protective orders by the presiding officer, to protect the records. The CSI Act and these regulations are not meant to be applicable in litigated proceedings and we have amended the regulation to accomplish this intent.

The OAG, IRRC and the PNA each raise concerns about requiring the challenger or requester to provide his Social Security number to challenge a designation or review confidential security information. In originally requiring social security numbers be provided, the Commission relied in part on the fact that the Federal Energy Regulatory Commission (FERC) regulations relating to critical energy infrastructure information contained a

<sup>3</sup> At the same time, the phrase "if not a statutory advocate or Commission employee" was added in § 102.4(a)(2)(iii), because subsections (f) and (g) do alter the applicable rules for requesting records containing confidential security information for review if you are a statutory advocate or Commission employee, respectively.

similar requirement at 18 CFR 388.113(d)(3)(i). However, by final rule issued October 30, 2007, at 121 FERC § 61,107 Dkt. No. RM06-23-000, FERC has amended its regulation at 18 CFR 388.113(d)(3)(i) to eliminate the request for Social Security numbers to obtain critical energy infrastructure information. FERC found from experience that social security numbers are not needed to determine the legitimacy of requesters and that this change would also minimize privacy concerns without compromising security regarding release of critical energy infrastructure information. In light of this finding, we have similarly amended our language to remove social security numbers as an identification mechanism and have added requiring the use of “a valid photo identification” in its place as suggested by IRRC.<sup>4</sup>

Subsection (b) addresses the relevant factors the Commission will consider in determining whether to approve a challenge or request to review records containing confidential security information. Both IRRC and the OAG raise in their comments the question of whether the CSI Act even contemplates a balancing test like the one contained in the proposed rulemaking. The OAG further asks whether such a test, even if contemplated, is appropriate in regard to a challenge to a security designation, which, the OAG asserts, goes to whether a particular document meets the statutory definition and not the need of an individual. IRRC raises a further concern that the rulemaking does not use the “reasonable grounds” test expressed in section 3(c)(4) (35 P. S. § 2141.3(c)(4)), and that the Commission should provide a test that is consistent with this language of the CSI Act.

While we agree that the use of a balancing test is not expressly contemplated in the CSI Act, it is not expressly excluded either. See, and the like, *Elite Indus. v. Pa. Pub. Util. Comm'n*, 832 A.2d 428, 431-32 (Pa. 2003) (an agency has discretion to devise regulations that interpret its statutory mandates). In this regard, a review of other State and Federal regulations addressing the protection of confidential information reveals that use of a balancing test is common in this type of situation. FERC, for example, has created a similar balancing test in its regulations for determining when to release critical energy infrastructure information. 18 CFR 388.113(d)(3)(ii). Our own general rule for handling confidential information uses a balancing test that has worked well over time. See 52 Pa. Code § 5.423 (relating to orders to limit availability of proparitary information).

We agree, on the other hand, that the OAG’s concern about applying a balancing test to challenges is not needed and have amended the language in the final rulemaking to remove this test for challenges. Similarly, we have incorporated the “reasonable grounds” test used in the CSI Act as suggested by IRRC in the final regulation.

EAPA and PGW also offer several suggested changes that have been incorporated into subsection (b). In applying the balancing test, we have added “or to the public” after “the potential harm to the public utility” to make clear that we must take into consideration potential harm to the public in evaluating requests to review confidential security information. Terrorist acts are mainly directed at

harming or intimidating the general public so including the public interest as part of the analysis is appropriate. We also incorporated, for clarification purposes, many of the language changes EAPA and PGW offered for subsection (b)(1), (2) and (3). Similarly for clarification purposes, we incorporated the sentence suggested by EAPA and PGW for subsection (c) dealing with written notification of disposition.

As for subsection (d) relating to appeals of Commission decisions, both IRRC and the OAG question the necessity of the last two sentences that address how the Commonwealth Court will handle records allegedly containing confidential security information. We agree that since the last two sentences address procedures before Commonwealth Court and not the Commission and, in any event, the language merely repeats the statutory requirements, these last two sentences can be removed altogether from the regulation.

Finally, subsection (f) addresses how confidential security information is to be accessed by the statutory advocates. Both OSBA and the OCA raise concerns with this subsection. For example, OSBA complains that the use of the word “employee” limits the statutory advocate’s ability to obtain access to confidential security information for consultants and other expert witnesses hired by the statutory advocates as independent contractors. The OCA suggests that the regulation should be amended to require: (1) the statutory advocate to justify its need for the information to the Commission and not to the public utility; (2) the statutory advocate to execute the access agreement with the Commission and not with the public utility; and (3) the Commission to provide written notice to the public utility prior to disclosure. We agree with OSBA and the OCA that modifications are necessary and have incorporated amended language into the final rulemaking that addresses each concern.

Accordingly, under sections 1—6 of the Public Utility Confidential Security Information Disclosure Protection Act (35 P. S. §§ 2141.1—2141.6); 66 Pa.C.S. 501 and 1501; 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 at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we find that the regulations establishing procedures for filing, challenging and requesting confidential security information at 52 Pa. Code §§ 102.1—102.4 should be approved as set forth in Annex A, attached hereto; *Therefore*,

*It Is Ordered That:*

1. 52 Pa. Code Chapters 5 and 102 are hereby amended by amending § 45.423 and adding §§ 102.1—102.4 to read as set forth in Annex A.
2. The Secretary shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. The Secretary shall submit this Order and Annex A to the Office of Attorney General for approval as to legality.
4. The Secretary shall submit this Order and Annex A to the Governor’s Budget Office for review of fiscal impact.
5. The Secretary shall submit this Order and Annex A for review by the designated standing committees of both

<sup>4</sup> Another concern raised by IRRC in this subsection is that subsections (a)(2)(iv) and (v) mention a 15-day time limit and it asks whether this is a reasonable amount of time. We believe the answer is yes given the fact that the CSI Act creates a 60-day deadline on the Commission to provide a written notification of its decision. 35 P. S. § 2141.3(c)(5). The two individual 15-day time limits ensure that the Commission can meet its 60-day statutory obligation to render its decision when one factors in that the Commission procedures require that any recommendations or proposed orders be provided to the Commissioners at least 9 days prior to the public meeting date and the fact that there are usually no more than two public meetings scheduled per month.

houses of the General Assembly and for review and approval by the Independent Regulatory Review Commission.

6. A copy of this Order and Annex A shall be served upon the National Association of Water Companies, Pennsylvania Chapter; the Pennsylvania Newspaper Association; the Energy Association of Pennsylvania; PECO Energy Company; Philadelphia Gas Works; FirstEnergy Corporation; Equitable Gas Company; Nisource Corporate Services Company; Duquesne Light Company; Dominion Peoples; UGI Corporation; UGI Utilities, Inc.; UGI Penn Natural Gas, Inc.; Allegheny Power; PPL Services Corporation; National Fuel Distribution Corporation; Nauman Global Enterprises, LLC; Dart Container Corporation of California, d/b/a DTX Inc.; McClymonds Supply & Transit Co., Inc.; Meckley's Limestone Products, Inc.; American Expediting Company; the Office of Trial Staff; the Office of Consumer Advocate and the Small Business Advocate.

7. The final-form regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4045 (July 26, 2008).)

**Fiscal Note:** Fiscal Note 57-256 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PUBLIC UTILITY COMMISSION

##### Subpart A. GENERAL PROVISIONS

#### CHAPTER 5. FORMAL PROCEEDINGS

##### Subchapter E. EVIDENCE AND WITNESSES

#### § 5.423. Orders to limit availability of proprietary information.

(a) *General rule for adversarial proceedings.* A petition for protective order to limit the disclosure of a trade secret or other confidential information on the public record will be granted only when a party demonstrates that the potential harm to the party of providing the information would be substantial and that the harm to the party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process. A protective order to protect trade secrets or other confidential information will apply the least restrictive means of limitation which will provide the necessary protections from disclosure. In considering whether a protective order to limit the availability of proprietary information should issue, the Commission or the presiding officer should consider, along with other relevant factors, the following:

- (1) The extent to which the disclosure would cause unfair economic or competitive damage.
- (2) The extent to which the information is known by others and used in similar activities.
- (3) The worth or value of the information to the party and to the party's competitors.
- (4) The degree of difficulty and cost of developing the information.
- (5) Other statutes or regulations dealing specifically with disclosure of the information.

(b) *General rule for nonadversarial proceedings.* A petition for protective order limiting the disclosure of a trade secret or other confidential information in a nonadversarial proceeding shall be referred to the Law Bureau for recommended disposition by the Commission. The Commission will not disclose any material that is the subject of a protective order under this provision during the pendency of such a request.

#### (c) Restrictions.

(1) A protective order to restrict disclosure of proprietary information may require that a party receive, use or disclose proprietary information only for the purposes of preparing or presenting evidence, cross-examination or argument in the proceeding, or may restrict its inclusion in the public record.

(2) A protective order may require that parts of the record of a proceeding which contain proprietary information including, but not limited to, exhibits, writings, direct testimony, cross-examination, argument and responses to discovery, will be sealed and remain sealed unless the proprietary information is released from the restrictions of the protective order by agreement of the parties, or pursuant to an order of the presiding officer or the Commission.

(3) A public reference to proprietary information by the Commission or by a party afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the proprietary information to fully understand the reference and not more. The proprietary information shall remain a part of the record, to the extent admitted, for purposes of administrative or judicial review.

(4) Prior to the issuance of a protective order, a party may not refuse to provide information which the party reasonably believes to be proprietary to a party who agrees to treat the information as if it were covered by a protective order until the presiding officer or the Commission issues the order or determines that issuance of the order would not be appropriate. The party claiming the privilege shall file a petition for protective order under subsection (a) within 14 days of the date the request for information was received.

(5) A party receiving proprietary information under this section retains the right, either before or after receipt of the information, to challenge the legitimacy of the claim that the information is proprietary, and to challenge the admissibility of the proprietary information.

(d) *Access to representatives of parties.* Proprietary information provided to a party under this section shall be released to the counsel and eligible outside experts of the receiving party unless the party who is releasing the information demonstrates that the experts or counsel previously violated the terms of a recent protective order issued by the Commission. To be eligible to receive proprietary information, the expert, subject to the following exception, may not be an officer, director, stockholder, partner, owner or employee of a competitor of the producing party. An expert will not be ineligible on account of being a stockholder, partner or owner of a competitor or affiliate unless the ownership interest is valued at more than \$10,000 or constitutes a more than 1% interest, or both. No other persons may have access to the proprietary information except as authorized by order of the Commission or of the presiding officer.

(e) *Special restrictions.* A protective order which totally prohibits the disclosure of a trade secret or other confidential information, limits the disclosure to particular



parties or representatives of parties—except as permitted by subsection (c)—or which provides for more restrictive rules than those permitted in subsections (b) and (c), will be issued only in extraordinary circumstances and only when the party from whom the information is sought demonstrates that a greater restriction is necessary to avoid severe and extreme prejudice.

(f) *Return of proprietary information.* A party providing proprietary information under this section may request that the parties receiving the information return the information and the copies thereof to the party at the conclusion of the proceeding, including appeals taken.

(g) *Confidential security information.* Challenges to a public utility's designation of confidential security information or requests in writing to examine confidential security information in nonadversarial proceedings are addressed in Chapter 102 (relating to confidential security information).

**Subpart E. PUBLIC UTILITY SECURITY  
PLANNING AND READINESS**  
**CHAPTER 102. CONFIDENTIAL SECURITY  
INFORMATION**

Sec.	
102.1.	Purpose.
102.2.	Definitions.
102.3.	Filing procedures.
102.4.	Challenge procedures to confidentiality designation.

**§ 102.1. Purpose.**

This chapter establishes procedures for public utilities to follow when filing records with the Commission containing confidential security information under Act 156 (Act 156), and procedures to address challenges by members of the public to a public utility's designation of confidential security information or requests to examine records containing confidential security information in both adversarial and nonadversarial proceedings pending before the Commission.

**§ 102.2. Definitions.**

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

*Act 156*—The Public Utility Confidential Security Information Disclosure Protection Act (35 P. S. §§ 2141.1—2141.6).

*Commission*—The Pennsylvania Public Utility Commission.

*Challenger*—A member of the public that challenges a public utility record as constituting confidential security information.

*Confidential security information*—The term as defined in section 2 of Act 156 (35 P. S. § 2141.2).

*Facilities*—The term as defined in section 2 of Act 156.

*Mass destruction*—The term as defined in section 2 of Act 156.

*Member of the public*—The term includes a legal resident of the United States, a public utility certified by the Commission, the Office of Consumer Advocate, the Office of Small Business Advocate or authorized Commission employees.

*Public utility*—The term as defined in section 2 of Act 156.

*Requester*—A member of the public that requests to examine a public utility's confidential security information but who is not challenging the designation.

*Right-to-Know Law*—65 P. S. §§ 67.101—67.3104.

*Secretary*—The Secretary of the Commission.

*Terrorist act*—The term as defined in section 2 of Act 156.

**§ 102.3. Filing procedures.**

(a) *Maintenance of records onsite.* Unless required by order or other directive from the Commission or its staff that records containing confidential security information shall be filed with the Commission, public utilities shall do the following:

- (1) Maintain any record containing confidential security information onsite.
- (2) Certify that the record is present and up-to-date consistent with Chapter 101 (relating to public utility preparedness through self certification).
- (3) Make the record containing confidential security information available for review upon request by authorized Commission employees.

(b) *Filing requirements.* When a public utility is required to submit a record that contains confidential security information to the Commission, the public utility shall do the following:

- (1) Clearly state in its transmittal letter to the Commission that the record contains confidential security information and explain why the information should be treated as confidential. The transmittal letter will be treated as a public record and may not contain any confidential security information.
- (2) Separate the information being filed into at least two categories:
  - (i) Records that are public in nature and subject to the Right-to-Know Law.
  - (ii) Records that are to be treated as containing confidential security information and not subject to the Right-to-Know Law.
- (3) Stamp or label each page of the record containing confidential security information with the words "Confidential Security Information" and place all pages labeled as containing confidential security information in a separate envelope marked "Confidential Security Information."

(4) Redact the portion of the record that contains confidential security information for purposes of including the redacted version of the record in the public file.

(c) *Public utility's responsibility.* The public utility has the responsibility to identify records as containing confidential security information. When the public utility fails to designate a record as containing confidential security information, it does not obtain the protections offered in this chapter and in Act 156. Any record that is not identified, stamped and separated as set forth in subsection (b), may be made available to the public under the Right-to-Know Law.

(d) *Commission's responsibility with marked records.* When a public utility files a record containing confidential security information, the unopened envelope will be given to the Commission employee authorized to review the filing. The authorized person will make a preliminary determination whether the information has been properly designated in accordance with the definition of confiden-

tial security information under Act 156. If the marked information is deemed to have been improperly designated, the authorized person will give the submitter an opportunity to resubmit the record without the improper designation. If the submitter disagrees with this preliminary determination and advises the authorized person, the authorized person may submit the dispute to the law bureau for determination as a challenge in accordance with § 102.4 (relating to challenge procedures to confidentiality designation).

(e) *Status of previously-filed unmarked records.* Records containing what would otherwise be deemed confidential security information already on file at the Commission prior to May 29, 2007, the effective date of Act 156, are not covered by the protections offered in this chapter and in Act 156. To obtain the protections, the public utility shall resubmit and replace the existing records by following the filing procedures provided for in this section. When a public utility's filing is intended to replace pre-Act 156 filed records, the Commission will waive any otherwise applicable filing fee. Within 30 days of refiling the records containing confidential security information, the Commission will destroy the original pre-act 156 filed records, with a certification of destruction provided to the public utility, or will return the records to the public utility by a secure method.

(f) *Commission's responsibility with unmarked records.* When a request is made by a member of the public for an existing record that is not marked "Confidential Security Information" and Commission staff has reason to believe that it contains confidential security information, staff will refer the requested record to the Law Bureau for review. If the Law Bureau determines the record may contain confidential security information, the Law Bureau will provide the affected public utility with written notice of its determination and give it an opportunity to resubmit and replace the record with a copy that is marked "Confidential Security Information" pursuant to subsection (e). Failure by the public utility to respond to the written notice within 15 days from the date of the notice shall be deemed a negative response as to whether the record contains confidential security information.

(g) *Electronic submissions.* The Commission does not authorize the use of e-mail or any other electronic mail system to transmit records containing confidential security information.

#### **§ 102.4. Challenge procedures to confidentiality designation.**

(a) *General rule for challenges or requests to review.* When a member of the public challenges the public utility's designation of confidential security information or requests in writing to examine confidential security information, the Commission will issue a Secretarial Letter within 5 days to the public utility notifying the public utility of the challenge to its designation or the request to examine records containing confidential security information.

(1) The matter will be referred to the Law Bureau for recommended disposition by the Commission.

(2) The Commission will have up to 60 days from the date the challenge or written request to review is filed with the Secretary's Bureau to render a final decision. During the 60-day review period, the following process shall be used:

(i) For identification purposes, the challenger or requester, if not a statutory advocate or Commission employee, shall provide his full name, address, telephone number and a valid photo identification if an individual and its certification number, address and telephone number if it is a Pennsylvania utility.

(ii) For challenges, the challenger shall provide at the time it files the challenge a detailed statement explaining why the confidential security information designation should be denied.

(iii) For requests to review, the requester, if not a statutory advocate or Commission employee, shall provide at the time it files the request a detailed statement explaining the particular need for and intended use of the information and a statement as to the requester's willingness to adhere to limitations on the use and disclosure of the information requested.

(iv) The public utility shall have 15 days from the date the challenge or request to review is filed with the Secretary's Bureau to respond to the challenger's or requester's detailed statement in support of its position.

(v) The Law Bureau will have 15 days from the date the public utility's response is filed with the Secretary's Bureau to issue its recommended disposition to the Commission.

(b) *Relevant factors to be considered for requests to review.* The Commission will apply a balancing test that weighs the sensitivity of the designated confidential security information and the potential harm resulting from its disclosure against the requester's need for the information. Applying this balancing test, a written request to review a record containing confidential security information will be granted only upon a determination by the Commission that the potential harm to the public utility or to the public of disclosing information relating to the public utility's security is less than the requester's need for the information. If the Commission determines that there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, or mass destruction, the Commission will deny the request. In determining whether to grant a written request to review a record containing confidential security information, the Commission or the Law Bureau will consider, along with other relevant factors, the following:

(1) The requester's willingness to sign a nondisclosure agreement prepared by the Law Bureau. The agreement shall be executed prior to any release of confidential security information.

(2) The requester's willingness to consent to a criminal background check.

(3) The conditions, if any, to place on release of the information and the requester's willingness to consent in writing to comply with these conditions.

(c) *Written notification of disposition.* The Commission will provide, within the 60-day period, written notification of its decision on confidentiality to the public utility and the member of the public that requested to examine the records containing confidential security information or challenged the designation made by the public utility. Failure by the Commission to act within the 60-day period will be deemed a denial of the challenge or the

request to review. In the written notification, the Commission will affirmatively state whether the disclosure would compromise the public utility's security against sabotage or criminal or terrorist act. When the Commission determines that a request for review will be granted, this grant may not invalidate or otherwise affect the record's designation as containing confidential security information for any other purpose, request, or challenge.

(d) *Appeal of Commission decision.* The Commission's decision on confidentiality under this chapter will be issued by order adopted at a public meeting. The public utility and member of the public shall have up to 30 days following entry of this order to file an appeal in Commonwealth Court.

(e) *Treatment of records during pendency of review.* During the challenge, request to review, or an appeal of the Commission's final determination, the Commission will continue to honor the confidential security information designation by the public utility.

(f) *Access for statutory advocates.* Authorized individuals, as provided for in Act 156, employed by the statutory advocates shall be provided with access to confidential security information on file with the Commission when they provide the Commission with a justification for the need of the information and execute access agreements with the Commission that summarize responsibilities and personal liabilities when confidential security information is knowingly or recklessly released, published or otherwise disclosed. The Commission will provide written notice to the affected public utility prior to disclosure of the confidential security information to the requesting statutory advocate.

(g) *Access for Commission staff.* Unopened envelopes marked "Confidential Security Information" filed with the Commission will be given only to Commission employees authorized to review the information as provided for in Act 156. Authorized Commission employees will execute access agreements that summarize responsibilities and personal liabilities when confidential security information is knowingly or recklessly released, published or otherwise disclosed. Commission employees may decline designation as authorized individuals. Commission employees that agree to the designation will have their names added to the Authorized Access List maintained by the Commission's Secretary's Bureau. The Commission will withdraw designations when the employee no longer requires access to confidential security information because of a change in duties or position or when the employee fails to attend required training.

(h) *Discovery requests in adversarial proceedings.* The challenge and request to review procedures described in this chapter do not apply to exchanges of documents among parties in adversarial proceedings pending before the Commission. In adversarial proceedings, a party wishing to limit availability of records containing confidential security information must move for an appropriate protective order before the presiding officer in accordance with accepted rules and procedures for issuing protective orders.

[Pa.B. Doc. No. 08-1521. Filed for public inspection August 22, 2008, 9:00 a.m.]

## Title 58—RECREATION

### GAME COMMISSION

[ 58 PA. CODE CHS. 139 AND 141 ]

#### Seasons and Bag Limits and Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 24, 2008, meeting, adopted the following rulemaking:

Amend § 141.1 (relating to special regulations areas) to permit hunters in the special regulation areas to harvest more than one deer at a time without first lawfully tagging previous harvests, provided all deer harvested are lawfully tagged immediately thereafter. Also amend §§ 139.2 and 141.41 (relating to definitions; and general) to relocate the prohibition against successive takings of deer prior to lawfully tagging a deer previously harvested from § 139.2 to § 141.41 where it is more appropriately located.

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. 3243 (June 14, 2008).

##### 1. Purpose and Authority

Formerly, § 139.2 defined "field possession limit for deer" in such a manner so as to prohibit the harvest of a second deer (when multiple harvests per day are authorized) before tagging a deer previously harvested. In light of its continuing efforts to find solutions to the overabundant deer populations in the urban environments found in the Special Regulation Areas, the Commission amended § 141.1 to allow a hunter to harvest more than one deer at a time without first lawfully tagging previous harvests, provided all deer harvested are lawfully tagged immediately thereafter. For all other areas of the Commonwealth outside of the Special Regulations Areas, the traditional "tag before second harvest" requirement remains the same, but has been relocated from § 139.2 to § 141.41 where it is more appropriately located.

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 to §§ 139.2, 141.1 and 141.41 were adopted under this authority.

##### 2. Regulatory Requirements

The final-form rulemaking amended § 141.1 to allow a hunter in the Special Regulation Areas to harvest more than one deer at a time without first lawfully tagging previous harvests, provided all deer harvested are lawfully tagged immediately thereafter. The final-form rulemaking also amended §§ 139.2 and 141.41 to relocate the general prohibition against successive takings of deer

prior to lawfully tagging a deer previously harvested from § 139.2 to § 141.41, where it is more appropriately located.

### 3. *Persons Affected*

Persons wishing to hunt or trap white-tailed deer within this Commonwealth may be affected by the final-form rulemaking.

### 4. *Comment and Response Summary*

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

### 5. *Cost and Paperwork Requirements*

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

### 6. *Effective Date*

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

### 7. *Contact Person*

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

### *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 139 and 141, are amended by amending §§ 139.2, 141.1 and 141.41 to read as set forth at 37 Pa.B. 3243.

(b) The Executive Director of the Commission shall certify this order, 37 Pa.B. 3243 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 48-269 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 08-1522. Filed for public inspection August 22, 2008, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 85 ]  
Bluff Recession and Setback

The Environmental Quality Board (Board) proposes to amend Chapter 85 (relating to bluff recession and setback), to make minor editorial changes, clarify municipal response on designation, add the City of Erie to the list of municipalities having a bluff recession hazard area, clarify minimum setback distances, add a deed and plat notice requirement and delete requirements for specific supporting documentation.

This proposal was adopted by the Board at its June 17, 2008, meeting.

### A. *Effective Date*

These amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*.

### B. *Contact Person*

For further information, contact Shamus Malone, Chief of Monitoring and Technical Assistance, PA Coastal Resources Management Program, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-4785.

Information regarding submitting comments on the proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) web site: [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

### C. *Statutory Authority*

The proposed amendments are published under the statutory authority of the Bluff Recession and Setback Act (32 P. S. §§ 5201—5315).

### D. *Background and Purpose*

In response to a 2001 petition to the Board by Millcreek Township, Erie County, to clarify the designation of Bluff Recession Hazard Areas along Lake Erie, the Department conducted a study of this Commonwealth's entire Lake Erie shoreline to determine Bluff Recession Hazard Areas. Considering the results of this study and other related studies and data, and responses from the coastal municipalities along Lake Erie concerning tentative designations of bluff recession hazard areas, the Department recommended including the City of Erie as a municipality identified as having a bluff recession hazard area.

A majority of the shoreline of the City of Erie is along the southern edge of Presque Isle Bay, sheltered from open lake wave energies by the protective land feature of Presque Isle Peninsula. However, approximately 1.5 miles of the City's eastern shoreline are outside Presque Isle Bay and are exposed to open lake wave energies. The bluffs adjacent to this section of shoreline are undercut by wave attack, have steep slopes, are periodically devoid of vegetation and have experienced active bluff recession or have been heavily protected. If left unregulated with setbacks and improvement limitations, existing and future development in this area will be subject to property damage from bluff recession. Therefore, this portion of the

City of Erie is designated as having a bluff recession hazard area and the City of Erie should be included as a regulated municipality in Chapter 85.

The compelling public need for this proposed rulemaking is based on the six basic purposes stated in the Bluff Recession and Setback Act and Chapter 85. Those purposes are:

- To encourage planning and development in bluff areas that is consistent with sound land use practices.
- To protect people and property in bluff areas from the dangers and damages associated with the inevitable recession of bluffs.
- To prevent and eliminate urban and rural blight which results from the damages of bluff recession.
- To minimize the expenditure of public and private funds for shoreline protection and bluff stabilization structures and activities.
- To authorize a comprehensive and coordinated program to regulate development activities through the use of setback ordinances in Bluff Recession Hazard Areas to preserve and restore the natural ecological systems, and to prevent continuing destruction of property and structures.
- To encourage local administration and management of bluffs consistent with the duty of the Commonwealth as trustee of natural resources, and the constitutional right of the people to the preservation of the natural, scenic, aesthetic and historic values of the environment.

### E. *Summary of Regulatory Requirements*

A brief description of the proposed amendments follows:

#### *Subchapter A. General Provisions*

Section 85.1 (relating to definitions) is proposed to be amended by adding the "Board" as a definitional term and clarifying the definitions for "Act," "Person," "Plat" and "Structure."

#### *Subchapter B. Procedure for Designation of Areas With Bluff Recession Hazards.*

This subchapter is proposed to be amended by making minor editorial changes to §§ 85.11 and 85.13 (relating to general requirements; and Department notification to municipalities) and adding clarifying language to §§ 85.14 and 85.15 (relating to municipal response on designation; and Department notification to the Environmental Quality Board).

#### *Subchapter C. Bluff Recession Hazard Areas Setback Requirements*

This subchapter is proposed to be amended by making changes to § 85.22(c) (relating to methods of determining minimum bluff setback distances) to change the minimum allowable bluff setback distance from 50 feet to 25 feet.

This subchapter is proposed to be amended by making minor editorial changes to § 85.23 (relating to modification of minimum bluff setback distances) and to move § 85.22(b) to § 85.25(b) for clarity.

In addition, § 85.26 (relating to designated municipalities and minimum bluff setback distances for identified categories of structures) is proposed to be amended by making minor editorial changes along with an important

clarification in subsection (c) that this table sets minimum setback requirements and adds the City of Erie as a designated municipality.

Following formal approval and designation of this additional bluff recession hazard area, the City of Erie will be required to adopt and implement a bluff setback ordinance within 6 months. The existing Chapter 85 has been in existence since 1980. Eight municipalities were originally identified as having bluff recession hazard areas. The proposed rulemaking adds one additional municipality to this list, based on the results of a recently completed study of bluff recession hazards along Pennsylvania's Lake Erie shoreline.

The City of Erie has permitting, technical and administrative capabilities and no additional staff or support capabilities are anticipated to be needed to administer a bluff setback ordinance. The cost of administering the ordinance is reflected by the number of building permits issued for structures in the bluff recession hazard area. Since the City of Erie already has a building permit system in place, administering the bluff setback ordinance should require only minimal costs and no additional resources.

Subsections § 85.26(d) and (e) are proposed to be added to clarify that municipalities may adopt more restrictive bluff setback distances and that the Uniform Construction Code (see 34 Pa. Code § 401.1) or local zoning regulations may also apply.

#### *Subchapter D. Municipal Bluff Setback Ordinance and Regulations*

This subchapter is proposed to be amended by making minor editorial changes to §§ 85.32, 85.35 and 85.37 (relating to time limit for municipal adoption of bluff setback ordinance and regulations; municipal adoption of more restrictive ordinance; and contents of ordinance and regulations submitted by municipality). A cross reference to the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations is proposed to be added to § 85.37(4)(i)(B) and a clarification made to § 85.37(7) regarding notice to applicants.

A new requirement is proposed in § 85.37(7)(i) and (ii) for every deed or plat within the bluff recession hazard area to include an appropriate bluff recession hazard area notice.

#### *Subchapter E. Department Oversight of Municipal Compliance*

This subchapter is proposed to be amended by deleting § 85.41 (relating to general requirements), deleting the requirement for notification by certified letter in § 85.42(b) and making minor editorial changes to § 85.42(d).

#### *Subchapter F. Grants and Reimbursements to Municipalities*

This subchapter is proposed to be amended by making minor editorial changes to § 85.52 (relating to limitation of grants and reimbursements) and replacing the specific list of records and supporting documentation required in § 85.55 (relating to records and audits) with the requirement that the records be maintained in accordance with generally accepted accounting practices.

As required by statute, the Department reimburses affected municipalities up to 75% of the costs incurred to develop an ordinance, and up to 50% of the cost of ongoing administration. Currently, the grant amount budgeted and spent by the Department for ongoing administrative costs for the eight municipalities is \$4,400 annually. For various reasons, one being the addition of

another municipality (City of Erie) to the municipalities needing reimbursement for administrative costs, the Department has increased the budgeted amount for this activity in future grant years.

The Department provides free annual training to affected municipalities to keep them up to date with new methods of monitoring development activities in bluff recession hazard areas. Furthermore, this proposed rule making would result in only minimal changes to the primary technical guidance document used to help the municipalities with daily implementation of their bluff setback ordinances. This change would be to include the City of Erie as one of the regulated municipalities.

#### *Subchapter G. Appeals*

This subchapter is proposed to be amended by making a minor editorial change to § 85.61(b)(1) (relating to appeals).

The Department is seeking public comment on the possible future inclusion of a section in Chapter 85 on proper vegetation management. This would be a regulatory section that would require coastal property owners to adhere to certain vegetation management practices to ensure bluff stability on their properties and adjoining properties. Poor vegetation management practices (indiscriminant felling of mature trees or property wide topping and thinning mature tree canopies) at the bluff crest or on the bluff face can have devastating effects on bluff stability that usually initiate large scale bluff recession that can result in property loss and/or structural damage.

#### *F. Benefits*

The benefit of this proposed rulemaking is the protection of the health and safety of coastal property owners, the prevention of the destruction of property and structures in designated bluff recession hazard areas, and the prevention of the introduction of debris and hazardous materials into the coastal environment. Federal funds will be available through the Coastal Resources Management (CRM) Program to help develop and implement any necessary ordinance. Future monitoring, training and technical assistance will also be provided by the CRM Program.

Also of interest to the public is the availability of Technical Advisory Services (TAS) provided by the Department to coastal property owners along the Lake Erie shoreline. The TAS is a free service implemented by the staff of the CRM Program and has been in existence for 25 years. The TAS provides technical advice to existing and prospective shoreline and bluff property owners on the causes and effects of shoreline erosion and of progressive bluff recession. This service is highly successful and is credited with saving millions of dollars in property values. The TAS also provides information regarding best management practices for the proper management of bluff and shoreline properties along Lake Erie. Under a Direct Action Policy in the Federal and State approved and jointly funded CRM Program, "... the Program shall provide technical assistance and advice concerning the design of structural and non structural methods of shore protection and bluff stabilization."

#### *G. Pollution Prevention*

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of

environmentally friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This proposed rulemaking promotes a multimedia pollution prevention approach for the proposed regulated area of the City of Erie. The construction setbacks in Chapter 85 for new construction and improvements to existing structures within the bluff recession hazard areas will promote safe and sensible practices by placing new construction outside and away from bluff recession hazard areas, making all new construction moveable and minimizing improvements to existing structures in bluff recession hazard areas. The proposed setbacks for new construction (from the bluff crest) are 25 feet for residential, 25 feet for commercial and 25 feet for industrial. Regulating new construction to keep it out of and away from the bluff recession hazard area will in effect prevent pollution of Lake Erie waters by avoiding collapse of structures into the waters of Lake Erie, caused by erosion and progressive bluff recession.

H. *Sunset Review*

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

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 13, 2008, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. 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 rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the rulemakings.

J. *Public Comment*

*Written comments.* Interested persons are invited to submit comments, suggestions or objections regarding the

proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by October 22, 2008. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by October 22, 2008. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form rulemaking will be considered.

*Electronic comments.* Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by October 22, 2008. A subject heading of the proposal and a return name and address must be included in each transmission.

K. *Public Hearings*

The Board will hold one public hearing for the purpose of accepting comments on this proposal. The hearing will be held as follows:

September 23, 2008      Tom Ridge Environmental Center  
10 a.m.                      301 Peninsula Drive  
   Suite 1  
   Room 108  
   Erie, PA 16505-2042

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

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

JOSEPH R. POWERS,  
*Acting Chairperson*

**Fiscal Note:** 7-704. (1) General Fund:

	<i>Environmental Protection Operations</i>	<i>Environmental Program Management</i>
(2) Implementing Year 2008-09 is	\$1,125	\$375
(3) 1st Succeeding Year 2009-10 is	\$750	\$250
2nd Succeeding Year 2010-11 is	\$750	\$250
3rd Succeeding Year 2011-12 is	\$750	\$250
4th Succeeding Year 2012-13 is	\$750	\$250
5th Succeeding Year 2013-14 is	\$750	\$250
(4) 2007-08 Program—	\$98,582,000	\$39,909,000
2006-07 Program—	\$89,847,000	\$36,868,000
2005-06 Program—	\$87,897,000	\$37,049,000
(7) Environmental Protection Operations and Environmental Program Management; (8) recommends adoption. Revenue is expected to cover increased costs beginning in 2009-2010.		

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 85. BLUFF RECESSION AND SETBACK

Subchapter A. GENERAL PROVISIONS

§ 85.1. Definitions.

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

Act—[ The act of May 13, 1980 (No. 1980-48) ] Bluff Recession and Setback Act (32 P. S. §§ 5201—5215).

\* \* \* \* \*

[ Persons— ] Person

(i) An individual, partnership, public or private association or corporation, firm, trust estate, municipality, governmental unit, public utility or other legal entity which is recognized by law as the subject of rights and duties.

(ii) [ When ] Whenever used in [ a ] any section prescribing or imposing a penalty, the term [ shall include ] includes the members of a partnership; the officers, members, servants and agents of an association, officers, agents and servants of a corporation but [ shall exclude ] excludes any department, board, bureau or agency of the Commonwealth.

Plat—A map, drawing or print accurately drawn to scale showing the proposed or existing [ the Commonwealth ] location of all structures.

\* \* \* \* \*

§ 85.2. Scope.

This chapter is adopted in accordance with the duties relating to bluff recession placed on the Department by the act, and [ they shall apply ] applies to all municipalities designated as having bluff recession hazard areas and to all persons constructing, installing or engaging in substantial improvement to any structure or utility facility within bluff recession hazard areas.

Subchapter B. PROCEDURE FOR DESIGNATION OF AREAS WITH BLUFF RECESSION HAZARDS

§ 85.11. General requirements.

The Department is authorized [ by ] under section 4 of the act (32 P. S. § 5204) to identify areas in this Commonwealth [ which have ] that contain bluff recession hazard areas. Prior to formal designation by the [ Environmental Quality Board ] EQB, the tentatively identified municipality will be invited to submit comments to the Department concerning the designation.

§ 85.13. Department notification to municipalities.

Following completion of the study, the Department will, by certified letter, notify the governing body of the municipality that it has been tentatively designated as possessing a bluff recession hazard area. The letter [ shall ] will contain [ all of ] the following information:

\* \* \* \* \*

(6) Specification of [ the ] a 60-day time [ limits ] limit for comment.

(7) Notice that [ a ] one or more public [ hearing ] hearings will be held concerning the designation of bluff recession hazard areas by the [ Environmental Quality Board ] EQB prior to formal designation.

§ 85.14. Municipal response on designation.

(a) Each municipality tentatively identified by the Department as possessing a bluff recession hazard area will be invited to submit written comments concerning the tentative designation to the Department within 60 days of receiving the notification letter of the Department.

(b) If a municipality disagrees with the letter of the Department tentatively designating it as possessing a bluff recession hazard area and the required setback distances, the appropriate representatives of the Department will contact and offer to meet with representatives of the municipality to review, discuss and attempt to resolve the differences. This meeting will be scheduled within 30 days from the date the letter is received from the municipality.

(c) If a municipality does not comment within the time prescribed in § 85.13(6) (relating to Department notification to municipalities), it will be presumed that the municipality is in agreement with the designation and the required setback distance.

§ 85.15. Department notification to the [ Environmental Quality Board ] EQB.

(a) [ When the Department receives comments from a tentatively designated municipality, it ] Following the close of the municipal comment period on the tentative designation, the Department will prepare and transmit to the [ Environmental Quality Board a request for ] EQB a proposed rulemaking proposing formal designation of the bluff recession hazard area of the municipality and the establishment of bluff setback distances in the bluff recession hazard area. The [ request ] proposed rulemaking will contain [ , at a minimum, all of ] the following:

\* \* \* \* \*

(3) [ All comments ] Comments received from the affected municipality.

\* \* \* \* \*

(b) [ In the event a municipality disagrees with the letter of the Department tentatively designating it as possessing a bluff recession area and the required setback distances and has not submitted comments acceptable to the Department, the appropriate representatives of the Department will contact and offer to meet with representatives of the municipality to review, discuss, and attempt to resolve the differences. This meeting will be held within 30 days from the date of the letter received from the municipality.

(c) In the event a municipality fails to comment within the time prescribed in § 85.13(6) (relating to Department notification to municipalities), the Department will assume the municipality is in agreement and will note that municipality provided no comment concerning the designation and the required setback distance within the allotted time.

(d) Following transmittal of the [ request ] proposed rulemaking by the Department to the [ Environ-



mental Quality Board ] EQB, the [ Environmental Quality Board ] EQB will give public notice and hold one or more public hearings on the [ request ] proposed rulemaking to formally designate areas within municipalities as bluff recession hazard areas.

[ (e) ] (c) Following public hearings, the Department will consider the comments received [ at the public hearing ] and make appropriate revisions to the [ request and resubmit it ] proposed rulemaking. The Department will then submit the proposed rulemaking to the [ Environmental Quality Board ] EQB for final action. Following [ an affirmative action by the Environmental Quality Board ] adoption by the EQB and publication of the formal designation, the Department will notify the municipality that it must within 6 months comply with the act and this chapter.

**Subchapter C. BLUFF RECESSION HAZARD AREAS SETBACK REQUIREMENTS**

**§ 85.22. Methods of determining minimum bluff setback distances.**

(a) The Department will develop minimum bluff setback distances for each municipality tentatively designated as having a bluff recession hazard area by applying the following formula:

$$\text{Rate of Bluff Recession} \times \text{Appropriate life span of structure} = \text{Minimum Bluff Setback Distance}$$

[ (b) When the Department receives the completed application, it will review the application based on the criteria for a variance pursuant to § 85.37(4) (relating to contents of ordinance and regulations submitted by municipality) within 45 days, and send a certified letter to the applicant approving or disapproving the variance. A copy of this letter will be sent to the municipality for its permanent record. If the Department does not take action regarding the application within 45 days, the application will be deemed approved. ]

(1) The rate of bluff recession is the average annual rate of recession for all the municipality's [ bluff ] bluffs as calculated by the Department.

(2) The appropriate life span of structure is 50 years for residential homes, 75 years for commercial structures, and 100 years for light and heavy industrial structures.

[ (c) In no case shall the ] (b) The minimum bluff setback distance may not be less than [ 50 ] 25 feet. When use of the formula identified in subsection (a) would produce a minimum bluff setback distance of less

than [ 50 ] 25 feet, the formula [ shall ] does not apply and [ 50 ] 25 feet shall be the minimum bluff setback distance.

**§ 85.23. Modification of minimum bluff setback distances.**

A minimum bluff setback distance for a municipality may be modified upon presentation of formal studies acceptable to the Department documenting annual recession rates at variance with the recession rate data of the Department. Upon Department review and acceptance of the data as accurate and compatible with the objectives of the act, a new minimum bluff setback distance will be calculated. The Department will request the [ Environmental Quality Board ] EQB to amend the designation in accordance with this subchapter concerning the minimum bluff setback distances.

**§ 85.25. Variances granted by the Department.**

(a) During the period between [ Environmental Quality Board ] EQB designation of a bluff recession hazard area and the approval of the Department of a bluff setback ordinance and regulations of a municipality, the Department may grant variances to the bluff setback requirements for all construction in a designated bluff recession hazard area. A property owner shall file an application with the Department for a variance to allow construction on his property.

(b) When the Department receives the completed application for a variance, it will review the application based on the criteria for a variance under § 85.37(4) (relating to contents of ordinance and regulations submitted by municipality) within 45 days, and send a certified letter to the applicant approving or disapproving the variance. A copy of this letter will be sent to the municipality for its permanent record. If the Department does not take action regarding the application within 45 days of receipt of this application, the application will be deemed approved.

**§ 85.26. Designated municipalities and minimum bluff setback distances for identified categories of structures.**

(a) Under § 85.15 (relating to Department notification to the [ Quality Board ] EQB), the municipalities identified in subsection (c) have been designated as possessing a bluff recession hazard area.

\* \* \* \* \*

(c) [ Designated municipalities and setback distances in feet. ] Regardless of any other provision of law or ordinance, the minimum setback distances in the named municipalities must be in accordance with the following table:

<i>Municipality (by geographic location)</i>	<i>Residential</i>	<i>Commercial</i>	<i>Light and Heavy Industrial</i>
Springfield Township Erie County	100'	150'	200'
Girard Township Erie County	60'	90'	120'
Lake City Borough Erie County	60'	90'	120'
Fairview Township Erie County	50'	75'	100'

<i>Municipality (by geographic location)</i>	<i>Residential</i>	<i>Commercial</i>	<i>Light and Heavy Industrial</i>
Millcreek Township Erie County	50'	75'	100'
<b>[ Fairview Township Erie County ]</b>	<b>[ 50' ]</b>	<b>[ 75' ]</b>	<b>[ 100' ]</b>
<b>Erie City Erie County</b>	<b>25'</b>	<b>25'</b>	<b>25'</b>
Lawrence Park Township Erie County	50'	75'	100'
Harborcreek Township Erie County	50'	75'	100'
North East Township Erie County	50'	75'	100'

(d) The setback distances listed in subsection (c) are minimum distances. The actual distance of the area subject to bluff recession may be greater in certain areas. Nothing in this chapter guarantees that bluff recession will not occur beyond the specified setback distances during the usable life span of a structure originally installed or constructed in accordance with the setback requirements at the time of installation or construction. Because of variations in the bluff recession rates, municipalities may adopt more restrictive ordinances in accordance with § 85.35 (relating to municipal adoption of more restrictive ordinance).

(e) If the setback distance for the placement of structures regulated under another law or ordinance, such as the Uniform Construction Code (see 34 Pa. Code § 4401.1) or zoning regulation, is greater than that specified in subsection (c), the greater setback distance shall apply within the bluff recession hazard area.

**Subchapter D. MUNICIPAL BLUFF SETBACK ORDINANCE AND REGULATIONS**

**§ 85.32. Time limit for municipal adoption of bluff setback ordinance and regulations.**

Each municipality, following publication of the formal [ Quality Board ] EQB designation of a bluff recession hazard area, shall within 6 months of receiving notification amend or adopt and implement a bluff setback ordinance and regulations which are consistent with the requirements of § 85.37 (relating to contents of ordinance and regulations submitted by municipality).

**§ 85.35. Municipal adoption of more restrictive ordinance.**

No provision of the act shall be construed [ as in any way limiting ] to limit the power of any municipality to adopt more restrictive ordinances, codes, or regulations governing construction and development in bluff recession hazard areas that are established under §§ 85.22— [ 85.24 ] 85.26 [ (relating to bluff recession hazard areas setback requirements) ].

**§ 85.37. Contents of ordinance and regulations submitted by municipality.**

The ordinance and regulations submitted by a municipality to the Department shall include at a minimum the following components:

\* \* \* \* \*

(3) A municipality shall provide a procedure, as a part of the ordinance and regulations, that enables monitoring of substantial improvements to structures bisected by or within the bluff setback distance. The procedure must ascertain the market value of the [ property ] structure prior to the first improvement and document subsequent improvements to the structure to ensure that they do not exceed 50% of the market value for a consecutive 5-year period. At the request of the municipality, the Department will provide assistance to the municipality in developing this procedure.

(4) The municipality shall provide a variance to its bluff setback ordinance and regulations only in the following cases:

(i) When a parcel established prior to a bluff recession hazard area [ designated ] designation does not have adequate depth considering the minimum bluff setback requirements to provide for any reasonable use of the land, a variance may be applied for. The variance shall be authorized when the following standards and criteria are met:

(A) The structure and all associated structures and [ utilities ] utility facilities shall be located on the property as far landward of the bluff line as allowed by other municipal ordinances.

(B) The structure shall be designed and constructed to be movable. Construction activities [ shall ] must meet the minimum erosion and sediment control practices established [ by ] under Chapter 102 (relating to erosion and sediment control) and reflect guidance contained in municipal stormwater ordinances or county watershed stormwater management plans. [ All construction materials, including foundations, shall be removed and disposed of in accordance with Chapter 75 (Reserved) as part of the moving operation. ] As part of the moving operation, all construction materials, including foundations, shall be removed and disposed of in accordance with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the regulations promulgated thereunder. Access to and from the structure shall be of sufficient width and acceptable grade to allow for moving of the structure.

\* \* \* \* \*

(7) [ The municipality has alerted and shall continue to alert permit applicants, when permits are granted, that the bluff setback requirements are at best a minimum distance and, because of variations

in local bluff recession rates, cannot guarantee that a structure located in a bluff recession hazard area will not be endangered by bluff recession within its useful life span.] When an applicant submits an application for a permit for any construction or development activities in areas subject to bluff recession hazards, the municipality shall alert the applicant of the minimum bluff setback prescribed in § 85.26(c) (relating to designated municipalities and minimum bluff setback distances for identified categories of structures).

(i) A deed for the transfer of property within designated bluff recession hazard areas shall include appropriate notice that it is within a bluff recession hazard area.

(ii) After \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), a plat approved for subdivision or land development under a municipal ordinance for areas within the bluff recession hazard area must include appropriate notice by the municipal zoning administrator.

Subchapter E. DEPARTMENT OVERSIGHT OF MUNICIPAL COMPLIANCE

§ 85.41. [ General requirements ] (Reserved).

[ As required by section 7 of the act (32 P. S. § 5207) the Department will adopt procedures and regulations for the review and approval of municipal ordinance and regulations. ]

§ 85.42. Department review and approval of a municipality setback ordinance and regulations.

\* \* \* \* \*

(b) The Department will, upon ascertaining that the proposed bluff setback ordinance and regulations meet the minimum requirements [ set forth ] in § 85.37 (relating to contents of ordinance and regulations submitted by municipality), notify the municipality [ by certified letter ] of the approval of the ordinance and regulations.

\* \* \* \* \*

(d) [ Should ] If the Department, during the review of the proposed ordinance and regulations, [ find ] finds that the ordinance and regulations do not meet the minimum requirements of this chapter, the Department will disapprove the ordinance and regulations and will notify the municipality. The letter will contain the reasons for disapproval and suggestions for correcting the problem. Upon receipt of this letter, the municipality shall have 30 days to correct the problem and resubmit the proposed ordinance and regulations. If the municipality disagrees with the findings of the Department, the municipality may appeal the decision of the Department under the procedures in [ this chapter ] § 85.61 (relating to appeals).

\* \* \* \* \*

Subchapter F. GRANTS AND REIMBURSEMENTS TO MUNICIPALITIES

§ 85.52. Limitation of grants and reimbursements.

Grants [ shall ] will be available from the Department to municipalities to reimburse them for allowable costs

incurred in complying with [ the requirements of ] the act. Grants [ shall ] will be limited to:

\* \* \* \* \*

(2) Fifty percent of the allowable costs for the ongoing administration of an ordinance incurred by a municipality. Allowable costs for administration of bluff setback ordinance [ shall ] do not include those costs [ which ] that are offset by reasonable permit fees imposed by the municipality.

§ 85.55. Records and audits.

(a) Municipalities shall maintain books, records, documents, correspondence and other evidence pertaining to the costs and expenses incurred under § 85.52 (relating to limitation of grants and reimbursements) to the extent and in [ such ] detail [ as ] that will properly reflect all costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which funding has been provided under the grant. [ Such ] The records shall be maintained in accordance with generally accepted accounting principles. [ A detailed explanation of the accounting procedures and types of records are contained in the "Manual of Accounting and Related Financial Procedures for Pennsylvania Municipalities," published and distributed by the Department of Community Affairs, Forum Building, Harrisburg, Pennsylvania 17120. ]

(b) A municipality shall maintain accounting records and supporting documentation which identify all revenue and costs from the effective date to expiration date of the grant. [ As a minimum, the following books of account shall be used: ] The accounting records shall be maintained in accordance with generally accepted accounting practices.

[ (1) Cash receipts journal.

(2) Cash disbursement journal.

(3) Payroll journal.

(4) General journal.

(c) In the event a municipality records transactions by the accrual method of accounting, additional records shall be required.

(d) The following documentation should be retained in file:

(1) Copies of revenue documents.

(2) Original vendor invoices.

(3) Payroll records.

(4) Cancelled checks.

(5) Worksheets used to prepare grant reports and other related grant information. All records should be retained for a period of three years from the grant expiration date or until all pending matters are resolved. ]

Subchapter G. APPEALS

§ 85.61. Appeals.

\* \* \* \* \*

(b) An appeal of an action under the act [ shall ] does not act as a supersedeas. A supersedeas may be granted by the [ Environmental Hearing Board ] EQB upon a showing by the petitioner that:

(1) **[ that irreparable ] Irreparable** harm to the petitioner or other interested parties will result if supersedeas is denied.

(2) **[ That there ] There** is a likelihood of the success of the petitioner on the merits.

(3) **[ That the ] The** grant of a supersedeas will not result in irreparable harm to **[ the ] this** Commonwealth.

[Pa.B. Doc. No. 08-1523. Filed for public inspection August 22, 2008, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### [ 61 PA. CODE CHS. 73 AND 74 ] Malt Beverage Tax

The Department of Revenue (Department), under Article XX of the Tax Reform Code of 1971 (TRC) (72 P. S. §§ 9001—9016), proposes to amend 61 Pa. Code Chapters 73 and 74 (relating to emergency and limited malt beverage tax credit and malt beverage tax; and malt beverage tax) to read as set forth in Annex A.

#### *Purpose of Proposed Rulemaking*

The proposed rulemaking codifies legislative changes relating to the Malt Beverage Tax that were set forth in the act of December 23, 2003 (P. L. 250, No. 46) (72 P. S. § 9010) (regarding to limited tax credits). The title of Chapter 73 is being amended to remove the words "Emergency and." In addition, the Department has added clarifying language and removed obsolete language throughout Chapters 73 and 74.

#### *Explanation of Regulatory Requirements*

Several definitions in § 73.52 (relating to definitions) are amended to reflect legislative changes in Act 46-2003. The definition for "Bureau" is obsolete and has been removed from the regulation. The definition for "report" is renamed to "application," and this change is reflected in revisions throughout the rulemaking. The detailed instructions that previously appeared in the definition of "report" have been moved to § 73.54 (relating to report applying for tax credit). The term "emergency period" is replaced with "effective period" to mirror the language in the act. Additionally, increased dollar amounts and revised dates are changed in the definitions of "amounts paid," "emergency period (renamed "effective period")" and "qualifying capital expenditures."

Sections 73.51 and 74.1 (relating to purpose) have been revised to update citations.

Section 73.53 (relating to tax credit to be allowed and limitations) is amended to reflect an increase from \$100,000 to \$200,000 for tax credits allowed, not to exceed in total amount the amount of qualifying capital expenditures. In paragraphs (1) and (2), the terms "actually" and "actual" have been deleted from the phrases "amounts actually paid" and "actual amounts paid" respectively to mirror the term used in the definition "amount paid" in § 73.52. Additionally, clarifying language is added in paragraph (4).

Section 73.54 has been renamed to "Application for tax credit." The text immediately appearing under the section name has been updated for clarity, and the last sentence

has been moved to paragraph (3). In paragraphs (1) and (3) obsolete language has been replaced. Paragraph (4) updates the period for maintaining auditable record schedules and supporting data regarding tax credit claims to "January 31, 2011" and deletes "January 31, 1980." Paragraph (5) updates the period for keeping and retaining account records to not less than 3 years after "December 31, 2008" and deletes "December 31, 1977."

Section 73.55 (relating to grant of credit, conditions and limitations) deletes "December 31, 1977" and revises to "December 31, 2008" as the ending date when no credit will be allowed against any tax due to any taxable period. Paragraph (2) is amended with clarification language of 3 years, but not beyond December 31, 2008, for tax credits not utilized by the taxpayer.

Sections 74.31—74.41 (relating to malt beverage tax refunds) has been renamed "Malt Beverage Tax Credits." The term "refunds" has been changed to "credits" in the section headings and text throughout this entire subchapter to mirror the use of the term "credit" as authorized in the statute at section 2009 of the act (72 P. S. § 9009(f)) regarding refund of tax.

Section 74.35 (relating to refunds on malt beverage rendered unsalable by reason of damage or destruction) is amended to include a new reason of "recalled due to defect."

Section 74.37 (relating to credits) deletes obsolete language, "attention Bureau of Examination."

Section 74.41 (relating to time limit on credits) is amended to increase from 2 to 3 years the time limit on credits from the date of sale.

#### *Affected Parties*

Manufacturers, retailers and purchasers of malt or brewed beverages may be affected by the regulation.

#### *Fiscal Impact*

The Department has determined that the proposed amendment will have minimal fiscal impact on the Commonwealth.

#### *Paperwork*

The proposed amendment will not create additional paperwork for the public or the Commonwealth.

#### *Effectiveness/Sunset Date*

The regulation will become effective upon final publication in the *Pennsylvania Bulletin*. The regulation is scheduled for review within 5 years of final publication. No sunset date has been assigned.

#### *Contact Person*

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed amendments to Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, P. O. Box 281061, Harrisburg, Pennsylvania 17128-1061, within 30 days after the date of the publication of this notice in the *Pennsylvania Bulletin*.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 13, 2008, the Department submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance (Committees). In addition to submitting the amendment, the Department has provided IRRC and the Committees with a copy of a

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

The Committees may, at any time prior to the submittal of the final-form regulation, convey to the agency and the Commission, their comments, recommendations and objections to the proposed regulation. IRRC may, within 30 days of the close of the public comment period, submit to the agency and Committees any comments, recommendations and objections to the proposed regulation. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

THOMAS W. WOLF  
Secretary

**Fiscal Note:** 15-444. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 61. REVENUE**

**PART I. DEPARTMENT OF REVENUE**

**Subpart B. GENERAL FUND REVENUES**

**ARTICLE III. CIGARETTE AND BEVERAGE TAXES**

**CHAPTER 73. [ EMERGENCY AND ] LIMITED MALT BEVERAGE TAX CREDIT**

**§ 73.51. Purpose.**

The Secretary of Revenue, under the authority [ contained in section 10.1(d) and other provisions of the act (47 P. S. § 112.1(d)) ] of the act and by reason of the act provides, among other things, that the General Assembly of the Commonwealth, conscious of the financial emergency facing the brewing industry of this Commonwealth and the attendant risk of business failure and loss of employment opportunity, declares it public policy that the renewal and improvement of the capital facilities of the brewing industry be encouraged and assisted by a limited tax subsidy to be granted during the period of the emergency and further making provisions for a limited subsidy by tax credits to be allowed under certain terms, conditions and limitations, adopts this [ section and §§ 73.52—73.57 ] chapter to assist in these and other purposes and to aid and guide in the administration, operation and enforcement of the act.

**§ 73.52. Definitions.**

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

*Act*—[ The act of May 9, 1974 (P. L. 279, No. 82) (47 P. S. § 112.1), an amendment to the Malt Beverage Tax Law (47 P. S. §§ 103—120.3) ] The Malt Beverage Tax Law (72 P. S. §§ 9001—9016).

*Amounts paid*—Amounts actually paid, or at the taxpayer's election, amounts promised to be paid under firm purchase contracts actually executed within any calendar year falling within the [ emergency ] effective period provided, [ however, that ] there shall be no duplication of amounts paid under this definition. [ Provided, further, that ] In addition, [ no amount or ] amounts

shall constitute amounts paid until full proof thereof, as provided in the act and as provided in this chapter, shall have been submitted and filed under oath or other verification[ , as hereinafter required, ] and the Secretary has approved and certified the amounts [ and then only ] to the extent of the amounts [ so ] approved and certified by the Secretary do not [ to ] exceed [ \$100,000 ] \$200,000 within a single calendar year.

*Application*—The report for claiming a tax credit.

[ *Bureau*—The Pennsylvania Bureau of Cigarette and Beverage Taxes.

*Commonwealth*—The Commonwealth of Pennsylvania.

*Department*—The Department of Revenue of the Commonwealth of Pennsylvania.

[ *Emergency* ] *Effective period*—The period from January 1, 1974, to [ December 31, 1976 ] December 31, 2008, inclusive.

*Qualifying capital expenditures*—Amounts paid by a taxpayer during the [ emergency ] effective period for the purchase of items of plant, machinery or equipment intended for use by the taxpayer within this Commonwealth in the manufacture and sale of malt or brewed beverages. [ However, the ] The total amount of qualifying capital expenditures made by the taxpayer within a single calendar year included within the [ emergency ] effective period may not exceed [ \$100,000 ] \$200,000. [ Provided further that the ] The plant, machinery and equipment shall be directly related to the utilization of the manufacture and sale of malt or brewed beverages [ . Provided, further, that ] and the total amount of qualifying capital expenditures made within a single calendar year within the [ emergency ] effective period [ shall ] must include all amounts paid as defined in this chapter and the act, and [ shall ] may not exceed [ \$100,000 ] \$200,000 in any single calendar year.

\* \* \* \* \*

[ *Report*—The application for claiming a tax credit as provided for in section 10.1(d) of the act (47 P. S. § 112.1(d)) and all attachments thereto. The report shall be in writing, shall contain in addition to other information the Secretary shall require, a statement of the nature, amounts and dates of the qualifying capital expenditures made, including a full description of the same, with specifications, together with copies of all contracts, bills, receipts and related papers pertaining to the qualifying capital expenditures for which a tax credit is, or may be sought. The report shall be made under oath or verified so as to subject the maker of the same to the penalties of perjury for any false statement, including attachments, in the report.

*Secretary*—The Secretary of Revenue of the Commonwealth of Pennsylvania when not otherwise qualified. ]

\* \* \* \* \*

**§ 73.53. Tax credit to be allowed and limitations.**

A tax credit [ or credits shall ] will be allowed to a taxpayer, as provided in this section, not to exceed [ in ]

the total amount [ the amount ] of qualifying capital expenditures made by the taxpayer and certified by the Secretary.

(1) The amount of qualifying capital expenditures made by the taxpayer in [ any ] a single calendar year shall be the total of the amounts [ actually ] paid, and at the taxpayer's election, amounts promised to be paid under firm purchase contracts executed during the calendar year, and certified by the Secretary, but not exceeding a total of [ \$100,000 ] \$200,000.

(2) [ No ] A taxpayer, notwithstanding the number of plants, sales quarters or other facilities of the taxpayer within this Commonwealth for the manufacture and sale of malt or brewed beverages, and [ further ] notwithstanding the [ actual ] amounts paid as defined in § 73.52 (relating to definitions) [ shall ] will be certified by the Secretary to receive or [ shall ] will receive a tax credit [ or credits ] in [ any ] a single calendar year in excess of [ \$100,000 ] \$200,000.

\* \* \* \* \*

(4) Tax credit used in any calendar year may not exceed tax [ paid ] owed to the Department in that calendar year.

§ 73.54. [ Report applying ] Application for tax credit.

A taxpayer [ desiring to claim ] seeking a tax credit [ or credits ] under [ this ] the act shall [ from time to time, in accordance with regulations promulgated by the Secretary, report to the Secretary the nature, amounts and dates of qualifying capital expenditure made by him and other information the Secretary shall require ] file an application with the Secretary. [ If satisfied as to the correctness of the report, the Secretary shall issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within the report. ]

(1) [ Effective September 30, 1974, a taxpayer may no less than 4 weeks prior to making a commitment of expenditures regarding a qualifying capital expenditure notify the Secretary in writing by personal delivery or certified mail, of the renewal or improvement intended to be made and fully describe the same. The Secretary may, at his discretion, cause an examination to be made of the taxpayer's capital facilities to ascertain what renewal and improvement, or either, of the capital facilities is intended. No report provided for in this subchapter or the act may be made or submitted by a taxpayer, nor may a tax credit for any renewal and improvement of the capital facilities be allowed, nor may a certificate establishing an amount of qualifying capital expenditures be made or tax credit allowed, whichever shall in the Secretary's discretion be applicable, unless the foregoing written notification has been submitted by the taxpayer. ] The application must be in writing on a form provided by the Department and include a statement of the nature, amounts and dates of the qualifying capital expenditures made, including a full description of the same, with specifications, together with copies of all contracts, bills, receipts and related papers pertaining to the qualifying

capital expenditures for which a tax credit is, or may be sought, and other information required by the Secretary. The application must be made under oath or verified so as to subject the applicant to the penalties of perjury for false statement, including attachments, in the application.

\* \* \* \* \*

(3) [ Every report provided for in this section or in the act shall include and have attached thereto a full description of the items of plant, machinery or equipment, which is the subject matter of the report and which is concerned in any claim for a tax credit, including in detail the nature, amounts and dates of the qualifying capital expenditures made by the taxpayer, together with a written and signed statement, by the taxpayer or an officer thereof, under oath or verified so as to subject the maker of the same to the penalties of perjury for any false statement, including attachments, in the report, that the statements, items and amounts in the report and the attachments thereto are fully true, exact, correct and authentic, and submit exact copies of all documents, and the like, in support thereof including, but not restricted to, contracts, bills, receipts and other related papers pertaining to the qualifying capital expenditures. ] If satisfied as to the correctness of the application, the Secretary will issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within the application.

(4) It [ shall be the duty of the taxpayer ] is the taxpayer's duty to maintain auditable records schedules and relevant supporting data regarding tax credit claims until [ January 31, 1980 ] January 31, 2011. [ In addition, a ] A schedule of payments and commitments shall be accurately maintained and be explicitly identifiable as to the amounts paid as well as the qualifying capital expenditure.

(5) Every taxpayer shall keep and retain full and complete books of account records and appropriate subsidiary accounts and data as to every qualifying capital expenditure, [ reports ] applications with attachments and every tax credit allowed and every certificate issued under the act as to qualifying capital expenditures by the Secretary for a period of not less than 3 years after [ December 31, 1977 ] December 31, 2008, or later date as the Secretary may in writing notify the taxpayer on or prior to [ December 31, 1977 ] December 31, 2008. All records shall be subject to examination by the Department. Every taxpayer shall give to the Department, or its [ duly ] authorized representative, reasonable means, facilities and opportunity for these examinations and audits.

\* \* \* \* \*

§ 73.55. Grant of credit, conditions and limitations.

Upon receipt from a taxpayer of a certificate from the Secretary [ issued under section 10.1(c) of the act (47 P. S. § 112.1(c) ], the Secretary [ shall ] will grant a tax credit in the amount certified against any tax then due or thereafter becoming due from the taxpayer under the act. [ No credit ] Credit will not be allowed against any tax due for any taxable period ending after [ December 31, 1977 ] December 31, 2008.

\* \* \* \* \*

(2) Tax credits not utilized by a taxpayer because the taxpayer's tax payments were exceeded by the tax credit allowable in [any] a calendar year are available for utilization by the taxpayer [in subsequent calendar years] for 3 years[, but not beyond December 31, 1977] December 31, 2008.

**CHAPTER 74. MALT BEVERAGE TAX**

**§ 74.1. Purpose.**

It is the purpose of the [Malt Beverage Tax Law (47 P. S. §§ 103—120.3)] act to provide revenue by imposing a State tax upon the sale of malt beverages by the manufacturer and importing agents for foreign manufacturers, the obligation to collect [said] the taxes for the Commonwealth and transmit [same] the taxes monthly to the Commonwealth.

**§ 74.2. Definitions.**

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

Act—The Malt Beverage Tax Law [(47 P. S. §§ 103—120.3)] (72 P. S. §§ 9001—9016).

\* \* \* \* \*

**MALT BEVERAGE TAX [REFUNDS] CREDITS**

§ 74.31 [Refunds] Credits for manufacturers on out-of-State sales.

[In the event any] If malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold or shipped by [him] the manufacturer to a licensed or regular dealer in [such] malt or brewed beverages in another state, [such] the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by [him] the manufacturer, [upon condition that] the seller [shall make] makes an affidavit that the malt or brewed beverages were so sold and shipped, and that [he] the manufacturer shall furnish from the purchaser an affidavit, or in cases [where] when the total purchase price is \$5 or less, a written certificate in lieu of an affidavit from the purchaser, or, upon satisfactory proof that [such] the affidavit or certificate cannot be obtained, other evidence satisfactory to the Department that [he] the manufacturer has received [such] the malt or brewed beverages for sale or consumption outside this Commonwealth, together with the name and address of the purchaser.

§ 74.32. [Refunds] Credits for Pennsylvania manufacturers on sales to exempt parties.

[In the event any] If malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by him,

upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.

§ 74.33. [Refunds] Credits for out-of-State manufacturers on sales to tax exempt parties.

[In the event any] If malt or brewed beverages upon which the tax has been paid by an out-of-State manufacturer and subsequently sold by an importing distributor to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by [him upon condition that he shall make] the manufacturer if he makes an affidavit and [furnish] furnishes proof that the malt or brewed beverages were so sold.

§ 74.34. [Refunds] Credits for manufacturers on sales to public service licensee.

[In the event any] If malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold and delivered to a public service licensee who is obligated to pay the tax thereon, the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by him, upon condition that he [shall make] makes an affidavit and furnish proof satisfactory to the Department of the facts.

§ 74.35. [Refunds] Credits on malt beverage rendered unsalable by reason of damage or destruction.

[In the event any] If malt or brewed beverages, upon which the tax has been paid by a manufacturer [shall be] the manufacturer rendered unsalable by reason of damage or destruction or recalled due to defect, [such] the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid [by him, upon condition that he shall make] he makes an affidavit and [furnish proof satisfactory] furnishes to the Department that the malt beverages were so damaged or destroyed.

§ 74.36. [Refunds] Credits on leakers, stale beer and beer which has become unsalable or over-aged.

The Department will not permit [refunds] credits on leakers, stale beer and beer which has become unsalable or over-aged.

**§ 74.37. Credits.**

[No credits] Credits will not be granted without the approval of the Department [of Revenue, attention Bureau of Examination].

**§ 74.40. Off-premises storage.**

Malt beverages returned to an off-premises location [shall] will not be entitled to a tax [refund] credit.

§ 74.41. Time limit on [refunds] credits.

[No] An application for [refund shall] credit will not be recognized or processed unless filed within [two] 3 years from date of sale.

[Pa.B. Doc. No. 08-1524. Filed for public inspection August 22, 2008, 9:00 a.m.]

# DEPARTMENT OF STATE

[ 4 PA. CODE CH. 191 ]

## Alteration of Local Election Districts

The Department of State (Department) proposes to amend 4 Pa. Code by adding Chapter 191 (relating to alteration of local election districts). The act of November 24, 1999 (P. L. 543, No. 51) (25 P. S. §§ 2745—2750) (act) provides for the manner in which a county board of elections may alter election districts and the manner in which a county board of elections shall report election data. Section 540 of the act (25 P. S. § 2750), provides that regulations may be promulgated to administer 25 P. S. §§ 2745—2750.

### *Purpose of Chapter*

The purpose of the proposed rulemaking is to establish an efficient method for the reporting of alterations to local election districts by the various county boards of elections and to provide for the efficient reporting of election data for the local election districts contained within each county. By requiring the timely reporting of alterations to election districts, the proposed regulations help avoid possible confusion among voters who are directly affected by an election district alteration.

### *Explanation of Chapter 191:*

#### *Chapter 191: Alteration of local election districts.*

The Department proposes to adopt Chapter 191 to set forth four sections which include general provisions regarding: definitions; procedures for implementing alteration of local election districts; procedures for implementing the outcome of alteration of local election districts; procedures for reporting election districts.

#### *§ 191.1. Definitions.*

At § 191.1(a), the Department proposes two definitions. The Department proposes to define "boundary" with a cross reference to section 506 of the Pennsylvania Election Code (Code) (25 P. S. § 2706). The Department reasoned that a cross reference would clarify to the regulated community the meaning of the term and its use within the regulations. The Department also proposes defining "report" to include a signed court order approving the resulting districts. Section 502 of the Code (25 P. S. § 2702), requires that a redistricting plan be approved by the Court of Common Pleas prior to being submitted to the Department for review. The Department reasoned that the definition of report should include a signed court order approving the resulting districts to show that the county board of elections fulfilled the requirement under section 502 of the Code before submitting it to the Department. At § 191.1(b), the Department clarified that the definitions in section 102 and 535 of the Code (25 P. S. §§ 2602 and 2745), are incorporated into the regulations by reference.

#### *§ 191.2. Procedures for implementing alteration of local election districts.*

At § 191.2(a), the Department proposes, as directed by section 537(b) of the act (25 P. S. § 2747(b)), that within 30 days of an alteration, the county board of elections shall submit a report to the Bureau. At § 191.2(b), the Department proposes that the county board of elections shall submit its report to the Bureau at least 45 days prior to a primary or an election. The Department reasoned that requiring the reports be submitted to the Bureau 45 days prior to a primary or an election would

give the Bureau time to review the reports to know the boundaries of each local election district which would lend to accuracy and efficiency on the day of the primary or the election.

#### *§ 191.3. Procedures for implementing the outcome of alteration of local election districts.*

At § 191.3(a), the Department proposes that the county board of elections or voter registration commission shall enter the outcome of the alteration in the Statewide Uniform Registry of Electors (SURE), after completing all requirements. The Department reasoned that the proposed requirement efficiently updates the SURE system that is used to produce district registers (commonly called poll books).

At § 191.3(b), the Department proposes that if a county alters the election district of an elector, the county board of elections shall send that elector a new voter identification card, as provided at 25 Pa.C.S. § 1328(c)(2) (relating to approval of registration applications). The Department reasoned that the added language makes certain that electors receive new voter identification cards if they are affected by the alteration of a local election district.

#### *§ 191.4. Procedures for reporting election results.*

Section 539 of the act (25 P. S. § 2749) regarding election results; registration requires the county board of elections to provide to the Bureau a report with the election results. At § 191.4, the Department proposes that the county board of elections shall report either electronically in the format prescribed by the Secretary of the Commonwealth or on the paper form provided by the Secretary of the Commonwealth. The Department reasoned that uniformity in the reports provided to the Bureau would increase accuracy and efficiency in configuring the results of an election.

### *Fiscal Impact*

The proposed rulemaking will have a negligible impact upon the Department and the county boards of elections because the rulemaking does not require the implementation of new programs or processes.

### *Paperwork Requirements*

The paperwork requirements will not be substantially altered as a result of the proposed rulemaking.

### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 13, 2008, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Senate and House State Government Committees. 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 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 Department.

### *Responses to Comments*

### *Contact Persons*

Interested persons may contact Shauna C. Graves, Assistant Counsel, Department of State, 210 North Office



Building, Harrisburg, PA 17120-0039, shgraves@state.pa.us. Comments must be received by September 22, 2008.

PEDRO A. CORTÈS,  
*Secretary*

**Fiscal Note:** 16-42. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 4. ADMINISTRATION**  
**PART VIII. BUREAU OF LEGISLATION,**  
**COMMISSIONS AND ELECTIONS**  
**Subpart F. REDISTRICTING**  
**CHAPTER 191. ALTERATION OF LOCAL**  
**ELECTION DISTRICTS**

- Sec.
- 191.1. Definitions.
- 191.2. Procedures for implementing alteration of local election districts.
- 191.3. Procedures for implementing the outcome of alteration of local election districts.
- 191.4. Procedures for reporting election results.

**§ 191.1. Definitions.**

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

*Bureau*—The Bureau of Legislation, Commissions and Elections in the Department of State of the Commonwealth.

*Boundaries*—The physical requirements for the resulting election district boundaries as set forth in the Pennsylvania Election Code. The requirements relating to congressional and legislative districts are set forth in section 506 of the Pennsylvania Election Code. (25 P. S. § 2706)

*Pennsylvania Election Code*—25 P. S. §§ 2601—3554.

*Report*—A report filed by a county board of elections with the Bureau under the Pennsylvania Election Code regarding alterations after period of restriction which includes the following:

- (1) Maps of:
  - (i) The resulting districts.
  - (ii) The previous districts.
- (2) A verbal description of:
  - (i) The resulting districts.
  - (ii) The previous districts.
- (3) A signed court order approving the resulting districts.
- (4) A description of the reasons for the alteration, including precinct splits, mergers, renaming of districts or boundary changes.

(b) The definitions in sections 102 and 535 of the Pennsylvania Election Code (25 P. S. §§ 2602 and 2745), are incorporated by reference.

**§ 191.2. Procedures for implementing alteration of local election districts.**

(a) Within 30 days of an alteration, the county board of elections shall submit a report, as defined in § 191.1(a) (relating to definitions), to the Bureau.

(b) The report must be submitted to the Bureau at least 45 days prior to a primary or an election. If the county board of elections does not submit the report at

least 45 days prior to the primary or election, the election district alteration may not be implemented until the next following primary or election.

**§ 191.3. Procedures for implementing the outcome of alteration of local election districts.**

(a) The county board of elections or voter registration commission shall enter the outcome of the alteration in the Statewide Uniform Registry of Electors (SURE), only after it has completed all of the procedures outlined in § 191.2 (relating to procedures for implementing alteration of local election districts).

(b) If a county alters the election district of an elector, the county board of elections shall send that elector a new voter identification card, as provided at 25 Pa.C.S. § 1328(c)(2) (relating to approval of registration applications).

**§ 191.4. Procedures for reporting election results.**

The county board of elections shall report election results for each election district within the county either electronically in the format prescribed by the Secretary of the Commonwealth or on the paper form provided by the Secretary of the Commonwealth.

[Pa.B. Doc. No. 08-1525. Filed for public inspection August 22, 2008, 9:00 a.m.]

**LIQUOR CONTROL BOARD**

**[ 40 PA. CODE CH. 13 ]**

**Promotion of Sale of Liquor by Vendors**

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), proposes to amend Chapter 13 (relating to promotion).

*Purpose*

In accordance with Executive Order 1996-1, the Board has reviewed its regulations and determined that these revisions to 40 Pa. Code are necessary to obtain certain products that are in short supply and high demand. Obtaining these products is consistent with the statutory mandate of section 207 of the Liquor Code that authorizes the Board to “. . . buy liquor and alcohol at the lowest price and in the greatest variety reasonably obtainable.” (47 P. S. § 2-207(a)). These products are often rare wines, for which the demand, world-wide, is great.

The Liquor Code authorizes only two categories of liquor that the Board may sell: stock items (47 P. S. § 2-207(a)), consisting of those items sold by means of the Board’s wine and spirits stores, and special order items, otherwise known as Special Liquor Orders (SLO), which consist of those items not currently available from the Board’s wine and spirits stores (47 P. S. § 3-305(a)). The Board’s regulations currently prohibit liquor vendors from processing orders for stock items which the Board carries. (40 Pa. Code §§ 13.73(b) and 13.76(a) (relating to privileges of vendor’s agents; special order listings)).

There is an ever-growing demand for fine wines which are of limited quantity. If a liquor vendor believes that such a rare fine wine has a niche market within this Commonwealth (for example, within certain high-end restaurants or specific cultural or cuisine venues), the vendor may be unwilling to share these products with the Board, by means of the Board’s wine and spirits stores, since allowing its product to be sold as a stock item would

preclude the vendor from processing orders by means of SLO on behalf of members of the niche market (for example, private citizens or Board licensees). In making the proposed regulatory changes, thereby permitting vendors of these "luxury items" to process orders both from the Board and from licensees or other persons, the Board will be in a better position to acquire these products in furtherance of its statutory mandate.

*Summary of Amendments*

This proposed rulemaking creates a new category of liquors, "luxury items." These are varieties of liquor (including wine) that are in short supply or high demand, as may be determined by the Board. Vendors will be allowed to process orders for "luxury items" both from the Board as well as from Board licensees and other persons, similar to current procedures for SLOs.

*Affected Parties*

The proposed rulemaking will allow vendors to process orders for "luxury items" from the Board, Board licensees and other persons. Failing to allow vendors to process orders for "luxury items" from the Board and Board licensees and other persons is expected to result in limiting the Board's access to the rare fine wines, thereby reducing the availability to the Pennsylvania public at large by means of the Board's wine and spirits stores.

*Paperwork Requirements*

This proposed rulemaking will not significantly increase paperwork for the Board or the regulated community.

*Fiscal Impact*

Because the market forces of supply and demand and the popularity and availability of certain vintages of fine wine will affect the Board's identification of an item as a "luxury item," fiscal impact is impossible to estimate. In the 2007 Fiscal Year, the Board's revenue from sales of SLO items, which are similar in nature to "luxury items," was approximately \$70,000,000.

*Effective Date*

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

*Public Comment/Contact Person*

Written comments, suggestions or objections will be accepted for 30 days after publication of the proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be addressed to James F. Maher, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on August 7, 2008, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Liquor Control and Senate Committee on Law and Justice. A copy of this material is available to the public upon request.

Under section 5(g) of the act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The act specifies detailed procedures for review by the agency, the General Assembly and the

Governor of comments, recommendations or objections raised prior to final publication of the regulation.

PATRICK J. STAPLETON, III,  
*Chairperson*

**Fiscal Note:** 54-65. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 40. LIQUOR**

**PART I. LIQUOR CONTROL BOARD**

**CHAPTER 13. PROMOTION**

**Subchapter B. PROMOTION OF SALE OF LIQUOR BY VENDORS**

**§ 13.71. Definitions.**

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

\* \* \* \* \*

**Luxury items**—Liquor items designated by the Board that are in short supply or high demand.

\* \* \* \* \*

**Stock merchandise**—Liquors which are obtainable at a State Liquor Store, without placing a special liquor order and which have not been designated as luxury items.

\* \* \* \* \*

**§ 13.73. Privileges of vendors' agents.**

(a) Agents may advertise and promote the sale of stock merchandise by "missionary work" of only those brands sold to the Board by the vendor by whom the agents are employed. **[ The work may include the use of the "Agents Order" form approved by the Board. ]**

\* \* \* \* \*

(d) Agents may solicit from licensees or other persons, orders for those brands of liquor which have been designated by the Board as luxury items. Orders for luxury items obtained by vendors' agents shall be filed with one of the State Liquor Stores as required in this subchapter.

**§ 13.77. [ Agents' order books ] (Reserved).**

**[ The Board, upon request, will issue order books to vendors for themselves and their agents, in which each special order for liquors shall be entered. Each order shall be prepared in quadruplicate and bear the signature and address of the person from whom it is obtained, and the signature of the agent. In the case of a licensee, the order shall include the license number. The original order shall be forwarded to a State Liquor Store not later than the business day after the order is obtained. One copy of the order shall be furnished by the licensed vendor or the vendor's agent to the person from whom the order is obtained and one copy shall be retained by the vendor for vendor's records; and the other copy shall remain in the order book. The Board reserves the right to examine the records of any licensed vendor or the vendor's agents. ]**

**§ 13.78. Special and luxury item orders: requirements and conditions.**

\* \* \* \* \*

(b) Orders presented at State Liquor Stores by agents on behalf of persons other than licensees shall be at the established retail special liquor order **or luxury item** prices. **[ No ]** An order may **not** be taken for less than **[ case quantities ] two bottles.**

\* \* \* \* \*

§ 13.79. Special orders **and luxury item orders:** restrictions.

(a) Licensed vendors and their agents shall place special orders for liquor at State Liquor Stores **[ on the prescribed order book forms signed by the licensee or an authorized agent, or in the case of a retail sale, by the customer ].**

\* \* \* \* \*

(d) Special orders placed by a licensed vendor or the vendor's agent for a retail customer may be released by the State Liquor Store **[ for delivery to the customer ].**

**(e) Licensed vendors and their agents shall place luxury item orders for liquor at State Liquor Stores.**

**(f) Except by special permission of the Board, luxury item order merchandise may not be delivered to a State Liquor Store until the licensed vendor has received from the Board a formal purchase order calling for the delivery of the liquor. Each case of liquor so delivered shall have clearly marked thereon, in addition to the information required by Federal or State regulations, the purchase order number, the store order number, the brand and size, the code number as called for in the purchase order and other information the Board may prescribe.**

**(g) Liquor sold to licensees will be released only at the State Store, to the licensee or the licensee's agent as named on the Wholesale Purchase Permit Card of the licensee.**

**(h) Luxury item orders placed by a licensed vendor or the vendor's agent for a retail customer may be released by the State Liquor Store.**

**§ 13.86. Agency provisions.**

Licensed vendors and their agents shall, except as otherwise restricted in this title, be considered the agents of the persons from whom they obtain special liquor orders **or luxury item orders.** Neither the Commonwealth nor the Board will be responsible for the proper disposition of moneys collected from a licensee or other person by a licensed vendor or his agents, and under no circumstances will the Commonwealth or the Board be responsible for actions of a licensed vendor or his agents.

**§ 13.87. Records.**

(a) Every licensed vendor shall maintain and keep complete records of all operations in this Commonwealth for 2 years, which shall be open to inspection by authorized representatives of the Board during normal business hours. These records **[ shall ] must** include salaries or commissions of all agents and other **[ employes ] employees** working in this Commonwealth, expenses of the **[ employes ] employees** supported by detailed vouchers, all promotional and advertising expenditures, special order sales, **luxury item sales** and stock merchandise requests.

(b) The agents of vendors operating in this Commonwealth shall maintain complete records covering their operations in this Commonwealth. The records **[ shall ] must** also be open to inspection by authorized representatives of the Board during normal business hours.

[Pa.B. Doc. No. 08-1526. Filed for public inspection August 22, 2008, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 37—LAW

### JUVENILE COURT JUDGES' COMMISSION

[ 37 PA. CODE CH. 200 ]

#### Release of Information and Juvenile Probation Merit System

The Juvenile Court Judges' Commission (Commission) amends Chapter 200, Subchapter I (relating to standards governing the release of information contained in juvenile court files and juvenile probation records and reports), and adopts Subchapter K (relating to standards governing the operation of a juvenile probation merit system) as a statement of policy to read as set forth in Annex A.

#### *Authority*

This statement of policy is promulgated under the authority of 42 Pa.C.S. §§ 6371—6375 (relating to funding).

#### *Purpose and Requirements*

#### **Subchapter I. Standards Governing the Release of Information Contained in Juvenile Court Files and Juvenile Probation Records and Reports**

This statement of policy sets forth amendments to Subchapter I to ensure conformity with the modifications to Rules 160, 330 and 515 of the Pennsylvania Rules of Juvenile Court Procedure (Pa.R.J.C.P.). These standards provide guidance to judges of courts of common pleas and juvenile probation departments regarding the release of information contained in juvenile court files and juvenile probation records and reports under 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act).

A definition for "clerk of courts" was included in § 200.801 (relating to definitions) because Pennsylvania Rules of Juvenile Court Procedure 330 and 515 require the clerk of courts to create a public document to include limited public information under 42 Pa.C.S. § 6307(b)(1)(i) and (ii) (relating to inspection of court files and records).

Section 200.804(a) (relating to public availability) was modified under Pa.R.J.C.P. 515 to require that the dispositional order entered following an adjudication of delinquency include a designation as to whether the case is eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(i), and to delete references as to the specific information that is to be disclosed. Section 200.804(b) was created to specify what information shall be included in the public document created by the clerk of courts.

Section 200.804(c) contains provisions, consistent with Pa.R.J.C.P. 330, to require that the petition include an averment as to whether the case is eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(ii). Section 200.804(d) was created to specify the information that shall be contained in the public document created by the clerk of courts.

#### **Subchapter K. Standards Governing the Operation of a Juvenile Probation Merit System**

These standards are intended to provide guidance to juvenile court judges and chief juvenile probation officers regarding equal employment opportunity policies, juvenile probation officer employment qualifications and juvenile probation department policies and procedures. All 67

county juvenile probation departments are required to comply with the Standards Governing the Operation of a Juvenile Probation Merit System as a condition for participation in the Grant-In-Aid Program of the Juvenile Court Judges' Commission.

#### *Affected Parties*

The amendments to the Standards Governing the Release of Information Contained in Juvenile Court Files and Juvenile Probation Records and Reports in this statement of policy will affect courts of common pleas in this Commonwealth with respect to policies governing the release of information contained in juvenile court files and juvenile probation records and reports.

The Standards Governing the Operation of a Juvenile Probation Merit System in this statement of policy will affect president judges of courts of common pleas and chief juvenile probation officers in this Commonwealth.

#### *Cost and Paperwork Estimates*

The amendments to the Standards Governing the Release of Information Contained in Juvenile Court Files and Juvenile Probation Records and Reports and the adoption of the Standards Governing the Operation of a Juvenile Probation Merit System will not require additional costs or paperwork.

#### *Effective Date*

This statement of policy will become effective upon publication in the *Pennsylvania Bulletin*.

#### *Contact Person*

For further information regarding this statement of policy, contact Lisa J. Freese, Director of Policy and Program Development, Juvenile Court Judges' Commission, 401 Finance Building, Harrisburg, PA 17120-0018, (717) 705-9003.

#### *Findings*

The Commission finds that this statement of policy is necessary to facilitate the appropriate release of information contained in juvenile court files and juvenile probation records and reports, and the effective administration of county juvenile probation departments.

#### *Order*

The Commission, acting under the authorizing statute, orders that:

(a) Title 37 Pa. Code is amended by amending §§ 200.801 and 200.804 and by adding §§ 200.1001—200.1003, to read as set forth in Annex A.

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

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

JAMES E. ANDERSON,  
*Executive Director*

**Fiscal Note:** 23-9. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 37. LAW****PART III. AGENCIES AND OFFICES****Subpart N. JUVENILE COURT JUDGES' COMMISSION****CHAPTER 200. JUVENILE COURT JUDGES' COMMISSION****Subchapter I. STANDARDS GOVERNING THE RELEASE OF INFORMATION CONTAINED IN JUVENILE COURT FILES AND JUVENILE PROBATION RECORDS AND REPORTS****GENERAL PROVISIONS**

**§ 200.801. Definitions.** (See Pa.R.J.C.P. 120, 166(A) and Comment to Pa.R.J.C.P. 160)

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

*Clerk of Courts*—That official in each judicial district who has the responsibility and function under State law and local practice to maintain the official juvenile court file and docket, without regard to that person's official title.

*Juvenile court files*—All original records, papers and orders filed, copies of all court notices, and docket entries.

*Juvenile probation records or reports*—The term includes, but is not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, treatment facility records and reports, and copies of all original court records, papers, orders and notices.

**§ 200.804. Public availability.** (See Pa.R.J.C.P. 160, 330, 515 and 42 Pa.C.S. § 6307(b))

(a) A dispositional order entered following an adjudication of delinquency shall include a designation as to whether the case is eligible for limited public information, under 42 Pa.C.S. § 6307(b)(1)(i) (relating to inspection of court files and records). The court shall designate a case as eligible for limited public information if the child has been adjudicated delinquent by a court as a result of an act committed:

(1) When the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult.

(2) When the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

- (i) Murder.
- (ii) Voluntary manslaughter.
- (iii) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).
- (iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).
- (v) Involuntary deviate sexual intercourse.
- (vi) Kidnapping.
- (vii) Rape.
- (viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).
- (ix) Robbery of motor vehicle.

(x) Attempt or conspiracy to commit any of the aforementioned offenses.

(b) Upon the request of an individual for information regarding a case in which the court in its dispositional order has designated the case as eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(i), the clerk of courts shall create a public document that contains the following information:

- (1) The juvenile's name.
- (2) The juvenile's age.
- (3) The juvenile's address.
- (4) The offenses alleged in the petition.
- (5) The adjudication on each allegation.
- (6) The disposition of the case.

(c) A petition alleging delinquency must contain an averment as to whether the case is eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(ii). A case shall be eligible for limited public information if the petition alleges that the child has committed an act that is subject to open proceedings under 42 Pa.C.S. § 6336(e) (relating to conduct of hearings) and the child previously has been adjudicated delinquent by a court as a result of an act committed:

(1) When the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult.

(2) When the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

- (i) Murder.
- (ii) Voluntary manslaughter.
- (iii) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2).
- (iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1).
- (v) Involuntary deviate sexual intercourse.
- (vi) Kidnapping.
- (vii) Rape.
- (viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).
- (ix) Robbery of motor vehicle.

(x) Attempt or conspiracy to commit any of the aforementioned offenses.

(d) Upon the request of an individual for information regarding a case in which the petition includes an averment that the case is eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(ii), the clerk of courts shall create a public document that contains the following information:

- (1) The juvenile's name.
- (2) The juvenile's age.
- (3) The juvenile's address.
- (4) The offenses alleged in the petition.

**Subchapter K. STANDARDS GOVERNING THE OPERATION OF A JUVENILE PROBATION MERIT SYSTEM**

Sec.  
200.1001. Equal employment opportunity policies.  
200.1002. Juvenile probation officer employment qualifications.  
200.1003. Juvenile probation department policies and procedures.

**§ 200.1001. Equal employment opportunity policies.**

(a) Juvenile probation office staff shall be employed in conformance with the merit principles adopted under Title II of the Intergovernmental Personnel Act of 1970 (42 U.S.C.A. §§ 4721—4727). These principles, which comprise the “Standards for a Merit System of Personnel Administration” (5 CFR 900.603 (relating to standards for a merit system of personnel administration)) include:

(1) Recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment.

(2) Providing equitable and adequate compensation.

(3) Training employees, as needed, to assure high quality performance.

(4) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.

(5) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, gender, sexual orientation, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This “fair treatment” principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.

(6) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

**§ 200.1002. Juvenile probation officer employment qualifications.**

(a) The minimum requirement for employment as a juvenile probation officer shall be a bachelor's degree, with a background of at least 18 credits in the behavioral or social sciences from an accredited college or university.

(1) Provisions for exception to this standard through participation in an exceptional person process shall be provided for by the Juvenile Court Judges' Commission.

(2) Eligibility for the exceptional person process shall require an individual to have 4 years of related experience, and to pass a written test, and an oral exam arranged for by the Commission.

(b) Other tests of aptitude, attitude, abilities, skills or knowledge, may be required as found appropriate at the county level, provided that the additional tests are announced in advance and are the same for all candidates. The Juvenile Court Judges' Commission will provide a testing program which courts may use for screening applicants.

(c) The qualifications for a vacant juvenile probation officer position shall be announced prior to commencing the recruitment process and must be directly related to the expectations for that position as outlined in the job description. No other qualifications may be considered.

(d) A personnel transaction form and a college transcript shall be filed with the Juvenile Court Judges' Commission by the Chief Juvenile Probation Officer within 10 working days of the filling of any juvenile probation officer position. An exception to the college transcript requirement may apply where the new employee was granted exceptional person status under subsection (a).

(e) A job description for each position shall be maintained and adhered to in the juvenile probation office. A clear job description provides employees with an understanding of their positions and forms the basis for evaluation of employee job performance.

(f) New employees shall be required to complete a 12-month probationary period during which they shall receive more intensive supervision and training than permanent juvenile probation officers. Their performance shall be evaluated semiannually and employees receiving unsatisfactory evaluations shall be terminated at, or before, the end of the probationary period. An exception to this standard applies only when a probationary period of a different length is part of a collective bargaining agreement.

(g) The minimum annual training requirement for continuing employment as a juvenile probation officer shall be the successful completion of 40 hours of approved training per year.

(1) Training programs and graduate classes sponsored by the Center for Juvenile Justice Training and Research are approved.

(2) Subject to the approval of the Chief Juvenile Probation Officer, all in-State, job-related training programs, including training sponsored by juvenile probation departments, are approved, as are graduate classes and conferences.

(3) In-State or out-of-State conferences sponsored by the National Council of Juvenile and Family Court Judges (NCJFCJ), American Probation and Parole Association (APPA), Middle Atlantic States Correctional Association (MASCA), Pennsylvania Association on Probation, Parole and Correction (PAPPC) and the American Correctional Association (ACA) are also approved. Other out-of-State training or conferences require prior approval by the Center for Juvenile Justice Training and Research. Unless a program is completed in its entirety, none of the time spent in it can be counted in meeting this requirement.

(4) Members of the Executive Committee, standing committees and ad hoc committees of the Pennsylvania Council of Chief Juvenile Probation Officers (Council) may apply up to 20 hours of meeting attendance per year toward the annual training requirement. This includes attendance at general membership, Executive Committee, and other meetings of the Council, as well as meetings of the Juvenile Court Judges' Commission.

(5) The Chief Juvenile Probation Officer shall annually submit a report to the Center for Juvenile Justice Training and Research detailing the approved training completed by each juvenile probation officer. The report must be in a format designed by the Juvenile Court Judges' Commission.

(h) Juvenile probation officers shall have a written performance evaluation completed at least annually by their supervisors. This evaluation shall become part of their personnel files and shall be available for inspection by representatives of the Juvenile Court Judges' Commission.

**§ 200.1003. Juvenile probation department policies and procedures.**

(a) The compensation provided to juvenile probation officers, including salaries, salary increases and bonuses, shall be equitable to the compensation provided to other county and court personnel.

(b) Each juvenile probation office shall develop an organizational chart which shows the flow of responsibilities.

(c) Each juvenile probation office shall establish a personnel manual that describes the rights and benefits of all juvenile probation officers employed in the office.

(d) Each juvenile probation office shall establish written grievance, appeal and hearing procedures for employees.

(1) These procedures shall be made known to all employees.

(2) An exception to this standard applies if this issue is addressed in a collective bargaining agreement.

[Pa.B. Doc. No. 08-1527. Filed for public inspection August 22, 2008, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending August 12, 2008.

#### BANKING INSTITUTIONS

##### Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-24-2008	New American Bank Philadelphia Philadelphia County  <i>Corresponding Agent:</i> David R. Payne, Esquire Stevens & Lee 620 Freedom Business Center Suite 200 P. O. Box 62330 King of Prussia, PA 19406	Philadelphia	Filed

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
8-5-2008	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	Approved
8-8-2008	NOVA Financial Holdings, Inc., Berwyn, to acquire 100% of Pennsylvania Business Bank, Philadelphia	Berwyn	Approved

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-8-2008	Pennsylvania Business Bank, Philadelphia, and NOVA Interim Bank, Berwyn Surviving Institution: Pennsylvania Business Bank, Philadelphia	Philadelphia	Approved
8-11-2008	Sharon Savings Bank, Darby, and Morton Savings Bank, Morton Surviving Institution: Sharon Savings Bank, Darby	Darby	Approved

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-4-2008	First Commonwealth Bank Indiana Indiana County	9820 Perry Highway Wexford Allegheny County	Opened
8-11-2008	Firsttrust Savings Bank Conshohocken Montgomery County	Shoppes at Valley Square Building No. 15 Street and Easton Roads Warrington Township Bucks County	Approved



**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-21-2008	Susquehanna Bank PA Lititz Lancaster County	<i>To:</i> 35 South Willowdale Drive Suite 1002 East Lampeter Township Lancaster County  <i>From:</i> 35 South Willowdale Drive East Lampeter Township Lancaster County	Effective

**Branch Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-13-2008	Susquehanna Bank PA Lititz Lancaster County	<i>Into:</i> 35 South Willowdale Drive Suite 1002 East Lampeter Township Lancaster County  <i>From:</i> 366 Hartman Bridge Road East Lampeter Township Lancaster County	Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
7-15-2008	Belco Community Credit Union Harrisburg Dauphin County	452 South Duke Street Lancaster Lancaster County	Opened

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 08-1528. Filed for public inspection August 22, 2008, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Proposed Exchange of Lands

The Department of Conservation and Natural Resources (Department), acting through the Bureau of State Parks (Bureau) and Moraine Preservation Fund (Fund) are proposing to negotiate an exchange of property interests in Clay Township, Butler County, PA.

The Fund will convey 5.14 acres in Clay Township known as parcel number 2F-108-A16. In return, the Bureau proposes to convey to the Fund 0.95 acre in Clay Township being part of parcel number 2F-108-A5M. Both parcels are bordering Mahood Road. In total, the Commonwealth will add 4.19 acres to Moraine State Park.

As is the policy of the Department, the public is notified of this exchange. A 30-day period for public inquiry and/or comment will be in effect commencing August 23, 2008, and ending September 22, 2008. Oral or written comments or questions concerning this proposed exchange may be addressed to John Norbeck, Director of State Parks, Bureau of State Parks, P. O. Box 8551, Harrisburg, PA 17105-8551, (717) 787-6640. A public informational meeting concerning the proposed land exchange will take place at the park office building of Moraine State Park on Tuesday, September 9th at 10 a.m. All oral and/or written comments will become part of the official document used in the final decision process. Written documents are also available regarding the proposed land exchange by request.

If, in the duration of the 30-day comment period, a significant amount of public concern develops, the Secretary of the Department may schedule a public informational meeting.

MICHAEL DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 08-1529. Filed for public inspection August 22, 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 Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

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

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

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

#### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0061760 (Minor Sewage)	Blue Mountain School District Box 188 685 Red Dale Road Orwigsburg, PA 17961-0188	Schuylkill County Wayne Township	UNT to the Schuylkill River 03A	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0064271 (Minor Sewage)	Michael A. and Lisa A. Mason 4926 Main Road West Emmaus, PA 18049	Lehigh County Upper Milford Township	UNT to Leibert Creek 2C	Y
PA-0012092 (Industrial Waste)	BOC Gases 575 Mountain Avenue Murray Hill, NJ 07974	Bethlehem City Northampton County	Dry swale tributary to the Lehigh Canal 02C	Y
PA-0032077	Department of Conservation and Natural Resources Bureau of State Parks R. R. 1 Box 1051 Barnesville, PA 18214-9715	Rush Township Schuylkill County	Locust Creek CWF Watershed 3A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0083151 (Sew)	Penn Manor School District P. O. Box 1001 Millersville, PA 17551	Lancaster County Martic Township	Pequea Creek 7-K	Y
PA0084778 (Sew)	Granville Township Municipal Authority 100 Helen Street Lewistown, PA 17044	Mifflin County Oliver Township	Strodes Run 12-A	Y
PA0027952 (Sew)	HMS Host P. O. Box 8 Middletown, PA 17057	Lebanon County South Londonderry Township	UNT to Conewago Creek 7-G	Y
PA0085740 (Sew)	Mill Creek Area Municipal Authority P. O. Box 4 Mill Creek, PA 17060	Huntingdon County Mill Creek Borough	Juniata River 12-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; 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
PA0103331	Jackson Center Borough R. R. 1 Bradley Road Jackson Center, PA 16133	Jackson Township Mercer County	Yellow Creek 20-A	Y

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

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

**PA0058955**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: Amendment 1 of a permit to discharge of stormwater from a Ready-Mix Concrete Batch Plant property. The permit amendments involve revised best management practices. This property is located at Penrose Ferry Road, Philadelphia, PA 19153.

The receiving stream, Schuylkill River, is in the State Water Plan Watershed 3F and is classified for: WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake is located on the Delaware River. This discharge is not expected to impact the water supply.

**PA0058971**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in Middletown Township, **Bucks County**.

Description of Proposed Activity: Amendment 1 of a permit to discharge stormwater from a Ready-Mix Concrete Batch Plant property. The permit amendments involve revised best management practices. This property is located at Maple Avenue (Route 213) and Railroad, Langhorne, PA 19047.

The receiving stream, Mill Creek (Stream Code 2916), is in the State Water Plan Watershed 2F and is classified for: WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for AQUA, PA Bristol is located on the Delaware River. This discharge is not expected to impact the water supply.

**PA0058921**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in Upper Southampton Township, **Bucks County**.

Description of Proposed Activity: Amendment 3 of a permit to discharge of stormwater from a Ready-Mix Concrete Batch Plant property. The permit amendments involve revised best management practices. This property is located at 851 County Line Road, Huntingdon Valley, PA 19006.

The receiving stream, tributary 2453 to Southampton Creek, is in the State Water Plan Watershed 3J and is classified for: TSF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake is located on the Delaware River. This discharge is not expected to impact the water supply.

**PA0058939**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in Schuylkill Township, **Chester County**.

Description of Proposed Activity: Amendment 3 of a permit to discharge of stormwater from a Ready-Mix Concrete Batch Plant property. The permit amendments involve revised best management practices. This property is located at Route 23, Schuylkill Road at Pickering Valley Road, Phoenixville, PA 19460.

The receiving stream, UNT to French Creek (PA stream code 1550), is in the State Water Plan Watershed 3D and is classified for: TSF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Philadelphia Suburban Water Company—Pickering Creek Plant is located on the Schuylkill River. This discharge is not expected to impact the water supply.

**PA0058980**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in Plumstead Township, **Bucks County**.

Description of Proposed Activity: Amendment 1 of a permit to discharge of stormwater from a Ready-Mix Concrete Batch Plant property. The permit amendments involve revised best management practices and the deletion of Outfall 002. This property is located at 861 North Easton Road, Doylestown, PA 18901.

The receiving stream, Pine Run, is in the State Water Plan Watershed 2F and is classified for: TSF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for AQUA PA is located on Neshaminy Creek. This discharge is not expected to impact the water supply.

**PA0058963**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in Telford Borough, **Bucks County**.

Description of Proposed Activity: Amendment 2 of a permit to discharge of stormwater from a Ready-Mix Concrete Batch Plant property. The permit amendments involve revised best management practices. This property is located at 451 East Reliance Avenue, Telford, PA 18969.

The receiving stream, tributary 1238 to Mill Creek, is in the State Water Plan Watershed 3E and is classified for: TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake is located on the Perkiomen Creek. This discharge is not expected to impact the water supply.

**PA0058947**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: Amendment 1 of a permit to discharge of stormwater from a Ready-Mix Concrete Batch Plant property. The permit amendments involve revised best management practices. This property is located at 2750 Grant Avenue, Philadelphia, PA 19114.

The receiving stream, Wooden Bridge Run tributary to Pennypack Creek, is in the State Water Plan Watershed 3J and is classified for: WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake is located on the Delaware River. This discharge is not expected to impact the water supply.

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

**PA-0061832**, Industrial, **Draka Cableteq USA**, P. O. Box 347, Schuylkill Haven, PA 17972. This proposed facility is located in Schuylkill Haven Borough, **Schuylkill County**.

Description of Proposed Activity: renewal of NPDES permit.

The receiving stream, Schuylkill River, is in the State Water Plan Watershed 3A and is classified for: CWF. The nearest downstream public water supply intake for Pottstown Water Authority is located on Schuylkill River is over 50 miles below the point of discharge.

The proposed effluent limits for each outfall is as follows.

*Outfall 001—0.011 mgd*

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Daily Maximum (lbs/day)</i>
BOD <sub>5</sub>		26.0	2.4
Total Suspended Solids		19.0	1.74
Oil and Grease	15.0	29.0	2.7
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
pH	6.0 to 9.0 at all times		

*Outfall 002—0.064 mgd*

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Daily Maximum (lbs/day)</i>
BOD <sub>5</sub>		26.0	13.8
Total Suspended Solids		19.0	10.1
Oil and Grease	15.0	29.0	15.5
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
pH	6.0 to 9.0 at all times		

*Outfall 003—0.049 mgd*

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Daily Maximum (lbs/day)</i>
BOD <sub>5</sub>		26.0	10.6
Total Suspended Solids		19.0	7.8
Oil and Grease	15.0	29.0	11.8
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
pH	6.0 to 9.0 at all times		

*Outfall 004—0.06 mgd*

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Daily Maximum (lbs/day)</i>
BOD <sub>5</sub>		26.0	13
Total Suspended Solids		19.0	9.5
Oil and Grease	15.0	29.0	14.5
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
pH	6.0 to 9.0 at all times		

The EPA waiver is in effect.

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

**PA0228427**, CAFO, SIC 0213, **Country View Family Farms, LLC**, 6360 Flank Drive, Suite 100, Harrisburg, PA 17112-2766. This existing facility is located in Wells Township, **Bradford County**.

Description of Proposed Activity: The Pine Hill Farm CAFO is an existing swine operation that will be expanding its operation. Upon completion of the proposed expansion the facility will include approximately 5,050 sows, 12 boars, 750 sow/litter pairs, 2,000 gilts and 19,200 piglets, totaling 3,244 animal equivalent units.

The water body nearest to this facility is Mill Creek located in the Tioga Watershed (SWP-04A) and has a designated use of TSF.

Except for the chronic or catastrophic rainfall events defined as over 25-year/24-hour rain storms, the CAFO permit is a nondischarge NPDES permit. Where applicable compliance with 40 CFR Federal effluent limitation guidelines is required. The permit requires no other numeric effluent limitations. Compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with State narrative water quality standards.

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

1. Compliance with the Farm's Nutrient Management Plan.
2. Compliance with the Farm's Preparedness, Prevention and Contingency Plan.
3. Compliance with the Farm's Erosion and Sedimentation Control Plan for plowing and tilling.
4. Erosion and Sedimentation Control Plan requirements for stormwater during construction activities.
5. Animal mortality handling and disposing requirements.
6. Certification requirements for manure storage facilities.
7. Requirements for storage of feed and other raw materials.
8. Best Management Practices requirements.
9. Groundwater monitoring well maintenance requirement.

The EPA waiver will not be in effect.

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


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

**WQM Permit No. 4608410**, Sewerage, **Lower Salford Township Authority**, P. O. Box 243, 57 Main Street, Harleysville, PA 19438. This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: The influent pump station for the Mainland WWTP will be relocated together with the influent sanitary sewer and force main from the pump station to the WWTP.

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

**WQM Permit No. 3608405**, Sewerage, **Suburban Lancaster Sewer Authority**, P. O. Box 458, Lancaster, PA 17608-0458. This proposed facility is located in West Lampeter Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking authorization to build a public sanitary sewer collection and conveyance system.

**WQM Permit No. 0608403**, Sewerage, **Municipal Authority of the Borough of Sinking Spring**, 3940 Penn Avenue, Sinking Spring, PA 19608-1112. This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Seeking authorization for an upgrade and modifications to the Sinking Spring wastewater treatment plant.

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

**WQM Permit No. 0808202**, CAFO, SIC 0213, **Country View Family Farms, LLC**, 6360 Flank Drive, Suite 100, Harrisburg, PA 17112-2766. This proposed facility is located in Wells Township, **Bradford County**.

Description of Proposed Action/Activity: Pine Hill Farm, an existing swine farm, proposes the issuance of a WQM permit for the construction and operation of two concrete underbarn manure storage facilities. One facility will measure 85 feet by 736 feet by 2 feet deep and will service a proposed farrowing barn. The second facility will measure 125.5 feet by 920 feet by 9 feet deep and will service a proposed gestation barn. The two underbarn manure storage facilities will provide a total holding capacity, minus appropriate freeboard, of approximately 7 million gallons.

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

**WQM Permit No. WQG026121**, Sewerage, **Hidden Valley Four Seasons Resort**, One Craighead Drive, Hidden Valley, PA 15502. This proposed facility is located in Jefferson Township, **Somerset County**.

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

**WQM Permit No. 0408403**, Sewerage, **Freedom Borough Collection and Conveyance Authority**, P. O. Box 201, Freedom, PA 15042. This proposed facility is located in Freedom Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary, storm sewer separation.

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

**WQM Permit No. 4308401**, Sewage, **State Regional Correction Center at Mercer**, 801 Butler Pike, Mercer, PA 16137. This proposed facility is located in Findley Township, **Mercer County**.

Description of Proposed Action/Activity: This application proposes the construction of a 250,000 gpd (0.25 mgd) sequencing batch reactor wastewater treatment plant to eliminate the existing 160,000 gpd (0.16 mgd) sewage treatment plant and its pending 60,000 gpd (0.06 mgd) plant expansion to implement the second phase of the associated Planning Module for Land Development, approved by the Department of Environmental Protection on December 27, 2007. Wholesale replacement of the entire system will improve operating efficiency and replace aging equipment. The expansion will continue to utilize the existing plant's aeration tanks number six and seven and equalization tank number three as sludge holding for subsequent truck hauling to landfill disposal.

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**IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**


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**V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**


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**VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**


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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1503012-R	DHLP Manchester Farms, LP 435 Devon Park Drive Building 200 Wayne, PA 19087	Chester	East Fallowfield Township	West Branch Brandywine Creek EV

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1508047	William Roche 1380 Morgantown Road Morgantown, PA 19543	Chester	Honey Brook Township	West Branch Brandywine Creek HQ-TSF-MF
PAI01 1504048	ROJAN HH and M, LLC 2213 Concord Pike Wilmington, DE 19803	Chester	London Grove Township	East Branch White Clay Creek EV
PAI01 1508049	Robert L. Cone P. O. Box 120 Elverson, PA 19406	Chester	West Nantmeal Township	South Branch French Creek EV
PAI01 1508050	David and Phoebe McElhenny 715 Tablotville Road Honey Brook, PA 19344-1749	Chester	Honey Brook Township	East Branch Brandywine Creek HQ-TSF-MF
PAI01 1508051	Hellings Properties, LP 613 Foothill Drive West Chester, PA 19382	Chester	East Whiteland Township	Valley Creek EV
PAI01 1508052	New Garden Township 299 Starr Road Landenberg, PA 19350	Chester	New Garden Township	East Branch White Clay Creek EV
PAI01 2308007	Sweetwater Valley, LLC P. O. Box 287 Gradyville, PA 19039	Delaware	Middletown Township	Rocky Run HQ-CWF-MF
PAI01 2308008	Anthony Palmieri 1435 Middletown Road Glen Mills, PA 19342	Delaware	Edgmont Township	Ridley Creek HQ-TSF
PAI01 4608003	Garden Springs Holding, Inc. 375 Armand Hammer Boulevard Pottstown, PA 19464	Montgomery	Lower Pottsgrove Township	Schuylkill River WWF-MF
PAI01 4608004	Bux Mont Riding Club, Inc. 521 Thousand Acre Road Sellersville, PA 18960	Montgomery	Salford Township	UNT Ridge Valley Creek HQ-TSF

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

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024508010	Pleasant Valley Assembly of God P. O. Box 797 Brodheads ville, PA 18321	Monroe	Chestnuthill Township	Pohopoco Creek HQ-CWF Weir Creek CWF

*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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023908019	Kolarik & Rocco Associates, LP Attn: Joseph Kolarik 2288 Meadow Lane Emmaus, PA 18049	Lehigh	Weisenberg Township	Lyon Creek HQ-CWF, MF

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024508005	Joshmor, Inc. HC Box 405A Brodheads ville, PA 18322	Monroe	Chestnuthill and Jackson Townships	McMichael Creek EV
PAI024508009	RPM Realty Co. 410 Analomink Road East Stroudsburg, PA 18301	Monroe	Hamilton Township	McMichael Creek HQ-CWF

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

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

**STATE CONSERVATION COMMISSION**

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

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

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

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

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

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

**CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Types</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Application or Action</i>
Steve Hershey 2024 Donegal Springs Road Mount Joy, PA 17552	Lancaster	134	429.69	Layers, steers	HQ	Renewal
	Lancaster					
	Lancaster					
	Lancaster					
	Lancaster					
	Lancaster					
	Lancaster					

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office



listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

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

##### Application No. 1508507, Public Water Supply.

Applicant **Warwick Water Works, Inc.**  
 Township Warwick  
 County **Chester**  
 Responsible Official Richard Orlow  
 1345 Hares Hill Road  
 Phoenixville, PA 19460  
 Type of Facility PWS  
 Consulting Engineer Earth Companies  
 1345 Hares Hill Road  
 Phoenixville, PA 19460  
 Application Received Date May 9, 2008  
 Description of Action The construction of a 150,00-gallon storage tank.

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

##### Application No. 2108506, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania**  
 Municipality Upper Allen Township  
 County **Cumberland**  
 Responsible Official Authur C. Saunders  
 Operations Engineer  
 4211 East Park Circle  
 Harrisburg, PA 17111  
 Type of Facility Public Water Supply  
 Consulting Engineer Renee A. Szczepanski, P. E.  
 Navarro & Wright Consulting  
 Engineers, Inc.  
 151 Reno Avenue  
 New Cumberland, PA 17070  
 Application Received: July 21, 2008  
 Description of Action Construction of a new Mt. Allen booster pump station.

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

##### Permit No. 0208512, Public Water Supply.

Applicant **Pennsylvania American Water Company**  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033

Township or Borough City of Pittsburgh  
 Baldwin Borough  
**Allegheny County**  
 and  
 Union Township  
**Washington County**  
 Responsible Official David Kaufman  
 Regional Director of Engineering  
 Pennsylvania American Water  
 Company  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Type of Facility Water treatment plant  
 Consulting Engineer Gannett Fleming, Inc.  
 207 Senate Avenue  
 Camp Hill, PA 17011-2316  
 Application Received Date July 22, 2008  
 Description of Action Construction of new chemical storage and feed facilities at the existing Hays Mine Station WTP, E. H. Aldrich WTP and Mt. Washington booster pump station. At each facility, switch chlorination from gas chlorine to sodium hypochlorite. Also at Hays Mine upgrade or replace existing chemical facilities, construct two chemical feed chambers install new flow meter on clearwell No. 2 discharge line and demolish the existing chemical building. At E. H. Aldrich construct a new chemical feed and sampling station.

##### Permit No. 0208513, Public Water Supply.

Applicant **Pennsylvania American Water Company**  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Township or Borough City of Pittsburgh  
 Baldwin Borough  
**Allegheny County**  
 and  
 Union Township  
**Washington County**  
 Responsible Official David Kaufman  
 Regional Director of Engineering  
 Pennsylvania American Water  
 Company  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Type of Facility Water treatment plant  
 Consulting Engineer Gannett Fleming, Inc.  
 207 Senate Avenue  
 Camp Hill, PA 17011-2316  
 Application Received Date July 22, 2008

Description of Action Construct new ammonia storage and feed facilities (chloramination) at the Hays Mine Station WTP, E. H. Aldrich Station WTP and the Mt. Washington Booster Pump Station.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

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

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

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator

at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Smith Residence (1277 Main Street)**, Jenkins Township, **Luzerne County**. Thomas Jones, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440, has submitted a Notice of Intent to Remediate (on behalf of his client, Christine Smith, 1277 Main Street, Jenkins Township, PA 18640), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a result of a release from an aboveground storage tank. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soils. The proposed future use of the property will be residential. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

*Southcentral Region: Environmental Cleanup Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Supervalu Distribution Center**, City of Harrisburg, **Dauphin County**. Property Solutions, Inc., 323 New Albany Road, Moorestown, NJ 08057 on behalf of KTR Capital Partners, LLC, Five Towers Bridge, Barr Harbor Drive, Suite 150, West Conshohocken, PA 19428, submitted a Notice of Intent to Remediate soils and groundwater contaminated with arsenic and antimony. The future use of this site will be as a warehouse and distribution center. The site will be remediated to the Site-Specific Standard.

*Northwest Region: Environmental Cleanup Program Manager; 230 Chestnut Street, Meadville, PA 16335-3481.*

**Ave Maria St. Marys (65 Ave Maria)**, City of St. Marys, **Elk County**. Insite Group, Inc., 611 South Irvine Avenue, Sharon, PA 16146 on behalf of J. M. Hamlin and Sara Johnson, 517 Center Street, Saint Marys, PA 15857 has submitted a Notice of Intent to Remediate. Dried sewage sludge obtained from the Saint Marys Wastewater Treatment Plant was applied to the property in 1970 and 1974. Samples collected from the property in 1987 and 2005 showed concentrations of cadmium in soil exceeded the Statewide Health Standard. Future use of the property is residential. The Notice of Intent to Remediate was published in *The Daily Press* on October 10, 2006.

**Windfall Road St. Marys (1115 Windfall Road)**, City of St. Marys, **Elk County**. Insite Group, Inc., 611 South Irvine Avenue, Sharon, PA 16146 on behalf of Lad Kornacki, 1115 Windfall Road, Saint Marys, PA 15857 has submitted a Notice of Intent to Remediate. Dried sewage sludge obtained from the Saint Marys Wastewater Treatment Plant was applied to the property in 1979 and 1980. Samples collected from the property in 1987 and 2005 showed concentrations of cadmium in soil exceeded the Statewide Health Standard. Future use of the property is residential. The Notice of Intent to Remediate was published in *The Daily Press* on October 10, 2006.

**North Michael Street—St. Marys (354 North Michael Street)**, City of St. Marys, **Elk County**. Insite Group, Inc., 611 South Irvine Avenue, Sharon, PA 16146 on behalf of Alan Weis, 147 East Oilwell Street, Saint Marys, PA 15857 has submitted a Notice of Intent to Remediate. Dried sewage sludge obtained from the Saint Marys Wastewater Treatment Plant was applied to the

property in 1968, 1972 and 1975. Samples collected from the property in 1987 and 2005 showed concentrations of cadmium in soil exceeded the Statewide Health Standard. Future use of the property is residential. The Notice of Intent to Remediate was published in *The Daily Press* on October 10, 2006.

### RESIDUAL WASTE GENERAL PERMITS

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

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

**General Permit Renewal Application Number WMGR046D001.** Summit Anthracite, Inc., R. R. 1, Box 12a, Klingerstown, PA 17941-9704. General Permit Number WMGR046D001 authorizes the processing and beneficial use of the following wastes: drinking water treatment sludges, yard waste, bark ash, coal ash, agricultural residues, waste cardboard and paper, sludge generated by paper or pulp mills (SIC Code 2621 and 2611), waste from vegetable food processing, unused sands and spent mushroom substrate. The processing is limited to separation, size reduction (grinding), mixing, windrow composting, static composting and screening prior to beneficial use as manufactured soil or soil amendments. The application was received by Central Office on August 5, 2008.

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 Services (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

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

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984. Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

### PLAN APPROVALS

**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.*

**24-0830: Carbone of America** (215 Stackpole Street, St. Marys, PA 15857) for installation of a new natural gas fired carbon baking kiln, thermal oxidizer and limestone scrubber at their facility in St. Marys City, **Elk County**. This is a Title V facility.

**42-004D: American Refining Group** (77 North Kendall Avenue, Bradford, PA 16701) for plan approval to change existing emission limits and applicable requirements associated with the following sources: Crude Unit Heater, Raffinate Heater and ISOM Heater, Boiler No. 5 and Refinery Flare all at their Bradford facility in Bradford City, **McKean County**. This is a Title V facility, Permit No. 42-0004.

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

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.*

**39-327-004: Sumitomo (SHI) Cryogenics of America, Inc.** (1833 Vultee Street, Allentown, PA 18103) for construction of a new batch vapor degreaser at their facility in Allentown, **Lehigh County**. The operation of the new degreaser will result in annual emissions of 11.6

tpy of VOCs and 0.12 tpy of HAPs. The facility is a non-Title V (State-only) facility and has been issued Synthetic Minor Operating Permit No. 39-00074. The Plan Approval and Operating Permit will include emission restrictions and reporting, work practices and recordkeeping requirements designed to keep the source operating within all applicable air quality requirements. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Synthetic Minor Operating Permit through an administrative amendment at a later date.

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

**05-05006B: Columbia Gas Transmission Corp.** (1700 MacCorkle Avenue, SE, Charleston, WV 25314) for installation of two dehydrator flares to replace the existing flares at their Artemas Compressor Station in Mann Township, **Bedford County**. The dehydrators are subject to 40 CFR Part 63, Subpart HHH, National Emission Standards for HAPs from Natural Gas Transmission and Storage Facilities, MACT. The facility has the potential to emit, annually, the following: 50 tons VOC, 10 tons of a single HAP and 100 tons each of NOx and CO. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements. The facility is presently covered by the Title V operating permit No. 05-05006.

**06-05005C: Eastern Industries, Inc.—Oley Blacktop Plant** (R. D. 1, P. O. Box 265, Bieber Mill Road, Oley, PA 19547) for conversion of the existing rotary dryer burner to be capable of burning On-Specification Waste Derived Liquid Fuel in addition to previously approved liquid fuels No. 2, No. 4 and No. 5. The plant will continue to be controlled by a cyclone and a fabric filter baghouse in Oley Township, **Berks County**. The actual emissions from this facility will be about 98.0 tpy of CO, 29.4 tpy of NOx, 21.6 tpy of SOx, 6.6 tpy of PM and 0.2 tpy of VOC. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**06-05066G: Exide Technologies** (P. O. Box 14294, Reading, PA 19612-4294) for modification of the secondary lead smelter furnaces at their facility in Laureldale Borough/Muhlenberg Township, **Berks County**. The modification will reset the minimum flow rate limits for the various wet control devices (two venturi scrubbers and two spray chambers). The modification will result in no changes in the emission rates. The sources are subject to 40 CFR Part 60, Subpart L, Standards of Performance for New Stationary Standards and 40 CFR Part 63, Subpart X, National Emission Standards for HAPs from Secondary Lead Smelters. The plan approval will include monitoring, recordkeeping, work practices and reporting requirement designed to keep the sources operating within all applicable air quality requirements. The facility is presently covered by the Title V operating permit No. 06-05066. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450.

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

**59-00005G: Dominion Transmission, Inc.** (445 West Main Street, Clarksburg, WV 26301) for construction of a 2,370 horsepower natural gas-fired reciprocating internal

combustion compressor engine, a 5,810 horsepower natural gas-fired compressor turbine and eight 65 kW natural gas-fired microturbines at the Sabinsville Compressor Station in Clymer Township, **Tioga County**.

The facility in which the proposed construction will take place is a major (Title V) facility for which a Title V operating permit (No. 59-00005) has been issued.

The CO, VOC and VHAP (primarily formaldehyde) emissions from the reciprocating engine and turbine will be controlled by oxidation catalysts.

The total combined air contaminant emissions from the reciprocating engine, turbine and eight microturbines are not expected to exceed 36.85 tons of NOx, 18.91 tons of CO, 10.12 tons of PM/PM10, 5.89 tons of VOCs, 2.31 tons of VHAPs (including 1.88 tons of formaldehyde) and .39 ton of SOx per year.

The Department of Environmental Protection's (Department) review of the information submitted by Dominion Transmission, Inc. indicates that the proposed reciprocating engine, turbine and microturbines will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including Subparts YYYY and ZZZZ of the National Emission Standards for HAPs, Subparts JJJJ and KKKK of the Federal Standards of Performance for New Stationary Sources and the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the proposed reciprocating engine, turbine and eight microturbines. Additionally, if the Department determines that the engine, turbine and microturbines are operating in compliance with all conditions of the plan approval and all applicable regulatory requirements following their construction, the Department intends to incorporate the plan approval conditions into Title V Operating Permit 59-00005 in accordance with the administrative amendment requirements of 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable requirements:

1. The reciprocating engine, turbine and microturbines shall be fired only on pipeline quality natural gas.
2. The reciprocating engine shall be equipped with an air fuel ratio controller and an oxidation catalyst which is capable of reducing the engine's CO, VOC and VHAP emissions by 93%, 80% and 80%, respectively.
3. The NOx emissions from the reciprocating engine shall not exceed .70 gram per brake horsepower-hour, 3.66 pounds per hour and 16.03 tons in any 12-consecutive month period, the CO emissions shall not exceed .18 gram per brake horsepower-hour, .91 pound per hour and 3.99 tons in any 12-consecutive month period, the VOC emissions shall not exceed .20 gram per brake horsepower hour, 1.05 pounds per hour and 4.58 tons in any 12-consecutive month period, the PM/PM10 emissions shall not exceed .16 pound per hour and .70 ton in any 12 month consecutive month period, the total combined HAP emissions shall not exceed .47 pound per hour and 2.06 tons in any 12-consecutive month period, the formaldehyde emissions shall not exceed .08 gram per brake horsepower-hour, .42 pound per hour and 1.84 tons in any 12-consecutive month period and the SOx emissions shall not exceed .009 pound per hour and .04 ton in any 12-consecutive month period.

The emission limitations contained in this condition apply only to "stack emissions" and do not have any applicability to any fugitive air contaminant emissions which may occur as a result of engine operation.

4. The oxidation catalyst associated with the reciprocating engine shall be equipped with instrumentation to continuously monitor the differential pressure across the catalyst and the catalyst inlet and outlet temperatures.

5. The differential pressure across the catalyst in the oxidation catalyst associated with the reciprocating engine shall not deviate by more than two inches wg at 100% engine load +/-10% from the differential pressure measured across the catalyst during the initial stack testing required herein and the catalyst inlet temperature shall be maintained at a temperature of no less than 450° F but no more than 1,350° F.

6. The reciprocating engine shall comply with all applicable requirements specified in Subpart JJJJ of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.4230—60.4248, and Subpart ZZZZ of the National Emission Standards for HAPs, 40 CFR 63.6580—63.6675.

7. The turbine shall be equipped with Solar SoLoNOx technology and an oxidation catalyst which is capable of reducing the turbine's CO, VOC, VHAP and formaldehyde emissions by 96%, 50%, 86% and 94%, respectively.

8. The NOx emissions from the turbine shall not exceed 25 parts per million, by volume, dry basis, corrected to 15% O<sub>2</sub>, and 4.66 pounds per hour, the CO emissions shall not exceed 2 parts per million, by volume, dry basis, corrected to 15% O<sub>2</sub>, and .23 pound per hour, and the VOC emissions shall not exceed 12.5 parts per million, by volume, dry basis, corrected to 15% O<sub>2</sub>, and .24 pound per hour when operating in a SoLoNOx mode. When the turbine is operating in a non-SoLoNOx mode, the NOx, CO and VOC emissions shall not exceed 7.0, 24.26 and 2.87 pounds per hour, respectively.

The emission limitations contained in this condition apply only to "stack emissions" and do not have any applicability to any fugitive air contaminant emissions which may occur as a result of turbine operation.

9. The PM/PM10, total combined HAP, formaldehyde and SOx emissions from the turbine shall not exceed .0419, .0012, .00019 and .0006 pound per mmBtu of heat input, respectively.

The emission limitations contained in this condition apply only to "stack emissions" and do not have any applicability to any fugitive air contaminant emissions which may occur as a result of turbine operation.

10. The NOx, CO, VOC, PM/PM10, total combined HAP, formaldehyde and SOx emissions from the turbine shall not exceed 20.43, 1.25, 1.08, 9.2, .25, .04 and .13 ton, respectively, in any 12-consecutive month period.

The emission limitations contained in this condition apply only to "stack emissions" and do not have any applicability to any fugitive air contaminant emissions which may occur as a result of turbine operation.

11. The turbine shall not be operated in a non-SoLoNOx mode for more than 20 hours in any 12-consecutive month period except for any operation in a non-SoLoNOx mode for the purposes of performing stack testing. The turbine shall be equipped with instrumentation to continuously monitor whether it is operating in a SoLoNOx mode or a non-SoLoNOx mode.

12. The oxidation catalyst associated with the turbine shall be equipped with instrumentation to continuously monitor the differential pressure across the catalyst and the catalyst inlet and outlet temperatures. The Department reserves the right to establish catalyst differential pressure and/or catalyst inlet temperature limitations/requirements for the oxidation catalyst.

13. The turbine shall comply with all applicable requirements specified in Subpart KKKK of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.4300—60.4420, and Subpart YYYY of the National Emission Standards for HAPs, 40 CFR 63.6080—63.6175.

14. Within 180 days of commencement of operation of the reciprocating engine, stack testing shall be performed to determine the engine's NOx, CO, VOC and formaldehyde emission rates. The NOx and CO testing shall thereafter be repeated on an annual basis and the VOC and formaldehyde testing shall thereafter be repeated on a triennial basis. The permittee may request a change in the required frequency of testing once enough data has been generated to determine the consistency of compliance.

15. Within 180 days of commencement of operation of the turbine, stack testing shall be performed to determine the turbine's NOx, CO, VOC, formaldehyde and PM/PM10 emission rates while operating in a SoLoNOx mode as well as the CO emission rate while operating in a non-SoLoNOx mode. The NOx and SoLoNOx mode CO testing shall thereafter be repeated on an annual basis and the VOC and formaldehyde testing shall thereafter be repeated on a triennial basis. The permittee may request a change in the required frequency of testing once enough data has been generated to determine the consistency of compliance.

16. The permittee shall maintain and report records of the number of hours the turbine operates in a non-SoLoNOx mode each month.

17. The Department reserves the right to require the maintenance and reporting of records of the catalyst differential pressure and/or catalyst inlet and outlet temperatures for the oxidation catalysts associated with the reciprocating engine and the turbine.

18. The total combined fugitive VOC and total combined fugitive VHAP emissions associated with the operation of the reciprocating engine and turbine shall not exceed 9.78 and .69 ton, respectively, in any 12-consecutive month period.

19. The permittee shall perform inspections of the reciprocating engine and turbine, the associated compressors and associated piping, and the like, at least once per month to determine the presence of fugitive VOC/VHAP emissions and shall take corrective action, as necessary, to eliminate any fugitive emissions detected during these inspections. The permittee shall maintain comprehensive records of these inspections which shall, at a minimum, include the date and time of the inspection, the identification of the inspector, what was inspected, the location of any observed fugitive VOC/VHAP emissions, identification of any corrective action taken to eliminate the observed fugitive emissions and the success, or failure, of the corrective action to eliminate the fugitive emissions. These same records shall be maintained for any non-scheduled observation of fugitive VOC/VHAP emissions.

20. The permittee shall maintain and report records of all occurrences of natural gas venting associated with the operation of the reciprocating engine and turbine which

shall, at a minimum, include the date and time of each such occurrence, the estimated amount of natural gas vented during each such occurrence and the estimated quantity of VOCs and VHAPs emitted during each such occurrence.

21. The NO<sub>x</sub>, CO and VOC emission rates from each of the eight microturbines shall not exceed .17, 6.0 and .10 pound per MW hr, respectively.

22. The total combined NO<sub>x</sub> emissions from all eight microturbines shall not exceed .09 pound per hour and .39 ton in any 12-consecutive month period, the total combined CO emissions shall not exceed 3.12 pounds per hour and 13.67 tons in any 12-consecutive month period, the total combined VOC emissions shall not exceed .05 pound per hour and .22 ton in a 12-consecutive month period, the total combined PM/PM<sub>10</sub> emissions shall not exceed .05 pound per hour and .22 ton in any 12-consecutive month period and the total combined SO<sub>x</sub> emissions shall not exceed .05 pound per hour and .22 ton in any 12-consecutive month period.

23. The permittee shall be in possession of 50.52 tons of NO<sub>x</sub> emission reduction credits prior to commencing operation of the reciprocating engine, turbine or any of the eight microturbines.

A copy of the plan approval application is available for public inspection during normal business hours at the address to follow. Persons interested in inspecting the application must schedule an appointment in advance.

Any person wishing to protest the issuance of plan approval or provide the Department with additional information which he/she believes should be considered in the Department's review of the respective plan approval application may do so by submitting the protest or information, in writing, to the Department at the address to follow.

Protests or comments must be received by the Department within 30 days of the last date of publication of this notice in order to be considered. Each protest or comment should include the name, address and telephone number of the person submitting the protest or comment and a concise statement explaining the relevancy of the protest or comment being presented to the Department.

A public hearing may be held if the Department, in its discretion, decides that such a hearing is warranted based on the information received. Persons protesting the issuance of plan approval, submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation in the Clymer Township, Tioga County, area or by letter or telephone if the Department feels that the notification is sufficient.

Written comments, protests or requests for a public hearing should be directed to David W. Aldenderfer, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

For additional information regarding the respective plan approval application, contact Richard L. Maxwell, Jr., Chief, New Source Review Section, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3640.

**49-00040A: Reagent Chemical & Research, Inc.,** White Flyer Division (Happy Hallow Road, Coal Township, PA 17866) for the construction of three skeet target surface coating operations in Coal Township, **Northumberland County.**

The respective three skeet target surface coating operations (one biodegradable target surface coating operation and two pitch target surface coating operations) currently exist but the two fabric collectors used to control the PM emissions from the surface coating operations exhaust to the indoor atmosphere (The surface coating operations use water-based coatings with a minimal VOC content). Reagent Chemical & Research, Inc. now proposes to exhaust the collectors to the outdoor atmosphere.

The PM/PM<sub>10</sub> emissions to the outdoor atmosphere from the three target surface coating operations and associated fabric collectors are not expected to exceed 2.21 tons in any 12-consecutive month period. There will be no change in the surface coating operations' VOC emission rates.

The facility in which the surface coating operations are located is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection's (Department) review of the information submitted by Reagent Chemical & Research, Inc. indicates that the three skeet target surface coating operations will comply with applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval. Additionally, if the Department determines that the respective surface coating operations are operating in compliance with all conditions of the plan approval and all applicable regulatory requirements following the change in fabric collector exhaust configuration, the Department intends to incorporate the plan approval conditions into State-only Operating Permit 49-00040 in accordance with the administrative amendment requirements of 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable requirements:

1. The PM emissions from the surface coating operations shall be controlled by two fabric collectors (one associated with the biodegradable target surface coating operation and one associated with the two pitch target surface coating operations) at all times.

2. The concentration of PM in the exhaust of the fabric collectors shall not exceed .01 grain per dry standard cubic foot of effluent gas volume. Additionally, there shall be no visible air contaminant emissions (other than water vapor or steam).

3. Each of the fabric collectors shall be equipped with instrumentation to monitor the differential pressure across the collector on a continuous basis.

4. Spare bags shall be kept onsite for the fabric collectors.

5. Only those coating materials identified in the application and supplemental materials submitted for plan approval (or alternate coating materials determined by the Department to have an equivalent or lower, air contaminant emission potential) shall be used in the surface coating operations.

6. Conditions contained in State-only Operating Permit 49-00040 remain in effect unless amended or superseded by a condition contained herein. If there is a conflict between a condition or requirement contained in this plan approval and a condition or requirement contained in State-only Operating Permit 49-00040, the permittee

shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in State-only Operating Permit 49-00040.

#### OPERATING PERMITS

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

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

**05-05004: Seton Co.** (135 Horton Drive, Saxton, PA 16678) for a finished and dimensioned leather manufacturing facility in Saxon Borough, **Bedford County**. The facility is subject to 40 CFR Part 63, Subpart TTTT, National emission standards for HAPs for leather finishing operations, Maximum Achievable Control Technology. The primary pollutants are VOCs and HAPs. The operating permit will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements. This is a renewal of a Title V operating permit issued in April 2003.

**36-05019: Anvil International** (1411 Lancaster Avenue, Columbia, PA 17512) for operation of an iron foundry in Columbia Borough, **Lancaster County**. The air emissions associated with the facility's foundry operations, primarily emit PM/PM10 and VOCs. This renewal of the facility's operating permit also includes requirements from 40 CFR Part 63, Subpart ZZZZZ, regarding the use of Maximum Achievable Control Technology requirements in accordance with the National Emission Standards for HAPs for Iron and Steel Foundries Area Sources. The operating permit also incorporates requirements from 40 CFR Part 64—Compliance Assurance Monitoring for Major Stationary Sources. This action is a renewal of the Title V operating permit issued in 2003.

#### 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.*

**23-00068: Cremation Specialists, Inc.** (43 East Baltimore Avenue, Media, PA 19063) for operation of a crematorium in Media Borough, **Delaware County**. This action is a renewal of the State-only Operating Permit. The original State-only Operating Permit was issued on October 25, 2002. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

**06-05096: Reading Hospital and Medical Center** (Sixth and Spruce Streets, Reading, PA 19612-6052) for operation of Generators and Boilers in West Reading Borough, **Berks County**. The facility has the potential to emit 92.6 tpy of NOx, 94.0 tpy of SOx, 40.8 tpy of CO, 4.2 tpy of PM and 3.2 tpy of VOC. The facility wide (State-only) operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**36-03021: J. Walter Miller Co.** (411 East Chestnut Street, Lancaster, PA 17602) for operation of a foundry in the City of Lancaster, **Lancaster County**. This action is a renewal of the facility-wide operating permit issued in 2003.

**67-05099: Kinsley Manufacturing, Inc.** (1110 East Princess Street, York, PA 17403) for operation of their steel fabrication plant in the City of York, **York County**. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit issued in 2003.

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

**59-00007: Reliant Mid-Atlantic Power Holdings, LLC** (121 Champion Way, Suite 200, Canonsburg, PA 15317-5817) for their Blossburg generating station located in Covington Township, **Tioga County**. The facility's main air contaminant sources include one natural gas-fired combustion turbine and one diesel-fired reciprocating internal combustion engine. The facility has the potential to emit SOx, CO, PM/PM10, VOCs and combined and individual HAPs emissions below the major thresholds. The facility has taken a synthetic minor restriction to limit the NOx emissions below the major threshold. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**17-00006: Mt. Savage Specialty Refractories Company** (P. O. Box 60, Curwensville, PA 16833) for operation of a refractories materials manufacturing/processing facility in Pike Township, **Clearfield County**.

The facility incorporates a 3.0 mmBtu/hr natural gas-fired rotary dryer, numerous pieces of material crushing, screening, mixing, conveying, bagging, and the like equipment and 14 natural gas-fired space heaters and water heaters (with a total combined heat input of 6.01 mmBtu/hr).

The PM emissions from the rotary dryer and material crushing, screening, mixing, conveying, bagging, and the like equipment are controlled by a wet scrubber and 11 fabric and cartridge collectors.

The air contaminant emissions from the facility are not expected to exceed 46.32 tons of PM/PM10, 3.65 tons of NOx, 3.07 tons of CO and .02 ton of SOx per year.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously contained in Operating Permit 17-309-024, issued on June 24, 2003, and Plan Approval 17-309-024A, issued on November 9, 2004, and conditions previously established as requirements of plan approval exemption determinations made on August 14, 2006, and January 8, 2007.

The conditions previously contained in Operating Permit 17-309-024 include:

1. Conditions limiting the PM emissions from the exhaust of the scrubber to no more than .02 grain per dry standard cubic foot of effluent gas volume and the PM emissions from the exhaust of nine fabric collectors to no more than .01 grain per dry standard cubic foot of

effluent gas volume and prohibiting the emission of visible air contaminant emissions from the exhaust of the nine fabric collectors.

2. A condition limiting the materials processed in the facility to Mulcoa 47, Mulcoa 60, refractory brick bats and additives identified in the application submitted for Plan Approval 17-309-024 (note: this condition was modified to include calcined clay and additives identified in the application submitted for Plan Approval 17-309-024A).

3. A condition limiting the fuel fired in the rotary dryer to natural gas.

4. A condition requiring the scrubber to be equipped with a pumped recirculating scrubbing solution system that shall be operated at all times the scrubber is in operation.

5. A condition requiring the scrubber to be operated at a minimum scrubbing solution recirculation rate of 60 gallons per minute and a minimum differential pressure of 14.0 inches of water.

6. Conditions requiring the scrubber to be equipped with instrumentation to monitor the pressure differential across the scrubber on a continuous basis and flow monitoring equipment capable of measuring the scrubbing solution recirculation rate with a minimum accuracy of plus or minus 1.0 gallon per minute on a continuous basis.

7. Conditions requiring each of nine fabric collectors to be equipped with instrumentation capable of measuring the pressure differential across the collector on a continuous basis and the maintenance of spare bags for the respective nine fabric collectors.

8. A condition requiring the bags in each of nine fabric collectors to be cleaned at least once every 3 hours of continuous operation and prohibiting the operation of the air contamination sources controlled by any of these nine fabric collectors when the bags in the respective collector are being cleaned.

9. A condition requiring the permittee to inspect nine fabric collectors for damaged or worn bags at least once every 3 months and maintain records of these inspections.

10. A condition requiring the permittee to drain, clean and inspect the scrubber at the end of each 5 day work week and to maintain records of these actions.

11. Conditions prohibiting the simultaneous operation of a bagging station and supersack filling station controlled by a common fabric collector.

12. Conditions requiring the collector ductwork associated with one of nine fabric collectors to be equipped with devices capable of gating off the ductwork to each air contamination source controlled by the respective fabric collector and requiring the permittee to gate off the ductwork to any source not in use.

13. Conditions requiring the use of a scrubber on certain pieces of equipment only when they are processing dry materials and prohibiting the rotary dryer from being operated when the respective equipment is being controlled by the scrubber.

14. A condition requiring the exhaust stack of the scrubber to be observed for the presence of visible emissions once per work shift while the rotary dryer is operating and the maintenance of records of these observations.

15. A condition requiring the performance of a facility inspection at least once per shift to detect the presence of

visible air contaminant emissions and visible fugitive air contaminant emissions and the maintenance of records of these inspections.

The conditions previously contained in Plan Approval 17-309-024A include:

16. A condition limiting the PM emissions from the exhaust of four fabric collectors and a cartridge collector to no more than .01 grain per dry standard cubic foot of effluent gas volume and prohibiting the emission of visible air contaminants from the exhaust of the four fabric collectors and cartridge collector.

17. Conditions requiring each of four fabric collectors and a cartridge collector to be equipped with instrumentation to monitor the pressure differential across the collector on a continuous basis and the maintenance of spare bags and cartridges for the four fabric collectors and cartridge collector.

18. A condition requiring any air compressor supplying compressed air to four fabric collectors and a cartridge collector to be equipped with an air dryer and an oil trap.

19. A condition requiring the bags and cartridges in four fabric collectors and a cartridge collector to be cleaned at least once every 3 hours of continuous operation and prohibiting the operation of the air contamination sources controlled by any of these collectors when the bags or cartridges in the respective collector are being cleaned.

20. A condition prohibiting the simultaneous operation of a bagging machine and supersack filling station controlled by a common cartridge collector.

The conditions previously established as requirements of a plan approval exemption determination made for a hopper and bypass conveyor on August 14, 2006, include:

21. Conditions requiring the hopper and conveyor to be controlled by the scrubber and prohibiting the operation of the hopper and conveyor whenever the other air contamination sources controlled by the scrubber are operating.

The conditions previously established as requirements of a plan approval exemption determination made for a refractory ramming material system on January 8, 2007, include:

22. Conditions requiring the refractory ramming material system to be controlled by a cartridge collector and prohibiting the operation of the refractory ramming material system whenever the other air contamination sources controlled by the cartridge collector are operating.

The new conditions the Department proposes to incorporate into the operating permit to be issued include:

23. A condition requiring the detection of malodorous air contaminant emissions to be included in the required once-per-week facility inspections (note: the facility inspection condition was also modified to clarify that the purpose of the inspections is to detect the presence of air contaminant emissions in excess of applicable emission limitations rather than the mere presence of emissions).

24. A condition limiting the fuel used in the facility's space heaters and water heaters to natural gas.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**26-00580: Tank Solutions, Inc.** (533 Industrial Park Road, Suite 2, Smock, PA 15480) for operation of a



sandblast and paint company for propane tanks at Smock Plant in Menallen Township, **Fayette Company**.

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

**20-00296: Homerwood Hardwood Flooring** (1026 Industrial Drive, Titusville, PA 16354) for operation of their facility's air contamination source consisting of: a surface coating operation and a woodworking operation. The facility has a facility-wide VOC limit of 49 tpy to remain a State-only. The facility manufactures hardwood flooring in the City of Titusville, **Crawford County**.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for

an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated above each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

### *Coal Applications Received*

*Effluent Limits*—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Table 1

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup> The parameter is applicable at all times.

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

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**Permit Number 11031301 and NPDES Permit No. PA0235539, AMFIRE Mining Company, LLC**, (One Energy Place, Latrobe, PA 15650), to renew the permit for the Madison Mine in Jackson, Croyle and Cambria Townships, **Cambria County** and related NPDES permit. No additional discharges. Application received July 16, 2008.

**Permit Number 33901602 and NPDES Permit No. PA0214604, AMFIRE Mining Company, LLC**, (One Energy Place, Latrobe, PA 15650), to transfer the permit and related NPDES for the Brockway Tipple in Snyder Township, **Jefferson County** from Energy Resources, Inc. No additional discharges. Application received June 27, 2008.

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

**32080103 and NPDES No. PA0262676. KMP Associates, Inc.**, 3756 SR 981, Saltsburg, PA 15681, commencement, operation and restoration of a bituminous surface and auger mine in Young Township, **Indiana County**, affecting 93.0 acres. Receiving streams: UNTs to/and Harpers Run, UNT to Blacklegs Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 31, 2008.

**56980103 and NPDES No. PA0234699. Godin Brothers, Inc.**, 128 Colton Drive, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Jenner and Lincoln Townships, **Somerset County**, affecting 133.5 acres. Receiving streams: UNTs to Quemahoning Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning SWI. Application received August 5, 2008.

**56930104 and NPDES No. PA0212415. Future Industries, Inc.**, P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 129.0 acres. Receiving streams: UNTs to/and Buffalo Creek classified for

the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 5, 2008.

**11850107 and NPDES No. PA0597341. AMFIRE Mining Company, LLC**, One Energy Place, Latrobe, PA 15650, permit renewal for the continued operation and restoration of a bituminous surface mine in Portage Township, **Cambria County**, affecting 85.7 acres. Receiving streams: UNTs to/and Spring Run, UNTs to/and Trout Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Little Conemaugh River SWI. Application received August 5, 2008.

**56980107 and NPDES No. PA0234877. AMFIRE Mining Company, LLC**, One Energy Place, Latrobe, PA 15650, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Milford Township, **Somerset County**, affecting 277.0 acres. Receiving streams: UNTs to/and Casselman River and South Glade Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received August 5, 2008.

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

**63070102 and NPDES Permit No. PA0251186. Oxford Mining Company, LLC** (544 Chestnut Street, Coshocton, OH 43812). Application received for transfer of permit currently issued to Oxford Mining Company for continued operation and reclamation of a bituminous surface mining site located in Jefferson Township, **Washington County**, affecting 99.7 acres. Receiving streams: UNTs to Scott Run to Cross Creek to Ohio River, classified for the following use: WWF. There are no downstream potable water supply intakes within 10 miles from the point of discharge. Transfer application received July 11, 2008.

**26080104 and NPDES Permit No. PA0251453. Steve Patterson Excavating** (170 Yasenosky Road, Smithfield, PA 15478). Application for commencement, operation and reclamation of a bituminous surface mine, located in Dunbar Township, **Fayette County**, affecting 88.2 acres. Receiving streams: UNTs 'A' and 'B' to Gist Run, classified for the following use: TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received August 7, 2008.

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

**5522-33070108-E-1. Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127). Application for a stream encroachment to conduct mining activities within 100 feet of a UNT to Little Sandy Creek in McCalmont Township, **Jefferson County**. Receiving streams: Six UNTs to Little Sandy Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 1, 2008.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**54980103R2. Gale Coal Company, Inc.**, (1441 Oak Road, Pottsville, PA 17901), renewal of an existing anthracite surface mine, coal refuse reprocessing and disposal operation in Frailey Township, **Schuylkill County** affecting 431.5 acres, receiving stream: none. Application received August 1, 2008.

**54030102R and NPDES Permit No. PA0224324. Gale Mining Company**, (1441 Oak Road, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in Hegins and Porter Townships, **Schuylkill County** affecting 300.0 acres, receiving stream: East Branch Rausch Creek. Application received August 1, 2008.

**54-305-009GP12. Waste Management & Processors, Inc.**, (P. O. Box K, Frackville, PA 17931), application to operate a coal preparation plant whose pollution control equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Surface Mining Permit No. 54080201 in Port Carbon and Mechanicsville Boroughs, **Schuylkill County**. Application received August 1, 2008.

*Coal Applications Returned*

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

**11050102 and NPDES No. PA0249831. Hoffman Mining, Inc.**, P. O. Box 130, 118 Runway Road, Friedens, PA 15541, revision of an existing bituminous surface and auger mine to add 18.5 acres of surface and auger mining activities on the Lower Freeport coal seam in Adams Township, **Cambria County**, affecting 90.6 acres. Receiving streams: Paint Creek and UNTs to Paint Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 5, 2008. Application returned August 5, 2008.

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

**37050903. Grove City Materials, LP** (3340 US Route 89, New Castle, PA 16101) Commencement, operation and restoration of an incidental coal operation in Wayne Township, **Lawrence County** affecting 7.4 acres. Receiving streams: Duck Run and UNT to Connoquenessing Creek. Application received August 25, 2005. Application returned August 8, 2008.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>Table 2</i>		
	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

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

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**39080301. Geryville Materials, Inc.**, (P. O. Box 193, Eaglesville, PA 19408), commencement, operation and restoration of a quarry operation in Lower Milford Township, **Lehigh County** affecting 628.48 acres, receiving streams: UNTs to Hosensack Creek and UNT to Macoby Creek, classified for the following uses: CWF and WWF. Application received June 25, 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.*

**E51-171. West Highland Holdings, LP,** 735 South Columbus Boulevard, Philadelphia, PA 19147, Philadelphia City, **Philadelphia County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities:

1. To reconstruct and maintain the existing Pier 40 North along the Delaware River (WWF, MF) associated with construction of the proposed 43 story residential high-rise building which will be accessed by the proposed 133-foot long and 48-foot wide pile supported bridge. The existing pier will be widened approximately 55.1-foot to the south, 14.4-foot to the north, and 45.2-foot to the east. Approximately 0.43 acre of existing fill will be removed from the river, and 949 proposed 14-inch diameter concrete filled steel piles will be driven into the river bed.

2. To construct and maintain a public recreational park with access to the Delaware River located to the west of the pier, between the existing bulkhead and the assumed bulkhead line.

3. To construct and maintain a pedestrian walkway associated with public access to the perimeter of the pier.

The site is located at 933 North Penn Avenue (AKA Pier 40 North), (Philadelphia, PA USGS Quadrangle N: 15.9 inches; W: 1.3 inches).

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E19-273. Department of Transportation, Engineering District 3-0,** P. O. Box 218, Montoursville, PA 17754-

0218. SR 4025 Segment 0621 Bridge Structure Replacement over a UNT to the East Branch of Chillisquaque Creek, Madison Township, **Columbia County**, United States Army Corps of Engineers, Susquehanna River Basin District (Millville, PA Quadrangle N: 4° 06' 05"; W: 76° 36' 44").

The proposed project will replace an existing concrete arch bridge over a UNT to the East Branch of Chillisquaque with a single cell precast box culvert. The existing structure is 15 ft. wide with a clear span of 30 ft. The proposed structure is 57 ft. long with a clear span of 31.74 ft. The project will impact 80 linear ft. of stream and will impact 0.01 acre of palustrine wetland.

This project proposes to have a minimal impact on the UNT to the East Branch of Chillisquaque Creek, which is designated a WWF. This project proposes to impact 0.01 acre of jurisdictional wetlands.

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

**E02-1590. Columbia Gas of Pennsylvania,** 501 Technology Square, 305 Courthouse Square, Canonsburg, PA 15317. To construct and maintain a stream restoration in Moon and Robinson Townships, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Oakdale, PA Quadrangle N: 21.0 inches; W: 3.8 inches, Latitude: 40° 29' 26"; Longitude: 80° 09' 08"). The applicant proposes to construct and maintain a stream restoration project consisting of relocating and maintaining approximately 350.0 linear feet of the channel of Montour Run (TSF) and to stabilize the banks of said stream for the purpose of protecting the existing 15-inch diameter natural gas line. The project is located approximately 700.0 feet downstream from the confluence of Meeks Run and Montour Run and will impact approximately 390.0 linear feet of stream channel.

**E03-446. Kriebel Minerals Inc.,** P. O. Box 675, Clarion, PA 16214. To construct and maintain a stream crossing in East Franklin Township, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Kittanning, PA Quadrangle N: 10.3"; W: 13.9", Latitude 40° 48' 24"; Longitude 79° 35' 58"). To construct and maintain a stream crossing consisting of a 48 Corrugated Metal Pipe approximately 20' in length across Glade Run (TSF), for the purpose of constructing an access roadway.

**ENVIRONMENTAL ASSESSMENTS**

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

**EA56-005. Somerset County Commissioners,** 300 North Center Avenue, Suite 500, Somerset, PA 15501. Beachy Street Bridge (Somerset County Bridge No. 25) superstructure removal project carrying Depot Street over Casselman River, Elk Lick Township and Borough of Salisbury, **Somerset County**, United States Army Corps of Engineers, Pittsburgh District (Meyersdale, PA Quadrangle N: 1.4 inches; W: 12.4 inches, Latitude 39° 45' 27"; Longitude 79° 5' 16"). The applicant proposes to permanently remove the Beachy Street Bridge from over the Casselman River (WWF) by causing it to collapse into the river, then removing the pieces immediately downstream. The project will temporarily impact 125 linear feet of stream channel.

## ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania 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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0012726 (Industrial Waste)	Sapa Extrusions, Inc. P. O. Box 187 Cressona, PA 17929-0187	Schuylkill County Cressona Borough	West Branch of the Schuylkill River 3A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0034860 (Sew)	P.C.S. Chadaga, M.D. Penn Valley MHP 110 Inverness Drive Blue Bell, PA 19422	Lancaster County Penn Township	UNT to Chickies Creek 7-G	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0041505 (Sew)	Berks Properties, Inc. Hereford Estates MHP 3613 Seisholtzville Road Hereford, PA 18056	Berks County Hereford Township	Perkiomen Creek 3-E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0025674 Sewage	Franklin Township Municipal Sanitary Authority 3001 Meadowbrook Road Murrysville, PA 15668	Westmoreland County Municipality of Murrysville	Turtle Creek	N
PA0001473 Sewage	Mon River Sewage Corporation 1428 Delberts Drive Monongahela, PA 15063	Allegheny County Forward Township	Monongahela River	Y
PA0033405 Sewage	Thomas P. Berch 1434 Greensburg Pike West Newton, PA 15089	Westmoreland County Sewickley Township	UNT of Sewickley Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0037117	Cornell Abraxas Group, Inc. P. O. Box 59 Marienville, PA 16239-0059	Howe Township Forest County	UNT to the Branch 16-F	Y

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**NPDES Permit No. PA0260771**, CAFO, **Stanley Brymesser**, 1540 Leidigh Drive, Boiling Springs, PA 17007. This proposed facility is located in Monroe Township, **Cumberland County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 456-AEU swine and street operation in Watershed 7-E.

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

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

**WQM Permit No. 0693401, Amendment 08-1**, Sewage, **Ruscombmanor Township**, 204 Oak Lane, Fleetwood, PA 19522. This proposed facility is located in Ruscombmanor Township, **Berks County**.

Description of Proposed Action/Activity: Permit amendment approval for the construction of sewerage facilities consisting of a Pump Station with two submersible pumps and a 6-foot diameter wet well.

**WQM Permit No. WQG02670802**, Sewage, **First Industrial Realty Trust**, 707 Eagleview Boulevard, Suite 110, Exton, PA 19341. This proposed facility is located in Jackson Township, **York County**.

Description of Proposed Action/Activity: Permit application for the construction of the Independence Warehouse Pumping Station.

**WQM Permit No. 6708407**, Sewage, **New Life for Girls, Inc.**, 5925 Lewisberry Road, Dover, PA 17315. This proposed facility is located in Conewago Township, **York County**.

Description of Proposed Action/Activity: Permit approval for the modification of sewerage facilities consisting of replacement of the existing sludge tank with a 1,000-gallon concrete tank.

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

**WQM Permit No. 0307202-A1**, Industrial Waste, **Reliant Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This existing facility is located in Plumcreek Township, **Armstrong County**.

Description of Proposed Action/Activity: Permit issuance for construction and operation of a pipeline.

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

**WQM Permit No. WQG018627**, Sewerage, **James Blaine**, 154 Creek Drive, Slippery Rock, PA 16057. This proposed facility is located in Slippery Rock Township, **Butler County**.

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

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**IV. NPDES Stormwater Discharges from MS4 Permit Actions**


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**V. NPDES Waiver Stormwater Discharges from MS4 Actions**


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**VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**


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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 0907020	Prime Properties, Inc. 1630 Meeting House Road Hartsville, PA 18974	Bucks	Springfield Township	Cooks Creek EV
PAI01 0908003	Bucks County Airport Authority 3879 Old Easton Road P. O. Box 1185 Doylestown, PA 18901	Bucks	Milford Township	Unami Creek HQ
PAI01 0908005	1550 SHR Associates, LP 1630 South Crescent Boulevard Yardley, PA 19067	Bucks	Milford Township	Unami Creek HQ-TSF
PAI01 1508018	Southern Chester County YMCA 880 West Baltimore Pike West Grove, PA 19390	Chester	Penn Township	East Branch Big Elk Creek HQ-TSF-MF
PAI01 1508030	Camphill Special School 1784 Fairview Road Glenmoore, PA 19343	Chester	East Vincent Township	Tributary French Creek HQ-TSF-MF
PAI01 1508038	Applewood Meadow Associates Acquisition Corporation 2701 Renaissance Boulevard King of Prussia, PA 19406	Chester	Willistown Township	Ridley Creek HQ-TSF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030607004	Curtis Morton 133 Benfield Road Macungie, PA 18062	Berks	Longswamp Township	Little Lehigh HQ-CWF
PAI030607006	Bill Gross Gross Equipment Company, Inc. 1200 Route 100 Bechtelsville, PA 19505	Berks	Longswamp Township	Toad Creek HQ-CWF
PAI033608003	John Zimmerman Rain-flo Irrigation 884 Center Church Road East Earl, PA 17519	Lancaster	East Earl Township	UNT to Black Creek HQ-WWF

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**VII. Approvals to Use NPDES and/or Other General Permits**


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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).

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**List of NPDES and/or Other General Permit Types**


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PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application

PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bristol Borough Bucks County	PAG200 0908069	KJ Management, LP 27 Brick Church Road Leola, PA 17540-9003	Delaware River South WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warwick Township Bucks County	PAG200 0907099	John Shanahan 420 Centre Avenue Newtown, PA 18940	UNT Little Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Haverford Township Delaware County	PAG200 2308032	West Chestnut Realty of Haverford, Inc. 355 West Lancaster Avenue Building E Haverford, PA 19041	Naylor's Run/Cobbs Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chester Heights Borough Delaware County	PAG200 2308027	Chester Heights Storage 139 School House Lane Glen Mills, PA 19342	Chester Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Delaware County	PAG200 2308034	The Albermarle Group 780 Godfrey Road Villanova, PA 19085	UNT Crum Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Delaware County	PAG200 2306056	Rose Hill Development, LLC The William Penn Building 109 Chelsey Drive Media, PA 19063	Galey Run/Ridley Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Haverford Township Delaware County	PAG200 2308024	Haverford Township School District 1801 Darby Road Havertown, PA 19083	Cobbs Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Salford Township Montgomery County	PAG200 4607149	Spring Mountain Home Homebuilders 676 Main Street Harleysville, PA 19438	UNT Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG200 4608069	Audubon Land Development 2620 Egypt Road Norristown, PA 19403	UNT Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Dublin Township Montgomery County	PAG200 4607173	FW Trangle, LP 2600 Philmont Avenue Suite 212 Huntington Valley, PA 19006	Sandy Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900



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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Limerick Township Montgomery County	PAG200 4608033	Latitude Hotels Group Royersford, LP 789 East Lancaster Avenue Villanova, PA 19083	Mingo Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG200 4608041	Lansdale Presbyterian Church 450 Oak Park Road Hatfield, PA 19440	UNT West Branch Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG200 4608002	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	UNT Frog Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG200 4608051	JRM Contractors, Inc. 1654 West Main Street Norristown, PA 19403	Hartensine Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Worcester Township Montgomery County	PAG200 4608058	Variety Club 1520 Locust Street 2nd Floor Philadelphia, PA 19102	Zacharis Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Hanover Township Montgomery County	PAG200 4607184	Macoby Run, LP 104 Old Mill Road Sellersville, PA 18960	Macoby Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Merion Township Montgomery County	PAG200 4608090	Ian R. Scheinmann, Esquire 200 Clwyd Road Bala Cynwyd, PA 19004	Schylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Merion Township Montgomery County	PAG200 4608071	Bala House Montessori School 27 Conshohocken State Road Bala Cynwyd, PA 19004	Schuylkill River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG200 4607168	Guidemark, Inc. 180 Schoolhouse Road Souderton, PA 18964	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG200 4607019-1	Methacton School District 1001 Kriebel Mill Road Norristown, PA 19403	Mine Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Pottstown Borough Montgomery County	PAG200 4607062	Welkie & Maack, LLC 321 Keystone Boulevard P. O. Box 622 Pottstown, PA 19464	Schuylkill River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG200 4608079	Smithfield Beef Group 2580 University Avenue Green Bay, WI 54311	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Montgomery County	PAG200 4608019	Roy Johnson 1901 East Paper Mill Road Erdenheim, PA 19038	Overland Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG200 4607190	Daniel Donohue 1208 Narcissa Road Blue Bell, PA 19422	Schuylkill River TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Merion Township Montgomery County	PAG200 4608006	Dreycott Lane Associates, LP 784 East Lancaster Avenue Suite 250 Villanova, PA 19085	Lower Merion Storm Drain	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Pottsgrove Township Montgomery County	PAG200 4608005	1559 Pleasantview Road, LP 1030 West Germantown Pike East Norristown, PA 19403	Sanatoga Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG200 4608087	Franconia Sewer Authority 671 Allentown Road P. O. Box 128 Franconia, PA 18924	East Branch Perkiomen and Indian Creeks TSF, WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG200 4608017	Mohawk Tile and Marble 410 Swedeland Road King of Prussia, PA 19406	Matsunk Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5106035	City of Philadelphia Capital Program Office 1515 Arch Street 11th Floor Philadelphia, PA 19102	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5108001	Drexel University 3201 Arch Street Suite 320 Philadelphia, PA 19104-2757	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5108009	Philadelphia Department of Commerce 1515 Arch Street 12th Floor Philadelphia, PA 19102	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5108018	William Penn Charter School 3000 West School House Lane Philadelphia, PA 19144	Philadelphia Water Department Municipal Storm Sewer	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Forks Township Northampton County	PAG2004808011	Jeffrey A. Brown 1906 Wenner Street Allentown, PA 18103	UNT to Delaware CWF	Northampton County Conservation District Greystone Building Gracedale Complex Nazareth, PA 18064-9211 (610) 746-1971
Schuylkill Haven Borough Schuylkill County	PAG2005408006	Borough of Schuylkill Haven 12 West Main Street Schuylkill Haven, PA 17972	Schuylkill River CWF	Schuylkill County Conservation District 1206 Agricultural Center Drive R. R. 5 Box 5810 Pottsville, PA 17901 (570) 622-3742
Palmyra Borough Lebanon County	PAG2003807018	James M. Dancy, Jr. Waste Management of Pennsylvania, Inc. 448 Lincoln Highway Fairless Hills, PA 19030-1316	Quittapahilla and Killing Creek TSF/TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bethel Township Berks County	PAG2000608023	Cliff Braunstein 300 Conshohocken State Road Suite 250 West Conshohocken, PA 19428	UNT to Crosskill Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
South Heidelberg Township Berks County	PAG2000605028	David Greth Storage World, LLC 2314 Herb Road Temple, PA 19560	Tulpehocken Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Sinking Spring Borough Berks County	PAG2000608043	Robert Bost Reading Terminals Corporation P. O. Box 2621 Harrisburg, PA 17105	Cacoosing Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Cumru Township Berks County	PAG2000608034	Harry O'Neill Empire Wrecking 1420 Clarion Street Reading, PA 19601	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
West Hanover Township Dauphin County	PAG2002208013	Girish Patel SKHK, LLC 300 Commerce Drive New Cumberland, PA 17070	Manada Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Middle Paxton Township Dauphin County	PAG2002208020	Ken Vandenburg Penn Vistas New Penn Motors 625 South 5th Avenue Lebanon, PA 17042	Fishing Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Lower Paxton Township Dauphin County	PAG2002208026	Richard Ruble Molinari & Ruble 235 East Lauer Lane Camp Hill, PA 17011	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
South Hanover Township Dauphin County	PAR101232I(R)-1	Thomas Richey Cedar-Hershey, LLC 3307 Trindle Road Camp Hill, PA 17011	Kellock Run WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Londonderry Township Dauphin County	PAG2002208025	Dennis Schmidt 2905 Orchard Lane Middletown, PA 17057	Conewago Creek TSF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Paxton Township Dauphin County	PAR10I308-1R	M. Kevin Ricker 6450 Red Top Road Harrisburg, PA 17111	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
West Hanover Township Dauphin County	PAG2002208030	John A. Kerschner Eastern Communities, Inc. 7300 Derry Street Harrisburg, PA 17111	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Bradford County Troy Township	PAG2000808004	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Tributary to North Branch Towanda Creek CWF South Branch Sugar Creek CWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539, Ext. 6
Clearfield County Sandy Township	PAG2001708013	DuBois Regional Medical Center 100 Hospital Avenue DuBois, PA 15801	UNT to Pentz Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Columbia County Hemlock, Mt. Pleasant, Scott and South Centre Townships Town of Bloomsburg	PAG2001908007	Department of Transportation Engineering District 3-0 715 Jordan Avenue Montoursville, PA 17754-0218	Fishing Creek WWF Hemlock Creek CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
Snyder County Franklin and Center Townships	PAG2005508005	Woodlands Community Church Arden Steiner 179 Salem Church Road Middleburg, PA 17842	UNT to Middle Creek CWF	Snyder County Conservation District 403 West Market Street Middleburg, PA 17842 (570) 837-0007, Ext. 5
Union County Kelly Township	PAG2006008004	Aaron Nolt 3703 Hoffa Mill Road Lewisburg, PA 17837	Buffalo Creek TSF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Spring Township Snyder County	PAR224849 (Stormwater)	Conestoga Wood Specialties, Corporation P. O. Box 158 245 Reading Road East Earl, PA 17519	UNT to South Branch Middle Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Neville Township Allegheny County	PAR806116	New Penn Motor Express, Inc. P. O. Box 630 625 South Fifth Street Lebanon, PA 17042	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Susquehanna Township Cambria County	PAR606201	Tire Visions, Inc. 499 Linkville Road Johnstown, PA 15906	Douglas Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Millcreek Township Erie County	PAR808383	First Student, Inc. 110 Perimeter Park Suite E Knoxville, TN 37922-2200	Stormwater tributaries to Marsh Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-4</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Adams County Butler Township	PAG043507	John Longenecker 10 Windbriar Lane Gettysburg, PA 17325	Opossum Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Hellam Township	PAG043570	Susquehanna Resources P. O. Box 3711 York, PA 17402	Susquehanna River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Slippery Rock Township Butler County	PAG049438	James Blaine 154 Creek Drive Slippery Rock, PA 16057	Slippery Rock Creek 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

## STATE CONSERVATION COMMISSION

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

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

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Kreider Farms Penn Township Farm 1461 Lancaster Road Manheim, PA 17545	Lancaster	1,600	9,546	Dairy, layers	NA	Approved
Leroy Z. Zimmerman 327 Stackstown Road Marietta, PA 17547	Lancaster	124	322	Hogs, steers	NA	Approved
David W. Sweigart III Ridge View Farms 189 Ridge View Road South Elizabethtown, PA 17022	Lancaster	637	981	Hogs, dairy	NA	Approved
	Lancaster					
	Lancaster					
	Lancaster					
	Lancaster					
	Lancaster					
<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>New or Renewal</i>
Randall S. Andrews Spring Maple Farm 421 Penn Grant Road Lancaster, PA 17602	Lancaster	253	433.8	Broilers	HQ	Renewal
Marcus Hoover 3229 Hossler Road Manheim, PA 17545	Lancaster	0	322	Layers	NA	Renewal
	Lancaster					
	Lancaster					
	Lancaster					
	Lancaster					
	Lancaster					

**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.*

<b>Permit No. 4008505</b> , Public Water Supply.	
Applicant	<b>Pennsylvania American Water</b> 800 West Hersheypark Drive Hershey, PA 17033 Newport Township
County	<b>Luzerne</b>
Type of Facility	PWS

Consulting Engineer Douglas M. Smith, P. E.  
Borton Lawson  
613 Baltimore Drive  
Suite 300  
Wilkes-Barre, PA 18702

Permit to Construct August 4, 2008  
Issued

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

**Permit No. 2807504**, Public Water Supply.  
Applicant **Greencastle Area, Franklin County, Water Authority**  
Municipality Antrim Township  
County **Franklin**  
Type of Facility Construction of Well No. 4 and Ebberts Spring PS Mods.  
Consulting Engineer James C. Elliot, P. E.  
Gannett Fleming, Inc.  
P. O. Box 67100  
Harrisburg, PA 17106-7100  
Permit to Construct August 5, 2008  
Issued

**Permit No. 0608501**, Public Water Supply.  
Applicant **Pennsylvania American Water**  
Municipality Ruscombmanor Township  
County **Berks**  
Type of Facility Addition of well source GO-3. Along with the new well source the booster station pumps will be replaced with larger units, new chemical feed equipment is to be installed and pH adjustment is being changed from soda ash to caustic soda.  
Consulting Engineer Steven E. Riley, P. E.  
Entech Engineering, Inc.  
P. O. Box 32  
Reading, PA 19603  
Permit to Construct August 4, 2008  
Issued

**Permit No. 2808502**, Public Water Supply.  
Applicant **Edenville Water Association, Inc.**  
Municipality St. Thomas Township  
County **Franklin**  
Type of Facility Treatment Facility Modifications  
Consulting Engineer Lance S. Kegerreis, P. E.  
Dennis E. Black Engineering, Inc.  
2400 Philadelphia Avenue  
Chambersburg, PA 17201  
Permit to Construct August 7, 2008  
Issued

**Permit No. 0708505 MA, Minor Amendment**, Public Water Supply.  
Applicant **Altoona City Authority**

Municipality Antis Township  
County **Blair**  
Type of Facility Relocation of backwash recycle line.

Consulting Engineer Michael V. Sinisi, P. E.  
Altoona City Authority  
20 Greenwood Road  
Altoona, PA 16602  
Permit to Construct August 8, 2008  
Issued

**Permit No. 3608508 MA, Minor Amendment**, Public Water Supply.  
Applicant **Elizabethtown Area Water Authority**  
Municipality Elizabethtown Borough  
County **Lancaster**  
Type of Facility Repainting of the 750,000-gallon Buckingham Boulevard finished water storage tank.  
Consulting Engineer Peter Lusardi, P. E.  
CET Engineering Services  
1240 North Mountain Road  
Harrisburg, PA 17112  
Permit to Construct August 12, 2008  
Issued

**Permit No. 3608511 MA, Minor Amendment**, Public Water Supply.  
Applicant **Elizabethtown Area Water Authority**  
Municipality Mount Joy Township  
County **Lancaster**  
Type of Facility Repainting of the 750,000-gallon Groff Avenue finished water storage tank.  
Consulting Engineer Peter Lusardi, P. E.  
CET Engineering Services  
1240 North Mountain Road  
Harrisburg, PA 17112  
Permit to Construct August 12, 2008  
Issued

**Operations Permit** issued to **Shoemakers Borough**, 6060100, Shoemakersville Borough, **Berks County** on August 7, 2008, for the operation of facilities approved under Construction Permit No. 0607515 MA.

**Operations Permit** issued to **Shinn Spring Water Company**, 3066531, Cumru Township, **Berks County** on July 29, 2008, for the operation of facilities approved under Construction Permit No. 0606505.

**Operations Permit** issued to **Western Berks Water Authority**, 3060066, Spring Township, **Berks County** on August 7, 2008, for the operation of facilities approved under Construction Permit No. 0607508 MA.

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

**Permit No. 6593510A1**, Public Water Supply.  
Applicant **Highridge Water Authority**  
17 Maple Avenue  
Blairsville, PA 15717

Borough or Township Buffington, Brush Valley and Center Townships  
 County **Indiana**  
 Type of Facility Transmission main, pump station and water storage tank.  
 Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P. O. Box 853  
 Latrobe, PA 15650  
 Permit to Construct Issued July 24, 2008

**Permit No. 2608502MA, Minor Amendment, Public Water Supply.**

Applicant **Municipal Authority of Westmoreland County**  
 124 Park & Pool Road  
 New Stanton, PA 15672

Borough or Township New Stanton Borough  
 County **Westmoreland**  
 Type of Facility Transmission line  
 Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P. O. Box 853  
 Latrobe, PA 15650  
 Permit to Construct Issued July 31, 2008

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

**Operations Permit issued to Ames Mobile Home Park, Albert A. Jr., and Betty M. Ames, Owners, PWSID No. 6200054, Oil Creek Township, Crawford County.** Operations Permit issued August 12, 2008, for disinfection by sodium hypochlorite and chlorine contact at Well No. 2 and Well No. 3 well houses (240 gallons each location), according to specifications approved by construction permit 2007505, issued February 1, 2008.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
South Buffalo Township	384 Iron Bridge Road Freeport, PA 16229	Armstrong County

*Plan Description:* The approved plan provides for the construction of a 400 gpd single-family residence sewage treatment plant to serve the Rich Michlini single-family home. The property is located at 179 Ford City Road. The proposed discharge point is to a UNT of the Allegheny River which is classified as a WWF. Any required NPDES Permits or WQWM Permits must be obtained in the name of the applicant, as appropriate. The Department of Environmental Protection's review of the sewage facilities

update revision has not identified any significant environmental impacts from this proposal.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Mahoning Township	987 SR 1025 New Bethlehem, PA 16242	Armstrong County

*Plan Description:* The approved plan provides for extension of sanitary sewer service from the Village of Distant to the Village of Seminole. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Girard Borough	34 Main Street Girard, PA 16417	Erie County

*Plan Description:* The approved plan provides for the replacement of approximately 2,950 lineal feet of 8" diameter sewer line with 24" sewer line to remove an existing restriction and provide capacity for a possible future connection from neighboring Girard Township. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

**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:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Merlo Residence—40 Fairview Avenue**, Mount Pocono Borough, **Monroe County**. David A. Everitt III, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Final Report (on behalf of his client, Gary Merlo, 203 South 8th Street, Bangor, PA 18013), concerning the remediation of soils found to have been contaminated by No. 2 fuel oil contaminants as a result of an accidental release from two ASTs. The report was submitted to document attainment of the Statewide Health Standard for soils. A public notice regarding the submittal of the Final Report was published in the *Pocono Record* on November 17, 2004.

**Bethlehem Commerce Center—Lots 6 and 7**, City of Bethlehem, **Northampton County**. Kenneth G. Robbins, HDR Engineering, Inc., The Sovereign Building, 609 West Hamilton Street, Allentown, PA 18101 has submitted a Cleanup Plan (on behalf of his client, Lehigh Valley Industrial Park, Inc., 1805 East Fourth Street, Bethlehem, PA 18015), concerning the remediation of soils found to have been impacted by lead contamination as a result of historical operations at the former Bethlehem Steel Plant. The Cleanup Plan was submitted in partial fulfillment of the Site-Specific Standard. A public notice regarding the submittal of the Cleanup Plan was published in the *Easton Express Times* and *The Morning Call* on July 23, 2008.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Stone Pointe Center/former Agere Systems**, Muhlenberg Township, **Berks County**. Environmental Resources Management, Inc., 350 Eagleview Boulevard, Suite 200, Exton, PA 19341, on behalf of AGR133 LLC, 3360 Visitation Road, Collegeville, PA 19426 and LSI Corporation, 555 Union Boulevard, Allentown, PA 18109, submitted a Final Report concerning remediation of site soils contaminated with chlorinated solvents. The applicant seeks to remediate to the Statewide Health Standard.

**Bellwood Ambulance Service Facility**, Bellwood Borough, **Blair County**. ATC Associates, Inc., 101 Allegheny Street, Hollidaysburg, PA 16643, on behalf of Bellwood Ambulance Service, 601 North Third Street, Bellwood, PA 16617, submitted a Combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with gasoline.

The report is intended to document remediation of the site to the Site-Specific Standard.

**Former York International Corporation, Grantley Plant**, Spring Garden Township, **York County**. GZA GeoEnvironmental, Inc., 20900 Swenson Drive, Suite 150, Waukesha, WI 53188, on behalf of Johnson Controls, Inc., 507 East Michigan Street, Milwaukee, WI 53202 and Patriot Richland Associates, LP, 1200 Liberty Ridge Drive, Suite 115, Wayne, PA 19087, submitted a Remedial Investigation Report and Clean-up Plan, concerning remediation of site soils and groundwater contaminated with VOCs, PAHs, PCBs and metals resulting from past industrial activities. The report is intended to document remediation of the site to the Statewide Health and Site-Specific Standard.

**Former Woodwright Pallet Company**, York Township, **York County**. Earth Engineering, Inc., 115 West Germantown Pike, East Norriton, PA 19401, on behalf of Joseph Allison, 6370 Old Harrisburg Road, York Springs, PA 17372, submitted a Final Report concerning remediation of site soils contaminated with VOCs and chlorinated solvents. The report is intended to document remediation of the site to the Statewide Health Standard.

**Former Lancaster Brickyard Site**, Manheim Township, **Lancaster County**. ARM Group, Inc., P. O. Box 797, Hershey, PA 17033-0797, on behalf of Lancaster County Solid Waste Management Authority, P. O. Box 4425, Lancaster, PA 17604 and Franklin and Marshall College, P. O. Box 3003, Lancaster, PA 17604-3003, submitted a remedial investigation report and cleanup plan concerning remediation of site soils, nonmedia solids and groundwater impacted by petroleum products, solvents, plasticizers, synthetic lubricants and scrap metals. The site was used at one time as a borrow pit for the Lancaster Brick Company and later as an unpermitted municipal landfill. The site will be remediated to a combination of Statewide Health and Site-Specific Standards.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**American Meter**, City of Erie, **Erie County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of American Meter Company, 2 West Liberty Boulevard, Suite 180, Malvern, PA 19355 has submitted a Risk Assessment Report and Cleanup Plan concerning remediation of site soil contaminated with arsenic, antimony, lead and site groundwater contaminated with trichlorethene. The Report and Cleanup Plan is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release

of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Former Techneglas Facility**, Jenkins Township, **Luzerne County**. Michael Edelman, P. G., Malcolm Pirnie, Inc., 640 Freedom Business Center, Suite 310, King of Prussia, PA 19406 submitted a combined Remedial Investigation Report and Final Report (on behalf of his client, Marvin Katz, TGPI, Inc., 4300 Walnut Street, Westerville, OH 43081), concerning residual concentrations of inorganics in soils used in former site operations and petroleum hydrocarbons as the result of historic releases. The reports demonstrated attainment of the Statewide Health Standard for soil and the Site-Specific Standard for groundwater and were approved on August 5, 2008.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Lowe's Home Centers, Inc.**, Monroe Township, **Snyder County**, UNT Consulting & Engineering, LLC, on behalf of Lowe's Home Centers, Inc., 1605 Curtis

Bridge Road, Wilkesboro, NC 28697 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with leaded gasoline and diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 6, 2008.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**McCurdy Residence**, Slippery Rock Township, **Lawrence County**. ATC Associates, Inc., 103 North Meadows Drive, Suite 125, Wexford, PA 15090 on behalf of The Bauer Company, Inc., 119 Ruth Hill Road, Worthington, PA 16226 has submitted a Final Report concerning the remediation of site soil contaminated with benzene, toluene, ethylbenzene, cumene, naphthalene, fluorene and phenanthrene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 17, 2008.

#### **HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES**

##### **Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**PAD002312791. Sunoco, Inc.**, 4700 Margaret Street, Philadelphia, PA 19137, **City of Philadelphia**. Parts V.D.2.c and V.E.9 of the Part B permit modification originally issued on September 19, 2007, relating to the operation of two hazardous waste liquid fired boilers at Sunoco's Frankford Plant, have been modified. Permit was modified by the Southeast Regional Office on July 17, 2008.

#### **MUNICIPAL WASTE GENERAL PERMITS**

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

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**General Permit No. 101509. New Morgan Landfill Company, Inc.**, 420 Quarry Road, Morgantown, PA 19543-0128. An application was submitted to modify an existing permit to approve the use of autofluff as alternative daily cover at the Conestoga Landfill located in New Morgan Borough, **Berks County**. The permit was approved by the Southcentral Regional Office on July 28, 2008.

Persons interested in reviewing the general permit should contact Anthony Rathfon, Program Manager, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, at (717) 705-4706. TDD users should contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

**OPERATE WASTE PROCESSING OR DISPOSAL  
AREA OR SITE**

**Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit ID No. 101686, Marine Rigging, Ltd., Inc.**, 408 Hoffman Road, Pittsburgh, PA 15212. Permit for a construction and demolition waste transfer facility in Reserve Township, **Allegheny County** was issued by the Regional Office on August 6, 2008.

**Applications renewed under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit Application No. 101100. Mountain View Reclamation Landfill, Waste Management Disposal Services of Pennsylvania, Inc.**, 9446 Letzburg Road, Greencastle, PA 17225-9317, Antrim and Montgomery Townships, **Franklin County**. An application was submitted to renew a solid waste facility operation permit. The application was approved by the Southcentral Regional Office on August 4, 2008.

Comments concerning the application should be directed to Anthony Rathfon, Program Manager, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. Persons interested in obtaining more information about the general permit application should contact the Southcentral Regional Office at (717) 705-4706. TDD users should 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.

**REGISTRATION FOR RESIDUAL WASTE  
GENERAL PERMITS**

**Registration for General Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); and Residual Waste Regulations for a General Permit To Operate Residual Waste Processing Facilities (25 Pa. Code § 287.611 relating to authorization for general permit).**

*Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**General Permit No. WMGR109-SC002. United Biofuels, Inc.**, 600 Farmbrook Lane, York, PA 17406. On August 15, 2008, the Department of Environmental Protection (Department) issued a registration under General Permit WMGR109 to United Biofuels, Inc., for the processing and beneficial use of used restaurant oil, yellow grease, grease trap waste, oil and animal fats from food processing or rendering plants, waste from ethanol production, soy bean soap stock, float grease (from wastewater treatment plants) and off-specification vegetable oil

for use as a biofuel or biodiesel. This Registration is for their location at 600 Farmbrook Lane, York, PA.

Persons interested in reviewing the general permit should contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**General Permit No. WMGR109-SC003. Keystone Biofuels, Inc.**, 485 St. John's Church Road, Shiremanstown, PA 17011. On August 15, 2008, the Department of Environmental Protection (Department) issued a registration under General Permit WMGR109 to Keystone Biofuels, Inc., for the processing and beneficial use of used restaurant oil, yellow grease, grease trap waste, oil and animal fats from food processing or rendering plants, waste from ethanol production, soy bean soap stock, float grease (from wastewater treatment plants) and off-specification vegetable oil for use as a biofuel or biodiesel. This Registration is for their location at 485 St. John's Church Road, Shiremanstown, PA.

Persons interested in reviewing the general permit should contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**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.*

**GP4-01-03035: Sandusky Lee Corp.** (75 South Park Avenue, Littlestown, PA 17340-0006) on August 8, 2008, for Burn Off Ovens under GP4 in Littlestown Borough, **Adams County**.

**GP4-36-03173: Clean Burn Energy Systems** (34 Zimmerman Road, Leola, PA 17540) on August 6, 2008, for Burn Off Ovens under GP4 in Upper Leacock Township, **Lancaster County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.*

**GP5-26-00483B: Range Resources-Appalachia, LLC—formerly Great Lakes Energy Partners, LLC** (380 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317-8561) on July 31, 2008, to allow the continued operation of one Caterpillar G3516LE lean-burn natural gas-fired compressor engine, rated at 1,340 bhp and one CE NATCO Dehydrator with flame arrestor, rated at 0.250 mmBtu/hr at the Rumbaugh Compressor Station in Lower Tyrone Township, **Fayette County**.

**GP5-26-00552: Range Resources-Appalachia, LLC—formerly Great Lakes Energy Partners, LLC** (380 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317-8561) on July 31, 2008, to allow the continued operation of one Caterpillar G3516LE lean-burn natural gas-fired compressor engine, rated at 1,340 bhp and one

K Management Dehydrator, rated at 75,000 Btu/hr at the Voytek Compressor Station in Menallen Township, **Fayette County**.

**GP5-63-00940: MarkWest Liberty Gas Gathering Co., LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on August 7, 2008, to install and operate two Caterpillar G3516LE lean-burn natural gas-fired compressor engines, rated at 1,340 bhp and one CE NATCO Dehydrator, rated at 0.275 mmBtu/hr and equipped with a flare, at their Shaw Compressor Station located at Chartiers Township, **Washington County**.

**GP5-63-00942: MarkWest Liberty Gas Gathering Co., LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on August 6, 2008, to install and operate two Caterpillar G3516LE lean-burn natural gas-fired compressor engines, rated at 1,340 bhp and one CE NATCO Dehydrator, rated at 0.275 mmBtu/hr and equipped with a flare, at their Dryer Booster Compressor Station located at Independence Township, **Washington County**.

**GP5-65-00965A: Range Resources-Appalachia, LLC—formerly Great Lakes Energy Partners, LLC** (380 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317-8561) on July 31, 2008, to allow the continued operation of one Caterpillar G3516TA-LE lean-burn natural gas-fired compressor engine, rated at 1,340 bhp and one Smith Ind. 35685 Dehydrator, rated at 0.250 mmBtu/hr at the Layman Compressor Station in East Huntingdon Township, **Westmoreland County**.

**GP3-65-01001: Shallenberger Construction, Inc.** (2611 Memorial Boulevard, Connellsville, PA 15425) on August 7, 2008, to install and operate one Caterpillar Engine Model No. C9, rated at 300 bhp, at the New Stanton Distribution Park in Hempfield Township, **Westmoreland County**.

**GP9-65-01001: Shallenberger Construction, Inc.** (2611 Memorial Boulevard, Connellsville, PA 15425) on August 7, 2008, to install and operate one Metso/Nordberg Crusher Model No. LT-105 at the New Stanton Distribution Park in Hempfield Township, **Westmoreland County**.

**GP5-63-00938: MarkWest Liberty Gas Gathering Co., LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on August 5, 2008, to install and operate two Caterpillar G3516LE lean-burn natural gas-fired compressor engines, rated at 1,340 bhp and one CE NATCO Dehydrator, at the Zappi Booster Compressor Station in Donegal Township, **Washington County**.

**GP5-63-00939: MarkWest Liberty Gas Gathering Co., LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on August 5, 2008, to install and operate two Caterpillar G3516LE lean-burn natural gas-fired compressor engines, rated at 1,340 bhp and one CE NATCO Dehydrator, at the Nancy Stewart Booster Compressor Station in Mt. Pleasant Township, **Washington County**.

**GP5-03-00242: US Energy Exploration Corp.** (P. O. Box 237, Rural Valley, PA 16249) on August 5, 2008, to install and operate one Waukesha Model 3524 compressor engine with DeNox DN/S 46/53 WR12 catalytic converter at the Knepshild Compressor Station in Gilpin Township, **Armstrong County**.

**GP5-30-00176: MarkWest Liberty Gas Gathering Co., LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) on August 5, 2008, to install and operate two Caterpillar G3516LE lean-burn natural gas-

fired compressor engines, rated at 1,340 bhp and one Dehydrator, at the Gapen Booster Compressor Station in Greene Township, **Greene County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**09-0173: P & R Industries, Inc.** (3826 Old Easton Road, Doylestown, PA 18901) on August 7, 2008, to modify 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.

**09-0110E: Riverside Construction Materials, Inc.** (7900 North Radcliffe Street, Bristol, PA 19007) on August 12, 2008, to approve an existing load-out station, to construct a new dust collector and construct a new load-out station in Bristol Township, **Bucks County**. The existing load-out station, designated Truck Load-out No. 1 With Dust Collection (Source ID: 108), consists of two identical chutes with dust controls. Truck Load-out No. 1 with Dust Collection can load cement into two cement trucks at one time. A new load-out station will be installed, designated Load-out No. 2 with Dust Collection (Source ID: 109), consisting of one chute with dust controls. Load-out No. 2 with Dust Collection will only load one truck at a time. The new dust collector, designated Dome No. 2 Dust Collector (Source ID: C04), will be used in conjunction with an existing dust collector to control emissions from three cement storage units at the facility. This application will result in an increase of controlled PM emissions of 0.19 tpy. The Plan Approval will contain monitoring, recordkeeping and operating conditions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

**06-05115A: Granger Energy of Morgantown, LLC** (16980 Wood Road, Lansing, MI 48906-1044) on July 30, 2008, to construct a landfill gas treatment plant in Caernarvon Township, **Berks County**.

**07-05003C: Norfolk Southern Railway Co.** (200 North 4th Street, Altoona, PA 16601-6702) on August 4, 2008, to modify an existing baghouse and to install two wet scrubbers at their Juniata Locomotive Shop in Logan Township, **Blair County**.

**21-05040D: Valley Quarries, Inc.** (470 Newville Road, Shippensburg, PA 17257-9504) on August 6, 2008, to

construct a drum mix asphalt plant at their Shippensburg Blacktop Plant, Southampton Township, **Cumberland County**.

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

**08-399-023G: Global Tungsten Powders Corp.** (Hawes Street, Towanda, PA 18848-0504), issued plan approval on August 1, 2008, for the installation and operation of a fabric collector, Flex Kleen model 84-WRS-48 and absolute filter associated with the cobalt powder department at their facility located in North Towanda Township, **Bradford County**. The PM emissions from the cobalt powder cooling station, two Gruenberg electric drying ovens (No. 1 and No. 2) and one Despatch electric drying oven will be controlled by the proposed fabric collector and absolute filter.

**08-313-038H: Global Tungsten Powders Corp.** (Hawes Street, Towanda, PA 18848-0504), issued plan approval on August 1, 2008, for the construction and operation of a natural gas fired multiple hearth furnace (MHF) and associated air-cleaning devices (a cartridge collector and fabric collector operating in series) at their facility located in North Towanda Township, **Bradford County**.

**14-00003B: The Pennsylvania State University** (101P Physical Plant Building, University Park, PA 16802-1119), issued plan approval on August 11, 2008, for the construction and operation of one compression ignited, 1,120 Bhp, reciprocating internal combustion engine at their University Park Campus located in College Township, **Centre County**.

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

**62-032C: Ellwood National Forge—Irvine Plant** (One Front Street, Irvine, PA 16329) on July 31, 2008, to install two new gas neutralizer emissions control devices on the existing four nitride furnaces in Brokenstraw Township, **Warren County**. This is a Title V facility.

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**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.**

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

**09-0048C: Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippick, PA 19474) On August 4, 2008, to operate a hot mix asphalt in Hilltown Township, **Bucks County**.

**23-0073: Alan McIlvain Company** (Box 380, 501 Market Street, Marcus Hook, PA 19061) on August 6, 2008, to operate a planer and ductwork in Marcus Hook Borough, **Delaware County**.

**46-0037Y: Cabot Supermetals** (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on August 6, 2008, to operate a wastewater discharge limits in Douglass Township, **Montgomery County**.

**46-0261: U.S. Tape** (165 Township Line Road, Suite 2100, Jenkintown, PA 19046) on August 6, 2008, to operate a nickel plating operation in Upper Hanover Township, **Montgomery County**.

**23-0014F: Kimberly-Clark Corp.** (Front Street and Avenue of the States, Chester, PA 19103) on August 7, 2008, to operate a ventilation system in City of Chester, **Delaware County**.

**46-0013B: Hatfield Quality Meats Inc.—sub Clemens** (2700 Funks Road, P. O. Box 902, Hatfield, PA 19440) on August 8, 2008, to operate an alternate fuel in four boilers in Hatfield Township, **Montgomery County**.

**09-0127A: Bracalente Manufacturing Co., Inc.** (20 West Creamery Road, Trumbauersville, PA 18970) on August 8, 2008, to operate eight degreasers in Trumbauersville Borough, **Bucks County**.

**46-0013A: Hatfield Quality Meats Inc.—sub Clemens** (2700 Funks Road, P. O. Box 902, Hatfield, PA 19440) on August 7, 2008, to operate a 49 mmBtu/hr heat input boiler in Hatfield Township, **Montgomery County**.

**46-0025C: Lonza, Inc.** (900 River Road, Conshohocken, PA 19428) on August 7, 2008, to operate a waste incinerator in Upper Merion Township, **Montgomery County**.

**46-0069C: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on August 8, 2008, to operate a shaker style baghouse in Whitmarsh Township, **Montgomery County**.

**15-0060C: SECCA Landfill** (P. O. Box 221, Kennett Square, PA 19348) on August 8, 2008, to operate an IC engine in London Grove Township, **Chester County**.

**46-0240A: Smithfield Beef Group, Inc.** (249 Allentown Road, Souderton, PA 18964) on August 12, 2008, a plan approval for the modification of emission limitations contained in the previously issued plan approval No. 46-0240 for a 29.9 mmBtu/hr Boiler fired by natural gas, No. 2 fuel oil and animal fat/vegetable oil in Franconia Township, **Montgomery County**. This plan approval supersedes Conditions Nos. 12 and 13 of the previously issued plan approval No. 46-0240. The facility is currently operating under the State-only Operating Permit No. 46-00240. The plan approval will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**08-313-020A: OSRAM SYLVANIA Productions, Inc.** (Hawes Street, Towanda, PA 18848-0504), issued a revised plan approval on July 31, 2008, to increase the production capacity in Calciner No. 5 by 10% at their facility located in North Towanda Township, **Bradford County**.

**19-00006C: Del Monte Corporation** (6670 Low Street, Bloomsburg, PA 17815) on August 8, 2008, to extend the authorization to operate two pet food dryers, railcar and truck grain, meal, and the like, unloading operations, grain, meal, and the like, storage silos and various associated pieces of milling, mixing, conveying, and the like, equipment on a temporary basis, as well as authorization to construct two additional pet food dryers, two silos and a hammermill, to February 4, 2009, in South Centre Township, **Columbia County**.

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

**24-083E: Carbone of America Ind. Corp.** (215 Stackpole Street, St. Marys, PA 15857) on August 31, 2008, to construct a scrubber in St. Marys City, **Elk County**. This is a Title V facility.

**24-083F: Carbone of America Ind. Corp.** (215 Stackpole Street, St. Marys, PA 15857) on August 31, 2008, to construct a Carbon Baking Kiln No. 34 with a thermal oxidizer and connecting to an existing scrubber in St. Marys City, **Elk County**. The mixers will be controlled by the existing scrubber. This is a Title V facility.

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**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-05025: Texas Eastern Transmission, LP** (P. O. Box 1642, Houston, TX 77251-1642) on August 8, 2008, to operate natural gas transmission and storage facilities in East Donegal Township, **Lancaster County**. This is a renewal of the Title V operating permit.

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**46-00132: Lansdale Crematory, Inc.** (701 Derstine Avenue, Lansdale, PA 19446-0646) on August 6, 2008, to operate three units of human crematoriums in Lansdale Borough, **Montgomery County**. This is a renewal of their State-only operating permit issued in 2003. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

**15-00075: Lasko Metal Products** (820 Lincoln Avenue, West Chester, PA 19380-4406) on August 6, 2008, to renew the State-only Operating Permit in West Goshen Township, **Chester County**. The initial permit was issued on May 5, 2003. Lasko Metal Products is a manufacturer of home comfort and convenience products (that is, portable electric fans, humidifiers, portable heaters, Christmas tree stands, utility boxes). The primary emission sources include two boilers, a 4-nozzle Design Spray booth, a Powered Paint Dryoff/Curing Oven, a Steelman Burnoff Oven, two spray booths and a Phosphate Parts Cleaning System.

**09-00048: Haines & Kibblehouse, Inc.** (2052 Lucon Road, Skipack, PA 19474) on August 8, 2008, to operate 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.

**09-00062: Oldcastle Precast, Inc.** (200 Keystone Drive, Telford, PA 18969) on August 7, 2008, to operate coating applications in West Rockhill Township, **Bucks County**. The main emissions from this facility are VOCs. This action is a renewal of the original State-only Operating Permit (Synthetic Minor), which was issued in 2003. The renewal contains conditions including monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.*

**39-00062: Tri-City Marble, Inc.** (4724 Springdale Court, Allentown, PA 18104) on August 8, 2008, to operate a bathroom fixture, plastics facility in Upper Macungie Township, **Lehigh County**. This is a State-only Synthetic Minor operating permit.

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

**22-05041: The Hershey Co.** (1033 Old West Chocolate Avenue, Hershey, PA 17033) on August 7, 2008, to operate their West chocolate manufacturing plant in Derry Township, **Dauphin County**. This is a renewal of the State-only operating permit.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**07-03049: A.P. Green Refractories, Inc.** (R. R. 1, Box 588D, Claysburg, PA 16625-9739) on August 6, 2008, to operate a refractory manufacturing facility in Greenfield Township, **Blair County**. This operating permit was administratively amended to incorporate plan approvals 07-03049A and 07-03049B. This is Revision No. 2.

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

**37-00023: Orion Power Midwest, LP—New Castle Power Plant** (2189 Route 168 South, West Pittsburgh, PA 16160) on August 5, 2008, for an administrative amendment of the Title V Operating Permit to change the name of the responsible official from James V. Locher to Matthew E. Greek, Vice President in the Taylor Township, **Lawrence County**. Lists of responsible official's names are enlisted in the miscellaneous section of this permit. These changes qualify as administrative amendment as described in 25 Pa. Code § 127.450. The facility Orion Power generates and distributes electricity.

## 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 32971302 and NPDES Permit No. PA0215040, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Dutch Run Mine in Armstrong and Washington Townships, **Indiana County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 3,027.0, Subsidence Control Plan Acres Proposed 3,027.0. No additional discharges. Application received April 18, 2007. Permit issued August 5, 2008.

*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. Permit issued August 4, 2008.

**56070105 and NPDES No. PA0262421. Amerikohl Mining, Inc.**, 1384 SR 711, Stahlstown, PA 15687, commencement, operation and restoration of a bituminous surface-blasting mine and for a variance to conduct mining activities within 100 feet of a stream. The stream encroachment activities consist of installing erosion and sedimentation controls and removing a small portion of Upper Freeport coal beginning midway along the proposed permit line and proceeding upstream for approximately 1,100 feet on the southern bank of UNT 'B' to Casselman River in Black Township, **Somerset County**, affecting 155.2 acres. Receiving streams: UNTs to Casselman River and Casselman River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 9, 2007. Permit issued August 6, 2008.

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

**03030102 and NPDES Permit No. PA0250350. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mining site located in East Franklin and Sugarcreek Townships, **Armstrong County**, affecting 256.5 acres. Receiving streams: UNT to Long Run to Long Run to Patterson Creek to Buffalo Creek to the Allegheny River. Application received June 20, 2008. Permit renewal issued August 4, 2008.

**02070105 and NPDES Permit No. PA0251275. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16258). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in Jefferson Hills Borough, **Allegheny County**, affecting 51.7 acres. Receiving streams: UNTs to Monongahela River. Application received November 27, 2007. Permit issued August 7, 2008.

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

**17020115 and NPDES No. PA0243370. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838), permit renewal for reclamation only of a bituminous surface mine in Ferguson Township, **Clearfield County**, affecting 69.0 acres. There are no potable water supply intakes within 10 miles downstream. Application received July 15, 2008. Permit issued August 5, 2008.

**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. Permit issued July 28, 2008.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**49931601R3. Black Creek Breaker Company**, (3027 Upper Road, Shamokin, PA 17872), renewal of an existing anthracite coal preparation operation in West Cameron Township, **Northumberland County** affecting 5.7 acres, receiving stream: none. Application received February 7, 2008. Renewal issued August 11, 2008.

### Noncoal Permits Actions

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

**26082801. Mon River Energy Corp.** (P. O. Box 466, Brier Hill, PA 15415). Permit issued for commencement, operation and reclamation of a small industrial minerals surface mining site located in South Union Township, **Fayette County**, affecting 4.1 acres. Receiving stream: Jennings Run. Application received January 31, 2008. Permit issued May 1, 2008.

**26080801. Windy Hill Farms, Inc.** (380 Windy Hill Road, New Salem, PA 15468). Permit issued for commencement, operation and reclamation of a small industrial minerals surface mining site located in German Township, **Fayette County**, affecting 4.0 acres. Receiving streams: UNT to Lilly Run to Dunlap Creek. Application received March 26, 2008. Permit issued August 7, 2008.

*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 in Findley Township, **Mercer County**. Receiving streams: UNT to Cool Spring Creek. Application received June 9, 2008. Permit issued July 30, 2008.

**16060303 and NPDES Permit No. PA0258130. Star Mining Corporation** (8100 Ohio River Boulevard, Emsworth, PA 15202) Revision to an existing noncoal surface mining operation to add 2.6 acres to the surface mining permit in Perry Township, **Clarion County**. Total SMP acreage is now 11.3 acres. Receiving streams: Allegheny River. Application received May 22, 2008. Permit issued July 31, 2008.

**20080802. Sherretts Gravel, Inc.** (10008 Kosturick Road, Conneaut Lake, PA 16316) Commencement, operation and restoration of a small noncoal sand and gravel operation in Conneaut Township, **Crawford County** affecting 5.0 acres. Receiving streams: Paden Creek. Application received April 8, 2008. Permit issued August 5, 2008.

**25820301. Frank Tucci** (25000 PA Route 99, Cambridge Springs, PA 16403) Renewal of NPDES Permit No. PA0604208 in McKean Township, **Erie County**. Receiving streams: UNT to Elk County. Application received June 16, 2008. Permit issued August 6, 2008.

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

**08990804. Quarry Services, LLC** (R. R. 1, Box 22, Wyalusing, PA 18853), transfer of an existing noncoal (bluestone) surface mine from Donald E. Johnson, Sr. (R. R. 1, Box 257A, Monroeton, PA 18832), located in Asylum Township, **Bradford County**, affecting 1.0 acre. Receiving stream: UNT to Durell Creek. Application received February 27, 2006. Permit transferred July 29, 2008.

**17880301 and NPDES No. PA0116343. Lansberry Coal and Excavating Co.** (1219 Bishtown Road, Woodland, PA 16881), renewal of NPDES Permit in Bradford Township, **Clearfield County**. Receiving streams: UNT of Abes Run to Abes Run to West Branch Susquehanna, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received February 19, 2008. Permit renewed July 24, 2008.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**4874SM2T2 and NPDES Permit No. PA0123544. Oldcastle Industrial Minerals, Inc.**, (550 South Biesecker Road, Thomasville, PA 17364), transfer of an existing quarry operation in Jackson Township, **York County** affecting 214.8 acres, receiving stream: Little Conewago Creek. Application received September 11, 2007. Transfer issued August 6, 2008.

**67000301T2 and NPDES Permit No. PA0224065. Oldcastle Industrial Minerals, Inc.**, (550 South Biesecker Road, Thomasville, PA 17364), transfer of an existing quarry operation in Jackson Township, **York County** affecting 288.75 acres, receiving stream: Little Conewago Creek. Application received September 11, 2007. Transfer issued August 7, 2008.

**36910302T2. Pennsy Supply, Inc.**, (P. O. Box 3331, Harrisburg, PA 17105), transfer of an existing quarry operation in West Hempfield Township, **Lancaster**

**County** affecting 126.43 acres, receiving stream: none. Application received January 28, 2008. Transfer issued August 7, 2008.

**8275SM1T2 and NPDES Permit No. PA0594601. Pennsy Supply, Inc.**, (P. O. Box 3331, Harrisburg, PA 17105), transfer of an existing quarry operation and NPDES Permit for discharge of treated mine drainage in West Hempfield Township, **Lancaster County** affecting 55.89 acres, receiving stream: UNT to Chickies Creek. Application received January 28, 2008. Transfer issued August 7, 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.*

**21084145. Douglas Explosives, Inc.**, P. O. Box 77, Philipsburg, PA 16866-0077, blasting activity permit issued for sanitary sewer interceptor development in Monroe Township, **Cumberland County**. Blasting activity permit end date is July 30, 2009. Permit issued July 28, 2008.

**28084119. R & M Excavating**, 403 Hilltop Road, Newburg, PA 17240-9202, blasting activity permit issued for warehouse development in Antrim Township, **Franklin County**. Blasting activity permit end date is July 29, 2009. Permit issued August 1, 2008.

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

**30084003. Wampum Hardware Company** (175 Prugh Road, Shelocta, PA 15774). Blasting activity permit for construction as the Green Energy Power Plant, located in Cumberland Township, **Greene County**, with an expected duration of 150 days. Permit issued August 5, 2008.

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

**27084004. Appalachian Geophysical Services, LLC** (2659 SR 60, P. O. Box 426, Killbuck, OH 44637-0426) Blasting activity permit to blast for stone removal in Kingsley Township, **Forest County**. This blasting activity permit will expire on December 31, 2008. Application received July 22, 2008. Permit issued July 28, 2008.

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

**08084002. Wampum Hardware Co.** (175 Prugh Road, Shelocta, PA 15774), blasting for Mike Duffy gas well location located in Canton Township, **Bradford County**. Permit expires December 31, 2008. Permit issued August 4, 2008.

**14084010. Douglas Explosives, Inc.** (664 Graham Station Road, Philipsburg, PA 16866, blasting for Dean McNeil job-water line trench located in Halfmoon Township, **Centre County**. Permit expires September 30, 2008. Permit issued August 5, 2008.



*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**46084109. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for a septic tank in Palmyra Township, **Wayne County** with an expiration date of August 1, 2009. Permit issued August 4, 2008.

**46084109. Brubacher Excavating, Inc.**, (P. O. Box 528, Bowmansville, PA 17507), construction blasting for St. Luke's Hospital South and East in the City of Bethlehem, **Northampton County** with an expiration date of July 30, 2009. Permit issued July 5, 2008.

**45084137. Dyno-Nobel, Inc.**, (1320 Galiffa Drive, Donora, PA 15033), construction blasting for Williams Sentinel Expansion Project in Ross Township, **Monroe County** with an expiration date of February 28, 2009. Permit issued August 6, 2008.

**46084117. Eastern Blasting Co., Inc.**, (1292 Street Road, New Hope, PA 18938), construction blasting for Upper Dublin School in Upper Dublin Township, **Montgomery County** with an expiration date of October 10, 2009. Permit issued August 6, 2008.

**46084110. Dyno-Nobel, Inc.**, (1320 Galiffa Drive, Donora, PA 15033), construction blasting for Williams Sentinel Expansion Project in Plainfield and Bushkill Townships, **Northampton County** with an expiration date of February 28, 2009. Permit issued August 6, 2008.

**46084001. Grand Central Sanitary Landfill**, (910 West Pennsylvania, Pen Argyl, PA 18072) and D.C. Guelich Explosive Company, (971 Mountain Road, Bloomsburg, PA 17815), construction blasting for the Pen Argyl Landfill in Plainfield Township, **Northampton County** with an expiration date of August 1, 2009. Permit issued August 7, 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.*

**E09-928. Sal Lapio Homes**, 104 Mill Road, Sellersville, PA 18960, Nockamixon Township, **Bucks County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 1.5-inch septic system pipe in a 4-inch carrier across a UNT to Rapp Creek (EV) associated with Lot No. 8. The work will be performed by directional drill method. The site is located approximately 1,600 feet southeast of the intersection of Easton (SR 611) and Tabor Roads (Bedminster, PA USGS Quadrangle N: 20.40 inches; W: 6.3 inches).

**E09-931. Borough of Riegelsville**, 615 Easton Road, P. O. Box 551, Riegelsville, PA 18077, Borough of Riegelsville, **Bucks County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed construction of the Riegelsville Pedestrian Bridge over the Delaware Canal and within the 100-year floodplain of the Delaware River:

1. To construct and maintain a 75-foot-long, 6-foot-wide wooden pedestrian bridge over the canal and adjacent towpath.
2. To construct and maintain a 4-foot-wide elevated wooden boardwalk.
3. To install a staircase on the east side of the canal.
4. To perform minor grading activities associated with a footpath within the floodplain.

The site is located southeast of the intersection of Maplewood Street and Durham Road (Riegelsville, PA Quadrangle N: 17 inches; W: 9.5 inches).

**E46-1030. Hatfield Township Municipal Authority**, 3200 Advance Lane, Colmar, PA 18915, Hatfield Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain nine manholes and two diversion chambers within the floodplain of the West Branch Neshaminy Creek (WWF). This project is located

approximately 2,000 feet southeast of the intersection of County Line and Trewigtown Roads (Telford, PA USGS Quadrangle N: 4.7 inches; W: 0.5 inch) in Hatfield Township, Montgomery County.

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)).

**E23-471. Delaware River Port Authority of PA and NJ**, 2 East Riverside Drive, P. O. Box 1949, Camden, NJ 08101, Chester City, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain an artificial island around the western main channel pier (W1) of the Commodore Barry Bridge to provide vessel collision protection within the Delaware River (WWF-MF). The project is split between PA and NJ. The total open water impacts within this Commonwealth will be approximately 3.59 acres. This project is located in the vicinity of the intersection of Seaport Drive and Flower Street (SR 322) (Bridgeport, NJ, USGS Quadrangle N: 17.4 inches; W: 15.3 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.*

**E14-405. John Gummo**, 5788 West Buffalo Run Road, Port Matilda, PA 16870. Gummo channel change, in Patton Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (Julian, PA Quadrangle N: Latitude 40° 48' 57.4"; Longitude 77° 58' 45.7").

To construct a new channel measuring 600 linear feet in a UNT to Buffalo Run, which is designated as a HQ-CWF. This channel will create a bypass channel around a current impoundment allowing natural flow from the source to beyond the existing outlet. The channel will be designed to carry the 100 year storm event and will not have a loss of stability. The last 100 feet of the newly constructed channel will contain two step pools to drop the last 6 feet in elevation. The step pools shall not have plunges that will impede fish passage and shall be structurally stable during high water events. To convey the stream under the existing driveway, a new 128 inch by 83 inch pipe arch will be installed. This crossing will be 100 linear feet in length with concrete end walls to maintain stability. This structure was also designed to pass the 100 year frequency storm without a loss of stability. Once the stream is bypassed, the impoundment will be drained, the outlet structure will be removed, twin concrete 26 inch conduits at 57 feet long will be filled with concrete, a 16 inch corrugated metal pipe at 44 feet long will be filled with concrete, impoundment area increased and reirock retaining blocks installed along the waters edge for wave protection. This project is located 1.5 miles west of the intersection of SR 550 and SR 322. This permit also includes 401 Water Quality Certification.

**E60-192. Seiple Family Foundation**, 159 South Second Street, Sunbury, PA 17801. Turtle Creek Bridge, in East Buffalo Township, **Union County**, United States Army Corps of Engineers, Baltimore District (Lewisburg, PA Quadrangle Latitude: 40° 55' 38"; Longitude: 76° 52' 50").

To construct and maintain: 1) a temporary low-flow, full-channel causeway made of three 36-inch culverts and

R-6 / R-4 riprap immediately downstream of the proposed bridge; 2) a 40-foot clear span timber truss bridge with a minimum underclearance of 5-foot 9-inches, the associated gabion basket armored earth-filled approach ramps and R-8 riprap stream bank under and near the bridge in Turtle Creek located 2,250 feet east-northeast of Supplee Mill and Furnace Roads. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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## SPECIAL NOTICES

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### Notice of Projects Under the Environmental Good Samaritan Act

The Environmental Good Samaritan Act (27 Pa.C.S.A. §§ 8001—8114) provides certain protections and immunities from civil liability for landowners and persons who voluntarily undertake reclamation and abatement projects to address land and water adversely affected by mining or oil or gas extraction or exploration for natural resources and left in an unreclaimed condition or left discharging water pollution. For landowners and persons to qualify for immunity, the projects must be approved by the Department of Environmental Protection (Department).

The following project proposals have been received by the Department. A copy of the proposals is available for inspection at the office indicated above each proposal.

Written comments or objections may be submitted by any person or any office or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the proposal identification number; and a statement of sufficient detail to inform the Department of the basis of the comment or objection and the relevant facts upon which it is based.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

The following project proposals have been received by the Department of Environmental Protection (Department). A copy of the proposal is available for inspection at the Pottsville District Mining Office.

### Project Proposals Received

**EGS54004. Audenreid Mine Tunnel Project**, submitted by the Schuylkill Conservation District. The project is located in East Union Township, **Schuylkill County** along the Catawissa Creek.

Written comments or objections may be submitted by any person or any office or head of any Federal, State or local Government Agency or Authority to the Department of Environmental Protection, District Mining Operations, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2522 within 30 days of this publication.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the proposal identification number; and a statement of sufficient detail to inform the Department of the basis of the comment or objection and the relevant facts upon which it is based.

[Pa.B. Doc. No. 08-1530. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Bid Opportunity

**AMD 18(0817)101.1, Acid Mine Drainage Abatement Project, Fran Contracting, Inc., East Keating Township, Clinton County.** The principal items of work and approximate quantities include 4,890 cubic yards of grading, 300 square yards of R-3 Rock Lining, 650 linear feet of Subsurface Drain, 885 linear feet of Polyvinyl Chloride Pipe—various types and sizes. This project also involves Mine Drain Excavation and Construction. This project issues on August 22, 2008, and bids will be opened on September 18, 2008, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOSEPH R. POWERS,  
*Acting Secretary*

[Pa.B. Doc. No. 08-1531. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Bid Opportunity

**DMF 013-239.1, Mine Drainage Control Project, Doverspike Brothers Coal Company, Dora No. 6, Perry Township, Jefferson County.** The principal items of work and approximate quantities include 1,700 linear feet of Directional Drilling, 200 linear feet of 8 inch diameter Stainless Steel Collar Pipe, two each 8 inch Stainless Steel Ball Valves, 80 linear feet of 4 inch diameter Stainless Steel Discharge Pipe, two each 4 inch diameter Stainless Steel Ball Valve, 1,500 linear feet of 4 inch diameter High Density Polyethylene Pipe, two Venturi-Style Aerators, 9,600 cubic yards of Grading, 1,000 linear feet of PVC Vent Pipe, 1,940 square yards of Impervious EPDM Lining, 500 linear feet of 12 inch diameter PVC Pipe, 1,030 linear feet of Chain Link Fence and 1.2 acres of Seeding. This project also includes Floating Baffles with Curtain, Inlet Water Level Control Structure and Stilling Well and Outfall Structure. This project issues on August 22, 2008, and bids will be opened on September 18, 2008, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOSEPH R. POWERS,  
*Acting Secretary*

[Pa.B. Doc. No. 08-1532. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Coastal Zone Grant Application Period for Federal Fiscal Year 2009 Grants

The Department of Environmental Protection (Department) is accepting applications, beginning August 25, 2008, for Federal Fiscal Year 2009 Coastal Zone Grants. Eligible applicants include political subdivisions, authorities, 501(c) 3 nonprofit organizations and educational institutions located within defined coastal zone geo-

graphic areas of this Commonwealth. Proposals must support the Coastal Zone Management Program's mission to protect and enhance this Commonwealth's coastal resources.

Applications must be postmarked no later than October 20, 2008. Pending congressional funding approval, grants will be available for projects that commence on or after October 1, 2009. These Federal grants require a match (cash or in-kind services) on a one-to-one basis by the applicants.

To request an application or to obtain more information concerning Coastal Zone Grants, visit the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Coastal Zone) or contact the Department of Environmental Protection, Water Planning Office, 2nd Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-4785, fax (717) 783-4690.

JOSEPH R. POWERS,  
*Acting Secretary*

[Pa.B. Doc. No. 08-1533. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Extension of Pennsylvania National Pollutant Discharge Elimination System (NPDES) Stormwater Discharges from Municipal Storm Sewer Systems (MS4s) General Permit (PAG-13)

Under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) is, by this notice, extending for an additional 12 months the availability of the current NPDES PAG-13 Stormwater Discharges from MS4s. The current PAG-13 permit was extended for 12 months at 37 Pa.B. 4928 (September 8, 2007). The current PAG-13 permit is scheduled to expire at midnight March 9, 2009, unless rescinded by the Department at an earlier date. This extension will be effective on March 10, 2009, and will expire at midnight on March 9, 2010. The Department is extending the availability of this permit in order to adequately complete the preparation of the renewal of PAG-13. The Department is also extending, by this notice, all existing MS4 PAG-13 permit approvals, waivers from permit application requirements and exemptions from the MS4 operator designation scheduled to expire. Existing MS4s are authorized to continue to discharge stormwater in accordance with the terms and conditions of the authorized permit and to comply with MS4 permit requirements. Included in this extension is the requirement to continue implementation of the existing program and to provide annual reports on the progress of program implementation.

The existing PAG-13 permit documents will continue to be available from the Department's regional offices and local county conservation districts until they are replaced or updated. In addition, the permit documents are on file at the Department of Environmental Protection, Bureau of Watershed Management, 10th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. This package is also available on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Stormwater).

The permit documents also can be obtained by contacting Penda Powell at (717) 772-5807 or pepowell@state.pa.us. Persons with a disability may use the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

JOSEPH R. POWERS,  
*Acting Secretary*

[Pa.B. Doc. No. 08-1534. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Oil and Gas Well Permit Application Modifications

The Department of Environmental Protection (Department) announces modifications to the requirements for and application processing of Oil and Gas Well Development Permit applications.

Effective August 23, 2008, applicants for Marcellus Shale Gas Well Development in the Commonwealth are required to submit a Permit Application Addendum in addition to their permit application for Gas Well Development. The addendum is designed to assist the applicant in completing the water management plan associated with the development of Marcellus Shale Gas Wells. The complete permit application, including the addendum for Marcellus Shale Gas Well Development, is available on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Gas and Oil Wells).

In addition, the permit processing times for Oil and Gas Well Permits, as specified in Technical Guidance document no. 013-2000-001: *Policy for Implementing the DEP Money-Back Guarantee Permit Review Program and Guide to DEP Permits and Other Authorizations* are hereby revised. Effective August 23, 2008, the standardized processing times for Oil and Gas Well Development permits is revised to 45 days. This revision is made to make the processing time frame for Oil and Gas Well Development permits consistent with the allotted time established in section 201(e) of the Oil and Gas Act (58 P. S. § 601.201(e)). This revised processing time frame will be recognized by the Department as part of its established Money-Back Guarantee Permit Review Program. The program, established in response to Executive Order 1995-5, establishes processing times for certain permits to demonstrate the Department's commitment to providing timely permit decisions. If the Department fails to meet the processing times, the Department will refund the permit processing fee to the permit applicant. The permit applicant, similarly, is responsible for submitting a quality complete application that contains information needed by the Department to make a decision and meets all applicable regulatory requirements.

Questions concerning the permit application and processing time modifications may be directed to Ronald Gilius, Bureau of Oil and Gas Management, (717) 772-2199, [rgilius@state.pa.us](mailto:rgilius@state.pa.us).

JOSEPH R. POWERS  
*Acting Secretary*

[Pa.B. Doc. No. 08-1535. Filed for public inspection August 22, 2008, 9:00 a.m.]

### State Water Plan; Public Meetings and Hearings Schedule for September 2008

The Department of Environmental Protection (Department) announces the following series of combined public meetings and hearings scheduled for the six Regional Water Resources Committees as part of the development of the State Water Plan in accordance with the Water Resources Planning Act (Act 220 of 2002). The purpose of the combined public meetings and hearings is for the Department to accept comments on the draft State Water Plan.

An open house from 5 p.m. to 6 p.m. will occur prior to each scheduled public meeting and hearing noted for the public to review displays and maps of the respective region. The public meetings will be held from 6 p.m.—7:30 p.m. and will include presentations by Department staff and members of the respective Regional Water Resources Committees followed by an informal discussion period. The formal hearings will begin at 7:30 p.m. The dates and locations for the series of public meetings and hearings are as follows:

#### September 8, 2008

Ohio Regional Water Resources Committee  
Seven Fields Community Center  
380 Castle Creek Drive  
Seven Fields, PA 16046

Questions concerning this meeting should be directed to Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, [laumohr@state.pa.us](mailto:laumohr@state.pa.us).

#### September 9, 2008

Great Lakes Regional Water Resources Committee  
Erie County Conservation District  
1927 Wager Road  
Erie, PA 16509

Questions concerning this meeting should be directed to Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, [laumohr@state.pa.us](mailto:laumohr@state.pa.us).

#### September 11, 2008

Delaware Regional Water Resources Committee  
Northampton Community College  
Fowler Family Southside Center  
Room 605  
511 East Third Street  
Bethlehem, PA 18020

Questions concerning this meeting should be directed to Leslie Sarvis, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634, [lsarvis@state.pa.us](mailto:lsarvis@state.pa.us).

#### September 15, 2008

Lower Susquehanna Regional Water Resources Committee  
Radisson Penn Harris Hotel and Convention Center  
1150 Camp Hill Bypass  
Camp Hill, PA 17011

Questions concerning this meeting should be directed to Leslie Sarvis, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634, [lsarvis@state.pa.us](mailto:lsarvis@state.pa.us).

#### September 17, 2008

Upper/Middle Susquehanna Regional Water Resources Committee

Holiday Inn, Williamsport, PA  
100 Pine Street  
Williamsport, PA 17701

Questions concerning this meeting should be directed to Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, laumohr@state.pa.us.

### September 18, 2008

Potomac Regional Water Resources Committee  
Penn State Mont Alto Campus—Multi-Purpose Center  
One Campus Drive  
Mont Alto, PA 17237

Questions concerning this meeting should be directed to Leslie Sarvis, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5634, lsarvis@state.pa.us

The Regional Water Resources Committees will conduct their regular business meeting from 2:30 p.m.—4 p.m. on the same date and location as the public meetings and hearings. The business meetings are open to the public.

An agenda for each meeting, including the draft state water plan and meeting materials, will be available through the Public Participation Center on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Public Participation, Participate).

Persons planning to give oral testimony at the hearings should register in advance by contacting Karen Price at (717) 783-9499 or [kprice@state.pa.us](mailto:kprice@state.pa.us). A written copy of the testimony should be provided to Department staff at the hearings. Written testimony will also be accepted from persons who do not wish to give oral testimony at the meeting. Written testimony must be submitted by September 30, 2008, to Leslie Sarvis, Department of Environmental Protection, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5634 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOSEPH R. POWERS  
*Acting Secretary*

[Pa.B. Doc. No. 08-1536. Filed for public inspection August 22, 2008, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Real Estate for Sale Montgomery County

The Department of General Services (Department) will accept bids for the purchase of .29-acre (12,444 sq. ft.) +/- of land and single-family residence located at 174 North Whitehall Road, West Norriton Township, Montgomery County. Bids are due Thursday, November 6, 2008. Interested parties wishing to receive a copy of Solicitation No. 94229 should view the Department's web site at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,  
*Secretary*

[Pa.B. Doc. No. 08-1537. Filed for public inspection August 22, 2008, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Decisions on Requests for Exceptions to Health Care Facility Regulations

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), effective June 6, 1998, the Department of Health (Department) has published in the *Pennsylvania Bulletin* all requests by entities licensed under the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b), for exceptions to regulations contained in 28 Pa. Code, Part IV Health Facilities, Subparts B—G.

Section 51.33(d) provides that the Department will publish notice of all approved exceptions on a periodic basis. The Department has determined that it will publish notice of all exceptions, both approved and denied. The following list contains the decisions made on exception requests published in the *Pennsylvania Bulletin* from March, 2008 through June, 2008. Future publications of decisions on exception requests will appear on a quarterly basis.

Requests for additional information on the exception requests and the Department's decision should be made to the relevant division of the Department. Inquiries regarding hospitals and ambulatory surgical facilities shall be addressed to the Division of Acute and Ambulatory Care, Sandra Knoble, Director, Room 532, Health and Welfare Building, Harrisburg, PA 17120. Inquiries regarding long-term care facilities shall be addressed to the Division of Nursing Care Facilities, William Bordner, Director, Room 528, Health and Welfare Building, Harrisburg, PA 17120. Those persons requiring special assistance for speech and/or hearing impairment should call V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

#### Hospitals

<i>Facility name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Bryn Mawr Hospital	28 Pa. Code § 51.6	licensure identification of personnel	06/21/08	granted
Lehigh Valley Hospital	28 Pa. Code § 51.23	mobile PET scanning services	03/08/08	withdrawn

<i>Facility name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Magee Womens Hospital	28 Pa. Code § 101.172, § 137.11	request for reconsideration of patient limits and OB unit		granted
Hamot Medical Center	28 Pa. Code § 107.2	staff membership	03/08/08	granted
St. Luke's Miners Memorial Hospital	28 Pa. Code § 107.2	staff membership	03/29/08	granted
Community Medical Center, Scranton, PA	28 Pa. Code § 107.2	medical staffing	05/10/08	granted
The Bloomsburg Hospital	28 Pa. Code § 107.2	medical staffing	05/10/08	granted
Good Shepherd Penn Partners Specialty Hospital at Rittenhouse	28 Pa. Code § 107.2	medical staffing	05/24/08	granted
Altoona Regional Health System	28 Pa. Code § 107.4(c)(5) status, honorary medical Staff	medical staff	05/10/08	denied
The Western Pennsylvania Hospital West Penn Campus	28 Pa. Code § 107.11	MS bylaws	12/01/07	granted
UPMC St. Margaret	28 Pa. Code § 107.12(a)	substitute supervising physicians	03/29/08	denied
The Washington Hospital	28 Pa. Code § 107.26(b)(2)	tissue review	06/28/08	granted
Heritage Valley Health System	28 Pa. Code § 107.62(b)	oral orders	03/29/08	granted
Main Line Hospitals Lankenau	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	04/26/08	granted
Childrens Hospital of Philadelphia	28 Pa. Code 123.25(2)	regulations for control of anesthetic explosion hazards	05/03/08	granted
Shriners Hospitals for Children-Erie	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	05/10/08	granted
Warren General Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	05/24/08	granted
Alle-Kiski Medical Center	28 Pa. Code § 127.32	written orders	04/19/08	denied
Sharon Regional Health System	28 Pa. Code § 137.11	facilities and equipment	04/19/08	granted
Ephrata Community Hospital	28 Pa. Code § 137.12(d)	delivery suite on the family maternity unit	05/24/08	granted
Sharon Regional Health System	28 Pa. Code § 137.21	policies and procedures	04/19/08	granted
Sharon Regional Health System	28 Pa. Code § 137.33	obstetrical-gynecological nursing services	04/19/08	granted
Sacred Heart Hospital	28 Pa. Code § 138.15	high risk cardiac catheterizations	02/09/08	granted
UPMC McKeesport	28 Pa. Code § 138.15	high risk cardiac catheterizations	03/15/08	granted
Pennsylvania Podiatric Medical Association	28 Pa. Code § 143.4	medical appraisal of a podiatric patient	07/05/08	denied
Pennsylvania Podiatric Medical Association	28 Pa. Code § 143.7	medical orders and patient records	07/05/08	denied
York Hospital—Wellspan Health	28 Pa. Code § 153.1	10.2.1.1.2(c) fan coil units	02/16/08	granted
Crozer Chester Medical Center	28 Pa. Code § 153.1	7.2.A1 maximum patient room Capacity	02/09/08	denied

<i>Facility name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Geisinger South Wilkes-Barre Campus	28 Pa. Code § 153.1	3.7-2.4.1.2(2) (post-anesthesia recovery rooms min. requirements for area and clearance); 3.7-2.4.2.1(1) (Phase II recovery in general 3.7-2.4.2.2 (Phase II recovery space req.) 3.7-2.3.1.2 (Class B operating rooms)	02/09/08	granted
Hospital of the Univ of Pennsylvania (HUP)	28 Pa. Code § 153.1	2.1.5.3.3.1(2) stretcher holding stations	03/08/08	granted
JC Blair Memorial	28 Pa. Code § 153.1	3.1.1.2(2) and (3) patient room converted/renovation 3.1.1.5 (handwashing station)	03/08/08	granted/not necessary
UPMC Horizon	28 Pa. Code § 153.1	3.1.3 (examination treatment room)	03/08/08	granted
Lehigh Valley Hospital Cedar Crest Systems	28 Pa. Code § 153.1	2.1-5 (station outlets for oxygen, vacuum & medical	03/08/08	denied
Triumph Hospital Harrisburg	28 Pa. Code § 153.1	2.2-2.2.1.2, 2.2-2.2.1.3 (relating to patient rooms or care areas 3.1-3.1.1.1, 3.1-3.1.1.2, 3.1.1.5, 3.1-3.1.1.6, 3.1-3.1.5.5, 3.1-3.1.5.9 (relating to medical surgical units) 7.1-7.1.2.3, 7.1-7.1.2.5 (relating to public areas) Table 2.1.5 (relating to station outlets for oxygen, vacuum and medical air systems)	03/08/08	denied
DuBois Regional Medical Center	28 Pa. Code § 153.1	2.1-5 Station Outlets for Oxygen Vacuum (Suction), and Medical Air Systems	03/15/08	granted
North Pointe Surgery Center	28 Pa. Code § 153.1	9.5.F3.c clearance around recovery bay patient stretchers	03/15/08	granted
Brownsville Tri County Hospital	28 Pa. Code § 153.1	2.1-2.3.9.2 (equipment and supply storage; 2.1-8.2.2.3-2.b (inpatient bedrooms)	03/15/08	granted
Southwest Regional Medical Center	28 Pa. Code § 153.1	5.1.2.5.(1)a (size requirements for treatment rooms in the emergency department	03/15/08	granted
Pennsylvania Hospital	28 Pa. Code § 153.1	7.2.1.14 horizontal doors	03/29/08	granted
Southwest Regional Medical Center	28 Pa. Code § 153.1	5.1.2.5(1)(a) treatment rooms in the emergency department	03/29/08	granted
Abington Memorial Hospital	28 Pa. Code § 153.1	2.3.1.3(1) OR size, 5.2.2.2(2) ceiling in OR, 2.4.1.1(4) handwashing stations in PACU, 2.4.1.2(2) PACU size, 2.4.1.3(1) clean storage in PACU, 2.4.2.2 Phase II recovery area, 2.5.1.8 housekeeping closet	03/29/08	granted
Abington Memorial Hospital	28 Pa. Code § 153.1	2.6.2(2) staff flow, 5.2.2.3(3) flooring in the OR, 7.1.4 oxygen outlets LSC 20.3.7.1 subdivision of space	03/29/08	granted
Geisinger Wyoming Valley Medical Center	28 Pa. Code § 153.1	5.3.3.1(2) clearance	04/12/08	denied

<i>Facility name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Riddle Memorial Hospital	28 Pa. Code § 153.1	2.1-5.1.2.5 hand washing medical gas outlets	05/12/08	granted/ denied in part
Heritage Valley Health System	28 Pa. Code § 153.1	2.1.5.4.1 interventional imaging-location 2.1.5.5.1-cardiac cath lab	04/19/08	granted
Pottstown Memorial Medical Center	28 Pa. Code § 153.1	2.1-3.4.2.1(1)(a) head wall 2.1-9.2 hospital-type elevator cars	04/19/08	granted
UPMC Presbyterian Shadyside	28 Pa. Code § 153.1	5.1.2.5(1)(2) treatment areas	04/19/08	denied
UPMC Northwest	28 Pa. Code § 153.1	10.15.B9 clean utility room; 10.153B10 soiled utility room 10.15.B13 nourishment station; 10.15.B11 medication room	04/19/08	granted
Shriners Hospital for Children	28 Pa. Code § 153.1	3.7.3 examination treatment rooms and 3.7.3.1 space requirement	05/10/08	granted
Milton S. Hershey Medical Center	28 Pa. Code § 153.1	5.3.3.2-(4) post-anesthetic care units space requirements	05/24/08	granted
Mount Nittany Medical Center	28 Pa. Code § 153.1	3.1, 2.1.1.1(1) space requirements	05/24/08	granted
Main Line Spine Surgery Center	28 Pa. Code § 153.1	7.1.4.1 medical gases and vacuum	05/24/08	granted
The Pennsylvania Hospital	28 Pa. Code § 153.1	2.7.4.2 quiet rooms	06/21/08	granted
Select Specialty Hospital-Central PA	28 Pa. Code § 153.1	3.1.1.1(1) patient rooms, 3.1.1.5.(2) hand wash sink, Table 2.1-2, 10.2.1.2(1) separate air supply to patient to patient rooms	06/21/08	granted
Milton S. Hershey Medical Center	28 Pa. Code § 153.1	3.1-2.2.1.2 hand washing sinks in toilet rooms	06/21/08	granted
UPMC Presbyterian Shadyside	28 Pa. Code § 153.1	3.4.2.1(3) windows	06/21/08	granted
The PMA Gastroenterology Center	28 Pa. Code § 153.1	2.1-5.3.2.4 station outlets for oxygen, vacuum and medical air systems	06/21/08	not necessary
Easton Hospital	28 Pa. Code § 153.1	3.3.2.1(3) patient room 7.7.A.1 general operating room	06/21/08	granted
Evangelical Community Hospital	28 Pa. Code § 153.1	2.1-5.5.6.2 Patient toilets	06/21/08	granted
Williamsport Hospital	28 Pa. Code § 153.1	5.9.3 examination room 5.9.4.10(3) stretcher wheelchair storage	06/21/08	granted
Latrobe Hospital	28 Pa. Code § 153.1	2.1.5.1.3.7(1) (examination and treatment rooms-facility requirements) and 2.3 (child psychiatric room)	07/19/08	granted
St. Clair Hospital/Mt. Lebanon Surgical Center	28 Pa. Code § 153.1	3.7.2.4.1.2 (relating to PACU space) and 3.7.5.2.1.1(1) (corridors)	07/19/08	granted
Nason Hospital	28 Pa. Code § 153.1	2.1-5.5.5 station outlets for oxygen, vacuum and medical medical air systems	07/19/08	granted
Jefferson Regional Medical Center	28 Pa. Code § 153.1	3.1-2.1.1.2 hand washing	07/19/08	granted



<i>Facility name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
<b>Ambulatory Surgical Facilities</b>				
Delaware Valley Nephrology & Hypertension Associates, PC	28 Pa. Code § 551.3	Patient classification	12/01/07	granted
Twin Rivers Endoscopy Center	28 Pa. Code § 551.3	definitions	04/19/08	granted
Ophthalmic Associates Surgery and Laser Center	28 Pa. Code § 551.3(iii)	classification levels PS-4 patients	04/12/08	denied
Eastern Pennsylvania Nephrology Associates, PC	28 Pa. Code § 551.3	definitions	06/28/08	granted
Nephrology-Hypertension Associates of Lehigh Valley d/b/a Valley Access Center	28 Pa. Code § 551.3	PSIII patients	06/28/08	granted
Clinical Nephrology Associates Ltd. d/b/a Metro Vascular Center	28 Pa. Code § 551.3	PSIII patients	06/28/08	granted
Metropolitan Nephrology Associates PC d/b/a Metro Vascular Center	28 Pa. Code § 551.3	PSIII patients	06/28/08	granted
Renal-Endocrine Associates, PC d/b/a Dialysis Access Center of Pittsburgh	28 Pa. Code § 551.3	PSIII patients	07/19/08	granted
Associates in Kidney Disease & Hypertension, PC d/b/a Dialysis Access Center of Pittsburgh	28 Pa. Code § 551.3	PSIII patients	07/19/08	granted
Leader Surgical Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery	01/12/08	granted
USVAC Ambulatory Surgery Center	28 Pa. Code § 551.21(d)(1)(3)	criteria for ambulatory surgery	03/15/08	denied
Ophthalmology & Surgical Institute	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery	04/19/08	denied
Mt. Lebanon Surgical Center	28 Pa. Code § 553.1	governing body	06/21/08	granted
Dermatologic Surgi Center-Center City	28 Pa. Code § 553.31(a)	administrative responsibilities	03/08/08	granted
Proserpi-Schlecter Center for Plastic Surgery	28 Pa. Code § 553.31(a)	administrator	04/09/08	not necessary
Mt. Lebanon Surgical Center	28 Pa. Code § 553.31(a)	full time administrator	06/21/08	granted
Nephrology-Hypertension Assoc of Lehigh Valley d/b/a Valley Access Center	28 Pa. Code § 553.31(a)	person in charge	06/28/08	not necessary
Clinical Nephrology Associates Ltd. d/b/a Metro Vascular Center	28 Pa. Code § 553.31(a)	person in charge	06/28/08	not necessary
Eastern Pennsylvania Nephrology Assoc, PC	28 Pa. Code § 553.31(a)	person in charge	06/28/08	not necessary
Metropolitan Nephrology Nephrology Associates PC d/b/a Metro Vascular Center	28 Pa. Code § 553.31(a)	person in charge	06/28/08	not necessary
Temple University School of Podiatric Medicine ASC	28 Pa. Code § 555.31(a)	anesthesia services propofol	07/21/07	granted

<i>Facility name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Renal-Endocrine Associates, PC d/b/a Dialysis Access Center of Pittsburgh	28 Pa. Code § 553.31(a)	person in charge	07/19/08	not necessary
Associates in Kidney Disease & Hypertension, PC d/b/a Dialysis Access Center of Pittsburgh	28 Pa. Code § 553.31(a)	person in charge	07/19/08	not necessary
Mt. Lebanon Surgical Center	28 Pa. Code § 555.1	medical staff	06/21/08	granted
Mt. Lebanon Surgical Center	28 Pa. Code § 557.4	quality assurance	06/21/08	granted
SmartHealth Norwin Hills Outpatient Center	28 Pa. Code § 563.2(a)	medical records service	09/29/07	granted
Mt. Lebanon Surgical Center	28 Pa. Code § 567.2	infection control program and committee	06/21/08	granted
Grandview Surgery & Laser Center	28 Pa. Code § 569.35	fire, safety and disaster	03/15/08	granted
Penn Surgery Institute	28 Pa. Code § 569.35	fire, safety and disaster	03/22/08	granted
Carlisle Outpatient Surgery Center	28 Pa. Code § 569.35	general safety precautions	04/12/08	granted
Keystone Surgery Center	28 Pa. Code § 569.35	general safety precautions	05/17/08	granted
Central Penn Endoscopy Center	28 Pa. Code § 569.35	general safety precautions	04/26/08	granted
North Pointe Surgery Center	28 Pa. Code § 569.35	general safety precautions	04/19/08	granted
Childrens Hospital of Philadelphia Ambulatory Surgery Center at Exton	28 Pa. Code § 569.35	general safety precautions	05/03/08	granted
Childrens Hospital of Philadelphia Ambulatory Surgery Center at Bucks	28 Pa. Code § 569.35	general safety precautions	05/03/08	granted
Hershey Outpatient Surgery Center	28 Pa. Code § 569.35	general safety precautions	05/10/08	granted
Williamsport Surgery Center LLC	28 Pa. Code § 569.35	general safety precautions	05/31/08	granted
Paoli Surgery Center	28 Pa. Code § 569.35	general safety precautions	07/05/08	granted
RMS Lifeline Interventional Access Center	28 Pa. Code § 571.1	3.7-2.5.1 restricted corridor control station	01/19/08	granted
Surgical Institute of Reading	28 Pa. Code § 571.1	5.5.8.1, 5.5.8.4, 5.5.10.1, 5.5.8 support areas for imaging suite	03/15/08	granted

#### Nursing Care Facilities

Countryside Christian	28 Pa. Code § 201.3	definitions	05/17/08	granted
Kittanning Care Center	28 Pa. Code § 201.3	definitions	06/07/08	granted
Ephrata Manor	28 Pa. Code § 201.3	definitions	06/14/08	granted
River's Edge Nursing and Rehab Center	28 Pa. Code § 201.3	definitions	06/21/08	granted
Montgomery Rehab Center of Chestnut Hill	28 Pa. Code § 201.17	location	06/21/08	granted
Grove City Medical Center	28 Pa. Code § 201.18(e)	management	07/05/08	temp granted

## NOTICES

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<i>Facility name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
UPMC Horizon Transitional	28 Pa. Code § 201.18(e)	management	07/05/08	temp granted
UPMC Horizon Transitional	28 Pa. Code § 201.18(e)	management	07/05/08	temp granted
The Inn at Freedom Village	28 Pa. Code § 205.6(a)	function of building	03/15/08	denied
United Zion Retirement	28 Pa. Code § 205.6(a)	function of building	03/08/08	granted
The Inn at Freedom Village	28 Pa. Code § 505.6(a)	function of building	03/29/08	denied
Green Ridge Health Care	28 Pa. Code § 205.6(a)	function of building	04/12/08	granted
Coldstream Crossing	28 Pa. Code § 205.6(a)	function of building	04/19/08	granted
ManorCare Health Svcs	28 Pa. Code § 205.6(a)	function of building	04/19/08	granted
Beaver Elder Care & Rehab	28 Pa. Code § 205.6(a)	function of building	05/03/08	granted
UPMC Northwest Med	28 Pa. Code § 205.6(a)	function of building	05/17/08	granted
Church of God Home, Inc.	28 Pa. Code § 205.6(a)	function of building	06/07/08	granted
Fox Subacute at Mechanicsburg	28 Pa. Code § 205.6(a)	function of building	07/05/08	granted
John J. Kane Regional Center	28 Pa. Code § 205.24(a)	dining room	03/08/08	granted
The Hollinger Group	28 Pa. Code § 205.25(a)	kitchen	03/29/08	granted
UPMC Northwest Med	28 Pa. Code § 205.25(a)(b)	kitchen	05/17/08	granted
Fox Subacute at Mechanicsburg	28 Pa. Code § 205.25(a)	kitchen	07/05/08	granted
John J. Kane Regional Center	28 Pa. Code § 205.27	lounge and recreation rooms	03/08/08	granted
Guardian Elder Care Center	28 Pa. Code § 205.28(b)	nurses' station	03/22/08	granted
The Kepler Home, Inc.	28 Pa. Code § 205.28(c)(3)	nurses' station	04/26/08	granted
UPMC Northwest Med	28 Pa. Code § 205.28(c)(3)	nurse's station	05/17/08	granted
The Hollinger Group	28 Pa. Code § 205.31	storage	03/29/08	granted
UPMC Northwest Med	28 Pa. Code § 205.33(a)(b)	utility room	05/17/08	granted
The Inn at Freedom Village	28 Pa. Code § 205.36	bathing facilities	03/15/08	granted
The Inn at Freedom Village	28 Pa. Code § 205.36(h)	bathing facilities	03/29/08	granted
United Zion Retirement	28 Pa. Code § 205.36(h)	bathing facilities	03/08/08	granted
Mary Evans Ext'd Care	28 Pa. Code § 205.36(h)	bathing facilities	04/12/08	granted
Sayre House, Inc.	28 Pa. Code § 205.36(h)	bathing facilities	04/26/08	granted
Montgomery Rehab Center of Chestnut Hill	28 Pa. Code § 205.36(h)	bathing facilities	06/21/08	granted
Fox Subacute at Mechanicsburg	28 Pa. Code § 205.36(h)	bathing facilities	07/05/08	granted
United Zion Retirement	28 Pa. Code § 205.38(a)	toilet facilities	03/08/08	granted
Fox Subacute at Mechanicsburg	28 Pa. Code § 205.38(c)	toilet facilities	07/05/08	temp granted
Phoebe Berks Health Care	28 Pa. Code § 205.67(k)	electric requirements	04/26/08	granted
Millcreek Manor	28 Pa. Code § 211.12(b)(c)	nursing services	05/17/08	granted
Millcreek Community	28 Pa. Code § 211.12(b)(c)	nursing services	05/17/08	granted

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 08-1538. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Integrated Human Immunodeficiency Virus (HIV) Planning Council; Public Meeting

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C. §§ 241(a) and 247(b)), will hold a public meeting on Tuesday, September 9, 2008, from 9 a.m. to 2 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Joseph Pease at the previously listed number or at V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay 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. 08-1539. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Menno Haven, Inc.  
2075 Scotland Avenue  
Chambersburg, PA 17201

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 211.12(f)(1) (relating to nursing services).

Kepler Home, Inc.  
44 South Market Street  
Elizabethville, PA 17023

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille) should contact the Division of Nursing Care

Facilities at the address or phone numbers listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 08-1540. Filed for public inspection August 22, 2008, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania \$2.5 Million Joker's Wild '08 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$2.5 Million Joker's Wild '08.

2. *Price:* The price of a Pennsylvania \$2.5 Million Joker's Wild '08 instant lottery game ticket is \$25.

3. *Play Symbols:*

(a) Each Pennsylvania \$2.5 Million Joker's Wild '08 instant lottery game ticket will contain five play areas known as "Game 1," "Game 2," "Game 3," "FAST \$50" and "FAST \$100." Each play area is played separately.

(b) The play symbols and their captions located in the "HAND 1," "HAND 2," "HAND 3," "HAND 4," "HAND 5" and "HAND 6" areas for "Game 1" are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Joker (JKR), Queen (QUN), King (KNG) and Ace (ACE) playing card symbols.

(c) The play symbols and their captions located in the "WINNING CARD" area for "Game 2" are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Queen (QUN), King (KNG) and Ace (ACE) playing card symbols. The play symbols and their captions located in the "YOUR CARDS" area for "Game 2" are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Joker (JKR), Queen (QUN), King (KNG) and Ace (ACE) playing card symbols.

(d) The play symbols and their captions located in the "DEALER'S CARD" area for "Game 3" are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Queen (QUN) and King (KNG) playing card symbols. The play symbols and their captions located in the "HAND 1," "HAND 2," "HAND 3," "HAND 4," "HAND 5" and "HAND 6" areas of the "YOUR CARDS" area for "Game 3" are: 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Joker (JKR), Queen (QUN), King (KNG) and Ace (ACE) playing card symbols. In "Game 3," cards are ranked in value from high to low: A, K, Q, 10, 9, 8, 7, 6, 5, 4, 3, 2.

(e) The play symbols and their captions located in the "FAST \$50" and the "FAST \$100" play areas are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Joker (JKR), Queen (QUN), King (KNG) and Ace (ACE) playing card symbols.

4. *Prize Symbols:* The prize symbols and their captions located in the "Prize" areas for "Game 1," "Game 2" and "Game 3" are: \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$2,500 (TWYFIVHUN), \$50,000 (FTY THO), \$250,000 (TWHNFYTH) and \$2.5MILL (TWO FIVE MIL).

5. *Prizes:* The prizes that can be won in "Game 1," "Game 2" and "Game 3" are: \$25, \$50, \$100, \$200, \$400, \$500, \$1,000, \$2,500, \$50,000, \$250,000 and \$2,500,000. The prize that can be won in the "FAST \$50" area is \$50. The prize that can be won in the "FAST \$100" area is \$100. The \$2,500,000 top prize is paid as a lump-sum, cash payment. A player can win up to 20 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,760,000 tickets will be printed for the Pennsylvania \$2.5 Million Joker's Wild '08 instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$2.5MILL (TWO FIVE MIL) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$2,500,000.

(2) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$250,000 (TWHNFYTH) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$250,000.

(3) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$50,000.

(4) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$2,500 (TWYFIVHUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$2,500.

(5) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$1,000.

(6) Holders of tickets with a Joker (JKR) playing card symbol appearing in any "HAND" and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$1,000.

(7) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$500.

(8) Holders of tickets with a Joker (JKR) playing card symbol appearing in any "HAND" and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$500.

(9) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$400

(FOR HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$400.

(10) Holders of tickets with a Joker (JKR) playing card symbol appearing in any "HAND" and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$400.

(11) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$200 (TWO HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$200.

(12) Holders of tickets with a Joker (JKR) playing card symbol appearing in any "HAND" and a prize symbol of \$200 (TWO HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$200.

(13) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$100.

(14) Holders of tickets with a Joker (JKR) playing card symbol appearing in any "HAND" and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$100.

(15) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$50\$ (FIFTY) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$50.

(16) Holders of tickets with a Joker (JKR) playing card symbol appearing in any "HAND" and a prize symbol of \$50\$ (FIFTY) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$50.

(17) Holders of tickets with two matching playing card symbols in the same "HAND" and a prize symbol of \$25\$ (TWY FIV) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$25.

(18) Holders of tickets with a Joker (JKR) playing card symbol appearing in any "HAND" and a prize symbol of \$25\$ (TWY FIV) appears in the "Prize" area below that "HAND," on a single ticket, shall be entitled to a prize of \$25.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$2.5MILL (TWO FIVE MIL) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$2,500,000.

(2) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$250,000 (TWHNFYTH) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$250,000.

(3) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area below the

matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(4) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$2,500 (TWYFIVHUN) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(5) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(6) Holders of tickets with a Joker (JKR) playing card symbol appearing in the "YOUR CARDS" area and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area below the Joker (JKR) playing card symbol, on a single ticket, shall be entitled to a prize of \$800.

(7) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$500.

(8) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$400.

(9) Holders of tickets with a Joker (JKR) playing card symbol appearing in the "YOUR CARDS" area and a prize symbol of \$200 (TWO HUN) appears in the "Prize" area below the Joker (JKR) playing card symbol, on a single ticket, shall be entitled to a prize of \$400.

(10) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$200 (TWO HUN) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$200.

(11) Holders of tickets with a Joker (JKR) playing card symbol appearing in the "YOUR CARDS" area and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area below the Joker (JKR) playing card symbol, on a single ticket, shall be entitled to a prize of \$200.

(12) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$100.

(13) Holders of tickets with a Joker (JKR) playing card symbol appearing in the "YOUR CARDS" area and a prize symbol of \$50 (FIFTY) appears in the "Prize" area below the Joker (JKR) playing card symbol, on a single ticket, shall be entitled to a prize of \$100.

(14) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$50 (FIFTY) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$50.

(15) Holders of tickets with a Joker (JKR) playing card symbol appearing in the "YOUR CARDS" area and a prize symbol of \$25 (TWY FIV) appears in the "Prize" area below the Joker (JKR) playing card symbol, on a single ticket, shall be entitled to a prize of \$50.

(16) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols matches the "WINNING CARD" playing card symbol and a prize symbol of \$25 (TWY FIV) appears in the "Prize" area below the matching "YOUR CARDS" playing card symbol, on a single ticket, shall be entitled to a prize of \$25.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol, and a prize symbol of \$2.5MILL (TWO FIVE MIL) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$2,500,000.

(2) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$250,000 (TWHNFYTH) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$250,000.

(3) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$50,000.

(4) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$2,500 (TWYFIVHUN) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$2,500.

(5) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$1,000.

(6) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols is a Joker (JKR) playing card symbol and a prize symbol of \$100 (ONE HUN) appears in each of the six "Prize" areas to the right of each "HAND," on a single ticket, shall be entitled to a prize of \$600.

(7) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$500.

(8) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$400.

(9) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols is a Joker (JKR) playing card symbol and a prize symbol of \$50 (FIFTY)

appears in each of the six "Prize" areas to the right of each "HAND," on a single ticket, shall be entitled to a prize of \$300.

(10) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$200 (TWO HUN) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$200.

(11) Holders of tickets upon which any one of the "YOUR CARDS" playing card symbols is a Joker (JKR) playing card symbol and a prize symbol of \$25\$ (TWY FIV) appears in each of the six "Prize" areas to the right of each "HAND," on a single ticket, shall be entitled to a prize of \$150.

(12) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$100.

(13) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater

than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$50\$ (FIFTY) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$50.

(14) Holders of tickets where the value of the "YOUR CARDS" playing card symbol in any "HAND" is greater than the value of the "DEALER'S CARD" playing card symbol and a prize symbol of \$25\$ (TWY FIV) appears in the "Prize" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$25.

(d) Determination of prize winners for "FAST \$50" area. Holders of tickets with a Joker (JKR) playing card symbol in the "FAST \$50" play area, on a single ticket, shall be entitled to a prize of \$50.

(e) Determination of prize winners for "FAST \$100" area. Holders of tickets with a Joker (JKR) playing card symbol in the "FAST \$100" play area, on a single ticket, shall be entitled to a prize of \$100.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amount of prizes and approximate odds of winning:

<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Fast \$50</i>	<i>Fast \$100</i>	<i>Win</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 5,760,000 Tickets</i>
\$25 w/JOKER					\$25	20	288,000
\$25	\$25				\$25	20	288,000
		\$25			\$25	20	288,000
\$25 × 2					\$25	27.27	211,200
\$50 w/JOKER					\$50	120	48,000
\$50					\$50	120	48,000
	\$25 w/JOKER				\$50	120	48,000
	\$50				\$50	120	48,000
		\$25 × 2			\$50	120	48,000
		\$50			\$50	120	48,000
			\$50		\$50	24	240,000
\$25 × 4					\$100	600	9,600
\$100 w/JOKER					\$100	600	9,600
\$100					\$100	300	19,200
	\$25 × 4				\$100	300	19,200
	\$50 w/JOKER				\$100	300	19,200
	\$100				\$100	300	19,200
		\$50 × 2			\$100	300	19,200
		\$100			\$100	300	19,200
\$50			\$50		\$100	200	28,800
				\$100	\$100	120	48,000
\$50 × 4					\$200	3,429	1,680
\$100 × 2					\$200	3,429	1,680
\$200 w/JOKER					\$200	3,429	1,680
\$200					\$200	3,429	1,680
	\$50 × 4				\$200	3,429	1,680
	\$100 × 2				\$200	3,429	1,680
	\$100 w/JOKER				\$200	3,429	1,680
	\$200				\$200	3,429	1,680
	\$200				\$200	3,429	1,680

<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Fast \$50</i>	<i>Fast \$100</i>	<i>Win</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 5,760,000 Tickets</i>
		JOKER w/\$25 × 6	\$50		\$200	3,429	1,680
	\$50	JOKER w/\$25 × 6			\$200	3,429	1,680
\$50	\$50	\$50	\$50		\$200	3,429	1,680
	\$50	\$50		\$100	\$200	3,429	1,680
		\$50	\$50	\$100	\$200	3,429	1,680
\$200 × 2					\$400	4,800	1,200
\$400					\$400	4,800	1,200
w/JOKER					\$400	4,800	1,200
\$400					\$400	4,800	1,200
	\$200				\$400	4,800	1,200
	w/JOKER				\$400	4,800	1,200
	\$400				\$400	4,800	1,200
		\$200 × 2			\$400	4,800	1,200
		\$400			\$400	4,800	1,200
\$25 × 2	\$25 × 12	\$25 × 2			\$400	4,800	1,200
\$25	\$25	JOKER	\$50		\$400	4,800	1,200
		w/\$50 × 6			\$400	4,800	1,200
		JOKER		\$100	\$400	4,800	1,200
		w/\$50 × 6			\$400	4,800	1,200
\$100	\$100	\$100		\$100	\$400	4,800	1,200
\$100 × 5					\$500	8,000	720
\$500					\$500	8,000	720
w/JOKER					\$500	8,000	720
\$500					\$500	8,000	720
	(\$200				\$500	8,000	720
	w/JOKER) +				\$500	8,000	720
	\$100				\$500	8,000	720
	\$500				\$500	8,000	720
		\$100 × 5			\$500	8,000	720
		\$500			\$500	8,000	720
\$100	\$100	JOKER			\$500	8,000	720
		w/\$50 × 6			\$500	8,000	720
\$50	\$50 × 2	JOKER	\$50		\$500	8,000	720
		w/\$50 × 6			\$500	8,000	720
\$25 × 2	\$25 × 12		\$50	\$100	\$500	8,000	720
\$1,000					\$1,000	8,000	720
w/JOKER					\$1,000	8,000	720
\$1,000					\$1,000	8,000	720
	\$1,000				\$1,000	8,000	720
	\$400	\$100 × 2			\$1,000	8,000	720
	w/JOKER				\$1,000	8,000	720
\$50	\$50 × 12	\$1,000	\$50		\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
\$50 × 4	\$50 × 3	w/\$50 × 6	\$50		\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
\$50 × 6	\$50 × 6	w/\$100 × 6		\$100	\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
\$100 × 2	\$100 × 2	w/\$50 × 6			\$1,000	8,000	720
		JOKER			\$1,000	8,000	720
		w/\$100 × 6			\$1,000	8,000	720
\$2,500					\$2,500	120,000	48
	\$2,500				\$2,500	120,000	48
		\$2,500			\$2,500	120,000	48
\$50,000					\$50,000	2,880,000	2
	\$50,000				\$50,000	2,880,000	2
		\$50,000			\$50,000	2,880,000	2
\$250,000					\$250,000	2,880,000	2
	\$250,000				\$250,000	5,760,000	1
		\$250,000			\$250,000	5,760,000	1



Game 1	Game 2	Game 3	Fast \$50	Fast \$100	Win	Approximate Odds Are 1 In:	Approximate No. of Winners Per 5,760,000 Tickets
\$2,500,000					\$2,500,000	2,880,000	2
	\$2,500,000				\$2,500,000	2,880,000	2
		\$2,500,000			\$2,500,000	5,760,000	1

Game 1—Reveal 2 identical cards in same hand, win prize shown below that hand.

Joker (JKR) = Win prize shown below that symbol automatically.

Game 2—Match any of your cards to the winning card, win prize shown below matching card(s).

Joker (JKR) = Win double the prize shown below that symbol automatically.

Game 3—When any of your cards in any hand beat the dealer's card, win prize shown for that hand.

Joker (JKR) = Get a Joker symbol in any hand, win all 6 prizes shown.

Fast \$50: Get a "Joker" (JKR) symbol, win \$50 automatically.

Fast \$100: Get a "Joker" (JKR) symbol, win \$100 automatically.

Prizes, including the top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$2.5 Million Joker's Wild '08 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$2.5 Million Joker's Wild '08, prize money from winning Pennsylvania \$2.5 Million Joker's Wild '08 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$2.5 Million Joker's Wild '08 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$2.5 Million Joker's Wild '08 or through normal communications methods.

THOMAS W. WOLF,  
*Secretary*

[Pa.B. Doc. No. 08-1541. Filed for public inspection August 22, 2008, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding Washington County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 575(b)), the Director of the Bureau of Design makes the following written finding:

The Federal Highway Administration and the Department of Transportation (Department) are planning to replace the Bebout Road Pedestrian Bridge which carries Arrowhead Trail over SR 1010 (Bebout Road) in Peters Township, Washington County.

Information describing the project, together with the associated environmental analysis, is contained in the Categorical Exclusion Evaluation/Individual Section 4(f) Evaluation that was prepared for this project.

The Bebout Road Pedestrian Bridge was once part of a railroad and is a contributing element to the Montour Railroad property. The Montour Railroad property is eligible for listing on the National Register of Historic Places, and therefore qualifies as a section 2002/section 4(f) resource. Since the Bebout Road Pedestrian Bridge is a contributing element to the eligible property, impacts to the bridge will constitute a use of the section 2002/section 4(f) resource.

Based upon studies, there is no prudent and feasible alternative to the proposed action.

The environmental, economic, social and other effects of the proposed project, as enumerated in section 2002 of The Administrative Code have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

BRIAN G. THOMPSON, P. E.,  
*Director, Bureau of Design*

[Pa.B. Doc. No. 08-1542. Filed for public inspection August 22, 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, August 7, 2008, and announced the following:

*Regulation Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective August 6, 2008:*

State Athletic Commission #16-37: Communicable Disease Testing (amends 58 Pa. Code Chapter 21)

*Action Taken—Regulations Approved:*

Pennsylvania Public Utility Commission #57-258: Electronic Filing (amends 52 Pa. Code Chapters 1 and 5)

Pennsylvania Public Utility Commission #57-248: Inspection and Maintenance Standards for the Electric Distribution Companies (adds § 57.198 to 52 Pa. Code)

Department of Corrections #19-7: County Correctional Institutions (amends 37 Pa. Code Chapter 95)

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**Approval Order**

Public Meeting  
held August 7, 2008

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Nancy Sabol Frantz, Esq., by phone; Karen A. Miller; John F. Mizner, Esq.

*Pennsylvania Public Utility Commission—  
Electronic Filing;  
Regulation No. 57-258 (#2649)*

On November 1, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking amends 52 Pa. Code Chapters 1 and 5. The proposed regulation was published in the November 17, 2007 *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on June 25, 2008.

This final-form regulation amends existing filing regulations to permit and establish the requirements for electronic filing of certain documents.

We have determined this regulation is consistent with the statutory authority of the PUC (66 Pa.C.S. § 501(b)) 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.

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**Approval Order**

Public Meeting  
held August 7, 2008

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson, by Phone; Nancy Sabol Frantz, Esq., by phone; Karen A. Miller; John F. Mizner, Esq.

*Pennsylvania Public Utility Commission—  
Inspection and Maintenance Standards for the Electric  
Distribution Companies;  
Regulation No. 57-248 (#2571)*

On September 27, 2006, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking adds § 57.198 to 52

Pa. Code. The proposed regulation was published in the October 7, 2006 *Pennsylvania Bulletin* with a 30-day public comment period. The PUC published a notice in the December 16, 2006 *Pennsylvania Bulletin*, reopening and extending the public comment period to April 16, 2007. The final-form regulation was submitted to the Commission on June 25, 2008.

This regulation sets minimum standards and schedules for the inspection and maintenance of the infrastructure (poles, wires, transformers, switching devices and other fixtures) for electric distribution systems operated by electric distribution companies. It also allows the companies to submit modified plans with justification by means of "cost/benefit analysis."

We have determined this regulation is consistent with the statutory authority of the PUC (66 Pa.C.S. § 2802(20)) 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.

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**Approval Order**

Public Meeting  
held August 7, 2008

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Nancy Sabol Frantz, Esq., by phone, abstained; Karen A. Miller; John F. Mizner, Esq.

*Department of Corrections—  
County Correctional Institutions;  
Regulation No. 19-7 (#2544)*

On June 9, 2006, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Corrections (Department). This rulemaking amends 37 Pa. Code Chapter 95. The proposed regulation was published in the June 24, 2006, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 3, 2008.

This final rulemaking updates the Department's existing regulations for county prisons and makes the minimum standards contained in the regulation consistent with recognized professional standards. It also establishes a formalized inspection and hearing process.

We have determined this regulation is consistent with the statutory authority of the Department (71 P. S. § 186 and 61 P. S. § 460.3(3)) 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. 08-1543. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-5133	State Board of Nursing Clinical Nurse Specialists 38 Pa.B. 3246 (June 14, 2008)	7/14/08	8/13/08
16A-6911	State Board of Social Workers, Marriage and Family Therapists and Professional Counselors Code of Ethical Practice and Standards of Professional Conduct 38 Pa.B. 3253 (June 14, 2008)	7/14/08	8/13/08

#### State Board of Nursing Regulation #16A-5133 (IRRC #2700)

#### Clinical Nurse Specialists

August 13, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the June 14, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Nursing (Board) to respond to all comments received from us or any other source.

#### 1. General.—Consistency with statute; Implementation procedures; Reasonableness.

##### *Consistency with statute*

The proposed regulation includes certain parts, verbatim, from Act 49 of 2007 (63 P. S. §§ 213, 216.2, 217, 218.5 and 218.6) (Act), while other provisions from the Act are not included. Several commentators, including the House Professional Licensure Committee, questioned whether Section 218.5(e) (relating to Clinical nurse specialist; qualifications) of the Act should be added to this regulation. Further, some commentators also assert that Section 218.6 (relating to Scope of practice for clinical nurse specialist) of the Act should be included.

The final-form regulation should include all requirements from the Act or justify why certain provisions are being omitted.

#### *Grandfather clause*

Several commentators have suggested that this regulation include a grandfather clause for those nurses that have a master's degree in Nursing and have previously "demonstrated success" and effectiveness in the role of clinical nurse specialist (CNS). The Board should consider adding a grandfather clause for a CNS in this situation. If the Board adds a grandfather clause, it should also specify the criteria that must be met for a nurse to be certified as a CNS under a grandfather clause.

#### 2. Section 21.801. Definitions.—Consistency with statute; Clarity.

The definition of "CNS—Clinical nurse specialist" is not the same as the definition of "clinical nurse specialist" contained in the Act. For clarity, the language in these definitions should be the same.

#### 3. Section 21.805. Fees.—Statutory authority; Reasonableness.

Subsection (b) states that "a candidate for National certification will also pay an additional fee to the National certification organization" and that "a candidate for credentials review by a Board-recognized organization will also pay an additional fee to the credentialing organization." Does the Board intend to require the candidate to pay these additional fees to other organizations? If so, what is the Board's authority to do so? If this provision is merely acting as a notice that the candidate might have to pay fees to other organizations and is not a requirement of the Board, then this language should be deleted from the final-form regulation because it is not regulatory language. The Board also should add a provision directing CNSs to the Board's website for additional fee information.

#### 4. Section 21.811. Qualifications for initial certification.—Reasonableness; Clarity.

This section discusses the qualifications necessary for initial certification as a CNS. We have two concerns.

First, the opening sentence of this section contains the phrase "... show evidence of..." Board staff has indicated that this evidence would consist of an official transcript and a certificate awarded by a national certification organization. This information should be set forth in the final-form regulation. A similar concern applies to Section 21.813(b).

Second, commentators state that the reference to the National Council of State Boards of Nursing (NCSBN) under Subsection (1)(i) should be deleted because NCSBN has no authority as an accrediting body. Further, they recommend that NCSBN should be replaced with a reference to the National Organization of Competency Assurance (NOCA). The Board should explain why NCSBN is an appropriate body to recognize organizations for providing continuing education. Also, has the Board considered including NOCA as an accrediting body?

#### 5. Section 21.812. Qualifications for certification by endorsement or change of clinical specialty area.—Clarity.

The title of Subsection (b) is "**Change** of clinical specialty area." However the content of the subsection refers to "**additional** specialty area." (Emphasis added.) The final-form regulation should clarify whether this subsection applies to changing a specialty, adding one, or both.

**6. Section 21.813. Application for certification.—Reasonableness; Clarity.**

*Subsection (b)*

This subsection contains the phrase “An applicant . . . shall include documentation satisfactory to the Board . . .” What documentation is acceptable to the Board? How will the applicant know this when submitting the application? The final-form regulation should clarify these issues.

*Subsection (d)(1)*

This subsection does not consider those applicants that do not have access to official transcripts. Commentators assert that this subsection should be amended to allow other documentation to be accepted by the Board when official transcripts are not available. The Board should consider allowing other documentation in these circumstances and should specify what other documentation is acceptable.

*Subsection (f)*

This subsection allows 12 months for CNSs to meet compliance standards. How did the Board determine that this was an appropriate timeframe?

**7. Section 21.821. CNS standards of conduct.—Reasonableness; Clarity.**

It is unclear how the Board would determine whether a CNS has the “necessary knowledge, preparation, experience and competency” to properly execute a specific practice or procedure. The Board should specify if more is expected from CNSs than is already provided in the existing standards of nursing practice and this proposed regulation. If there is nothing additional, then this provision should be deleted.

**8. Section 21.822. Biennial renewal of certification.—Reasonableness; Clarity.**

We have four concerns with this section.

First, Subsection (b) states that notice will be forwarded to each active CNS “prior to the expiration date of the current biennial period.” However, it does not establish how much notice will be given. The final-form regulation should clearly state when this notice will be given to each active CNS.

Second, the final-form regulation should provide circumstances for when the Board would waive the 30 hours of Board-approved continuing education requirement in Subsection (d), or provide a cross-reference to Subsection 21.823(b), which mentions illness or undue hardship as instances requiring a waiver.

Third, Subsection (d) requires a CNS to complete a minimum of 30 hours of Board-approved continuing education. How does the Board determine that an individual has met this requirement? The final-form regulation should clarify this issue.

Finally, this section sets forth the requirements for the biennial renewal of certification. However, Subsection (f) establishes the requirements for written communication with the Board. Therefore, it should be moved to a more appropriate portion of the regulation.

**9. Section 21.823. CNS-level continuing education; waiver; sanctions.—Clarity.**

Under Subsection (b), the Board states that it will “grant, deny or grant in part the request for waiver.” The final-form regulation should specify what timeframe these actions will be taken in and how the CNS will be notified.

**10. Section 21.825. Sources of continuing education.—Implementation procedures; Reasonableness; Clarity.**

*Group or individual research*

This regulation is silent as to whether a CNS can get credit for group or individual research. However, commentators assert that the regulatory provisions for professional registered nurses allow this type of credit. Did the Board consider this option for CNSs?

*Subsection (a)*

This subsection contains the phrase “. . . and, provided that these providers and credentialing organizations agree to abide by §§ 21.826 and 21.827 . . . they are preapproved . . .” How does one know if the organizations have agreed to these particular sections and, therefore, would be preapproved?

*Subsection (b)*

Under this subsection, what circumstances would result in a reevaluation of an approval given to providers and credentialing organizations? What circumstances would warrant a rescission of approval?

*Subsection (c)*

Under this subsection, a CNS can get Board approval for a course given by a provider not on the pre-approved list. The request for approval must be submitted at least 60 days prior to the course. However, a request for approval by a professional registered nurse must be submitted at least 90 days prior to the course. Why is the timeframe different?

*Subsection (e)*

How did the Board determine that 15 credit hours were sufficient for providing the various types of services listed in this subsection?

**11. Section 21.826. Requirements for continuing education courses.—Clarity.**

The term “adequate” in Subsection (2) is non-regulatory language. To be clear what is expected of a facility, the term “adequate facility” should be defined or this term should be deleted.

**12. Section 21.827. Continuing education course approval.—Reasonableness; Clarity.**

Subsection (b) sets forth the items that one must submit when requesting Board approval for continuing education. Subsection (b)(12) states “Other information requested by the Board.” It is impossible for the applicant to know what “other information” the Board would want at the time of the initial submittal of this information. However, we recognize that it is reasonable for the Board to have the ability to request additional information when necessary. Therefore, Subsection (b)(12) should be deleted and a new subsection (e.g. Subsection (e)) should be added that states that the Board may request additional information.

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**State Board of Social Workers, Marriage and Family Therapists and Professional Counselors  
Regulation #16A-6911 (IRRC #2701)**

**Code of Ethical Practice and Standards of Professional Conduct**

**August 13, 2008**

We submit for your consideration the following comments on the proposed rulemaking published in the June 14, 2008 *Pennsylvania Bulletin*. Our comments are based

on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) to respond to all comments received from us or any other source.

**Sections 47.71, 48.71 and 49.71. Code of ethical practice and professional conduct.—Fiscal impact; Public health and safety; Reasonableness; Feasibility; Implementation procedure; Clarity.**

*Format*

This proposed regulation consists of one new section which is added to each of the three separate chapters (49 Pa. Code Chapters 47, 48 and 49) governing the three different professions licensed by the Board. The new section is practically identical in each of the three chapters. In each chapter, the new section contains ten subsections. Some of the subsections are lengthy and contain a variety of topics. It is unclear why all these topics and provisions are grouped together into one section. To improve clarity and ease implementation, some subject areas should be set forth separately. The following paragraphs provide examples.

The first example is Subsection (b)(4), relating to confidentiality and privacy. It should be placed in a separate section since these subjects involve licensees following the requirements of pertinent statutes and related regulations and is not limited to professional codes of conduct and practice. Hence, it would be an ideal provision as a separate section that stands alone and is not lost or obscured within a larger group of provisions.

A second area that could be moved to a separate section or an existing section is Subsection (b)(6), relating to sexual harassment. All three chapters already contain provisions related to sexual misconduct (Sections 47.61—47.65, 48.21—48.25 and 49.21—49.25). These existing provisions prohibit “sexual intimacies” between a licensee and a client/patient or an immediate family member of a client/patient. Two commentators stated that such a prohibition should be added to this proposed regulation. This is unnecessary since it is addressed in the existing regulations. However, the comments demonstrate the confusion generated by separating sexual misconduct and harassment into separate and unrelated sections.

A third area that would benefit from separate treatment is Subsection (g), relating to recordkeeping. Examples of similar provisions that other boards promulgated as separate sections include 49 Pa. Code §§ 16.95, 23.71, 27.405, 31.22 and 32.209.

A fourth example is Subsection (j), relating to advertising. Other boards have similar provisions in separate sections. The Board should review the existing regulations at 49 Pa. Code §§ 11.33, 23.31, 25.212 and 29.31.

If Board opts to retain the “single section” approach, it should explain why provisions involving such variety and length need to be set forth in one section.

*Nonregulatory language*

Another problem with the proposed regulation is the use of the word “should” in different provisions. This word is found in Subsections (b)(4)(ii) and (b)(4)(iii), (c)(1) and (c)(2), (f)(4), (g)(5) and (g)(7). The use of “should” is inappropriate because it is nonregulatory language that indicates that the provisions are optional. Regulations establish binding norms of general applicability and future effect. If the Board decides that it will retain the word “should” and the provisions are to remain optional,

then these provisions need to be deleted from this regulation and placed in a policy statement or guidance document.

The use of the word “should” in Subsection (g)(5) is especially troublesome because it allows the protection of client/patient privacy and confidentiality to become discretionary. This provision needs to be revised to replace the term “should” with “shall.” The Board should also include references to applicable federal and state laws and regulations.

*Subsection (a) Application.*

Subsection (a)(3) appears to be one of the few provisions that is unique in each of the three chapters. Each chapter contains references to the codes of ethics and conduct of various organizations for the different professions. The Pennsylvania Association for Marriage and Family Therapy (PAMFT) does not see the need for the extensive list of organizations in Section 48.71(a)(3). In its comments, PAMFT contended that the only group that should be listed is the code of the American Association for Marriage and Family Therapy. The other groups are professional counseling groups, and the PAMFT requests that these other groups be deleted from this section. The Board needs to explain the need for the other organizations being included or delete them from Section 48.71 in the final-form regulation.

In its comments, the Pennsylvania Counseling Association (PCA) suggests the addition of the “Code of Ethics of the American Counseling Association” to Section 49.71(a)(3). The Board should consider this suggestion in the final-form regulation or explain why this national code is not included with the others already listed in the regulation.

*Subsection (b) Responsibility to clients/patients.*

Subsection (b)(1)(i) reads:

Licensees may not misrepresent directly, indirectly or by implication their professional qualifications such as education, specialized training, experience or area or areas of competence.

Similar language is also found in Subsection (j)(2), which includes a requirement that licensees “accurately represent their competencies, education, training and experience . . .” The Board should combine these directives to avoid duplication in the final-form regulation.

Subsection (b)(1)(iii) refers to “appropriate standards of care.” It reads:

The appropriate standard of care is defined as what an ordinary, reasonable professional with similar training would have done in a similar circumstance.

One commentator referred to this language as “weak” and stated that it “permits quite a bit of latitude.” The House Professional Licensure Committee (House Committee), in its comments dated June 25, 2008, also expressed concerns with this language. The PCA notes that there is nothing in the proposed regulation that addresses whether a licensee provided “effective” care, therapy or treatment. Should the definition of the “appropriate standard of care” also involve a review of the effectiveness of the care or treatment and the licensee’s effort to ascertain an effective strategy? In addition, we note that in its existing regulations at 49 Pa. Code § 41.61, Principle 2, relating to competency, the State Board of Psychology includes the following statement:

In areas in which recognized standards do not yet exist, psychologists take whatever precautions are

necessary to protect the welfare of their clients. They maintain knowledge of current scientific and professional information related to the services they render.

How will this proposed regulation address situations or areas when recognized standards may not apply?

A related concern is the term "reasonable professional" in describing "appropriate standard of care." The Board includes two public members who are not licensees. Both the Pennsylvania Chapter of the National Association of Social Workers and Pennsylvania Society for Clinical Social Work (PSCSW) expressed concerns with the review of violations of this section by unlicensed individuals who have not been trained in the same code of ethical practice and professional conduct. In determining whether a violation has occurred, who will make the determination regarding what a "reasonable professional" would have done in similar circumstances?

In its comments, the House Committee expressed concern with the phrase "in a timely manner" in Subsection (b)(1)(iv). We agree that it is ambiguous. The Board needs to provide licensees with a specific rule for a minimum time period for referrals in the final-form regulation.

*Subsection (b)(2) Informed consent.*

The House Committee questioned the practicality of the disclosure requirement in Subsection (b)(2)(i). Both Subsections (b)(2)(i) and (ii) contain substantive requirements for disclosures to patients/clients. In order to provide for consistent implementation of the disclosure requirements, the Board should consider providing a written disclosure form for licensees to use in discussing services and other issues with the patient/client. To document that the discussion occurred, the licensee could have the patient/client sign or initial the form. This form could also include a statement, as suggested by PSCSW, informing the patient/client that a collection agency may be used in cases of nonpayment for services rendered.

This subsection also includes the words: "client/patient's parent, guardian or court-appointed representative." What about a spouse, domestic partner or adult child? Could one of these people be a legal representative if the client/patient is unable to read or understand a document or is receiving services involuntarily?

*Subsection (b)(4) Confidentiality and privacy.*

We identified four concerns in this subsection.

First, the House Committee requested that the Board specifically cite the "other laws" mentioned in this Subsection (b)(4)(i). We agree. For example, does the Health Insurance Portability and Accountability Act apply to these licensees and their patients/clients?

Second, PCA mentioned the confidentiality protections in federal regulations at 42 CFR Part 2 (§§ 2.1—2.67), relating to confidentiality of alcohol and drug abuse patient records. The Board should review the pertinent statutes and regulations and identify specific requirements that will protect patient/client privacy and confidentiality.

The third issue is the use of the term "legally authorized person" or "person legally authorized." In Subsections (b)(2)(iii) and (iv), the proposed regulation refers to the "client/patient's parent, guardian or court-appointed representative" when discussing issues related to someone giving consent for the client/patient. However, the term "legally authorized person" is used for a similar purpose in Subsections (b)(4) and (e)(2)(v). The final-form regulation should be consistent in how it describes who may represent the client/patient. The Board should consider

developing a definition for this term and be consistent in its use in the final-form regulation.

Fourth, PAMFT noted a concern with counseling families and protecting confidentiality. It asked for specific language requiring written authorization from each member of the family group before a therapist could disclose information outside the treatment situation. The Board should amend the regulation to ensure that each family member's confidentiality is protected.

*Subsection (b)(5) Termination.*

There are two concerns with this subsection.

First, PCA suggested that licensees should be allowed to terminate or discharge a patient/client for nonpayment of fees. This issue does not appear to be addressed in this subsection or Subsection (f), relating to payment for services. The Board should address this concern in the final-form regulation.

Second, this subsection includes a reference to "appropriate referral for continued services" and "reasonable notification" but includes no directive regarding what constitutes "reasonable notification." To assist with continuity of care, the Board should consider establishing a specific minimum time period, such as 30 days, for advance notice of termination to provide time for referrals and the search for a new provider.

*Subsection (b)(6) Sexual harassment.*

Subsection (b)(6)(iii) of this proposed regulation states: "Sexual harassment includes unwanted sexual advances, sexual solicitation, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature." These are broad terms. The term "sexual intimacies" is defined in the existing "definitions" section of each chapter. This existing definition includes specific language describing this type of conduct. The Board should consider using a reference to this existing definition in its provisions prohibiting sexual harassment. The Board should also include a definition of "sexual harassment" in the existing "definitions" sections of each chapter (Sections 47.1, 48.1 and 49.1).

*Subsection (b)(7) Discrimination.*

There are numerous State and Federal laws barring discrimination. The Board should reference existing anti-discrimination laws and regulations rather than designing a new anti-discrimination rule. If the Board opts to proceed with this provision as proposed, it should explain why existing laws and regulations are insufficient.

*Subsection (c) Dual or multiple relationships affecting the licensee's judgment.*

We agree with the House Committee's concerns about terms and phrases in this subsection that it described as vague or ambiguous. In addition to amending the subsection in response to the points raised by the House Committee, the Board needs to provide specific examples of the situations that this provision seeks to address.

*Subsection (e) Research and publication.*

Subsection (e)(1) refers to "Federal and State laws." The Board needs to cite the pertinent federal and state laws. In addition, the House Committee raised several questions and points of clarification about implementation and enforcement of this subsection. The Board should address these concerns with the final-form regulation.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 08-1544. Filed for public inspection August 22, 2008, 9:00 a.m.]

# INSURANCE DEPARTMENT

## Application for Approval to Acquire Control

Senior Health Care Transition Trust has filed an application to acquire control of Conseco Senior Health Insurance Company, a Pennsylvania domiciled stock life insurance company. The filing, received on August 11, 2008, was made under the requirements set forth under the Insurance Holding Companies Act (40 P. S. §§ 991.1402—991.1413).

Filings and related materials are available on the Insurance Department's (Department) web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). After first scheduling an appointment, consumers may also view the application and supplemental documents at any of the Department's regional offices:

- Harrisburg Regional Office, Public Room: (717) 787-0877
- Philadelphia Regional Office: (215) 560-2630
- Pittsburgh Regional Office: (412) 565-5020

Comments received will be part of the public record regarding the filing and will be made available on the Department's web site. Additionally, copies of the comments received will be forwarded to the applicant for appropriate response. The applicant's responses will also be made available on the Department's web site.

Persons wishing to comment on the acquisition are invited to submit a written statement to the Department not later than September 30, 2008. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or [rbrackbill@state.pa.us](mailto:rbrackbill@state.pa.us).

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1545. Filed for public inspection August 22, 2008, 9:00 a.m.]

## Application for Approval to Acquire Control

Tokio Marine Holdings, Inc. has filed an application to acquire control of Philadelphia Insurance Company, a Pennsylvania domiciled stock property insurance company, and Philadelphia Indemnity Insurance Company, 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, Insur-

ance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax to (717) 787-8557 or [rbrackbill@state.pa.us](mailto:rbrackbill@state.pa.us).

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1546. Filed for public inspection August 22, 2008, 9:00 a.m.]

## Application and Request for a Certificate of Authority

Country Meadows of Bethlehem Associates, LP has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Country Meadows of Bethlehem in Bethlehem, PA. The initial filing was received on August 11, 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](mailto:syerger@state.pa.us).

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1547. Filed for public inspection August 22, 2008, 9:00 a.m.]

## Application for Voluntary Surrender of Certificate of Authority

Pine Creek Mutual Fire Insurance Company, a domestic mutual fire insurance company, has submitted an application for approval to surrender its Insurance Department (Department) Certificate of Authority. Persons wishing to comment on the grounds of public or private interest concerning the surrender, are invited to submit a written statement to the Department within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Room 1345, Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or [rbrackbill@state.pa.us](mailto:rbrackbill@state.pa.us).

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1548. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Blue Cross of Northeastern Pennsylvania; Blue-Care Cooperative Plan; Rate Filing

On August 8, 2008, Blue Cross of Northeastern Pennsylvania submitted a rate filing (#1426-BCNGCOOP-1/1/09) to increase the premium rates for the BlueCare Cooperative Plan by approximately 17.5%. This will affect approximately 6,833 subscribers and produce additional premium income of about \$3.1 million annually. The requested effective date of the change is January 1, 2009.

Blue Cross of Northeastern Pennsylvania has also proposed the following benefit changes:

- Increase the diagnostic testing copay for MRI's, MRA's, CAT Scans and other high cost radiology tests from \$15 to \$75.
- Add an emergency room copay of \$75.
- Move the coverage for oxygen equipment and supplies from the Major Medical plan to the Cooperative plan.
- Change preexisting look back from 5 years to 1 year.

The previous benefit changes are estimated to reduce medical cost by 0.7%. The rate increase without the benefit changes would have been 18.2%.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 08-1549. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Blue Cross of Northeastern Pennsylvania; Blue-Care Student; Rate Filing

On August 8, 2008, Blue Cross of Northeastern Pennsylvania submitted a rate filing (#1428-BCNGST-1/1/09) to increase the premium rates for the BlueCare Student Program by approximately 15%. This will affect approximately 690 subscribers and produce additional premium income of about \$55,000 annually. The requested effective date of the change is January 1, 2009.

Blue Cross of Northeastern Pennsylvania has also proposed the following benefit changes:

- Increase the diagnostic testing copay for MRIs, MRAs, CAT Scans and other high cost radiology tests from \$15 to \$75.
- Add an emergency room copay of \$75.
- Change the copay for hospital stays from \$5 per day to \$100 per admission plus \$25 per day for the first 15 days of admission.

- Move the coverage for oxygen equipment and supplies from the Major Medical plan to the Student plan.
- Change preexisting look back from 5 years to 1 year.

The previous benefit changes are estimated to reduce medical care by 9.3%. The rate increase without the benefit changes would have been 24.3%.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to James Sabater, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jsabater@state.pa.us](mailto:jsabater@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 08-1550. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Blue Cross of Northeastern Pennsylvania; Individual BlueCare Security Medigap; Rate Filing

On August 8, 2008, Blue Cross of Northeastern Pennsylvania submitted a rate filing (#1430-BCSEC65-1/1/09) to increase the premium rates for the BlueCare Security Program by approximately 9.81%. This will affect approximately 36,356 subscribers and produce additional premium income of about \$3.27 million annually. The requested effective date of the change is January 1, 2009.

The increase per package is as follows:

• Package A	0.93%
• Package B	6.10%
• Package C	10.60%
• Package H without Rx	10.60%
• Package H with Rx	0.00%

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 08-1551. Filed for public inspection August 22, 2008, 9:00 a.m.]



**Blue Cross of Northeastern Pennsylvania; Special Care; Rate Filing**

On August 8, 2008, Blue Cross of Northeastern Pennsylvania submitted a rate filing (#1429-SPCare-1/1/09) to increase the premium rates for the Special Care Program. The proposed increase for Tiers 1 and 2 is 9.8%. This will affect approximately 4,862 members and produce additional premium income of about \$334,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to James Laverty, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1552. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark Blue Cross Blue Shield; Direct Pay ClassicBlue Hospital Plan (Western Region); Rate Filing**

By filing No. 1A-CPE-08-HBCBS, Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield, requests approval to increase the premium rates for its Direct Pay ClassicBlue Hospital Plan (Western Region). The filing requests an average increase of about 8.9% or \$31.12 per contract per month. This will affect about 1,200 contract-holders and produce additional premium income of about \$444,000 annually. For HIPAA and HCTC eligibles, the filing requests an average increase of about 3.2% or \$13.07 per contract per month. This will affect an estimated 700 contract-holders and produce additional premium income of about \$108,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA

17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1553. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark Blue Cross Blue Shield; Direct Pay ClassicBlue Major Medical Plan (Western Region); Rate Filing**

By filing No. 1A-PMM-08-HBCBS, Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield, requests approval to restructure rates for the Direct Pay ClassicBlue Major Medical Plan (Western Region). The filing requests an average increase of about 8.9% or \$11.93 per contract per month. This will affect about 900 contract-holders and produce additional premium income of about \$120,000 annually. For HIPAA and HCTC eligibles, the filing requests an average increase of about 8.9% or \$12.19 per contract per month. This will affect an estimated 600 contract-holders and produce additional premium income of about \$84,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1554. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark Blue Cross Blue Shield; Direct Pay ClassicBlue Medical Surgical Plan (Western Region); Rate Filing**

By filing No. 1A-DPMS-08-HBCBS, Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield, requests approval to increase the premium rates for its Direct Pay ClassicBlue Medical Surgical Plan (Western Region). The filing requests an average increase of about 8.9% or \$10.93 per contract per month. This will affect about 1,200 contract-holders and produce additional premium income of about \$156,000 annually. For HIPAA and HCTC eligibles, the filing requests an average increase of about 6.9% or \$11.65 per contract per month. This will affect an estimated 700 contract-holders and produce additional premium income of about \$96,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1555. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark Blue Cross Blue Shield; Filing No. 1A-SSC-08-HBCBS; Request to Increase Rates for the Direct Pay Special Care Hospital Plan (Western Region); Rate Filing**

By filing No. 1A-SSC-08-HBCBS, Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield, requests approval to increase its premium rates for its Direct Pay Special Care Hospital Plan (Western Region). The filing requests an average increase of 8.9% or \$9.27 per contract per month. This will affect about 11,400 contract-holders and produce additional premium income of about \$1,272,000 per year. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to James Laverty, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1556. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark Blue Cross Blue Shield (Western Region); Guaranteed Issue Preferred Blue Individual Preferred Provider Plan; Rate Filing**

By filing No. 1A-GI/INGPPO-08-HBCBS, Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield, requests approval to increase the premium rates for its Guaranteed Issue Preferred Blue Individual Preferred Provider Plan by about 3.7% or \$20.19 per contract per month. This filing will affect approximately 5,100 contracts and will produce additional income of about \$1.2 million annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Rashmi Mathur, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, at [rmathur@state.pa.us](mailto:rmathur@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1557. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark Blue Shield (Central Region); Direct Pay Guaranteed Issue PPO High Deductible Health Plans; Rate Filing**

By filing No. 1A-HDHP/CDP/GI-08-HBS, Highmark, Inc., d/b/a Highmark Blue Shield, requests approval to increase its premium rates for its Direct Pay Guaranteed Issue PPO High Deductible Health Plans by about 8.9% or \$42.03 per contract per month. This filing will affect approximately 600 contracts and will produce additional income of about \$312,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Rashmi Mathur, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [rmathur@state.pa.us](mailto:rmathur@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1558. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark Blue Shield; Filing No. 1A-SSC-08-HBS; Request to Increase Rates for the Direct Pay Special Care Hospital Plan (Central Region); Rate Filing**

By filing No. 1A-SSC-08-HBS, Highmark, Inc., d/b/a Highmark Blue Shield, requests approval to increase its premium rates for its Direct Pay Special Care Hospital Plan (Central Region). The filing requests an increase of 8.9% or \$8.50 per contract per month. This will affect about 2,500 contract-holders and produce additional premium income of about \$252,000 per year. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to James Laverty, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1559. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc., d/b/a Highmark Blue Shield; ClassicBlue Comprehensive Major Medical Plan (Central Region); Filing No. 1A-CMM-08-HBS; Rate Filing**

On August 7, 2008, the Insurance Department (Department) received from Highmark Blue Shield a filing for a rate increase for ClassicBlue Comprehensive Major Medical Plan (Central Region).

The company requests an 8.9% increase or \$38.41 per contract per month on average. This will affect about 7,200 contract holders and will produce additional income of about \$3,347,381 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to J. Sabater, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120,

[jsabater@state.pa.us](mailto:jsabater@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1560. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc.; Direct Pay Medical/Surgical Products; Independence Blue Cross Plan Area; Rate Filing**

By filing No. 1-DPMS (MIDA)-08-HBS, Highmark, Inc., d/b/a Highmark Blue Shield, requests approval to increase the premium rates for the Direct Pay Medical/Surgical Products in the Independence Blue Cross Plan Area. The filing requests an overall increase of approximately 8.9% or \$10.91 per contract per month. Increases may vary by program, reflecting differences in claim costs. This will affect about 4,000 contract-holders and produce additional premium income of about \$516,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1561. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc.; Direct Pay Medicare Supplement (Security65); Blue Cross of Northeastern Pennsylvania and Independence Blue Cross Plan Areas; Rate Filing**

By filing No. 1-DPMG (MIDA)-08-HBS, Highmark, Inc., d/b/a Highmark Blue Shield, requests approval to increase the premium rates for the Direct Pay Medicare Supplement (Security65) Programs in the Blue Cross of Northeastern Pennsylvania and Independence Blue Cross Plan Areas. The filing requests an average increase of 7% of current premium, or an average of \$7.32 per subscriber per month. Increases may vary by program, reflecting differences in claim costs. This will affect approximately 79,000 subscribers and produce additional premium income of about \$4.92 million annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1562. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield; Filing No. 1-MGP(AA)-08-HBCBS; Application for Approval of Revised Rates for Attained Age Nongroup MedigapBlue Plans for the Western Pennsylvania Region, Providing Standardized Benefit Packages E and I; Rate Filing**

Highmark, Inc. has filed for approval revised rates for its nongroup MedigapBlue Program. The aggregate rate increase requested is 8.8%. The requested effective date of the revised rates is January 1, 2009. The most recent prior rate adjustment for this program took effect on January 1, 2008. The current and requested rates for age 65–69 issues, and the requested rate adjustments, are as follows:

<i>Standardized Benefit Plan</i>	<i>Policy Number</i>	<i>Current Rate</i>	<i>Proposed Rate</i>	<i>Rate Adjustment</i>
Plan E—Region 1	MB/W-E	\$151.15	\$164.60	8.9%
Plan E—Region 2	MB/W-E	\$135.20	\$147.25	8.9%
Plan I—Region 1 w/Rx	MB/W-I	\$209.45	\$224.60	7.2%
Plan I—Region 2 w/Rx	MB/W-I	\$187.35	\$200.90	7.2%
Plan I—Region 1 w/o Rx	MB/W-I	\$165.20	\$179.90	8.9%
Plan I—Region 2 w/o Rx	MB/W-I	\$147.75	\$160.90	8.9%

Region 1 consists of the following counties: Allegheny, Armstrong, Beaver, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Washington and Westmoreland. The other counties in the western Pennsylvania region are in Region 2.

These rate adjustments would affect approximately 7,687 members and would produce approximately \$1.4 million in additional premium annually.

Unless formal administrative action is taken prior to November 5, 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](http://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 or email comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1563. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield; Filing No. 1-MGP(IA)-08-HBCBS; Application for Approval of Revised Rates for Issue Age Nongroup MedigapBlue Plans for the Western Pennsylvania Region, Providing Standardized Benefit Packages A, B, C and H; Rate Filing**

Highmark, Inc. has filed for approval revised rates for its Nongroup MedigapBlue Program. The aggregate rate increase requested is about 8.7%. The requested effective date of the revised rates is January 1, 2009. The most recent prior rate adjustment for this program took effect on January 1, 2008. The current and requested rates for First Eligible issues, and the requested rate adjustments, are as follows:

<i>Standardized Benefit Plan</i>	<i>Policy Number</i>	<i>Current Rate</i>	<i>Proposed Rate</i>	<i>Rate Adjustment</i>
Plan A	MB/W-A	\$106.60	\$110.15	3.3%
Plan B	MB/W-B	\$143.45	\$156.20	8.9%
Plan C	MB/W-C	\$180.15	\$196.20	8.9%
Plan H w/Rx	MB/W-H	\$208.30	\$218.75	5.0%
Plan H w/o Rx	MB/W-H	\$158.55	\$172.65	8.9%

These rate adjustments would affect approximately 39,107 members and would produce approximately \$6.7 million in additional premium annually.

Unless formal administrative action is taken prior to November 5, 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](http://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 or email comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 08-1564. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc., d/b/a Highmark Blue Shield; Filing No. 1-MGP(AA)-08-HBS; Application for Approval of Revised Rates for Attained Age Nongroup MedigapBlue Plans for the Central Pennsylvania Region, Providing Standardized Benefit Packages E and I; Rate Filing**

Highmark, Inc. has filed for approval revised rates for its nongroup MedigapBlue program. The aggregate rate increase requested is about 8.9%. The requested effective date of the revised rates is January 1, 2009. The most recent prior rate adjustment for this program took effect on January 1, 2008. The current and requested rates for age 65-69 issues, and the requested rate adjustments, are as follows:

<i>Standardized Benefit Plan</i>	<i>Policy Number</i>	<i>Current Rate</i>	<i>Proposed Rate</i>	<i>Rate Adjustment</i>
Plan E	MB/C-E	\$106.55	\$116.05	8.9%
Plan I w/Rx	MB/C-I	\$145.10	\$158.00	8.9%
Plan I w/o Rx	MB/C-I	\$114.90	\$125.15	8.9%

These rate adjustments would affect approximately 20,044 members and would produce approximately \$2.6 million in additional premium annually.

Unless formal administrative action is taken prior to November 5, 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](http://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 or email comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 08-1565. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc., d/b/a Highmark Blue Shield; Filing No. 1-MGP(IA)-08-HBS; Application for Approval of Revised Rates for Issue Age Nongroup MedigapBlue Plans for the Central Pennsylvania Region, Providing Standardized Benefit Packages A, B, C and H; Rate Filing**

Highmark, Inc. has filed for approval revised rates for its Nongroup MedigapBlue Program. The aggregate rate increase requested is about 7.1%. The requested effective date of the revised rates is January 1, 2009. The most recent prior rate adjustment for this program took effect on January 1, 2008. The current and requested rates for First Eligible issues, and the requested rate adjustments, are as follows:

<i>Standardized Benefit Plan</i>	<i>Policy Number</i>	<i>Current Rate</i>	<i>Proposed Rate</i>	<i>Rate Adjustment</i>
Plan A	MB/C-A	\$80.15	\$87.30	8.9%
Plan B	MB/C-B	\$111.75	\$121.70	8.9%
Plan C	MB/C-C	\$157.40	\$166.35	5.7%
Plan H w/Rx	MB/C-H	\$195.05	\$212.40	8.9%
Plan H w/o Rx	MB/C-H	\$156.15	\$170.05	8.9%

These rate adjustments would affect approximately 24,675 members and would produce approximately \$3.0 million in additional premium annually.

Unless formal administrative action is taken prior to November 5, 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](http://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 or email comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 08-1566. Filed for public inspection August 22, 2008, 9:00 a.m.]

**Highmark, Inc.; Filing No. 1A-SCMS-08-HI; Requesting Approval to Increase Rates for Special Care Medical Surgical Plans; Rate Filing**

By filing No. 1A-SCMS-08-HI, Highmark, Inc., d/b/a Highmark Blue Cross Blue Shield and Highmark Blue Shield, requests approval to revise premium rates for its Special Care Medical/Surgical programs in the Central region, Southeastern (IBC) region, Western Pennsylvania region and Northeastern Pennsylvania region.

<i>Region</i>	<i>Percentage Increase</i>	<i>Additional Prem. per Month</i>	<i>Number of Contracts</i>
Central Region	8.9%	\$13,000	2,500
Western Region	8.9%	\$64,000	11,400
Independence Blue Cross (IBC)	8.9%	\$32,000	5,900
Blue Cross of Northeastern PA	8.9%	\$21,000	4,300
All Regions Combined	8.9%	\$130,000	24,100

The filing requests an average increase of 8.9% or \$5.41 per contract per month. This will affect about 24,100 contract-holders and produce additional premium income of about \$1,560,000 per year. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg and Pittsburgh offices.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 08-1567. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Keystone Health Plan West; Direct Pay Keystone-Blue for Kids; Rate Filing

By filing No. 1A-CHK-08-KHPW, Keystone Health Plan West, Inc. requests approval to increase the premium rates for its Direct Pay KeystoneBlue Kids Plan by about 8.9% or \$9.11 per member per month. This filing will affect approximately 1,700 members and will produce additional income of about \$192,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Rashmi Mathur, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [rmathur@state.pa.us](mailto:rmathur@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1568. Filed for public inspection August 22, 2008, 9:00 a.m.]

### Keystone Health Plan West; Individual Conversion HMO Plan; Rate Filing

By filing No. 1-CONV-08-KHPW, Keystone Health Plan West, Inc. requests approval to increase the premium rates for its Individual Conversion HMO product by about 8.9%. This filing will affect approximately 701 contracts and will produce additional income of about \$250,000 annually. The requested effective date of the change is January 1, 2009.

Unless formal administrative action is taken prior to November 6, 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](http://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 or email comments, suggestions or objections to Rashmi Mathur, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [rmathur@state.pa.us](mailto:rmathur@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-1569. Filed for public inspection August 22, 2008, 9:00 a.m.]

## OFFICE OF ATTORNEY GENERAL

### Public Meeting

Public notice is hereby given of a meeting of the Lobbying Disclosure Regulation Committee (Committee) established under November 1, 2006 (P. L. 1213, No. 134) (Act 134). The meeting will be held on Thursday, August 28, 2008, at 9:30 a.m. in Hearing Room 3, North Office Building, Harrisburg, PA.

The purpose of the meeting will be for the Committee to consider regulations under Act 134 of 2006 and to receive public comments. Visit [www.attorneygeneral.gov](http://www.attorneygeneral.gov) for more information and to view a copy of the complete agenda.

THOMAS CORBETT,  
*Attorney General*

[Pa.B. Doc. No. 08-1570. Filed for public inspection August 22, 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 September 8, 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-2008-2051307. Natan Transportation, Inc.** (1405 West Pike Street, Philadelphia, Philadelphia County, PA 19140), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11—15 passengers, including the driver, between points in the Counties of Bucks, Montgomery and Philadelphia to points in Pennsylvania, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

**A-2008-2053481. Vision Health Care Services, Inc.** (1202 Summit Way, Mechanicsburg, Cumberland County, PA 17050)—corporation of the Commonwealth—persons in paratransit service, from points in the Counties of Cumberland and Dauphin.

**A-2008-2053493. Stallion Limousine, LLC** (52 West Dutton Mill Road, Aston, Delaware County, PA 19014), a

limited liability company of the Commonwealth—persons, in limousine service, from points in the County of Delaware, to points in Pennsylvania and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Walter A. Konyk, The Providence Legal Center, 100 North Providence Road, Suites 100 and 102, Media, PA 19063-2102.

**A-2008-2053577. Salvatore M. Campadonico** (3631 Holly Drive, Gordonville, Lancaster County, PA 17529), for the right to begin to transport persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-2008-2055493. Dover Area Ambulance Club** (403 East Canal Street, Dover, York County, PA 17315)—a nonprofit corporation of the Commonwealth—in paratransit service, from points in York County, to points in Pennsylvania, and return.

**A-2008-2056019. M & M Limousine Service, Inc.** (451 Stoystown Road, Somerset, Somerset County, PA 15501)—a corporation of the Commonwealth—persons in limousine service, from points in the Counties of Allegheny, Cambria, Somerset and Westmoreland, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Fike, Cascio & Boose, Lois Witt Geary, P. O. Box 431, Somerset, PA 15501-0431

**Applications 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-2008-2053668. Rosemont Taxicab Co., Inc.** (800 Chestnut Street, Suite 103, Philadelphia, Philadelphia County, PA 19107)—a corporation of the Commonwealth—in call or demand service, which is to be a transfer of all rights authorized under the certificate issued at A-00115589, F.3, to Concord Coach USA, Inc., t/a Bennett Cab Service, subject to the same limitations and conditions.

**A-2008-2053900. Luxury Without Limits, Inc., t/a Amedeos Limousine Service** (507 Schoolhouse Lane, Suite 1, Kennett Square, Chester County, PA 19348), a corporation of the Commonwealth—persons in limousine service, which is to be a transfer of all the right authorized under the certificate issued at A-00116120 to Amedeo's Limousine Service, Inc., subject to the same limitations and conditions. *Attorney:* Daniel P. McCollom, 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801.

**A-2008-2054160. Maximus Limousine, LLC** (111 Buck Road, Unit 500, Suite 3, Huntingdon Valley, Montgomery County, PA 19006)—a limited liability corporation of the Commonwealth in—limousine service, which is to be a transfer of all rights authorized under the certificate issued at A-00108173 to D'S Limousine Service, Ltd., subject to the same limitations and conditions. *Attorney:* Michael S. Henry, Esq., 2336 South Broad Street, Philadelphia, PA 19145.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Thompson Travel Bureau, Inc.; Doc. No. C-2008-2048183*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth

of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Thompson Travel Bureau, Inc. (respondent) is under suspension effective October 1, 2002 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 621 Lackawanna Avenue, Scranton, PA 18503.

3. That respondent was issued a Certificate of Public Convenience by this Commission on October 1, 1969 at Application Docket No. A-00081141.

4. That respondent has failed to maintain evidence of Surety Bond insurance on file with this Commission.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and  
Enforcement  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation



of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **UNACCEPTABLE** as Evidence for Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-1571. Filed for public inspection August 22, 2008, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project No. 08-112.S, Port Study of Options for Dedicated Funding, until 2 p.m. on Wednesday, September 17, 2008. The proposal documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available August 26, 2008. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 08-1572. Filed for public inspection August 22, 2008, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

September 10, 2008	Deanna R. Munro (D) (Death Benefit)	1 p.m.
September 24, 2008	Marylen A. Dreibelbis (Non-Qualifying Part Time)	2:30 p.m.
October 8, 2008	Janice M. Segal (Waiver of Repayment)	1 p.m.
	Albert N. Cheers (Waiver of Repayment)	2:30 p.m.
October 15, 2008	Regina G. Marsilio (Purchase of Service)	1 p.m.
October 22, 2008	Joanne M. Keglovits (Purchase of Service)	1 p.m.
	Joanne Benedetto (Purchase of Service)	2:30 p.m.
November 5, 2008	Lawrence A. Dalla Betta (Reinstatement of Premium Assistance)	1 p.m.
	Annette Vella (Waiver of Adjustment)	2:30 p.m.

November 19, 2008	Ronald A. Becker (D) (Death Benefit)	1 p.m.	service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director at (717) 720-4921 to discuss how the System may best accommodate their needs.
	Bridget Konczynski (D) (Health Premium vs. Custodial Care)	1 p.m.	
December 2, 2008	Scott A. Shafer (Retirement Covered Compensation)	10 a.m.	Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1, (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure), unless specific exemption is granted.
December 3, 2008	Clea O. Fennell (Intent To Change Option)	1 p.m.	
December 17, 2008	Elizabeth A. Harting (Effective Date of Retirement)	1 p.m.	
	William V. Phelps (Final Average Salary)	2:30 p.m.	

JEFFREY B. CLAY,  
*Executive Director*

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Persons with a disability, who wish to attend the previously-listed hearings, and require an auxiliary aid,



